

GOOD GOVERNANCE

FOR OPENNESS AND
ACCOUNTABILITY IN POLITICS
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Openness of the Executive Power in Kosovo and in the Region

Proposals for the improvement of the current state



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INTRODUCTION

In cooperation with partners from a regional network of NGOs “ActionSEE”, Open Data Kosovo (ODK) prepared a paper, which analyzes the level of transparency, openness, and accountability of the executive power in the region of the Western Balkans.

The paper constitutes the result of a comprehensive research rooted in rigorous methodology, conducted by members of the ActionSEE network over the period of several months. The aim of the research is to determine the actual state-of-affairs in the region through an objective measurement of openness of the executive power, and to offer recommendations for improvement. The project also strives to improve respect of the principles of good governance, among which openness occupies a significant place.

Openness must be a policy of all governments in the region and must be designed with a similar level of care and detail as other significant policies. The policy of openness must not succumb to the sway of political will, as well as it must not be a result of a current decision or of a current mood of power. While each regional country has its own specific political conditions, different circumstances and challenges, there is space for joint regional efforts to work towards improving the level of openness of their executive bodies.

The introduction of the concept of open government in the Western Balkans was most commonly dictated by integration processes or motivated by the improvement of the international reputation of a country through the participation in initiatives for open public administration. The essential internal need for openness is often neglected, despite the fact that governmental openness to citizen engagement is an important precondition for the creation of public value.

This approach leads to a problem regarding the implementation of rules of transparency and openness, especially at lower levels of public administration where social importance of this approach is not recognized but is considered an unpleasant obligation imposed by international requests. Therefore, the policy of openness in the region requires not only an expression in strategic documents, but also vocal advocates for the concept of open government at the highest levels.

Our proposal is addressed to decision-makers at all levels in the countries of the Western Balkans: governments, ministries, and executive agencies. It will be of interest to the representatives of international organizations and colleagues from the NGO sector dealing with the related issues, and the general public who strive to make their government more open.

In order to achieve a public dialogue of higher quality regarding these topics, a series of public events will be organized, at which all interested stakeholders will be invited to share their views and propose joint sustainable solutions for development in this area. In addition, we will respect principles of transparency of research and keep institutions abreast of all details of its conduct and adopted conclusions.

We remain at anyone's disposal for all suggestions, benevolent critiques, and discussions regarding our policy paper.

Openness of institutions of Executive Power in the region

After the analysis of a number of **methodologically** circled data we noticed similarities and differences regarding the state in this area within **regional** countries. Generally, results indicate that from regional perspective the openness of executive power is not on a satisfactory level. Instead of the expected progress in the area of openness, institutions of executive power in the region had even worse results in comparison to previous year. Openness approximately amounts to only **38%** of fulfilled indicators, whereas the percentage for the previous year was higher, at **41%**.

To remind, research conducted this year demanded higher level of openness of institutions in comparison to the previous year by addition of new indicators for measuring openness making the criteria more demanding. We believe that such, more demanding research approach resulted in decrease in openness of institutions of executive power. On the other hand, results and analyzed data suggest that the institutions themselves generally performed no activities at overall development of openness, so the introduction of new indicators is not counterbalancing the drop in openness.

As found and stated in the analysis published in 2017, as well as this year, policies of openness which are clear, consistent and grounded in strategic documents do not exist. The data also reveals that openness levels decrease from higher to lower levels of government and bodies with activities and policies closer to citizens.

Each country has its own specific political conditions in which it develops its transparency and openness, with which we will deal in the second part of this document, but a significant space for the joint regional cooperation regarding the improvement of situation can be noticed.

Decrease in openness at regional level, with the exception of the Government of Macedonia which made significant progress, shows that executive power institutions performed no activities on development of their openness in the past year. Focus of stakeholders in executive and legislative power on elections and elective process in the past year had determining impact on priorities set forth by governments in regional countries, and our research only offered a confirmation of that fact.

Lack of strategic approach to openness is still evident in the regional countries. The data obtained suggest that in large number of cases there is still no expression of openness and transparency of institutions of executive power in relevant documents (strategies, procedures or policies related to the issues). Although a small number of institutions of executive power has documents which, in a way, regulate their openness, the practice is not uniform, not in approach to openness, neither in type of document or bylaw regulating the issue.

Uniformity is not present between the regional countries but also in institutions of executive power within one country. Not even the presence of international initiatives advocating openness in regional countries contributed to increase in openness and transparency of institutions of executive power. Lack of internal policies and aspiration to work on improvement in these areas is clearly reflected on the presence of countries in such initiatives.

The fact that willingness to work on improvement in the area of openness and transparency of the institutions of executive power in the region is lacking was confirmed by the lower number of institutions which had taken active part in the conducted research and delivered answers to questionnaires, key part of overall research, in comparison to the previous year. Lack of willingness to answer the questions in the questionnaire is by itself an indicator of decrease of openness and lack of interest in promotion of openness.

Recommendation that the strategic documents and annual action plans addressing the development of openness must be adopted remains. Within countries it is necessary to plan development but also to secure uniformity of openness of institutions of executive power. After introduction of strategic planning it is necessary to consider passing of the Law on Government and Ministries since that would present the most efficient manner of dealing with this, but also other issues in functioning of public administration. Our monitoring has shown several "critical points" i.e. critical obstacles for the development of openness in the region.

Transparency and communication

Although there are champions and examples of good practice in **implementation of laws on free access to information** among the institutions of executive power in the region, they are not widely present, not even within a single country of origin. Institutions of government still exercise their own will in determination of level to which the aforementioned law shall be implemented and the steps are not being taken in direction of introducing legal advancements in the area providing for proactive transparency, publishing of registers and guides for access to information and publishing of all the answers to requests for access to information.

Communication with citizens is far from satisfactory and in the future period we expect significant activities on improving the current state. Situation remains unchanged in the domain of modern ways of communicating with the citizens and classic methods of communication still prevail. Respecting the principle of publishing data in **open data**¹ format which would increase availability and facilitate citizens' data collection represents a regional problem.

Planning and spending of public funds

Practice of publishing financial information and documents is still highly nonuniform, and transparency of spending public funds is at extremely unsatisfactory level. Strengthening the financial transparency should be in focus and also one of priorities of institutions of executive power in the region in the future which asks for special efforts to be taken in that direction.

Information on budget, but also information on how planned funds were spent are rarely published. Ministries of Finances of the regional countries are in majority of cases the institutions which have history of published data, whereas other institutions of executive power scarcely and incompletely use this opportunity. Budget for citizens and ability to have citizens' involvement in process of planning and spending public funds is possibility unknown to regional institutions of executive power.

Also, practice of not publishing plans for public procurements is still widely present, while calls and decisions regarding public procurements and belonging contracts and annexes to agreements were not available in most cases.

¹. Open data are data structured in computer-understandable format, which provides opportunity of free and repeated use .

Efficiency, effectiveness and citizens' expectations from powers

A significant question of functioning of executive power and its openness towards citizens is a creation of clear indicators of the success of government policies, which will be available to citizens and according to which the citizens may monitor realization of policies and their success rate.

Regional governments should yet establish single methods and procedures for high-quality control of their policies, and they do not have developed adequate methods for measurement of their policies' performance. A sufficient attention was not paid to the establishment of single method according to which ministries would inform the Government about their activities annually. All stated items negatively reflect on informing citizens about impact and effects of operations performed by executive power.

KOSOVO

Openness of the Executive Power in Kosovo

Kosovo in this year's measurement is ranked third in the region, scoring **33%** based on the set indicators, similar to last year's measurement, which ranked Kosovo as third in the openness of the executive power with an overall score of 39%. Kosovo did not make any progress in improving its position compared to other regional states. The absence of strategic planning and promotion of openness as a national strategy represents a significant obstacle for further progress. Openness of the executive power lacks consistency and is approached in an ad hoc manner, rather than tackled strategically. Moreover, openness significantly decreases as one moves towards bodies that are lower in the hierarchy: the core executive, the Prime Minister's Office, scored 41%, meanwhile Line Ministries scored 37% and Executive Agencies scored only 15%.

The Government of Kosovo, Prime Minister's Office

The Prime Minister's Office received the lowest regional score of openness, only **41%**. taking into consideration the four components of openness which include: accessibility, awareness, integrity and transparency.

Accessibility

Overall, Kosovo has an openness problem when it comes to accessibility that is related to complying with the procedures for free access to information. It is in this category that Kosovo received the second lowest score **60%**, leaving behind only Bosnia and Hercegovina. Even though the infrastructure for access to information is present, and the Law on Free Access to Public Documents, which regulates how the FOI works, is in place, the country still lacks implementation in practice. The institution has a designated person who deals with FOI requests and there is a reasonable minimum time limit for responding to requests.

However, the right to access information does not seem to apply to state owned enterprises, public companies, or other entities that are owned or controlled by the Government. The institutions fail to provide a list or register of the available documents in their possession and make them public, even though it is foreseen by the law.

This is a practice which would simplify the procedure for both the public officials and the applicants. It is a common flaw found in all countries of the region but is relatively simple to implement and would immediately increase Kosovo's score. The core executive is also lacking in a more active interaction with citizens; Kosovo, similar to last year, scored the lowest in the region of the Western Balkans on this component. A first step towards improving this aspect of openness would be to switch to more modern ways of interaction with citizens, like Twitter and Facebook. Kosovo scored the lowest in the region on the public consultation indicators because the country did not create any type of mechanism, which would enable citizens and stakeholders to challenge decisions made. The Office of the Prime Minister has not carried out a proper process for public consultations for any decisions which have been undertaken thus far, therefore, it constitutes a very important area for improvement.

Awareness

Kosovo received the second lowest score on awareness, scoring only **25%**, and leaving behind only Serbia, which received a score of 18%. One of the main elements missing at the level of the Office of the Prime Minister is the overall evaluation and monitoring of projects and policies, on which Kosovo scored 0% based on the indicators. Thus, the country was placed last in the region. A contextual overview shows that Kosovo has been exposed to a lot of donor driven projects and policies. However, there is no mechanism in place for monitoring the performance of these projects and policies and the impact of reform programs and plans. The progress or regress goes undocumented, which poses a great challenge to openness, as well as an inefficiency risk. The only component within Awareness that Kosovo received a score of 100% is the component on Ministry reporting; the country shares this score with Macedonia.

Integrity

This is an area in which the office of the Prime Minister is performing well on, scoring **82%** based on the indicators. Kosovo was ranked as second, following after Montenegro. This is mostly connected with declaration of wealth via asset cards, managed by the Anti-Corruption Agency, which in our study falls under the category of Integrity. Integrity indicators are related to the declaration of wealth, code of conduct, and conflict of interest; in all three, processes are regulated and give this institution a high ranking.

Transparency

Transparency is measured within three components: organizational information, public procurement, and budgetary transparency. Overall, Kosovo has scored only **29%** based on the set indicators, therefore is ranked last in the region. One of the biggest pitfalls of Kosovo's Office of the Prime Minister is budgetary transparency. The official website does not contain the budget expenditure and the final accounts. There is no information on the level and composition of public debt, debt servicing, and how the debt is being managed. Ministry of Finance website contains the overall budget that covers the overall spending of Kosovo institutions. However, the website of the Office of the Prime Minister fails to provide accessible, understandable and comprehensive information on the planned budget and government spending.

Organization Information

When it comes to transparency in organizational information, The Office of the Prime Minister of Kosovo scored **36%** based on the set indicators ranked last in the region once again, which shows a drop when compared to last year's measurement on which Kosovo scored 63%. The website is generally well populated with press releases of Government sessions, official documents, reports, strategies, annual work plans, and, to some extent, information on civil servants. However, there is a problem with the consistency and organization of such documents within the website. The information is not always presented in the country's two official languages, which is a condition within the Constitution, and the reports are scattered around and do not follow a specific pattern.

Public Procurement

The major problem when it comes to transparency is public procurement. Kosovo is ranked last in the region, and falls behind Montenegro, Serbia, Bosnia and Herzegovina, and Macedonia, with a score of only **32%** based on the set indicators. The website of the Office of the Prime Minister fails to provide procurement plans and results. An effective way of significantly improving the transparency score would be to publish procurement regulations, plans and results on the website in a way that can be accessed by the citizens.

Ministries

Ministries of Kosovo fulfill the criteria of openness by **37%**. Kosovo is ranked second to last in the region, leaving behind only Bosnia and Hercegovina, which received a score of 27% based on the indicators. Montenegro was ranked first, scoring 61% based on the indicators.

In Kosovo the most opened Ministry is the Ministry of Security Force, which received a score of 66% on the indicators and is followed by the Ministry of Local Government Administration, which received a score of 58%. The Ministry, which received the lowest score in openness, is the Ministry of Foreign Affairs, scoring only 19% based on the set indicators.

Accessibility

Kosovo's Ministries scored quite low on Accessibility, scoring in general only **29%** on the indicators. A pattern of low scores can be seen in NGO participation in drafting laws as well. The score is quite low also for the calls, outcomes, reports and evaluations of public consultations. There are no open calls for public debates, which would enable interested parties to participate in decision making processes. In order to increase their scores in this aspect, Ministries are recommended to provide more information on their websites, which would increase the interest of citizens to be involved in good governance.

Awareness

When it comes to Awareness, Kosovo's Ministries, compared to other components, have received higher scores, **55%** based on the indicators. Even though this score is one of the highest in the region, it is still low on monitoring and evaluation of policies and programs and the impact of the reforms which the ministries are undertaking.

Integrity

Kosovo's Ministries scored only **7%** on the integrity part. The integrity part is measured based on the work which is done to prevent conflict of interest within the Ministry. Most of the Ministries during 2016/2017 have not held any trainings or any educational activities for its officers on topics of conflict of interest prevention, corruption/whistle-blowing, or how to treat irregularities. This component does not measure the integrity of the staff and should therefore not be interpreted as such

Transparency

Kosovo's Ministries have received a low score on the element of Transparency as well, scoring in total **43%** of set indicators and being ranked second to last in the region. Budget remains a weak aspect of transparency for Kosovo's Ministries. Only six ministries have published their budgetary information. Kosovo's Ministries scored higher in Transparency of organizational information (57.68%).

Scores for the transparency of Public Procurement vary greatly from one ministry to another; some failed completely with a score of 0%, while others achieved almost a maximum of 80%. This leads us to believe that there is no consistent plan or strategy on transparency of public procurement, and the scores are a result of individual initiatives within ministries. The score on transparency could potentially be improved by publishing public procurement plans and calls for public procurement on public websites.

Executive Agencies

Executive Agencies fulfill only **15%** of the indicators of openness, ranking at the very bottom of the list behind Albania, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia. The indicators' scores in general, in all of the Western Balkans region, are very low. In a better position regarding openness is the Agency of Statistics, which has received a score of 33% based on the indicators, while Inter-Ministerial Water Council has received a score of 0% based on the indicators; and thus, being titled the non-opened executive agency.

The websites of these bodies are not up to date and in most cases, they are very difficult to navigate or the information is simply not there. The agencies scored 14% when it came to access to information, citizen interaction and monitoring. None of the executive agencies have published budgets on their websites. This poses a serious risk of budgetary non-transparency.

RESEARCH METHODOLOGY

Openness is a key condition of democracy, since it allows citizens to receive information and knowledge about an equal participation in political life, effective decision-making and holding institutions responsible for policies they conduct. A number of countries undertake specific actions towards increasing transparency and accountability of institutions. The Regional index of openness of core executive institutions is developed in order to define to which extent citizens of the Western Balkans receive opportune and understandable information from their institutions.

The Regional index of openness measures to which extent institutions of the Western Balkans are open for citizens and society, based on the following four principles: Transparency, Accessibility Integrity, and Awareness. The principle of **transparency** includes that organizational information, budget and public procurement procedure are publicly available and published. **Accessibility** is related to ensuring and respecting procedures for a free access to information, improving accessibility of information through a mechanism of public debates and strengthening interaction with citizens. **Integrity** includes mechanisms for the prevention of corruption. The last principle, **Awareness**, is related to monitoring and evaluation of policies which are conducted by institutions.

Following the international standards, recommendations, and examples of good practice, these principles are further developed through specific, quantitative and qualitative indicators, which are evaluated on the basis of: information accessibility on official websites of institutions, legal framework's quality for specific questions, other sources of public informing, and questionnaires delivered to institutions.

The data collection was followed with data verification process which resulted in the standard error of +/-3% The measurement was conducted in the period from December 2017 to the end of February 2018. A set of recommendations and guidelines directed towards institutions was developed on the basis of research results

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About ActionSEE

ACTION SEE (Accountability, Technology and Institutional Openness Network in the South East Europe region) is a network of civil society organizations that jointly work on promoting and ensuring government accountability and transparency in the region of South-East Europe, raising the potential for civic activism and civic participation, promoting and protecting human rights and freedoms on the internet and building capacities and interest within civil society organizations and individuals in the region in using technology in democracy promotion work.

The core members of the network are Metamorphosis from Macedonia, Center for Democratic Transition from Montenegro, Center for Research, Transparency and Accountability from Serbia and CA Why Not from Bosnia. ActionSEE works with partners from Albania MJAFT and from Kosovo Open Data Kosovo, well as partners from other countries in Europe and the world.

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