

**GOOD GOVERNANCE**

FOR OPENNESS AND  
ACCOUNTABILITY IN POLITICS  
AND GOVERNANCE

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# **Analysis of Parliamentary openness in Kosovo and in the region**

Proposals for the improvement of the current state

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## Introduction

In cooperation with partners from the regional network “ActionSEE”, the ODK has prepared a proposal of practical policies in which levels of transparency, openness, and accountability of the legislative power in the Western Balkans region were analyzed. The proposal is a result of comprehensive research, based on methodology, undertaken by the members of the network ActionSEE in previous months in all Western Balkans countries. The aim of the research is to provide an in-depth overview of the situation in the said areas, to contribute to the quality of reforms in the state administration work, to influence the enhancement of good governance and to help the institutions to efficiently implement them in their work. We are of the opinion that these are the objectives that we share with the very institutions comprised in this research.

The proposal for practical policies, with concomitant analyses, is the third document of this type. Last year, too, following the research conducted, members of the network made recommendations for improving the openness of institutions. On the basis of the results of the research conducted in 2016 and 2017, policies were developed providing an overview of the situation in the regional parliaments, including the identified shortcomings and good practices in this area. On the basis of these analyses, last year’s recommendations were made as well as Roadmaps for the improvement of specific areas covered by the research.

This document is the third in a row in which we review the state of openness of institutions and recommendations for improvement. After the first research that was done in 2016, we have started to improve and adapt the research methodology and its indicators, based on our knowledge on the findings and results of monitoring. This year’s research has been carried out on the basis of indicators that enabled a precise picture of how many regional parliaments have been working to improve their openness over the past year. The policy of openness must be the policy of all parliaments in the region, it must be defined as all other important policies and should not be the result of a current decision or current mood of the authorities. Each country in the region has its own specific, political conditions in which it develops its openness, but there can be noticeable room for joint regional action to improve the situation.

## Parliamentary openness in the Western Balkans region

The results of the conducted research show that the parliamentary openness at the regional level increased in 2018 in comparison to 2017. The regional average in the final round of measurement scored 65%, which is 4% higher than in the previous year (61%). This finding is encouraging due to the fact that in 2017 new indicators were added, which tightened the measurement criteria and led to drop in the score in the year when the methodology was revised and became stricter. We believe that such research approach added up to the fact that after failing to meet the advanced indicators in 2017, parliaments consequently started to cope and develop their openness according to research findings and recommendations.

However, this years' research also shows significant regional differences in the level of parliamentary openness. The gap among national parliaments varies from 79%, scored by the Montenegrin parliament, to 46% scored by the Bosnia and Herzegovina. In addition, the progress in the level of openness in the course of three years remains uneven, while the decline was recorded in the cases of several parliaments. Significant progress of 23% is recorded in Kosovo whose national parliament in 2018 scored 72% in comparison to 49% in 2017. Slight progress in 2018 is recorded in Serbia and North North Macedonia, ranging from 3% to 4%, leading to the latest results of 58% and 62% of openness respectively. The slight decline in 2018 is recorded in the cases of parliaments of Montenegro (79%) and Albania (71%), in comparison to 2017 when Montenegro scored 80%, while Albania scored 75%. Montenegro is the only country in the region whose parliamentary openness suffers constant decline since 2016, leading to a drop of 6% in the course of three years.

However, the general conclusion is that the parliamentary openness remains unsatisfactory. The highest legislative bodies of the region still lack a strategic approach to openness policy as it was discernible and indicated in the analysis of the parliament openness in

2016, and as well remained unchanged in the results of the monitoring conducted in 2017 and in 2018. Requests for openness can only be indirectly derived from the Constitution, Rules of Procedure and other laws or acts, such is the Law for Free Access to Information of Public Importance or requirements from the EU accession process. As such, they are subject to different interpretations and readiness of the parliamentary majority to comply with the good governance and democratic principles.

Information on the work of parliament belong to citizens, and it is necessary to constantly improve the existing level of culture of parliamentary openness. Openness policy should develop as the pace of the new technologies picks up. New technologies should be used fully, as it would, inter alia, support and facilitate the publishing of data in a machine-readable form. In support of this, findings show that parliaments in the region are not committed to publishing data in an open format, thereby refuting and minimizing the usable value of the published information.

The lack of desire to work on improving the openness and transparency of the parliaments is genuine and confirmed also in 2018, when 4 out of 6 parliaments did not provide an answer to the questionnaire – Serbia, Montenegro, North Macedonia, and Bosnia and Herzegovina. This indicates that even those parliaments that scored the best when it comes to the level of openness, prefer ticking the box than substantially opening their work and cooperating with the civil society and citizens. The reluctance to answer the questionnaire is in itself an indicator of insufficient openness and of lack of interest in promoting openness. Our monitoring has shown several “critical points”, i.e., key obstacles to the development of parliamentary openness in the region.

## **Transparency, accessibility and communication with citizens**

Research findings show that the openness in the domain of transparency increased at the level of the whole region. The only parliament whose score declined in this area is the Parliament of Albania lowering its result for 9% in comparison to 2017. However, it is worrying to see that when it comes to accessibility to citizens

parliaments are stagnating throughout years, scoring regional average of 61%. Parliaments need to work on improving their contact with citizens in order to fully conduct their role as the highest representative institution in regional political systems. This is particularly important in Bosnia and Herzegovina that in 2017 and 2018 scored a little above of one third of indicators – 39% and 37% respectively. Although the existence of the Law on Free Access to Information of Public Importance in the region greatly contributes to larger transparency of parliaments, it is necessary to further strengthen its implementation. It should be of utmost importance that parliaments make an effort to improve their own proactivity in publishing information on their work.

Among the parliaments in the region, there are champions and examples of good practice when it comes to publishing data on the work of parliament and of the MPs, we conclude that the legislative framework and the declarative commitment to respecting the principles of openness and international standards are often kept only on paper. The 2018 research also shows that information on the activities of MPs in parliamentary committees, documents emanating from the work of the committee or submitted amendments have not yet been published by most of the parliaments in the region.

Improving the interaction with citizens dropped in 2018 reaching an alarmingly low level with an average regional score of 31%, in comparison to 35% in 2017. Interaction with citizens meaning if citizens can address complains, interactive tools for communication such as Facebook or Twitter, and e-petition to raise awareness. It is particularly worrying that parliament of Montenegro, which holds the title of the champion of openness, scores only 31% in citizen interaction. Parliaments which interacted the least with citizens in 2018 are parliaments of Serbia (24%) and Bosnia and Herzegovina (14%). Parliaments in the region continue to be inert and do not strive to invest in new channels of communication that can help bridge the gap between citizens and their representative institution. Another regional problem is respect for the principle that the data should be published in open data formats, which would increase accessibility and make it easier for citizens to collect information.

Results in citizen interaction are particularly interesting due to the fact that in each country there is the basis for conducting public consultations, particularly in Albania (100%), Kosovo (77%) and Montenegro (77%).

Public consultation meaning the rules and procedures for citizens, CSO and other consultants be engaged in the work of committees and parliament. What certainly raises concern is the fact that transparency and communication with citizens remain low when it comes to preparing, discussing, adopting and presenting (in open data format) the most important annual legislative act in every country – the state budget. The average result for every country in 2018, increased by 10% percent in comparison to 2017, and amounts 51%. However, half of the countries continued performing unsatisfactorily in this area: Bosnia and Herzegovina (23%), Serbia (30%) and North Macedonia (38%).

It is essential that parliaments in the region make an effort to fully appreciate the significance, role, and opinion of civil society in democracy and to improve the mechanisms of cooperation with it. It has been noted that despite the existing mechanisms and declarative determination of the holders of legislative power, parliamentary cooperation with civil society in the region has been generally violated. The Republic of Serbia Parliament ceased the cooperation with the Open Parliament following the protest that this initiative lodged to the way that the Budget Law for 2018 had been debated and adopted.

## **Parliamentary oversight – good basis and poor implementation**

Parliaments in the Western Balkans region continue to have a good base for conducting parliamentary oversight, which includes procedures which allow the parliament to question the government and hold it to account, but also the parliamentary committees to include experts in the consultation regarding some legislative pieces or policy area. The most noticeable improvement when it comes to this key parliamentary role was recorder in Kosovo, which in 2018 scored above 94% in comparison to only 19% of the indicators scored in 2017. This year, the Parliament of Kosovo overtook the best ranking position that was held by the Parliament of Montenegro, which again scored 93%. When it comes to the state with the other national parliaments, results have not suffered changes in comparison to the previous round of measurement with parliaments of Albania (88%) and North Macedonia (83). The Parliament of Serbia is the only one which suffered a decline of 5%, scoring 67% in 2018, in comparison to 72% in 2017.



However, it is necessary to significantly strengthen the parliamentary oversight at the level of the entire region, with an emphasis on ensuring its full implementation in practice. Parliaments in the region continued to formally apply this function in 2018, which led to the fact that the results of the parliamentary . The need to strengthen the control and oversight function of the parliament in terms of its effective implementation was emphasized again by the European Commission in the individual reports for each country, published in May 2019.

This situation brings us back to the last year's conclusion. Deterioration of the Parliament as a key institution in securing the rule of law and functional system of checks and balances, reflecting in seldom and perfunctory performance of the oversight over the executive, pose serious challenges to region's democratic and EU integration process. All parliaments in the region must undertake efforts to fully and substantially implement the existing mechanisms, thereby contributing to increasing the level of political accountability.

### **Weak evaluation and control of the work of parliaments and of deputies' behavior – effects, integrity, and ethics.**

For the third year in a row, the research showed that the work of parliaments in the region was not based on the establishment of a uniform methodology and appropriate indicators for measuring the results and the quality of their work and the work of the MPs. Strategic planning of parliaments at the regional level is even lower than in the previous years. Strategic planing means if the states have adoptet the Regulatory Impact Analysis aiming to provide a detailed and systematic appraisal of the potential impacts of a new regulation in order to assess whether the regulation is likely to achieve the desired objectives.

In comparison to 2017, when four parliaments fulfilled some indicators in this area, in 2018 only three remained with results – Albania (33%), Bosnia and Herzegovina (39.6%) and Montenegro (33%). Parliaments of Serbia and Kosovo scored zero points for the second consecutive year, while the North Macedonian Parliament joined their company in 2018.

This situation, which keeps repeating from year to year, continues to have an impact on the quality of parliamentary performance, as parliaments fail to conduct an impact assessment and sound planning.

The situation with lobbying slightly improved in 2018, as Serbia joined North Macedonia and Montenegro as a country which adopted the regulation in this area. However, Serbia remains the only country in the region which does not have the Code of Ethics for MPs, as North Macedonia adopted this document in 2018. However, the general conclusion is that the implementation of the Code of Ethics remains weak at the level of the entire region.

It is essential that parliaments that have not yet adopted the Code of Ethics set this as a priority for their agenda. Moreover, it is necessary that all the parliaments of the countries of the region establish clear mechanisms for monitoring the implementation of the Code of Ethics of the MPs and sanction each violation of the standards. Practice from the region shows that violation of the Codes of Ethics does not generally result in the sanctioning of misconduct, and often represents the subject of political agreements. Consistent implementation of the rules and principles set in the Codes of Ethics is crucial for raising the level of political accountability and public confidence in the work of parliaments.

## Parliament of Kosovo

The openness of the Kosovar Parliament was measured and ranked through a set of 117 indicators measuring the degree of openness in four areas: Accessibility, Awareness, Integrity, and Transparency. The Parliament of Kosovo scored overall 73% and therefore landed second on the ranking of the Western Balkan parliaments. Montenegro maintains the lead for the most open of all the Parliaments in the region, with a score of 79% of the foreseen criteria. Kosovo's ranking this year is more satisfying than that of the year before, demonstrating an increase of efforts for Parliamentary Openness with many tools in place such as Transparency Forum, the office for cooperation with Civil Society and opening of the committee meetings etc. Nevertheless, there is still room left for improvement of it. It is needed to be differentiated that the research has been done for the parliament as an institution and the policies in place rather than an analysis of the work of the MPs.

The analysis below offers a number of observations on the collected data, followed by recommendations on how current state-of-affairs may be improved.

## ACCESSIBILITY

Accessibility address the level of citizens, CSO, interested actors to participate in the work of the Parliament, included but not limited to the Freedom of Information Act and other regulations. In this regard, the Kosovar Parliament scored 55% on the principle of Accessibility. Although there has been a 10% increase from 2017, this score still slots the Kosovar Parliament at the bottom of the list compared to the other regional countries in the Western Balkans, surpassing only Bosnia and Herzegovina. In Accessibility alone, the leader in Albania, with a score of 83% followed by Montenegro with a score of 69%. Albania achieved these results by opening its Parliament to the public in terms of freeing access to information and easing procedures for contacting and communication.

Kosovo, on the other hand, lacks attempts to easing communicatively between itself and the public. For instance, there are no direct online communication channel or guidelines available at the website through which citizens can raise concerns, complaints and making appeals. Although the Parliament does have an active Facebook account it does not have a Twitter account which may mean a smaller reach to younger demographics. Furthermore, there is still no legal obligation for conducting training or education of staff in the field of access to public information. The Parliament of Kosovo in the past three years has not organized a single training on the field of access to public documents and open data for its officials, which would help public officials to deal with requests on access to public documents.

In the index scoring, Kosovo was evaluated as having good infrastructure for freedom of information, most importantly embodied by the Law on Access to Public Documents which have been revised on July 2019. The institution has a designated person who deals with FOI requests and there is a reasonable minimum time limit for responding to requests, in addition, the Law has introduced the Commissioner for Information and Privacy which will overview the implementation of the law and that all the requests are being treated accordingly and in a timely manner.

However, the right to access information still does not seem to apply to state-owned enterprises, public companies, or other entities that are controlled by the parliament, which is considered a continued problem from the last measurement. One other aspect that is preventing proper implementation of this law is the failure to publish a list of registers and documents in its possession, as required by law.

Another basic problem of the accessibility of the Parliament is the search feature on the homepage. On the official webpage of the Parliament, this feature does not work, which makes it impossible for the citizens to check any available document on the web page.

Electronic petitions would also play a big role in the increase of openness within the parliament in terms of accessibility. Right now there is no policy in place to establish or at least promote the establishment of electronic petitions. In the three related indicators, Kosovo scored zero points. The Parliament should, therefore, aim to move towards more modern ways of interacting with citizens. Internet communicating has become the preferred means of communication for increasingly large numbers of people and for an ever wider range of purposes. A web-based e-petitioning system would hence be more transparent and accessible than traditional petitions.

The Parliament maintains a good relationship with civil society, and there are rules of procedure regulating the access of civil society and citizens to information on parliamentary work as well as participation in parliamentary committees (Rules of Procedure Art 65). Also, there is a person in charge of maintaining relations and regular communication with CSOs and with an online registration platform for interested parties. A step towards these good relations is also the non-formal group for Transparency and Accountability in the Parliament, which is working towards increasing transparency and accountability in the Parliament together with MPs, public officials, CSOs, international organizations, and citizens. This is reflected in the solid score received by Kosovo in this related indicator.

## AWARENESS

On the Awareness component, the Parliament of Kosovo scored 80%, thus placing itself right after the leader Montenegro, which scored 84%. Within only one year Kosovo achieved significant milestones regarding the principle of awareness and therefore managed to climb from last to second place within the region. This has happened because this year compared to 2017, the Parliament has responded to the questionnaire. With regards to strategic planning, which aims to provide a detailed and systematic appraisal of the potential impacts of a new regulation in order to assess whether the regulation is likely to achieve the desired objectives. Kosovo still does not have regulations in place to assess the potential impacts of existing and prepared legal acts. Nevertheless, Kosovo scores 94% on the subdomain of parliamentary monitoring.

Parliamentary activities and hearings are usually recorded and open for the public, as well as archived. Through parliamentary procedures, representatives of Core executive can be brought to the Parliament in order to answer MP's questions. Moreover, there is a procedure for conducting a Motion of No Confidence. A parliamentary group or MPs are also able to file a petition for an interpellation to consider an issue related to the work of the Government or a Ministry.

According to the Rules of Procedure of the Assembly of Kosovo, Article 66 the committees have the right to consult experts for the purpose of obtaining information on a subject under debate. They may hold public hearings and may even enter into the general discussion with the persons furnishing information insofar as this is necessary to clarify the facts. All this enables the citizens to be informed and updated with all the changes that are or may be affecting their daily lives. This would fulfill all the requirements of the awareness principle and hence place Kosovo even higher in this ranking.

## INTEGRITY

Integrity comprises of a mechanism for prevention of corruption, conducting code of ethics and regulations of lobbying. On this principle, Kosovo scored 82%. In a tie with Albania, they both hold the second place being surpassed only by Montenegro, which reached a 92% score.

In order to effectively prevent corruption Kosovo put into effect the Code of Ethics for the Members of Parliament. The Code of Ethics, that is annexed to the Rules of Procedures is published on the website and regulates issues on conflict of interest, use of state property, gifts and favors and political activity. According to the Code, the members shall inform the President of the Assembly in writing of all financial interests they or their immediate family may possess and financial benefits they may receive. This written declaration should be made to the office of the President of the Assembly within thirty (30) days of the inaugural session of the Assembly and should be updated thereafter within thirty (30) days of any material change occurring.

The assets card of members provides information on assets, income sources, income amount, paid and non-paid outside position as well as liabilities. All this data is organized and structured in an easily accessible way for the public. Although the access to the data pertaining to the declaration of property is not published, it is to be granted in accordance with the Law on Access to Public Documents and with the Law on Protection of Personal Data.

The mechanisms in charge of monitoring the implementation of the asset cards is the Anti-Corruption Agency. In the case that an MP violates the obligations provided for by the Law, the Agency shall submit a criminal report at the competent prosecution office against the senior public official violating the obligations provided for by the Law, considering that the violation comprises of a criminal act according to the Criminal Code of the Republic of Kosovo.

In regard to the third subdomain respectively to Lobbying Rules Kosovo still has no regulations in place. The implementation of such rules is of great value so that all lobbying activities are made public and protection is given to public interest.

## TRANSPARENCY

The Parliament of Kosovo scored 78% on the principle of Transparency. Meanwhile, Montenegro remains again the leader with a score of 79%. The principle of Transparency prescribes that organizational information, budget, and procedure of public procurements are publicly available and published.

Kosovo's Parliament received a complimenting score regarding the subdomain of organizational information. This component picks up on the quality and quantity of information with regards to the functioning of the Parliament. After signing the declaration of openness the assembly implemented an action plan for an open and transparent assembly to be implemented by 2020.

The official website of the Parliament offers easy access to laws, amendments, draft legislation, regulations, strategies and work reports. Another feature which contributes to the Parliament's transparency is the online Legislative Tracking System that enables citizens to be more involved in the legislative process since they can track at what stage the law is.

The voting records from plenary sessions of the Parliament are also published on the website. In addition, the Parliament performs video transmission of plenary sessions, which as a whole encourages active participation of citizens in the legislative process, thus strengthening the role of Parliament as an institution.

Compared to previous years, Kosovo's Parliament is also making progress on transparency related to public procurement. Citizens can now access the contracts to public procurement procedures, which are available on the website, as well as the results of major public procurement bids. Yet, there is room for improvement since calls on public procurement procedures are still not publicly available.

The Parliament began to publish more detailed financial reports on a quarterly and annual basis regarding its expenditures. Still, the data provided is difficult to read for people who are not familiar with the budgeting process and not editable due to the format being used. Nevertheless, this is a significant milestone from last year and shows Kosovo's willingness to make quick and effective changes for progress.

One recommendation, which also came from last year's measurement, is to publish the so-called citizen's budget, in order to increase the transparency of the Parliament in the component of the State Budget. The citizen's budget is a way of simplifying the complex institutional budget into an easy-to-grasp format for the regular citizen, in view of increasing fiscal transparency.

## Research methodology

Openness is a key requirement of democracy because it enables citizens to obtain the information and knowledge needed for equal participation in political life, efficient decision-making and holding institutions accountable for policies they implement.

Institutions around the world are undertaking concrete actions in order to increase their transparency and accountability towards citizens. With a view to determining the extent to which the citizens of the Western Balkans receive timely and understandable information from their institutions, the Regional Openness Index of parliaments has been developed.

The Regional Openness Index measures the degree to which the institutions of the Western Balkan countries are open to citizens and society, based on four principles: (1) transparency (2) accessibility (3) integrity and (4) efficiency.

The principle of transparency implies that organizational information, budget, and public procurement procedures be publicly available and published. Accessibility refers to the provision of and abiding by procedures for free access to information and to the enhancement of the information accessibility through the mechanism of public hearings and strengthening of interaction with citizens. Integrity includes mechanisms for the prevention of corruption, the implementation of the Codes of Ethics and the regulation of lobbying. The last principle, efficiency, concerns the monitoring and evaluation of policies implemented by institutions.

Following international standards, recommendations[1] and examples of good practice, these principles are further elaborated through specific quantitative and qualitative indicators that are assessed on the basis of availability of information on official internet sites of institutions, the quality of the legal framework for individual issues, other sources of public information and questionnaires forwarded to institutions.

Standards and recommendations of numerous international institutions were analyzed, such as Access Info Europe, EU, OECD, OGP, SIGMA, World Bank, etc



## 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 MJAFI and from Kosovo Open Data Kosovo, well as partners from other countries in Europe and the world.

Open Data Kosovo is a nonprofit organization that believes in using civic-tech and digital humanitarianism to open government. This initiative promotes the idea that governance data should be made freely available for everyone to use and republished as they wish, without restrictions from copyright, patents or other mechanisms of control.

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