



TRANSPARENCY ACROSS PUBLIC ADMINISTRATION REFORM IN SERBIA: AN UNDERACHIEVED PRIORITY

JULY 2022



B | T | D The Balkan Trust
for Democracy
A PROJECT OF THE GERMAN MARSHALL FUND



This Project is financed
by the European Union

Authors: Sava Mitrović, Junior Reseacher, CEP
Milena Lazarević, WeBER Team Leader, Programme Director, CEP

According to the Organisation for Economic Cooperation and Development (OECD), transparency refers to an environment in which the objectives of policy, its legal, institutional, and economic framework, as well as policy decisions and all related data and information, are provided to the public in a comprehensible, accessible, and timely manner.¹ In a democratic society, transparency is a fundamental element of good governance which makes public administration more accountable for its work. Additionally, it helps citizens become more aware of their rights and obligations, as well as in better understanding public policy decisions, and it is a precondition for an inclusive decision-making process that involves civil society and all external stakeholders.

Transparency is a fundamental element of good governance which makes public administration more accountable for its work

Numerous important aspects of the administration's work remain insufficiently transparent

Furthermore, transparency is a major cross-cutting issue in all areas of Public Administration Reform (PAR) in line with the Principles of Public Administration which represent codified EU membership conditions in this fundamental reform area. Yet, while transparency is recognised in Serbia's PAR Strategy as an essential component of its public administration reform, eighteen years after the first Public Administration Reform Strategy was adopted in Serbia, numerous important aspects of the administration's work remain insufficiently transparent. This creates an overall negative impact on the country's EU accession process, by undermining fundamental reforms in the essential governance areas. Ultimately, it also leads to a decrease in the citizens' quality of life.

¹ See: OECD Glossary of statistical terms, available at: <https://stats.oecd.org/glossary/detail.asp?ID=4474> (last accessed 15 December 2021).

TRANSPARENCY AS A CROSS-CUTTING ISSUE IN PUBLIC ADMINISTRATION REFORM

Using SIGMA principles as a guide, the WeBER initiative has developed its own monitoring methodology, which places additional focus on transparency as an essential cross-cutting component of achieving good governance

The importance of having transparent administration is visible in all key PAR areas as they are defined by the Principles of Public Administration². These principles serve as EU's framework for monitoring public administration reform, both in terms of establishing an adequate institutional, strategic and legal framework, as well as of actual reforms implementation and administrative performance in practice. Using SIGMA principles as a guide, the WeBER³ initiative has developed its own monitoring methodology, which places additional focus on transparency as an essential cross-cutting component of achieving good governance. As such, the WeBER's PAR Monitor "zooms in" on transparency-related elements of the administrations' functioning, having in mind its citizen and civil society orientation.

To achieve high-quality policymaking across all sectors, policy development should be transparent. It is important that the Government regularly publishes annual reports on its overall performance as well as information on its decision-making outcomes, making it easier for citizens to become acquainted with the Government's work. When it comes to public service and human resources management in the administration, all relevant statistics, and reports, including information on salaries in the civil service, need to be clear and publicly available, and recruitment into the civil service should be open and transparent. In order to have accountable public administration, public authorities should proactively inform citizens, and public authority websites must contain complete, up-to-date, and easily accessible information. Regarding service delivery to citizens and businesses, the availability of service-provision-related information, as well as proactive disclosure of citizen feedback on the quality of administrative services, are important facets of a transparent public administration. Last but not least, budgetary documents and all public spending related information should be accessible and transparent so that taxpayers understand how their money is spent and to improve trust in state institutions' work. What is more, public procurement authorities, as well as contracting authorities, ought to regularly release procurement plans and reports in a citizen-friendly manner.

² OECD/SIGMA, The Principles of Public Administration, 2017, available at: <https://www.sigmaxweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

³ Western Balkan Civil Society Empowerment for a Reformed Public Administration – WeBER2.0 – is a three-year project (2018-2021) funded by the European Union and implemented by the Think for Europe Network (TEN) with the European Policy Centre (CEP) from Belgrade being the coordinator of the Project. This project's goal is to enhance CSO engagement in PAR by advancing evidence-based monitoring of PAR in line with EU requirements. For more details: <https://www.par-monitor.org/>.

KEY GAPS IN SERBIA'S PUBLIC ADMINISTRATION TRANSPARENCY

Despite the significance of having transparent administration in different PAR areas, WeBER has found that in several of them Serbia's administration suffers from a lack of transparency. The long-term vision of Serbia's PAR Strategy for 2021-2030 is to provide *administration tailored to citizens and the economy*, which entails transparent public administration that delivers high-quality and easily accessible services to citizens and businesses.⁴ Additionally, one of the PAR Strategy's goals is to achieve advanced level of accountability and transparency at all levels of Government. Although this Strategy states that the PAR process will be based on, among others, principles of openness, transparency and participation, PAR Monitor 2019/20⁵ and other relevant sources, such as the SIGMA Monitoring Report, reveal that these principles are not being fully implemented.

Governmental decision-making and performance reporting in obscurity

The governmental session agenda is unknown to the public, while minutes from the sessions, even if produced, have never been made publicly available

A persistent problem in the area of policy development and coordination is the opaqueness of the daily decision-making by the Serbian government, which publishes incomplete information both before and after its sessions. Firstly, the governmental session agenda is unknown to the public, while minutes from the sessions, even if produced, have never been made publicly available. Namely, from October 2019 to March 2020, the PAR Monitor examined 56 government sessions and discovered that there were no publicly available minutes or agendas from any of the

sessions, while even press releases were missing on certain occasions. One of the gravest noted problems in the PAR Monitor is that the decisions called "government conclusions" enjoy a block exemption from the general obligation of publication of legal acts and decisions. These acts can be published if the Government decides so in a particular case.⁶ Considering that government conclusions are often used to approve strategies, action plans, as well as documents stipulating Government's intentions related to public spending and borrowing, their scarce publication presents a major impediment for overall transparency of the Government. Supporting these findings, the most recent SIGMA Report concludes that the openness of the government decision-making process has even decreased.⁷ Combined, this evidence demonstrates the very low level of decision-making transparency, in sharp contrast with the EU membership standards and principles and the general interest of the public to know what decision its government has taken.

One of the gravest noted problems in the PAR Monitor is that the decisions called "government conclusions" enjoy a block exemption from the general obligation of publication of legal acts and decisions

4 Public administration reform strategy in Republic of Serbia 2021-2030, Official Gazette of RS, 42/2021-1.

5 The data and information in this section – unless otherwise cited – come from the second cycle of WeBER PAR Monitor: Miloš Đinđić, Milena Lazarević, Dragana Bajjić, Stefan Stojković, National PAR Monitor Serbia 2019/2020, 2021, available at: <https://bit.ly/3mjL0n> (last accessed 15 December 2021).

6 The Law on Government stipulates that regulations, decisions, rules of procedure and budget memorandums have to be published in the "Official Gazette of the Republic of Serbia", and that other acts may be published if this law or another regulation requires it or if the Government decides to do so during their adoption. See: Law on Government, article 46, Official Gazette of RS, no. 55/2005, 71/2005 - corr., 101/2007, 65/2008, 16/2011, 68/2012 – CC decision, 72/2012, 7/2014 – CC decision, 44/2014 and 30/2018 – other law.

7 SIGMA/OECD, Monitoring Report Serbia 2021, p. 43., available at: <https://bit.ly/32zaxfX> (last accessed 15 December 2021).

Transparency is also undermined by the inadequate reporting practices of the Government, which cuts across all types of reporting: on strategies, plans, etc. Firstly, the Government does not regularly and timely report to the public on its work and performance. Despite the clear legal obligation to adopt an annual work report by May 1st for the previous year and deliver it to the Parliament,⁸ at the end of 2021 the last available report was the one for 2019.⁹ In addition, at the end of June 2022, the Government annual work report for 2021 was not yet published. Furthermore, annual reports are not written in a citizen-friendly manner; they lack any visual representation of information, and the narrative part of reports is also written in an overly bureaucratic manner. When it comes to reports on Government strategies and plans, most recent data show that there are three out of five reports available, which is a regression compared to the last PAR Monitor 2019/2020. Irregular publication of both government work reports and reports on strategies and plans, coupled with the excessive use of bureaucratic form and language, undermines even the basic usefulness of governmental reporting for the public, thus obscuring the concrete information about the government's activities.

Public consultations are an important instrument for ensuring transparency in the policymaking process but remain underutilised by the Serbian policymakers. Namely, only half of the public policy documents and just one-third of legislation the government passed in 2020 underwent some form of public consultation.¹⁰ Moreover, almost a half of respondent CSOs disagree that formal consultation procedures provide conditions for effective involvement of the public in policymaking processes.¹¹ On the other hand, the ongoing monitoring cycle shows an improvement compared to the previous cycle, given that public consultations were held on 80% of public policy documents and 56% of laws. Still, the SIGMA/OECD Monitoring Report for 2021 also asserts that public consultations are often not announced in advance, and even when reports on public consultation results are made available, they do not include reasons for potentially rejecting suggestions from stakeholders.¹²

Information on civil service and public competitions for jobs continue to be opaque

The current HRM database is not interoperable with other relevant systems, and state administration bodies fail to ensure regular updates

A prerequisite for transparent human resource management (HRM) is that the Government possesses reliable data on its civil servants, which is a persistent deficiency in the Serbian civil service system. The current HRM database is not interoperable with other relevant systems, and state administration bodies fail to ensure regular updates. The inadequate database also makes it impossible to ensure quality and regular reporting about the civil service. Thus, the responsible central HRM authority does not publish basic information about the civil service structure, such as the number of civil servants per institution, rank, employ-

ment type, gender, etc.¹³ And while reports on completed training programmes, undertaken disciplinary procedures and integrity measures for civil servants are published, they are missing for other important issues such as planning and recruitments, performance appraisals, career development and salaries. As a result of missing reports about the civil service structure as well as several important aspects of its management, Serbian people remain largely deprived of the information about the service that they, as taxpayers, are entitled to know about.

8 Law on Planning System, article 45, Official Gazette of RS, no. 30/2018, available at: <https://bit.ly/3pEraj1> (last accessed 15 December 2021).

9 Milica Škorić and Miloš Đinđić, (Non)transparency as a mirror of (ir)responsibility, 2021, available at: <https://bit.ly/3EK7xdE> (last accessed 15 December 2021).

10 Miloš Đinđić, et al., National PAR Monitor Serbia 2019/2020, 2021, p. 58.

11 Ibid, p. 59.

12 SIGMA/OECD, Monitoring Report Serbia 2021, p. 13-25.

13 Miloš Đinđić, et al., National PAR Monitor Serbia 2019/2020, 2021, p. 73.

In the area of public competitions for civil service positions, amendments to the legal framework on civil service made application process easier on potential candidates as they are no longer required to submit the entire documentation upfront, but there are still elements of recruitment procedures that lack substantive transparency. Namely, the analysed announcements contain around 2000 words for a single job on average and there is no visual presentation of application steps that could make applications easier for potential candidates.¹⁴ The fact that the recruitment process is only partially managed online¹⁵ also negatively affect the transparency of public competitions. In addition, texts of the competition announcements do not make it fully clear that candidates are not required to submit documents that already exist in the official records, and the deadlines for submitting documentation are frequently vaguely specified (e.g., deadline cannot be shorter than 8 days). Even though interested candidates can, in practice, request clarifications during the public competition procedure, these clarifications are not available online and there is no legal obligation for their publishing. Overall, the civil service recruitment procedure does not yet meet the necessary level of transparency that would facilitate candidates' access to these jobs, while ensuring fairness of the process.

The analysed announcements contain around 2000 words for a single job on average and there is no visual presentation of application steps that could make applications easier for potential candidates

PAR Monitor evidence suggests, for the second time, that decisions on annulling public competition procedures, as well as a proper explanation for why some of them failed, are not made available to the public

When it comes to outcomes of recruitment procedures, information about annulled competitions remains unknown to the public. PAR Monitor evidence suggests, for the second time, that decisions on annulling public competition procedures, as well as a proper explanation for why some of them failed, are not made available to the public. Also, the Civil Service Law does not specify how to announce the failure of a public competition due to a lack of applications received. While the decision on the failure of the public competition is delivered to the candidates, there is no ob-

ligation to announce it publicly.¹⁶ Altogether, the public remains deprived of information on how many civil service competitions have failed and what are the reasons for their failure, thus undermining the overall transparency of the civil service recruitment process.

Insufficient proactivity of public informing

Compared to the baseline PAR Monitor 2017/2018, the practice of proactive informing of the public by state administration bodies has decreased and the most recent PAR Monitor recorded regression in this area.¹⁷ Although websites of public authorities generally contain complete and up to date information on the scope of work, accountability, and legal and policy documents, information on these websites is not organised in an approachable and citizen-friendly manner. A notable exception is the Ministry of Public Administration and Local Self-Government (MPALSG) which properly summarises its scope of work, in a manner adapted to the public. In addition to the MPALSG, the Ministry of European Integration and the Environmental Protection Agency stand out by publishing complete and up to date analyses and studies on public policies on a regular basis. On the other hand, public authorities rarely publish complete and up to date annual work reports. For example, only 39% of special organisations have published work reports on their websites for 2020, and when it comes to bodies subordinated to the ministries, and the ministries themselves, the situation is even

Information on the websites of public authorities is not organised in an approachable and citizen-friendly manner

Public authorities rarely publish complete and up to date annual work reports

14 Miloš Đinđić, et al., National PAR Monitor Serbia 2019/2020, 2021, p. 79.

15 SIGMA/OECD, Monitoring Report Serbia 2021, p. 71.

16 Law on Civil Servants, article 60, Office Gazette of RS, no. 79/2005, 81/2005 – corr., 83/2005 – corr., 64/2007, 67/2007 – corr., 116/2008, 104/2009, 99/2014, 94/2017, 95/2018 and 157/2020, available at: <https://bit.ly/3K6swdL>.

17 Sample of state administration authorities in the National PAR Monitor Serbia 2019/2020: Ministry for Labour, Employment, Veteran and Social Affairs; Ministry of Public Administration and Local Self-Government; Ministry of Culture and Media; Ministry of European Integration; General Secretariat of the Government; Environmental Protection Agency; Tax Administration.

more dire. Namely, 25 of the 31 analysed subordinated bodies failed to publish their annual work reports, whereas only one out of 21 ministries did so. Although it is possible to find public authorities that inform the public in a proactive way, that does not change the overall picture of insufficient proactivity in this regard, which speaks volumes of the lack of accountability in public administration.

The 2021 SIGMA report for Serbia, while painting a somewhat more positive image of the Government's proactive transparency due to its greater focus on the quality of the legal framework, still highlights several important problems.¹⁸ According to SIGMA, Serbia's Law on Free Access to Information of Public Importance (LFAI) is assessed as mainly compatible with international standards. Yet, when it comes to the effects of the LFAI, it fails to properly promote proactive disclosure of public information which should be the primary tool for meeting transparency requirements.¹⁹ For instance, the LFAI states that "all public authorities should make available to the public all information about their work that is considered information of public importance"²⁰, but there is no foreseen sanction for non-compliance with this provision. What SIGMA also sees as problematic is that the Commissioner for Information of Public Importance and Data Protection lacks the authority to monitor compliance with the requirements for proactive transparency. In summary, while it is difficult to reach a single conclusion on practice of proactive public informing as it is highly uneven, both the PAR Monitor and the SIGMA monitoring report categorically determine that there is much room for improvement in proactive informing of citizens.

Lack of information on the delivery of public services and citizen feedback

Citizen-friendly guidance on how to access administrative services is frequently lacking

PAR Monitor 2019/2020 indicates that there has been progress when it comes to citizen-centricity of service delivery in Serbia, though there is still much room for improving public availability of information on when they obtain services. Specifically, citizen-friendly guidance on how to access administrative services is frequently lacking. On the other hand, examples of good practice

include publications and notices on service providers' websites regarding what data citizens need to obtain and submit by themselves, as well as on information on different services' fees. In this regard, it should be noted that information on the prices of five analysed services is easily accessible, although information is insufficiently detailed and rarely distinguishes between in-person and online services²¹ Overall, we can conclude that, while the practice of publishing online information about obtaining administrative services has improved, it still varies depending on the type of information and the responsible service provider.

Allowing citizens to express their opinions and criticism still remains the key prerequisite in order to further enhance the quality of public services, and to be able to speak of citizen-centric services. In this regard, there is a lack of public information concerning citizens' feedback on the websites of service providers. For example, except for the Business Registers Agency, which revealed the number of complaints received and resolved, the latest PAR Monitor reveals that none of the analysed service providers transparently disclosed users' feedback.²² This is true even for the most basic information, which would mean that at least one source of data is made available (administrative, survey, civil society monitoring or any other credible data source). It is important to highlight that although citizens in Serbia are generally satisfied (61% of them)

Except for the Business Registers Agency, none of the analysed service providers transparently disclosed users' feedback

18 SIGMA/OECD, Monitoring Report Serbia 2021, p. 96-98.

19 Ibid, p. 98.

20 Law on Free Access to Information of Public Importance, Official Gazette of RS, no. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021, available at: <https://bit.ly/3rVywi7>.

21 Sample of services in the National PAR Monitor Serbia 2019/2020: property registration, company (business) registration, vehicle registration, the issuing of passports and ID cards, and value added tax (VAT) declarations and payments for companies.

22 Miloš Đinđić, et al., National PAR Monitor Serbia 2019/2020, 2021, p. 130.

with the available possibilities to provide feedback on obtained services,²³ the redesigned eGovernment portal no longer allows users to leave a comment or rate the service they received, even though such an option existed previously. All in all, despite notable progress in the service delivery area, the administration limits the space for creating additional external pressure to improve services and identifying problems of various user groups through collecting and transparently displaying user feedback.

The public's access to the budget information remains limited

Monthly Public Finance Bulletins do not represent public spending by budget users or policy sectors

According to the PAR Monitor 2019/2020 there is no progress in transparency and accessibility of key budgetary documents. Although each annual law on the budget is easily accessible online, the Ministry of Finance's public reporting on budget execution during the year includes economic classifications of budget spendings only. For instance, Monthly Public Finance Bulletins do not represent public spending by budget users or policy sectors, and thus cannot be considered fully transparent. In addition, mid-year budget execution reports do not get published at all. Although article 76 of the Budget System Law requires the Ministry of Finance to regularly monitor budget execution and inform the Government, which reports to the National Assembly twice a year for a period of 6 and 9 months, these reports are not made available to the public.²⁴ All things considered, the public remains deprived of insight into budget execution throughout the year, which limits potential to scrutinise public spending throughout the year and create public pressure for fiscal responsibility.

Regarding annual budget reporting, financial statements do not provide information on the effects of budget spending. PAR Monitor particularly points to the lack of data on budgetary policy outcomes.²⁵ Nevertheless, it has been recognised that, after 17 years of non-adoption of laws on the final account of the budget, in 2019 the Government submitted proposals for these laws from 2002 to 2018, which the National Assembly retroactively adopted. Year after that, the Assembly passed the Law on Final Account for the 2019 Budget, and the Law on Final Account for the 2020 Budget was adopted at the end of 2021, which could indicate that the Government has started to adhere to legal obligations in this regard. Still, SIGMA also points out that annual budgetary reporting has deficiencies in terms of transparency, as it provides only basic information and no details on assets and liabilities.²⁶ Such lack of transparency of budgetary documents further contributes to poorly informed citizenry about the ways in which their money is spent, which can create public opposition to public investments and public policies in general.

HOW TO IMPROVE PUBLIC ADMINISTRATION TRANSPARENCY IN SERBIA?

Public administration that is rooted in principles of good governance, where openness and transparency are some of the most important principles that permeate all aspects of administration's work, represents one of the fundamental human rights in a modern democratic society.²⁷ Transparency of public administration, as a significant element of PAR, is important not only for making progress toward EU accession, but also for reaching an administration that is accountable to citizens, efficient, and works in the public interest. Despite the fact that PAR has been on the Government's agenda for years, transparency remains weak in the work of the Serbian administration. National PAR Monitor for Serbia 2019/2020 offered recommendations on how to improve transparency in all key areas of the administration's functioning:

23 The public perception survey is based on a questionnaire targeting the general public (aged 18 and older) and it was implemented as part of the regional omnibus surveys in the Western Balkans during 5 May - 30 May 2020. 61% of citizens responded "Agree" or "Strongly Agree" to the preceding statement: "As a user of administrative services, I have possibilities to give my opinion on the quality of the individual services that I receive"

24 Budget System Law, Official Gazette of RS, no. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 - corr., 108/2013, 142/2014, 68/2015 – other law, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019, 149/2020 i 118/2021.

25 Miloš Đinđić, et al., National PAR Monitor Serbia 2019/2020, 2021, p. 151.

26 SIGMA/OECD, Monitoring Report Serbia 2021, p. 139.

27 Charter of Fundamental Rights of the European Union, article 41, Official Journal of the European Union, 2012/C 326/02.

- State administration bodies should involve a diverse range of external stakeholders in the policy-making process through inclusive and broadly advertised public consultations, and its results and conclusions need to be regularly published. In addition, all key information on the Government's performance and decision-making should be readily available to the public.
- State administration bodies should ensure that public vacancies for civil service positions are published in a way that is appropriate for potential candidates, that they are written in clear and understandable language, and that information and explanations about possible annulled announcements are easily accessible.
- Proactive publication of all (with exceptions for clearly justified reasons) relevant data and documents created in the work of public authorities in a manner adapted to citizens should be established as a legal obligation.
- Users of public services should be able to easily provide feedback on the services they receive, and information about citizens' feedback on administrative services should be proactively published on the websites of service providers and the eGovernment portal.
- Service providers should start using citizen-friendly ways of informing citizens online. Using multi-media contents, easy to understand tutorials and brochures, innovative mechanisms for communicating basic, but crucial information on services, citizens' rights and obligations, and service fees, should fully replace dry, bureaucratic descriptions of basic information.
- Budget execution reports (in-year, mid-year, annual) should be published as a rule, and comprehensively as possible to include functional, organisational, and economic classifications of budget spendings.

Implementation of these recommendations would result in more transparent, more accountable, and citizen-oriented public administration. Increasing the transparency of the work of the administration across all segments, ranging from policy development to budget execution, can contribute positively to Serbia's accession to the EU, both by improving its rankings in this fundamental reform area and by facilitating implementation of reforms in other related areas, such as fight against corruption. Still, many of the problems highlighted here have also been noted in previous monitoring cycles, giving the impression that Serbia is largely stagnant in terms of administration transparency. There is a great potential to demonstrate political will for reforms by the public administration more transparent and citizens will surely see and reward such political will with increased trust in institutions.

This document has been produced with the financial support of the European Union, the Balkan Trust for Democracy, a project of the German Marshall Fund of the United States and the Royal Norwegian Embassy in Belgrade. The responsibility for content and information in this publication rests solely with the European Policy Centre (CEP) and the Think for Europe Network (TEN). Opinions expressed in this publication do not necessarily represent those of the European Union, the Royal Norwegian Embassy in Belgrade, the Balkan Trust for Democracy, the German Marshall Fund of the United States, or its partners.

For more information, please visit:

www.par-monitor.org

