

Concept for functional review and reorganization of public administration for BiH



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Background

Organisational landscape of public administration affects its performance and efficiency in use of public money. Clear, transparent and rational rules for organization of public administration enhance public accountability and contribute to greater trust in government. Considering this, many countries undertake efforts towards fine tuning, reform and redesign of the organizational architecture of their administrations. For example, the UK implemented the Public Bodies Reform Programme 2010-2015 that led to significant reorganisation of Government administration.

Reorganisation was based on the principle that non-ministerial body should retain this status only if one of the following three conditions are met: (1) it performs a technical function; (2) its activities require political impartiality; and (3) it needs to act independently to establish facts. This relates to bodies performing investigative functions or collecting data of high public and political importance (e.g. economical statistics). Reorganisation was supported by guidelines and checklists specifying measures to be analysed and taken in the course of merger and abolishment of Government bodies or changing the institutional form of delivery. In addition to this, reorganisation was accompanied with developing a mechanism for regular review of the existing structures in interval of three years (Triennial Reviews). The process of review consists of two parts: a) reviewing the delivery options; and b) efficiency test, i.e. identifying potential for efficiency savings and its ability to contribute to economic growth.

This approach brought tangible results. It led to reducing the number of public bodies by over 290, by abolishing more than 190 and merging over 165 bodies into fewer than 70. Administrative spend was reduced by a cumulative £3 billion over the life of the programme to the end of March 2015¹.

Similarly, Ireland adopted rationalisation programme as part of the Public Service Reform Plan 2011-13. It resulted in significant reorganisation of non-ministerial public bodies. It brought significant savings and led to reducing the total number of Government bodies by almost 200. The project included:

- Simplifying the landscape of Government agencies – this was the major element of reform agenda that resulted in significant reduction of the number of agencies. There were three main patterns of reorganisation (amalgamation): (1) merging service delivery bodies in one area of public policy; (2) merging service delivery bodies with bodies managing knowledge (e.g. research institutes); (3) dissolving agencies responsible for policy formulation and absorbing their functions by ministries.
- Ensuring financial savings;

¹ Cabinet Office (2011), Triennial Reviews: Guidance on Reviews of Non-Departmental Public Bodies; Cabinet Office (2012), Checklist for departments; UK Cabinet Office (2015), Public Bodies Reform Programme Update.

- Centralizing all policy formulation in ministries – shifting all functions relating to policy making from agencies to ministries;
- Amalgamating, where possible, bodies which had duplicate, similar or overlapping functions and roles;
- Exploring the opportunities for introduction of shared support services;
- Enhancing the performance of public bodies by introducing new performance management scheme relying on service level agreements;
- Introducing a mechanism for regular review of the performance of public bodies and rationality of the Government architecture².

These two and many other cases demonstrate the potential of organisational reforms in generating tangible and considerable benefits. They also show that organisational setup of public administration needs to be subject to constant attention, as the administrative apparatus has natural tendency to grow beyond the adequate size.

Unfortunately, such consistent and results-oriented approach to managing organisational landscape of public administration was not demonstrated so far by the governments across all levels in Bosnia and Herzegovina. Most recent assessment of the situation in this field was conducted by OECD SIGMA. Its latest monitoring report captures the major problems in the following manner:

Assessment of organisation of public administration in BiH by SIGMA (excerpts):

“At all levels, the organisational setup of the administrative apparatus is determined by framework laws on public administration. They establish official typologies of administrative bodies (except for the BD), specify their legal status and set formal organisational hierarchies. The relevant framework laws on public administration combined with legislation on public financial management and civil service also provide general rules on organisational autonomy and accountability of public bodies.

However, the official typologies of public administration bodies lack clarity in terms of criteria distinguishing the various types of institutions and mechanisms for selecting the most suitable type to perform specific government functions. For example, in the RS, the Law on the Republic Administration adopted in 2018 recognises two kinds of sub-ministerial bodies: administrative bodies within ministries and administrative organisations. The only criterion established by law to distinguish between them is the “greater independence” required for the tasks to be performed by administrative organisations. This absence of detailed guidance on selecting the organisational type makes the decisions largely discretionary. Similar shortcomings affect the quality of the typologies established in the framework laws of the State-level and FBiH administrations.

In the BD, there is no official typology, only a list of bodies constituting the District administration. The major problem is the exclusion of some administrative bodies from this general legal framework. They operate outside the public administration regime, enjoying

² See: Department of Public Expenditure and Reform (2014), A Report on the Implementation of the Agency Rationalisation Programme.

special legal status and extended autonomy regarding employment and financial management while implementing public administration functions.

Several other executive bodies operate outside the government administration in the BD and at other levels, remaining subordinate to the legislatures. The legislation grants this special status to some regulatory bodies:

- State level: State Electricity Regulatory Commission and Communications Regulatory Agency
- FBiH: Securities Commission and Energy Regulatory Commission
- RS: Regulatory Commission for Energy, Commission for Concessions, Securities Commission, Banking Agency and Insurance Agency
- BD: Securities Commission.

These bodies should enjoy extensive functional autonomy and remain free from undue political influence and pressures on regulatory decision-making. However, transferring them under parliamentary oversight is not required by international standards, particularly the EU legislation. These bodies should still contribute to the implementation of policies shaped by the governments, and be accountable to them.

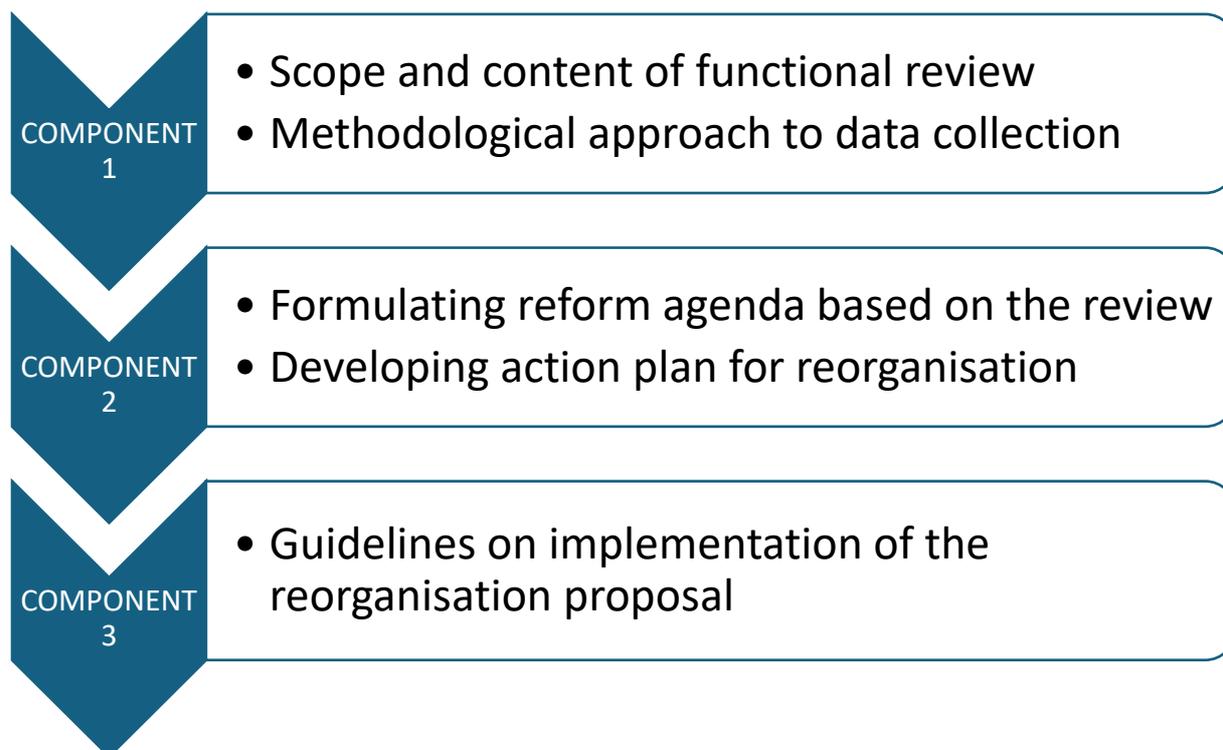
Across all levels, the relationship between ministries and agencies follows a similar pattern. Agencies are autonomous in planning their objectives, targets and activities, according to the horizontal legal framework for planning and reporting. Plans and reports generally follow the format established by the legislation at each level. However, they are more activity-based than results-oriented, focusing more on delivering specific outputs than achieving policy outcomes. The portfolio ministries are only informed about the planned activities and receive reports on their implementation. Formal approval of annual plans and reports is done by the respective governments (councils of ministers). Still, governments do not provide any guidance, instructions or feedback to the agencies. This practice leads to a what might be termed a “steering vacuum”, in which the portfolio ministries abstain from performing any steering activities, such as setting or negotiating objectives and targets, monitoring the performance of subordinated agencies or providing structured feedback on performance.”

Source: SIGMA, The Principles of Public Administration. Monitoring report: Bosnia and Herzegovina, May 2022, online: <https://www.sigmaxweb.org/publications/Monitoring-Report-Bosnia-and-Herzegovina-May-2022.pdf>

This multitude of problems and challenges cannot be addressed by just fragmented interventions. They require more comprehensive approach, based on proper diagnosis, methodological approach and clear policy agenda. This document provides a concept on where and how to start the path towards reform of organisational landscape of public administration in BiH.

Concept

This document provides methodological guidance to the first, inevitable phase of any potential reorganisation of public administration in BiH, i.e. the analytical and conceptual preparation of the reform. It provides concrete tools for collection and analysis of the data necessary for development of any reorganisation concept. Further, it clarifies how to prepare the plan for reorganisation and what this key document should contain. Finally, the guidelines and recommendations for the process of implementation of the reorganisation are provided.



This concept is tailored to the needs and capacities of the public administration in BiH. Considering limitations in this regard, the concept proposes simplified approach involving minimum resource needs, while ensuring sufficient quality of the whole process.

Component 1: Functional review

The ultimate objective of the functional review should be to collect sufficient data for making decisions about the potential reorganisation of public administration bodies through amalgamations, abolishment, transferring or abandoning some functions performed by them. Functional review should also serve as a basis for legislative and organisational adjustments relating to the governance and accountability regime applicable to relevant institutions.

Considering these objectives, we propose that the functional review will rely on complete inventory of all administrative bodies, containing detailed information about institutional, organisational, financial and HRM-related features of all administrative bodies. The inventory

should contain description of each individual body containing information grouped into five blocks presented below:

TABLE. Template for simplified functional review of the public administration bodies in BiH

BLOCK	SPECIFIC INFORMATION
Basic information	<ul style="list-style-type: none"> • Title • Legal basis • Formal status according to official typology
Governance	<ul style="list-style-type: none"> • Setup (single or dual) • Managing (executive) body: <ul style="list-style-type: none"> - Title - Type (monocratic or collegial) - Deputies - Appointing body - Appointment procedure - Appointment criteria - Mandate (open or fixed term) - Criteria for dismissal - Salary (monthly) - Functions • Internal supervisory body (if exists) <ul style="list-style-type: none"> - Title - Type (monocratic or collegial) - Deputies - Appointing body - Appointment procedure - Appointment criteria - Mandate (open or fixed term) - Criteria for dismissal - Salary (monthly) - Functions
Functional autonomy	<ul style="list-style-type: none"> - Supervisory powers of the superior body (portfolio ministry) - Annual plan adopted by: - Annual plan subject to approval of the superior body (portfolio ministry)? - Annual report adopted by: - Annual report approved by the superior body (portfolio ministry)?
Public financial management status	<ul style="list-style-type: none"> • Sources of revenue (%) <ul style="list-style-type: none"> - State budget - Fees and services provided - External assistance - Other (what?) • Budget/financial plan adopted by: • Budget/financial plan subject to approval by the portfolio ministry?

	<ul style="list-style-type: none"> • Funds remaining at the end of the budgetary year (retained by the body or transferred to the state budget)
Human resources management	<ul style="list-style-type: none"> • Regulation applicable to the status of the staff • Number of staff determined by: • Number of staff planned • Number of actual staff (vacancies excluded) • Regulation applicable to the salaries of the staff • Salary policy determined by: • Median monthly salary

The inventory should cover all bodies performing administrative functions established and/or controlled by the relevant government. State-owned enterprises and companies should be excluded from this review. Annex contains the initial list of institutions at each level in BiH to be covered by this review. This list will require review and potential updating.

Filling in the data in the inventory should be followed by analytical report containing summary of the observations about the organisational setup of public administration, as well as key conclusions on systemic shortcomings and inconsistencies identified thanks to data collected. This analytical report will serve as the main basis for the preparation of the reorganisation agenda.

Component 2: Reorganization agenda

Based on the information collected in the course of this simplified functional review, the proposal for reorganisation should be prepared. The reorganisation plan should be divided into two main components:

- Legislative adjustments – proposal for changes relating to the legislative framework for public administration, especially the framework laws regulating organisation of public administration, human resources management in public administration and public financial management;
- Organisational changes – detailed proposal for restructuring of the existing stock of public administration bodies. This part of the proposal could take the form of the table specifying organisational recommendations for each of the bodies covered by the functional review. The table below provides template for such proposal:

Title of the body	Proposed reorganisation	Justification
	<p>Retain – body remains and there are no changes to its portfolio recommended</p> <p>Change portfolio – body remains, but some of its functions are transferred to other body</p> <p>Merge – body to be merged with other existing institution in order to ensure functional integration</p> <p>Change delivery model – current organisational form (agency, state-owned company, private sector) is changed</p> <p>Change parent ministry</p> <p>Abolish – body dissolved due to Government’s withdrawal from performing its current function</p>	

The overarching logic of the process and specific decisions relating on reorganisation should be based on the following principles:

- Public interest test – critical assessment of whether relevant functions have to be still performed by the Government or they could be abandoned or transferred to non-governmental actors;
- Principle of functional integration, i.e. integrating similar functions within specific policy domain under one institutional umbrella. This also includes consideration about what should be parent ministry for relevant body. Functional integration creates conditions for better coordination of policy implementation activities, enables joined-up governance and enhances efficiency by limiting the number of organisations within the Government sector;
- Reducing the number of non-ministerial bodies, especially by promoting stronger involvement of the ministries in performing some policy implementation functions. In particular, there is no justification for keeping very small agencies as independent bodies, if their functions could be performed at the level of the ministry;

The plan should contain also indicative timeline for implementation of the organisational changes. The implementation timeline could be divided in waves or sectors (areas), depending on the complexity and scope of the organisational changes envisaged.

The plan should be formally adopted at the top political level in order to ensure the adequate endorsement and enable overcoming the resistance of the administrative apparatus against reorganisation.

Component 3: Implementation scheme

Implementation of the reorganisation reform is a complex task requiring strong and continuous support from the political level, as well as adequate implementation capacities and mechanisms. The whole process should be managed by the Steering Committee at the top political-administrative level, responsible for steering of the process. The SC should be responsible for the following tasks:

- Overseeing the implementation of the reorganisation agenda;
- Addressing challenges and obstacles at the highest political level;
- Deciding on adjustments to the reorganisation plan;
- Reviewing the results of the reorganisation process.

The Steering Committee at the operational level should be supported by the taskforce responsible directly for the major tasks relating to implementation of the reorganisation, including:

- Preparing the reorganisation plan;
- Drafting of the necessary legislative proposals;
- Regular monitoring and reporting.