

**MONITORING OF RESULTS IN THE AREAS OF TRANSPARENCY,
ACCOUNTABILITY AND INTEGRITY
IN PUBLIC ADMINISTRATION
2014-2015**

-FINAL REPORT-

This document has been prepared under the Public Administration Reform Monitoring (PARM) project, implemented by TI BiH and CIN, with financial support from the Swedish International Development Agency (SIDA) and the Government of Denmark. The views and opinions expressed herein are solely those of TI BiH and can in no way be taken to reflect the views of SIDA or the Government of Denmark.

March 2016

ABBREVIATIONS AND ACRONYMS

BiH	Bosnia and Herzegovina
BD	Brčko District
FBiH	Federation of Bosnia and Herzegovina
RS	Republika Srpska
CSA	Civil Service Agency

INTRODUCTION AND METHODOLOGY

Transparency International Bosnia and Herzegovina (TI BiH) is implementing the Public Administration Reform Monitoring (PARM) project in cooperation with the Centre for Investigative Reporting (CIN). The project is funded by the Embassy of Sweden/Swedish International Development Agency (SIDA) and the Government of Denmark. As part of this project, a monitoring survey has been carried out and a report has been prepared on the results achieved by the public administration in the areas of transparency, accountability and integrity. Monitoring of results achieved by the public administration in the areas of transparency, accountability and integrity in 2014-2015 includes a total of 31 public institutions at the state and entity levels of government. The sample was originally envisaged to comprise 15 institutions at the state and entity levels and in Brčko District.¹

Institutions that refused to participate in the monitoring survey:

Of the 15 institutions included in the sample, two state-level institutions refused to comply with their legal obligation to provide access to public information and thus contribute to the monitoring survey:

- Ministry of Foreign Affairs of BiH,
- Ministry of Justice of BiH,
- Ministry of Finance and Treasury of BiH.

Of the 15 institutions included in the sample, six institutions from the level of the Federation of BiH (FBiH) refused to comply with their legal obligation to provide access to public information:

- Ministry of Finance of FBiH,
- Ministry of Education of FBiH,
- Ministry of Displaced Persons and Refugees of FBiH,
- Ministry of Health of FBiH,
- Banking Agency of FBiH,
- Agency for Privatisation in FBiH.

Of the 15 institutions included in the sample, three from the level of the Republika Srpska (RS) refused to participate in the monitoring survey:

¹ Civil Service Agency, Ministry of Civil Affairs, Communications Regulatory Agency of BiH, Directorate for Coordination of Police Bodies of BiH, Market Surveillance Agency, Agency for Development of Higher Education and Quality Assurance of BiH, Agency for Prevention of Corruption and Coordination of the Fight against Corruption, Public Administration Reform Coordinator's Office, Ministry of Foreign Affairs of BiH, Directorate for European Integration, Ministry of Justice of BiH, Central Harmonisation Unit (Ministry of Finance and Treasury of BiH) Ministry of Defence of BiH, Ministry of Finance of BiH, Ministry for Refugees and Displaced Persons of BiH (state level, BiH);

Civil Service Agency of FBiH, Tax Administration of FBiH, Administration for Geodetic and Real Property Affairs of FBiH, Ministry of Agriculture, Water Management and Forestry of FBiH, Ministry of Justice of FBiH, Ministry of Finance of FBiH, Ministry of Education of FBiH, Ministry of Displaced Persons and Refugees of FBiH, Ministry of Health of FBiH, Ministry of Physical Planning of FBiH, Banking Agency of FBiH, Agency for Privatisation in FBiH, Directorate for Commodity Reserves of FBiH, Securities Commission of FBiH, Public Health Institute of FBiH (entity level, FBiH);

Administration for Geodetic and Real Property Affairs of RS, Administration for Inspection Affairs of RS, Agency for Development of Small and Medium Enterprises, Civil Service Agency of RS, Ministry of Public Administration and Local Self-government of RS, Ministry of Finance of RS, Ministry of Labour, War Veterans and Disabled Persons' Protection of RS, Helicopter Service of RS, Ministry of Agriculture, Forestry and Water Management of RS, Ministry of Health and Social Welfare of RS, Ministry for Refugees and Displaced Persons of RS, Ministry of Justice of RS, Ministry of Spatial Planning, Civil Engineering and Ecology of RS, Ministry of Family, Youth and Sports of RS, Banking Agency of RS (entity level, RS); Department for Administrative Affairs, Subdivision for Human Resources, Mayor's Office, Finance Directorate, and Department of Public Records (Brčko District).

- Ministry of Agriculture, Forestry and Water Management of RS,
- Ministry of Family, Youth and Sports of RS, and
- Ministry of Finance of RS.

Institutions at the level of Brčko District, too, did not submit information, specifically: Department for Administrative Affairs, Subdivision for Human Resources, Mayor's Office, Finance Directorate and Department of Public Records.

This shows that the above institutions are in the initial phase of the reform process and therefore refuse to participate in a monitoring survey, as well as that they lack awareness of the need to present the results of their work to the general public in a comprehensive way.

Institutions that provided data, but after the given deadline:

- Ministry of Defence of BiH, and
- Ministry for Refugees and Displaced Persons of RS.

Information was collected by means questionnaires and/or interviews with representatives of selected institutions. In the processing of data use was made of the available institutions' reports, audit reports and the relevant legal regulations governing areas covered in the monitoring survey.

In order to determine the extent to which public administration institutions apply the standards of transparency, accountability and integrity, indicators were identified on the basis of which to measure the existence and enforcement of these standards. Transparency indicators gauge the existence of practice of preparing and disclosing relevant documents (reports, plans, etc.) that are essential for the work of the institution, as well as the institution's responsiveness to citizens in terms of proactive and reactive transparency. Accountability indicators show the extent to which accountability lines and mechanisms function within the institution. Also, these indicators show the extent to which the institution is accountable to other institutions to which it is by law obliged to report, as well as how accountable it is to the general public. Integrity indicators show whether the institution recognises external and internal risks of irregularities, and the extent to which it acts proactively to eliminate them.

GENERAL FINDINGS

Monitoring findings reveal an unsatisfactory situation in the area of transparency as more than two-thirds of the institutions do not proactively disclose even the most basic information related to their work, such as budget data or information on staffing plans. Requests for access to information continue to be the prevailing method of accessing information.

There are certain differences between levels of government, particularly between the state- and entity-level institutions. State-level institutions appear to have done more towards proactive transparency, establishing integrity plans and enhancing institutional capacity.

The findings that are common to all levels, which are extremely worrying, are as follows:

- audit recommendations are repeated year after year;
- expenses at all levels of government for temporary service contracts are extremely high, and there is no consistent planning of services contracted on this basis;

- public procurement plans are not disclosed by all institutions, and recommendations given in audit reports invariably concern irregularities in public procurement procedures;
- there is a serious lack of systemic, comprehensive and long-term HR planning;
- there are a large number of unfilled vacancies, which calls into question the adequacy of the existing personnel policies and reliance on existing resources;
- the practice of arbitrary and unplanned recruitments has continued despite the commitments taken on under the Reform Agenda on limiting employment in the public administration;
- most institutions did not adopt Integrity Plans;
- there is no practice of regular publication of Annual Reports.

All this indicates that, despite more than a decade of intense effort to reform the public administration, there are still institutions that systematically violate the applicable legal regulations defining the basic standards of transparency, accountability and integrity in the work of public institutions.

INDICATORS

In order to determine the extent to which public administration institutions apply the standards of transparency, accountability and integrity, indicators were identified on the basis of which to measure the existence and enforcement of these standards. Transparency indicators gauge the existence of practice of preparing and disclosing relevant documents (reports, plans, etc.) that are essential for the work of the institution, as well as the institution's responsiveness to citizens in terms of proactive and reactive transparency. Accountability indicators show the extent to which accountability lines and mechanisms function within the institution. Also, these indicators show the extent to which the institution is accountable to other institutions to which it is by law obliged to report, as well as how accountable it is to the general public. Integrity indicators show whether the institution recognises external and internal risks of irregularities, and the extent to which it acts proactively to eliminate them.

1. Disciplinary liability

In the total sample of 12 institutions at the state level it was found that in the two-year reference period there were 39 disciplinary proceedings, of which the largest number were in the Directorate for Coordination of Police Bodies (21).² As an integral part of its annual reports, CSA provides statistics on the disciplinary proceedings undertaken but without a detailed breakdown by type of sanction.³ Thus, according to CSA statistics, in 2014 there were 16 and in 2015 twelve disciplinary proceedings.

² Disciplinary liability in this authority is determined in accordance with the Law on Police Officers and is therefore not included in the statistics kept by CSA BiH, when it comes to procedures that are conducted in accordance with regulations under its scope of remit.

³ For research purposes, CSA provided access to statistics for 2014 and 2015 as the reports are still not available online.

Of the total sample of nine institutions at the level of FBiH which participated in the monitoring survey in the reference period (2014 and 2015), six did not take any disciplinary action. Thus, more than 60% of institutions have instituted no disciplinary proceedings in the last two years. In the reporting period the FBiH Ministry of Agriculture, Water Management and Forestry initiated two disciplinary proceedings (one disciplinary action in each year), and the FBiH Directorate for Commodity Reserves initiated four disciplinary proceedings (an average of two disciplinary proceedings in each year). These disciplinary proceedings resulted in reprimands or no sanctions. The exception is the Tax Administration, where a total of 15 disciplinary proceedings were instituted in the two-year reference period, most of which resulted in suspension from work and suspension of salary for a period of 2, 5, 15 and 30 days, and a public reprimand.

A similar situation was found to exist in RS. The 11 institutions that participated in the monitoring survey instituted a total of 50 disciplinary proceedings in the reference period, of which the vast majority (47) were instituted by the RS Administration for Geodetic and Real Property Affairs (RUGIPP). If we exclude this institution, it turns out that the institute of disciplinary liability is hardly known in practice, as the other institutions initiated only three disciplinary proceedings in the two-year period. The Civil Service Agency of RS does not publish statistics on the number of disciplinary proceedings in its annual reports.

Unlike its counterpart institution in RS, the Civil Service Agency of FBiH does publish statistics on the total number of disciplinary proceedings instituted along with a breakdown by type of sanction as an integral part of its annual reports. Thus, according to the 2014 report, there were a total of 31 disciplinary proceedings instituted. The proceedings resulted in sanctions in seven cases (other proceedings were either suspended or became statute-barred, or are still pending).

Conclusion: *Overall, at all levels there have been relatively few disciplinary proceedings instituted with only mild sanctions imposed in the majority of cases. On the other hand, there are substantial differences between institutions when it comes to disciplinary action taken against their employees. With a few exceptions, where there were an exceptionally large number of procedures, most institutions did not apply the disciplinary responsibility mechanism at all.*

Recommendation: *It is necessary to harmonise the rules and procedures governing the disciplinary proceedings at all levels. To that end, it is necessary to ensure that CSAs fully take over the conduct of proceedings, being independent institutions with the capacity to conduct these proceedings in a consistent and equitable manner. Also, it is necessary to ensure adequate monitoring and analysis of statistics on proceedings conducted and making these statistics transparent in a proactive manner.*

2. Lawsuits brought against institutions (by citizens and employees)

At the state level, in the reporting period, there were a total of 150 lawsuits filed against institutions, the majority of which for the payment of damages or debts, and by far the largest number of which (136) were brought against the Ministry of Defence. Eighty-four lawsuits were filed by institutions' employees, mainly for the protection of rights arising from employment.

Of the total sample of nine institutions in FBiH, five institutions had no lawsuits filed against them by third parties in the 2014-2015 period, while the remaining four institutions had a total of 35 lawsuits brought against them, an average of about eight suits per institution. Reasons for the filing of suits: compensation for damages due to being bitten by stray dogs, bidding procedures, action taken against Commission's acts, an administrative dispute or litigation, dissatisfaction with the Commission's decision, or public vacancies.

In the last two years, only the Securities Commission of FBiH and the Administration for Geodetic and Real Property Affairs of FBiH have not had any lawsuits brought against them by their employees. The other seven institutions have seen a large number of labour disputes over the 2014-2015 period, a total of 1,553. According to the collected data, the total expenses of 1,239 completed labour disputes were to the tune of KM 10,254,210.79. It should be noted that that amount was significantly higher following enforcement because in some cases the calculated amount included only the principal debt without default interest and litigation costs, and the costs of enforcement.

The Tax Administration of FBiH had by far the most labour disputes in the reference period, a total of 1,397. The total amount paid out by the institution for the purpose of settling compensation claims in the last two years was to the tune of KM 9,932,777.45. It should be noted that this is not the final amount as 184 disputes are still pending.

In the reference period, a total of 473 third parties and 25 employees filed lawsuits against the 11 RS institutions included in this monitoring survey. The share of lawsuits filed by employees is only 5.2%. The largest number of lawsuits (41.6%) were brought against the Ministry of Physical Planning, Civil Engineering and Ecology (197). According to available data, in the two-year period there were an average of 38.7 lawsuits filed by third parties per institution. 15.5% of lawsuits had negative outcomes for the institutions.

Conclusion: *Here the data are a little more uniform, if viewed by individual levels of government. In FBiH there is a large number of lawsuits brought by employees. Further, the large number of lawsuits filed by third parties indicates the dissatisfaction of citizens, i.e. users of public administration's services.*

Recommendation: *It is necessary to analyse the reasons why lawsuits are brought and devise a plan of measures and activities to reduce their number.*

3. Access to information

According to data collected in the monitoring survey, in the 2014-2015 period the 12 state-level institutions received a total of only 217 requests for access to information, or an average of 7.4 requests per institution per year. This is much fewer than the entity level institutions, which may be explained by:

- 1) either improved proactive transparency practice at the state level, or
- 2) decreased interest of citizens in information in the control of state-level institutions.

Only four institutions do not have an information officer in place, and 26% of the requests for access to information have been rejected. If we exclude the Ministry of Defence, which has specific jurisdiction, and the Freedom of Access to Information Law provides for exemptions from disclosure in the interest of defence and security, the percentage of rejected requests for access to information in the rest of the sample is similar to entity findings at 2.4%. There were no recommendations issued by the Ombudsperson's office, which is yet another difference from the entity level. Only the Ministry of Defence requested assistance in interpreting certain questions related to the implementation of the law. The distribution of persons requesting access to information is uniform, in terms of whether requests were filed by legal or natural persons, and no institution was found to have a significantly larger number of requests filed by either group.

At the level of FBiH there were slightly more requests for information. Of the ten institutions at the level of FBiH, five institutions do not have an information officer in place. In the same sample there

were a total of 2,303 requests for access to information. This means that the institutions in FBiH receive on average 115.15 requests per year. 75.5% of requests were filed by legal persons, and as many as 88.7% of requests were filed with the Tax Administration of FBiH.

Information seekers requested access to different information, but most frequently the requested information concerned issues belonging to the mandate of the monitored institutions, as evidenced by the fact that only 4.5% of the requests for access to information were declined. The number of requests received and the fact that the vast majority of the requests were accommodated shows that that is indeed the information that is under the control of public authorities, and its regular disclosure in the new media would significantly reduce the time that is now being spent to handle the requests. Furthermore, of course, this would significantly improve the quality of services provided to information users.

The Institution of Human Rights Ombudsperson made a total of six recommendations, of which five concern the Ministry of Finance of FBiH.

In the 11 RS institutions that provided data for the reference period, there were a total of 1,974 requests for information, of which 56.5% were filed by legal persons. If this number is divided by 11 institutions, it turns out that an average of 98.7 requests for access to information were processed annually. Such a large number of requests for access to information may be accounted for by the fact that the institutions do not publish information on their work in a timely and transparent way, which, if they did, would certainly reduce the cost and time that is now expended on handling the requests.

Two of the 11 institutions in RS have no information officer in place. Furthermore, no institution has made a paradigm shift towards proactive transparency, which would imply the availability of a much wider range of information than is currently available on the official websites.

Some ministries received an inordinately large number of requests for information such as the Ministry of Health and Social Welfare of RS, which accounts for about 33.3%, or one-third, of all requests. When we add to this analysis the type of information sought by citizens, it is evident that most frequently that includes the type of information which should already be available on the institutions' websites and which relates to the activities falling within the institution's purview.

Interestingly, only 1.3% of requests were not accommodated, and in the majority of cases only partly. This means that the information sought is indeed of public character, and as such could already be made available, primarily online. It is important to note that the Banking Agency of RS was the most likely to deny access to information (16 times), which makes it by far the most secretive of all the institutions surveyed.

The Ombudsperson Institution issued three recommendations for institutions within this sample. Requests for information were usually denied on grounds of an exemption claimed under Article 8 of the Freedom of Access to Information Law relating to protection of personal privacy interests of third parties. Only the Banking Agency of RS denied access to information on grounds other than that mentioned above. Specifically, in denying access to information the Agency invoked the so-called confidential provisions relating to work that is specific to the supervisory authority for the financial sector.⁴

⁴ For example, in 2015 TI BiH brought three lawsuits against the Banking Agency of RS for failure to provide requested information, on account that the public interest test had not been applied and that, given the frequent irregularities in the financial sector of the Republika Srpska, the public interest in disclosure of that information outweighed the public interest in maintaining the exemption, as provided under the applicable Freedom of Access to Information Law. The foregoing also constitutes the most common violation of the Freedom of Access to Information Law.

<http://ti-bih.org/skoro-cetvrtina-gradana-bila-u-situaciji-da-im-se-trazi-mito/>

Conclusion: *It is noticeable that in most institutions the concept of transparency is reduced to a reactive approach, i.e. access to information is granted following receipt of requests filed by citizens on issues that are closely related to the mandate and responsibilities of institutions. This is an inefficient way of handling information of public importance. The fact that access to information was denied in only a small number of cases shows that the information sought by citizens is indeed of public interest and in the control of public authorities, but nothing seems to be done to ensure proactive disclosure of this information on institutions' official websites. Almost all institutions reported that some efforts were being made to improve proactive transparency, but the available information, i.e. the relatively large number of requests for information, with the exception of the state-level institutions, seems to disprove these assertions. The situation is more favourable at the state level, as evidenced by fewer requests for information, as well as the absence of recommendations by the Institution of Human Rights Ombudsperson, which typically addresses violations of the Freedom of Access to Information Law in its recommendations.*

Recommendation: *In accordance with the measures under the Proposed Action Plan of BiH in the framework of the Open Government Partnership, which were developed by a group of civil society organisations⁵, it is necessary to increase the amount of available information through the use of new technologies, i.e. establish the practice of proactive transparency with a view to reducing the number of requests for access to information and streamlining access to information. This would entail a revision and modification of the existing Freedom of Access to Information Law or the adoption of new laws at all levels of government.*

4. Budget and budget reporting

Of the 12 state-level institutions surveyed, four proactively disclose information about their budgets. However, none of the institutions publish reports and information on budget execution.

None of the nine institutions in FBiH communicate their budgets to citizens/customers in the form of an excerpt from the Budget Law or otherwise. The Audit Office of FBiH recommends that budget planning should be based on relevant parameters and justified needs for funds with a view to ensuring more efficient use of the approved funds.⁶

Similar is found to be true of RS, where of the 11 institutions surveyed (the Banking Agency of RS did not provide answers to questions on this indicator) only one, namely the Ministry of Labour, War Veterans and Disabled Persons' Protection, routinely discloses budget information on its official website. None of the institutions prepare analytical budgets or provide separate presentations of budget execution reports, which indicates very modest achievements in the area of budget transparency.

Likewise, none of the institutions prepare separate budget information (e.g. Citizens Budget) or present to the public their budget execution reports, i.e. reports on the expenditure of funds made available to the institution.

Conclusion: *The analysis of collected information shows that budget transparency leaves much to be desired in most of the institutions. Most of the institutions stick to a very narrow interpretation of the law taking the view that everything which is not explicitly defined as public information is not subject*

⁵ <http://ogp.ba/akcioni-plan/>

⁶ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Justice as at 31/12/2014*, No. 03-11/15, April 2015

to mandatory proactive disclosure. However, freedom of access to information laws are based on exactly the opposite assumption, namely that all information is public except in very few strictly circumscribed cases.

Recommendation: It is necessary to ensure proactive transparency of the entire budget cycle and explicitly provide for mandatory proactive disclosure of budget cycle information in a form that is accessible and understandable to citizens.

5. Staffing plans

Of the 12 institutions at the state level, eight do not have a publicly available staffing plan. None of the surveyed institutions have a full complement of staff as envisaged by their official staffing plans, while five institutions are of the opinion that the current staffing plan does not correspond to the actual needs of their institution. Based on the available information, staffing plans are revised on average once in three years.

Of the nine surveyed institutions in FBiH, none have a publicly available staffing plan. Four institutions reported in their answers to the questionnaire that their staffing plans were publicly available on their websites. However, the websites contained only organisation charts and list or descriptions of managerial positions but not the staffing plans, which is an indicator of a lack of understanding or avoidance of public disclosure of the requested document. None of the institutions have filled all the positions envisaged under their official staffing plans and the staffing plans are subject to revisions. Of the nine surveyed institutions, eight have not revised their staffing plans in the last two to three years. In FBiH only one institution (11% of the observed sample) revised its staffing plan every year, noting that the plan was revised on an as-needed basis. In eight institutions there were a total of 683 unfilled vacancies, meaning that each institution is on average short of more than 85 staff members. This is a warning sign that it is time to revise staffing plans such to create more efficient and effective public administration apparatus. This does not necessarily imply employment of new staff but rather a redistribution of tasks. The Audit Office, too, recommended in its reports⁷ that institutions should revise their Rules on Internal Organisation such to establish the optimal number of staff to carry out the responsibilities falling within the institutions' purview, as well as ensure that the key positions are filled, and plan and conduct recruitment accordingly. At the same time, surprisingly, in three institutions in FBiH, which is more than 33% of the surveyed institutions, the staffing plans were found to meet the current staffing needs.

In contrast to the survey findings in FBiH, staffing plans in RS are subject to very frequent revisions, on average once a year or once in two years. A similar statement is found in the 2011-2013 performance audit report 'Employment in Public Administration' issued by the Supreme Office for the Republika Srpska Public Sector Auditing. The report found that the staffing plans were medium-term documents which were usually replaced after two years, but with revisions in between, which was also confirmed by our monitoring.⁸ Given that the mandates and responsibilities of the institutions included in this monitoring survey have not changed significantly, it seems reasonable to ask what the reasons for such frequent revisions were. Further, in the 11 surveyed institutions in RS there were 364 vacant positions, meaning that every institution has a shortage of an average of 33 staff. In RS only one of the 11 surveyed institutions has a staffing plan publicly available on its official

⁷ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Justice as at 31/12/2014*, No. 03-11/15, April 2015; Office for Audit of Institutions in FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Physical Planning as at 31/12/2014*, No. 03-17/15, March 2015

⁸ 2011-2013 performance audit report 'Employment in Public Administration' issued by the Supreme Office for the Republika Srpska Public Sector Auditing, Banja Luka, July 2014, p. 16 http://www.gsr-rs.org/static/uploads/report_attachments/2014/07/29/RU003-13_Cyr.pdf (accessed on 05/02/2016)

website. According to the aforementioned audit report,⁹ the ministries (that were included in this monitoring survey) remain at around two thirds of their envisaged staffing levels. The vacant positions are filled in part by recruiting staff on fixed-term contracts. Even so, on average, one-quarter of envisaged positions remain vacant. Audit findings indicate inordinately low staffing levels across all categories of staff for civil service positions requiring university education.¹⁰ In late 2011 the Government adopted a conclusion providing that the difference between the staffing levels envisaged under the official staffing plans and the actual number of staff cannot exceed 5%, but the conclusion was not complied with. According to the information made available and the current staffing plans, what remains an acute problem in the personnel policy is the lack of human resources, contrary to conventional wisdom which has it that public administration is overstaffed. More specifically, this raises considerable doubts as to the quality of the current staffing plans and the extent to which they take due account of the efficiency and cost-effectiveness of public administration. Here, too, the abovementioned audit report on employment in public administration arrived at similar conclusions. Particularly notable and noteworthy is the following observation: "The difference between the number of positions envisaged under the staffing plans and the actual staffing levels is found to be several times higher than the defined maximum difference of 5%. This may indicate:

- 1) either that the staffing plans are oversized relative to the actual staffing needs,
- 2) or that the duties are not performed as per the envisaged extent, quality and timeframe."¹¹

Conclusion: *There are a worryingly large number of vacant positions, which suggests that the staffing plans as medium-term human resources planning documents are inadequate and of dubious quality, as well as that the planning is not done in keeping with the principles of efficiency and effectiveness and the use of the existing workforce. The needs arising from new work assignments are addressed in the existing HR planning system by making provisions for new positions, which then cannot be filled. There is no practice of long-term planning and no strategic documents and policy frameworks with which the staffing plans could be compared. Furthermore, no routine reviews of the existing planning practices are undertaken with the aim of identifying deficiencies and taking an integrated approach to personnel policy based on general and agreed-upon individual goals.*

Recommendation: *It is necessary to introduce the practice of analysing HR planning as well as adopting general documents that set the objectives and guidelines on the basis of which better staffing plans can be developed. In developing staffing plans due account should be taken of existing positions and the need to make more use of the existing resources, i.e. to plan in accordance with available means and principles of efficiency and effectiveness in the work of public administration. Prior to developing personnel policies and general policies as long-term planning instruments, an analysis should be made of the existing jobs/positions, actual needs and new tasks that will occur in the future so that, based on that, an appropriate staffing plan can be developed.*

6. Audit reports

All state-level institutions in the sample received an unqualified opinion, with the exception of the Ministry of Human Rights and Refugees and the Ministry of Defence, which received a qualified opinion. Of the 12 institutions surveyed, three routinely disclose audit reports on their websites.

⁹ Ibid, pp. 21 and 22

¹⁰ Ibid, p. 24

¹¹ 2011-2013 performance audit report 'Employment in Public Administration' issued by the Supreme Office for the Republika Srpska Public Sector Auditing, Banja Luka, July 2014, p. 34 http://www.gsr.rs.org/static/uploads/report_attachments/2014/07/29/RU003-13_Cyr.pdf (accessed on 05/02/2016)

Recommendations given in previous reports that had remained unimplemented mostly concern public procurement procedures, award of grants to third parties and temporary service contracts.

In the reference period, of the nine surveyed institutions in FBiH, audit reports were made for four, all of which were for year 2014. The four audited institutions do not publish the reports on their websites but instead refer seekers of that information to the website of the Office for Audit of Institutions of FBiH. The collected information shows that, in addition to the fact that the disclosure of audit reports is not mandatory for the institutions, the institutions do not feel the need to present the analysis of their work openly and transparently to the public.

The analysis of the four available reports shows that the auditors issued a qualified opinion in three reports and an adverse opinion in one report (*Ministry of Agriculture, Water Management and Forestry of FBiH*) as well as that the Audit Office's recommendations are not fully acted upon. Each report emphasises that an internal audit function should be put in place.

The following are just some of the recommendations of the Audit Office:

- Take necessary steps to ensure that annual work programmes and financial plans are adopted in a timely manner.¹²
- In order to keep the competent authorities fully informed, as well as improve the overall efficiency, work reports need to be more detailed and comprehensive.¹³
- Revise the rules on internal organisation such to provide for the establishment of an internal audit function in accordance with the Law on Internal Audit and the Ordinance on the Criteria for the Establishment of Internal Audit Units in the Public Sector in FBiH.¹⁴
- Review the rationale behind the formation of a large number of working bodies and commissions which are financed from the budget, whose members are entitled to remuneration for their work and can be appointed from amongst the employees of the Ministry, and in particular review the rationale behind simultaneous appointment of multiple employees of the Ministry to certain commissions.¹⁵
- In appointing commissions, comply with Article 3, paragraph 9 of the Ordinance on Formation and the Manner of Determining the Amount of Remuneration for the Working Bodies Established by the Government of FBiH and Managers of the Civil Service Bodies of FBiH, which provides that, in cases other than those relating to the appointment of a member of a working body as per his/her duties in accordance with a special law or another regulation, one person can be appointed as chairperson or member of a maximum of two working bodies,¹⁶
- Review the rationale behind remuneration to employees for their work in commissions while carrying out tasks belonging to the Ministry's mandate, with the aim of abolishing this practice,¹⁷
- Review the rationale behind remuneration to employees for their work in commissions while carrying out tasks belonging to the Ministry's mandate, with the aim of abolishing this practice.¹⁸

¹² Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Directorate for Commodity Reserves as at 31/12/2014*, No. 03-31/15, April 2015

¹³ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Directorate for Commodity Reserves as at 31/12/2014*, No. 03-31/15, April 2015

¹⁴ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Justice on 31/12/2014*, No. 03-11/15, April 2015

¹⁵ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Justice on 31/12/2014*, No. 03-11/15, April 2015

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Office for Audit of Institutions of FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Physical Planning as at 31/12/2014*, No. 03-17/15, March 2015

The information collected suggests that RS institutions do not generally publish audit reports relating to them on their websites, but rather point out that the disclosure is done by the Audit Office. Of the 12 institutions only one has an audit report published on its website. All institutions draw up a recommendation implementation plan, and the Ministry of Health and Social Welfare received an adverse opinion with as many as 11 recommendations such as, for example, “[...] to ensure presentation of comparative data in financial statements and fill the post of internal auditor”.

According to information collected in this monitoring survey, of the 11 institutions in RS, four received an unqualified audit opinion, six a qualified opinion and one an adverse opinion.

The following are some of the recommendations outlined in the audit reports for institutions in RS:

- consistently apply relevant public procurement procedures as stipulated in the Public Procurement Law,¹⁹
- fill the position of internal auditor pursuant to the Law on Internal Audit in the Public Sector in RS,²⁰
- ensure that taxes and contributions are paid on one-off cash transfers for a newborn child,²¹
- ensure that presentation of comparative data is provided in financial statements,²²
- ensure that expenses are recognised in the same accounting period when they are incurred,²³
- define, by way of rules or another internal act, depreciation rates and the estimated life of specific categories of fixed assets,²⁴
- when concluding temporary service contracts, ensure full compliance with applicable provisions of the Labour Law;²⁵

It is interesting to note that for two of the six institutions that received an adverse or qualified opinion, a recommendation was given to fill the position of internal auditor, and in both cases the same recommendation had been given in the previous audit report, but has remained unimplemented despite the existence of a recommendation implementation plan. Further, the 2011-2013 Performance Audit Report ‘Employment in Public Administration’ issued by the Supreme Office for the Republika Srpska Public Sector Auditing also noted that the position of internal auditor in public administration bodies was one of the most frequent positions to remain unfilled.

Conclusion: *An undesirable practice has been adopted wherein institutions do not disclose audit reports relating to them. Also, it has been found that, despite the fact that they have a recommendation implementation plan in place, institutions often do not act on the auditor’s recommendations, causing recommendations to be repeated. One oft-repeated recommendation concerns the absence of internal audit.*

Recommendation: *Audit reports should be made publicly available on the official websites of the institutions, and a practice should be established of presenting recommendation implementation*

¹⁹ Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Summary Financial Statements of the Ministry of Justice of RS for the Period 01/01-31/12/2014*, No. RV005-15, June 2015

²⁰ Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Financial Statements of the Ministry of Health and Social Welfare of RS for the Period 01/01-31/12/2014*, No. RV027-15, March 2015

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Financial Statements of the Ministry of Health and Social Welfare of RS for the Period 01/01-31/12/2014*, No. RV027-15, March 2015

²⁵ Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Financial Statements of the Administration for Geodetic and Real Property Affairs of RS for the period 01/01-31/12/2014*, No. RV 033-15, May 2015

plans to the general public and reporting on compliance. Special procedures need to be introduced for determining liability in situations where institutions fail to implement the recommendations.

7. Temporary service contracts

The state-level 12 institutions spent an aggregate of KM 1,024,142.89 for different types of temporary service contracts over the two-year reference period. Of these, by far the largest amount was spent by the Ministry for Human Rights and Refugees, KM 750,638.00. Interestingly, the Audit Office of the Institutions of BiH states in its audit report that the said Ministry failed to act upon the recommendations concerning the improvement of human resources management, and in particular warns of a problem in regard to temporary service contracts, under which, contrary to law, a lot of the contractors perform tasks belonging to full-time positions.

Of the nine FBiH institutions included in this monitoring survey, only one has not concluded any service contracts in the last two years. The remaining eight institutions concluded a total of 130 temporary service contracts in the two-year period, an average of 16 contracts per institution. The total amount of funds used to finance the service contracts is estimated at KM 546,087.07. One contract was concluded for performance of tasks that are envisaged as part of full-time positions under the staffing plan (FBiH Ministry of Justice). Temporary service contracts make up 0.8% of all signed contracts. The most common scopes of contracts include cleaning services, crafts and other ancillary services. In as many as five of the nine surveyed institutions there is no plan for temporary service contracts, but they said that the needs for such services were known in advance. Thus, over 55% of institutions do not make temporary service contract plans.

The last published performance audit report²⁶ in FBiH presents findings of the analysis of budgetary funds spent on temporary service contracts. The audit found that in 2013 the institutions in FBiH had failed to take all necessary steps to reduce inefficient public spending, including as regards allocations for temporary service contracts. The findings were as follows:

- FBiH institutions had failed to reduce the expenses for temporary service contracts.
- There was no verification of the regularity or justification of concluded temporary service contracts.
- There were shortcomings in the planning of temporary service contracts.
- Temporary service contracts were often concluded with the same persons.
- Temporary service contracts were usually concluded independently by managers of FBiH institutions.
- There were no procedures in place to monitor the concluded contracts.
- FBiH institutions did not provide enough information about temporary service contracts.

The audit further identified deficiencies in the activities of FBiH institutions in concluding service contracts, and the audit team made the following recommendations:

- Carry out an analysis of the overall planning and expenditure of funds for temporary service contracts with a view to creating basic conditions for reducing inefficient public spending.
- Ensure that service contracts are not concluded for tasks falling within the purview of the institution and that contracts cannot be extended month after month with the same persons for tasks belonging to full-time positions, and that they include measurable performance indicators.

²⁶ Office for Audit of Institutions of FBiH, *Spending Public Funds from the Budget of FBiH for Temporary Service Contracts*, Performance Audit, January 2014, Sarajevo

- When planning funds for contracted services, [it is necessary] to define the types of tasks for which temporary service contracts can be concluded and the results to be achieved.
- Ensure that funds approved for temporary service contracts are disbursed from the FBiH Budget on the basis of annual plans.
- Establish a proactive information exchange and cooperation with other institutions

The 12 institutions in RS spent an aggregate of about KM 1,364,570.83 over the two-year reference period. None of the institutions signed temporary service contracts for performance of tasks falling within mandates. Only three institutions have a plan of services to be provided under temporary service contracts, and two more institutions plan for this in a piecemeal fashion. Over the two-year reference period, the 12 institutions concluded a total of 59 temporary service contracts, or 2.5 service contracts per institution per year.

Conclusion: *Most of the institutions included in the monitoring survey failed to comply with the government's commitment to reduce wasteful public spending, and the activities carried out in this area did not contribute significantly to cutting the aggregate expenditure for temporary service contracts.*

Recommendation: *It would be advisable to ensure that temporary service contracts are concluded only for tasks that are not defined under the rules on internal organisation and staffing, that they are concluded them on a fixed-term and one-time basis, in accordance with legal regulations and for precisely defined tasks, as well as cut expenses incurred on this basis.*

8. Public procurement

All 12 institutions at the state level have made their public procurement plans publicly available on their official websites. In FBiH procurement plans are publicly available in seven out of the nine institutions included in the survey. In RS, of the 11 institutions only three have publicly available procurement plans.

The audit of the financial statements of the FBiH Directorate for Commodity Reserves did not identify any major omissions or irregularities in contract awarding procedures conducted through a negotiated procedure, competitive request and direct agreement. However, the Audit Office could not confirm that the accelerated restricted procedures were fully compliant with the Public Procurement Law and its implementing regulations, because the statutory conditions for the application of this type of procedure were not met, as elaborated in more detail in the Report.²⁷

The following are selected recommendations from audit reports of analysed institutions in FBiH for 2014 relating to public procurement:

- All procurement should be planned in the annual plan, types of procedures should be selected properly, initiated in a timely manner and implemented consistently and in full compliance with the Public Procurement Law and its implementing regulations. In order to ensure more efficient spending of budget funds, it is necessary to establish and ensure competitiveness in negotiated procedure, as well as avoid procedures that will depend on only one candidate,²⁸

²⁷ Office for Audit of Institutions in FBiH, *Report on the Audit of Financial Statements of the FBiH Directorate for Commodity Reserves as at 31/12/2014*, No. 03-31/15, April 2015

²⁸ Ibid.

- Consistently and fully comply with the provisions of Articles 6 and 30 of the Public Procurement Law, as regards the implementation of appropriate procurement procedure and the division of the subject matter of procurement as well as the application of negotiated procedure,²⁹
- Consistently and fully comply with the concluded contracts, in particular as regards delivery deadlines and provision of bank guarantees, as well as provide for contractual penalties in case of delays in the delivery of works/services.³⁰

From seven institutions in RS, three received recommendations relating to public procurement, as follows:

- Consistently implement public procurement procedures as defined under the Public Procurement Law.³¹
- In implementing public procurement procedures, [it is necessary] to ensure the most cost-effective use of public funds and compliance with contractual provisions.³²

Conclusion: *The findings and recommendations of the audit offices at all levels of government in BiH indicate the prolonged absence of procurement plans and/or poor procurement planning, the broad discretion of the contracting authorities and the resultant stifling of competition, all of which create a range of problems in the field of public procurement. Based on the analysis and the above findings, it can be concluded that the public procurement procedures are not implemented consistently, as provided for under the Public Procurement Law, and do not ensure the most cost-effective use of public funds and compliance with contractual provisions.*

Recommendation: *The public procurement planning process should be brought in sync with the budget planning process through public consultation in the procurement planning process, in particular for projects of broader social significance, and by ensuring synchronised publication of the annual procurement plans and budget documents. Also, it would be advisable to make it mandatory for contracting authorities to publish their procurement plans containing all procurement procedures other than direct agreement (the value of which should be legally pegged to the amount of the annual budget of the contracting authority) on the Public Procurement Portal, too, so that they are freely and easily accessible to all potential bidders and other interested parties. Public procurement legislation should make it mandatory for contracting authorities to prepare and publish annual procurement plan execution reports.*

9. Integrity Plan

Of the 12 state-level institutions included in the monitoring survey, only one does not have an integrity plan in place. Of the nine institutions in FBiH, four have not yet adopted the integrity plan, and of the 12 institutions in RS, only one has an integrity plan in place.

The collected data show that 92% of the state-level institutions, 44% of the FBiH institutions and only 8% of the RS institutions have an integrity plan in place.

²⁹ Office for Audit of Institutions in FBiH, *Report on the Audit of the Financial Statements of the FBiH Ministry of Physical Planning as at 31/12/2014*, No. 03-17/15, March 2015

³⁰ Ibid.

³¹ Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Summary Financial Statements of the Ministry of Justice of RS for the Period 01/01-31/12/2014*, No. RV005-15, June 2015

³² Supreme Office for the Republika Srpska Public Sector Auditing, *Report on the Audit of Financial Statements of the Ministry of Labour, War Veterans and Disabled Persons' Protection for the period 01/01-31/12/2014*. No. RV047-15, March 2015

Conclusion: Based on the collected information, it is evident that the entity-level institutions, particularly in RS, are seriously lagging behind when it comes to preparation of integrity plans as an efficient safeguard against possible risks.

Recommendation: All institutions should adopt integrity plans as envisaged under the Strategy for the Fight against Corruption 2015-2019. All of the institutions that have developed their integrity plans should further strengthen the monitoring of their implementation.

10. Annual reports

Four of the 12 state-level institutions included in the sample do not routinely publish their annual reports. In FBiH five of the nine institutions do not publish annual reports on their websites, and in RS only four of the 11 institutions publish annual reports on their websites.

Conclusion: A significant number of institutions at all levels still do not routinely communicate their annual reports to the public. The most-commonly cited reason for non-disclosure is the absence of a legal obligation in this respect, which is only partly true.

Recommendation: It is necessary to introduce mandatory proactive disclosure of institutions' annual reports by way of appropriate statutory or regulatory provisions.

11. Recruitment (vacancies and job competitions)

In the 2014-2015 period, the 12 state-level institutions advertised 41 vacancies and employed 127 new staff. This means that the state-level public administration bodies employed an average of five persons a year.

In two of the nine FBiH institutions there were no recruitments in the two-year reference period. According to the summary statistics on recruitments in FBiH presented by CSA BiH, in the two-year reference period there were 516 advertised vacancies and 636 new staff were employed. The Office for Audit of Institutions in FBiH issued a recommendation that the positions defined under the Rules on Internal Organisation should be filled in the manner prescribed by the Law on Civil Service in FBiH³³. The issuance of such a recommendation by the Audit Office just goes to confirm that there are irregularities in recruitments and the filling of vacancies.

The Tax Administration of FBiH alone employed as many as 75 new staff in the reference period, whereas all other institutions employed an average of two staff over the two-year reference period. At the same time as it recruits so many staff, this institution is embroiled in an inordinate number of labour-related lawsuits brought against it and suffers huge financial losses as a result. When viewed together with the recommendations of the Audit Office, these figures call into question the adequacy of the existing HRM process.

In the two-year reference period the 12 institution in RS advertised 33 vacancies and employed a total of 65 staff. This means that an average of almost three staff were employed annually in public administration bodies in RS. According to CSA RS, in 2014 a total of 59 vacancies were advertised and 203 candidates were selected.

³³ Office for Audit of Institutions in FBiH, *Report on the Audit of Financial Statements of the FBiH Ministry of Agriculture, Water Management and Forestry as at 31/12/2014*, No. 03-18/15, June 2015

Conclusion: *Currently in force in FBiH is the conclusion of the FBiH Government suspending any recruitment of civil servants and employees [in public administration bodies] until 31 March 2016. In 2010 the RS Government adopted a conclusion suspending any recruitment to public administration unless the RS Government gives its consent for new recruitments by way of a special procedure. Governments at all levels have committed themselves to limiting employment in public administration in accordance with the Reform Agenda until such time as revised staffing plans have been adopted. The findings of this monitoring survey, however, show that this has not yet had the desired effect on the dynamics of employment in public administration. Furthermore, the survey has revealed that there is a lack of systemic planning of human resources and, consequently, current recruitment policies are not based on systemic planning.*

Recommendation: *It is necessary to devise a clearly defined recruitment monitoring and analysis system for a specific time period with a view to establishing whether the achieved recruitment dynamics is in accordance with the set objectives. First of all, it is necessary to introduce clearly defined long-term limitations to public administration recruitments, in accordance with the policy set forth in the Reform Agenda. Also, it is necessary to ensure that recruitments are linked with human resource planning.*