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Autonomy and accountability of governmental agencies

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Evidence-based in

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The Principles of Public Administration

2017 edition

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The Methodological Framework for Principles of Public Administration

November 2017

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SIGMA

Six core areas of a comprehensive framework



Strategic framework of public administration reform

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Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

1. There are **rules governing the creation and organisation** of all public bodies under the executive power at the central level; a limited number of types of organisational categories are defined; all agencies and similar bodies have a defined line of accountability to the relevant ministry to which they report on a periodic basis.
2. The **creation of new bodies and their organisation is controlled** in order to ensure their rationality and value for money.
3. Management units report through **clear lines of accountability**; managerial accountability is enhanced by empowering managers and supervisors and delegating decision making to them.
4. The legal framework clarifies the **legal status and degree of autonomy of the different types of autonomous or semi-autonomous bodies**, as well as their accountability lines, and enhances a results-oriented management.
5. The **ministries have assigned responsibilities for steering and controlling the subordinated agencies/bodies** and have sufficient specialised professional capacities available.
6. **Direct accountability of agencies to the parliament is an exception.**
7. **Ministers are answerable for the performance of the agencies/bodies subordinated to their ministry.**





Principle 1 –condensed version

Government organisation co-ordination framework

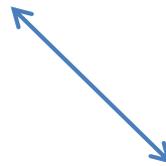
- Rules
- Typology
- Oversight

Ministerial responsibility framework

- Steering
- Control
- Answerability

Managerial accountability framework

- Clear lines
- Autonomy
- Delegation





SIGMA's knowledge base

Principles vs Reality

- Assessments (ALB, BiH, KOS, MNE, NMK, SRB, TUR, ARM, UKR)
- Projects (ALB, KOS*, MNE, NMK)

Conclusion: one of the least developed and organised area



Main problems

- No co-ordination or policy on institutional development of the organisation of government
- Weak legal framework – functional criteria and typology not clear
- No systematic involvement of central bodies (incl. HRM, finance)
- No proper *ex ante* analysis in restructuring the administration
- Lack of accountability and adequate performance management of agencies by ministries or parliaments



Ad hoc decisions

Too many different types of organisations with varying reporting lines

Differences in salaries and employment conditions



Too many small single purpose agencies

“Fourth branch of government”

Result: underperforming, inefficient and unaccountable administration





Autonomy vs Accountability

Misconceptions

- Autonomy and accountability are mutually exclusive
- Autonomy can be ensured only by direct Parliamentary supervision
- Civil service legislation or other central mechanisms violate the independence



Institutions accountable to the Parliament



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	Ombudsman	Supreme Audit Institution	Central bank	Electoral management	Data protection	Public information	Energy market	Electronic communications	Audiovisual media	Competition protection	#
Austria											2
Belgium											4
Bulgaria											7
Croatia											9
Cyprus											1
Czech Republic											3
Denmark											2
Estonia											
Finland											3
France											2
Germany											3
Greece											5
Hungary											2
Ireland											3
Italy											4
Latvia											7
Lithuania											4
Luxembourg											2
Malta											2
Netherlands											2
Poland											3
Portugal											2
Romania											5
Slovakia											4
Slovenia											7
Spain											7
Sweden											3
UK											2
28	25	24	8	3	13	4	6	5	12	5	





Conclusions

- Clear conceptual basis helps
- Ownership for government organisation is vital
- Appropriate governance and accountability scheme for each type (rules for establishment/abolishment, internal organisation, reporting, performance management, financial management, HRM)
- Functional analyses/reforms should not be limited to the number of employees/organisations
- Functional analyses should be based or provide good conceptual basis





Dimensions of formal independence of regulatory agencies

Area	Key aspects	Specific solutions
Governance	<ul style="list-style-type: none"> • Procedure for appointment of the managing body (bodies) • Criteria for appointment of the managing body (bodies) • Tenure of the managing body (bodies) • Renewability • Possibility and grounds for dismissal 	<ul style="list-style-type: none"> • Appointment of managing body for fixed term (with limited renewability) in open and transparent procedure • Early dismissal possible solely in circumstances indicated by law, primarily or exclusively on disciplinary grounds
Organisational autonomy	<ul style="list-style-type: none"> • Setting internal structure • Planning objectives and activities • Budgeting • Contractual autonomy • Staffing – status of staff, HRM autonomy 	<ul style="list-style-type: none"> • Autonomy in day-to-day management and adjusting the organisational structures, as well as recruitment and staff management • Contractual (spending) capacity within the budget • Separate budget based on proposal prepared by the authority • Specific objectives and performance targets developed by the authority and agreed with the government
Regulatory powers	<ul style="list-style-type: none"> • Power to issue/propose normative/sublegal acts • Review of administrative acts issued by the regulatory body 	<ul style="list-style-type: none"> • Administrative acts issued by authority are subject to appeal directly to the court (not to any government body) • Explicit ban on issuing instructions about individual cases by any government body
External accountability	<ul style="list-style-type: none"> • Performance monitoring and reporting • Budgetary reporting • Control powers of the executive bodies or legislature 	<ul style="list-style-type: none"> • Autonomy in delivering objectives combined with performance reporting and – optionally – the power of the government to issue general policy guidelines • Optionally – power of the government to conduct inspections of lawfulness of actions (excluding review of administrative acts)



Example from Kosovo*



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	Executive agency	Regulatory agency
Appointment of managing body	Procedure for positions of senior management officials under LPO	Procedure for positions of senior management officials under LPO
Tenure	Fixed term of five years	Fixed term of five years
Possibility of early dismissal	According to LPO	Strictly limited grounds established in the LSA (further elaboration required)
Setting internal structure (organisational setup)	Internal organisation approved by the Prime Minister	Internal organisation adopted by the head of agency
Organisational autonomy	Contractual capacity, independent HR management and property management, standalone contracting authority	Contractual capacity, independent HR management and property management, standalone contracting authority
Administrative autonomy	Appeals against administrative acts should be, in principle, submitted to the parent ministry	Appeals against administrative acts should be submitted directly to the court
Budgetary autonomy	Financial plan agreed between agency and parent ministry + spending autonomy within budgetary limits	Financial plan agreed between agency and the Government + spending autonomy within budgetary limits
Parent's ministry (Government) supervisory powers	<ol style="list-style-type: none"> 1) Performance management - agreeing on performance objectives and targets; reporting; 2) Issuing general guidelines; 3) Requesting information and documents; 4) Undertaking inspections <p>RIGHT TO ISSUE ORDERS ON INDIVIDUAL ADMINISTRATIVE CASES EXPLICITLY EXCLUDED</p>	<ol style="list-style-type: none"> 1) Performance management - agreeing on performance objectives and targets; reporting; 2) Requesting information and documents; 3) Undertaking inspections <p>RIGHT TO ISSUE ORDERS ON INDIVIDUAL ADMINISTRATIVE CASES EXPLICITLY EXCLUDED</p>





Recent SIGMA projects in the area

Albania

- methodological paper on agency restructuring

Montenegro

- Paper on Shared Support Services in the Central Government. International Practice.
- Concept Paper on the New Law on State Administration
- Proposal of Procedure for Creation of New Public Bodies
- Typology of public bodies and their governance regimes

Kosovo

- Review of independent agencies and regulatory bodies in Kosovo
- Review of the draft Law on Organisation and Functioning of the State Administration and Independent Agencies

Managerial Accountability in the Western Balkans: Comparative analysis of the barriers and opportunities faced by senior managers in delivering policy objectives, SIGMA paper No. 57 (forthcoming)

New paper on the organization of government in progress.





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Thank you

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