

Comments on the draft Public Finance System Law

Overall, the new draft Public Finance System Law is more comprehensive than the current law. It captures all relevant aspects of the international standards and best practices of the public finance system law. However, the draft law provides excessive power to the executive branch, mainly MEF, to control and oversee almost all aspects of public financial management. There is a significant lack of emphasis on the roles and functions of the oversight institutions such as the National Assembly and the Senate, and the National Audit Authority. The principles of transparency and public consultation, in addition, appear to be virtually absent.

Specific comments:

The Draft Public Finance System Law should include provisions that clearly emphasizes meaningful public consultations with relevant stakeholders including civil society organisations, the private sector, and the general public in the process of budget formulation at the ministerial and institutional levels as well as at the national and sub-national levels.

For instance, Article 49 should be expanded to include this text “Ministries, institutions and similar public institutions shall organise regular public consultations with the general public in order to gather key comments and inputs from citizens, CSOs, private sector in their institutions’ budget formulation.”

The draft law should broaden its legal basis for transparency and public consultation, by requiring the government to publish sufficient information to allow the public to scrutinize the conduct of fiscal policy and the state of the public finances. For example, there should be an article or additional provision on the public dissemination of full draft National Budget Law and provides platforms for citizens, parliament, relevant ministries, CSOs and private sector to provide inputs before the draft National Budget Law is approved by the council of ministers and submitted to the National Assembly and the Senate.

The draft law should also include a provision that enables MEF and/or the National Assembly/Senate to publicly disseminate full budget documents in a timely manner such as pre-budget statement, executive’s budget proposal, enacted budget, citizens budget, in-year reports, mid-year review, year-end report, and audit report and creates a platform for key stakeholders to monitor the budget implementation.

Articles 76, 77, 78 and 100

These articles should clearly emphasize the rights and obligation of the oversight institutions such as National Assembly and Senate in all public financial management processes including budget formulation, budget implementation and assessment/audit as well as debt approval and management.

Specifically, we suggest Article 76 be expanded to include the following text (in Paragraph 4) “the performance review report along with recommendations should be reviewed and endorsed by the Commission 2 of the National Assembly before the recommendations are provided to ministries, institutions, similar public entities and sub-national administration for the use as inputs for improving the following year’s performance plan.”

Article 76, Paragraph 5 should be revised as follows: “MEF with endorsement from the Commission 2 of the National Assembly can initiate and lead the evaluation as necessary and by selection to measure the efficiency and effectiveness of the programme of ministries and institutions.”

Article 77, Paragraph 1 should be revised as follows: “Under the conditions and limits of the authority provided annually and under the authority of the Prime Minister and the approval of the National Assembly, ...”

Article 77, Paragraph 2 should be revised as follows: “Under the limits defined by financial laws and under the authority of the Prime Minister and the approval of the National Assembly, ...”

Article 78 should include this additional text “Public procurement process shall be in full compliance with the Law on Public Procurement and ensure transparency and accountability throughout the process from public tender to implementation and monitoring.”

Article 100 should be expanded to include this sentence “The financial inspections report including findings and recommendations shall be reviewed and endorsed by the Commission 2 of the National Assembly.”

Article 95 should include the following text: “All of the key findings and recommendations shall be provided to relevant ministries, institutions, similar public entities and sub-national administration to improve their performance plan and follow-up action in the following year.”