

GOOD GOVERNANCE

FOR OPENNESS AND
ACCOUNTABILITY IN POLITICS
AND GOVERNANCE

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Analysis of the 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 “Action SEE” Open Data Kosovo prepared the policy paper in which we analyze a level of transparency, openness, and accountability of executive power institutions in the Western Balkans region. The policy paper is a result of extensive research, based on scientific methodology, conducted by the Action SEE members in the past few months. The aim of the overall research is to provide a detailed overview of the situation in these areas, and to contribute to the implementation of the public administration reform, to have the effect on strengthening the principles of good governance and to help the institutions implement them more effectively in their work.

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 will enable a precise picture of how many executive authorities have been working to improve their openness over the past year. The policy of openness must be the policy of all governments in the region, and it must be formulated and written as other important policies and must not be the result of the current decision or the current mood of the government. Each country in the region has its own specific, political conditions in which its openness develops, but one can notice a significant space for common regional action for improvement of the situation.

Our policy paper is addressed to decision-makers in the executive power institutions of the countries of the region at all levels: the Government, ministries and other state administration bodies. It may also be of benefit to representatives of international organizations, as well as to colleagues from the NGO sector dealing with these issues. For the purpose of more quality public dialogue on these topics, we will organize a series of public events where we will hear the opinions of all interested parties and try to find joint sustainable solutions for development in this area. We will also respect the principles of transparency of the research and introduce institutions with all the details of its implementation and its conclusions.

We remain open to all suggestions, well-meaning criticisms and discussions regarding the policy paper.

The openness of executive power institutions in the region

The executive authorities in the region meet on average 48.41% of openness criteria. Although this result represents a slight improvement of about 5% compared to the previous research, there are not many reasons for satisfaction. An increase in the level of openness is most commonly seen as an endorsement by individual authorities in the countries of the region, and not as a rule of the system of government. The reason for this lies in the lack of clear policies that preserve the value of openness and, above all, rules and sanctions in case of their failure to comply.

The research has once again confirmed that the institutions of executive power are more open as we are moving towards higher organizational levels of government. Thus, governments in the region fulfill on average 63.62% of openness indicators, line ministries 50.58% and state administration bodies 32.22%. Inequality has been observed within the group of institutions itself, which testifies that the issue of openness in principle depends on the will or commitment of the person who is the head of that institution, and not the developed practices and regulations of the state. Such a situation calls into question the good practice recognized by individual institutions in situations where personal changes occur.

It is to be expected that the presence of international initiatives in the countries of the region, such as the Open Government Partnership (OGP), will contribute to the development of the openness of institutions of executive power. The commitment and engagement of the countries of the region to this initiative is at a different level, which also testifies about the readiness of governments to implement and promote standards of openness and accountability.

Such standards also deserve the attention of the European Union (EU), bearing in mind that it is necessary to take place in parallel with other reforms that the state is pursuing on the road to the EU.

In the recent progress reports, numerous problems are highlighted in the field of transparency, starting from the inconsistent application of the law on free access to information to insufficient transparency of the budget and the public procurement system. In the recent progress reports, numerous problems are highlighted in the field of transparency, starting from the inconsistent application of the law on free access to information to insufficient transparency of the budget and the public procurement system.

All countries in the region should devote themselves to promoting the legally guaranteed proactive access to information since nobody should have a monopoly on the information of public importance that belongs to citizens. Also, it is necessary to plan and develop openness policies that should be based on legal and strategic documents of the state. This would ultimately represent the crown of the multi-year process and the efforts of domestic and international actors in the “opening up” of state administration.

In order to contribute to the establishment of such a system, below are some of the key shortcomings that the countries of the region have to eliminate in order to ensure openness in the work of the public administration.

Organizational and financial transparency

The principle of proactive access to information is not being applied satisfactorily in the institutions of executive power in the region. Citizens of the region continue to find difficult information about what institutions do and how they plan and spend their funds. The problems are present in terms of transparency of the budget, final accounts, and public procurement procedures. Also, there are rare institutions in the region that publish their periodical financial reports.

The situation is not satisfactory in terms of publishing programs and work reports, although these are the basic documents through which institutions should provide citizens with an idea of what they are planning to do and what they did during the year. The practice of compiling and publishing semi-annual work reports appears as an exception in a very small proportion of institutions.

Transparency of the decision-making process

Most of the countries in the region did not ensure the transparency of government sessions. Although transcripts should be published according to transparency standards as well as there should be video transmission from sessions, most governments do not publish even the minutes and materials from the sessions. Thus, citizens can be informed about the activities of the largest number of regional governments only on the basis of statements issued by governments after sessions. Such a practice must be changed urgently, as a denial of information about key policies, that the government is planning, directly diminishes the ability of citizens to control the ones they have chosen and who should be responsible for their activities. A particular problem is the unjustifiable classification of documents with the mark of secrecy.

Accessibility and communication with citizens

Most websites of executive authorities are regularly updated with news and current affairs. However, significant space for improvement is noted for the organization and content administration. Governments of most countries have obsolete internet sites that need to be reconstructed in line with the development of modern information and communication solutions.

The largest number of organs is currently very far from the standard that prescribes “three clicks to the desired information” on the website. Publishing data in open data format is still not a practice in the region. Although most governments in the region have established an e-government system, it has not been sufficiently implemented in practice. The usefulness of the many services offered through these portals is questionable due to their insufficient use.

Although governments should make efforts to implement eGovernment promotion campaigns, a significant number of websites do not even have a banner or instruction on how to use this portal. Also, the eGovernment system in the region does not provide local services that would be important for improving the daily functioning of citizens. The models of interaction with citizens are still dominated by conventional ways of communication. Less than half of the executive authorities have and regularly use social networks as a means of informing and communicating with citizens.

Policy Planning and Coordination

Governments in the region have yet to establish procedures and practices for better planning and coordination of their policies, as well as providing mechanisms through which citizens can clearly monitor their implementation. Governments in the region generally do not have the practice of planning public policies in the long run in the form of a program of work. Executive authorities are also not sufficiently devoted to measuring the quality and impact of their work, or are rare institutions that have told us to use performance indicators when preparing their programs and work reports.

The openness of the Executive Power in Kosovo

During the measurement for the year 2018, the Executive Power Institutions of Kosovo scored an overall of 49% of set indicators on openness which is a tie with Albania, whereas both countries share the second place where Montenegro is ranked first which a score of 58% of the indicators. These results show an advancement of the institutions in comparison with last year's where Kosovo scored 33% and was third in the regional ranking. Kosovo managed to increase its score for every structure in its Executive Power hierarchy, in which the core executive, namely the office of the Prime Minister scored 53%, the executive agencies scored 26% and the line ministries scored an overall of 55%.

The Government of Kosovo, Prime Minister's Office

The Office of the Prime Minister received an overall score of 53% for the year 2018. Although there is progress made on Kosovo's behalf compared to last years result whereas the Office of the Prime Ministers scored 41%, there is still a lot of room for improvement compared to other countries in the region as they have very high results compared to Kosovo. In a tie with Serbia, both countries are ranked second to last regarding the regional score for openness, thus leaving behind only Bosnia and Herzegovina. Moreover, taking into consideration that the Office of Prime ministers needs to set an example to other institutions such as the line of ministries this does not seem to apply. The index results were achieved taking into consideration the four Principles for government openness, which include: accessibility, awareness, integrity, and transparency .

Accessibility

When it comes to the principle of accessibility Kosovo continues to face many problems. In 2018 the office of the Prime Minister scored 56% which actually marks a drop from the previous year's score of 60%. Although the evaluations show a good infrastructure for freedom of information, which is mostly provided through the Law on Access to Public Documents, there is still a lack of implementation in practice.

Yet, the institution has a designated person who deals with FOI requests and there is a reasonable minimum time limit for responding to requests. Even the yearly reports of access to public documents are made public, there is no control on why some of the requests are refused or are left without a response which is against the law. Another problem is that the right to access information continues to not apply to state-owned enterprises, public companies, or other entities that are owned or controlled by the Government. The institutions same as the Office of the Prime Minister fails to provide a public list or register of the available documents in their possession and make them public, even though it is foreseen by the law. Progress in these areas, that is relatively easy to implement would evidently help to increase Kosovo's score and regional ranking but is not deemed to be in the agenda of these institutions.

Another recommendation, which also came from last year's measurement, is for the office of the Prime Minister to take measures and be more active in interacting with citizens. A first step towards improving this aspect of openness would be to switch to more modern methods of communication, such as Twitter, and Facebook. The Twitter or Facebook account is not connected with the accounts of the Primeminister, but of the institutions and other offices that are connected with the Office of the Primeminister. In addition, the creation of any type of mechanism, which would enable citizens and stakeholders to challenge decisions made would also be of significant help. In respect to public consultation, the Office of Primeminister, Good governance office developed the Public Consultation platform that all documents needed for consultation are published online from ministries on respective issues. Moreover, reports on the consultation also are published.

Awareness

When it comes to Awareness Kosovo experienced an increase of over 10% compared to last year, thus scoring 37%. Nevertheless, it is still ranked second to last, leaving behind only Serbia, which this year scored 0% on this principle. Although there is a functional office for strategy planning one of the main elements missing at the level of the Office of the Prime Minister continues to be the overall evaluation and monitoring of projects and policies. On all these indicators Kosovo once more scored 0%.

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 that goes undocumented poses a great challenge to openness, as well as an inefficiency risk for the future. Nevertheless, Kosovo received a score of 100% on the subdomain of Ministry reporting. This is mostly granted due to the rules of procedure, which specify the type of information that is required in the ministry reports which are sent to the Office of Primeminister for approval.

Integrity

On the principle of Integrity, Kosovo keeps making yearly progress. In 2018 the Office of the Prime Minister scored 85%, thus ranking itself third on the region. Although this is a drop in ranking from 2017, Kosovo did score a higher percentage. This increase is predominantly due to the Agency for the Administration of Civil Servants which is in charge of monitoring the implementation of the Code of Ethics. In accordance with this code, all the MPs are obligated to declare their wealth via asset cards. Since integrity indicators are related to the declaration of wealth, code of conduct, and conflict of interest, which are all regulated it gives this institution a high ranking.

Nevertheless, Kosovo still lacks on the implementation of regulations on lobbyists and their activities which would help to increase the protection of public interest. We would also recommend the Government to start conducting training for its officers on topics such as conflicts of interest, prevention of corruption or whistleblowing and how to act in case of irregularities, taking into consideration that Kosovo has adopted the Law on the Whistleblowers.

Transparency

The principle of transparency prescribes that organizational information, budget, and procedures of public procurements are publicly available and published on the official website. On this principle alone, the Office of the Prime Minister reached a score of 41% and was ranked last in the region.

When it comes to transparency on organizational information the website, is generally well-populated with press releases of Government sessions, official documents, reports, strategies, and annual work plans. Moreover, there is no information available on civil servants who work there or their contacts which is a crucial problem for the transparency of the staff. However, there is a problem with the consistency and organization of such documents within the website. The information is also not always presented in the country's two official languages, which is a condition assigned by the Constitution. Another problem is the compiling of reports, which does not follow a specific pattern.

The biggest difficulty compared to all years remains budgetary transparency. There is a failure to publish Mid-Year reports on state and government budget spending as well as the citizens budget. There is also no information on the level and composition of public debt, debt servicing, and how the debt is being managed. The website of the Ministry of Finance contains the overall budget that covers the total spending of Kosovo's institutions; However, the website of the Office of the Prime Minister fails to provide any, let alone accessible, understandable and comprehensive, information on the planned budget and government spending. In addition, the website of the Office of the Prime Minister fails to publish the calls, decisions, and contracts on public procurement procedures. 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 and help to prevent corruption.

The Ministries

Ministries of Kosovo fulfill the criteria of openness by 55%. Kosovo made great progress within one year from being ranked second to last in the region, with a score of 27% to ranking second in the region. This is as more Ministries have responded to the questionnaire sent out to them, as well there has been more information available to citizens and other interested parties online. As compared to previous year Montenegro continues to lead with 67% on the foreseen criteria of a score of indicators. In Kosovo, the most open Ministry for 2018 is the Ministry of Local Government Administration, with a score of 81%, followed by the Ministry of Public Administration, which received a score of 77%.

The Ministry, which received the lowest score for openness, continues to be the Ministry of Foreign Affairs, scoring only 20% on the set indicators. Part of the sample of measurement were 11 ministries out of 21 as are in total : Ministry for Community and Return; Ministry for the Kosovo Security Force; Ministry of Agriculture, Forestry and Rural Development; Ministry of Environment and Spatial Planning; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Health; Ministry of Internal Affairs; Ministry of Justice; Ministry of Local Government Administration and Ministry of Public Administration

Accessibility

On the principle of Accessibility which deals with Access to Information, Citizens interaction and public consultations the Ministries of Kosovo experienced a 30% rise, reaching a score of 58% and being ranked second in the region after Montenegro. The Ministry of Public Administration leads with a score of 90% and is followed by the Ministry of Local Government Administration, which scored 86%. On the other hand, the Ministry for Community and Return is the least accessible ministry with only 20% score. This goes to show that there is still enough room for improvement. Most Ministries lack on fields such as staff training in the field of access to public information and making guidelines available on the website for raising concerns, complaints and making appeals. In addition, the information for which free access is FOI approved is not published and neither is the FOI guide or reports. Moreover, ministries still fail to provide with a list of documents in possession that need to be available to the citizens online without the need to request access.

Awareness

The Ministries of Kosovo are the leaders on the principle of Awareness in the region with a score of 60%. The Ministry for the Kosovo Security Force, Ministry of Agriculture, Forestry and Rural Development, Ministry of Environment and Spatial Planning, Ministry of Justice and Ministry of Health all scored 100%. On the other hand, the Ministry for Community and Return, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Internal Affairs all scored 0% because all lacked the effort to answer the questionnaire.

Most ministries managed to send the reports to the Government within the legal deadline, on the implementation of its work program for the past year. They also sent the latest quarterly and the annual financial report for the current year within this deadline.

Half of them also use indicators of performance when developing annual work plans and annual work reports. The reason behind that the score has not been more than 60%, is that the ministries in the questionnaires have not attached information on which are the indicators which are their values and is it the same standard applicable to all ministries.

Integrity

On Integrity alone the Ministries of Kosovo scored 54%, thus placing second on the regional ranking for this principle. The Ministries made significant progress in 2018 from previous years.

The Ministry of Public Administration scored the highest reaching a 100% score. The Ministry of Justice, Ministry of Local Government Administration, Ministry of Health and the Ministry for the Kosovo Security Force scored 68%. Meanwhile, the rest of the ministries all scored 37%. A significant role in boosting the score for all ministries plays the publishing of the asset declaration cards. Yet, there is a notable absence of publications of an Integrity plan or any other internal anti-corruption policy, which entails measures for prevention and elimination of various forms of corruption and unethical behavior within the institution.

In order to achieve higher scores, we recommend the line Ministries of Kosovo, to conduct training for its officers on topics such as conflict of interest, preventing corruption or whistleblowing and how to act in case of irregularities. This component does not measure the integrity of the staff itself as individual and should therefore not be interpreted as such, it just analyses the policies which are in place for the protection of the integrity of the institutions.

Transparency

On Transparency the Ministries of Kosovo continue to score significantly less. The Ministry of Local Government Administration leads on transparency with a 79% score. The least transparent ministry is the Ministry of Foreign Affairs, which scored only 20%. In 2018 the Ministries collectively scored 52% and were ranked second to last, leaving behind only Bosnia and Herzegovina. The low score is due to no effort of the Ministries to publish neither annual nor quarterly/semi-annually work reports. In addition, no information on names, positions, contacts of civil servants or their salaries is available on the website.

Another important problem is the lack of information regarding public procurement plans on the website. Equally accessible are calls, decisions, contracts or annexes to public procurement procedures. The Ministries also neglect the obligation to make plans on budget and budget spending available. Further, there is no reporting done or being done on their side regarding these areas.

Executive Agencies

Executive Agencies fulfill only 26% of the requirements of the indicators of openness, thus ranking at the very bottom of the list in a tie with Bosnia and Herzegovina and behind every other country in the region. Part of the sample for the measurements were the Food and Veterinary Agency, Inter-Ministerial water council (ex - Water Task Force), Kosovo Agency of Statistics (KAS) and the Kosovo Agency on Protection from Radiation and Nuclear Safety. On a separate look at the Executive Agencies, the Agency of Statistics is in a better position regarding openness, since it reached a score of 47% based on the indicators. Meanwhile, the Inter-Ministerial Water Council received a score of 15% and therefore continues to be the least open of the executive agencies.

On Accessibility, the Executive Agencies of Kosovo scored 17%. This principle relates to ensuring and respecting procedures for free access to information, improving the availability of information through a mechanism of public debate, and strengthening interaction with citizens. Yet no information for which free access is approved is published. The websites of these bodies are not up to date and in most cases, are very difficult to navigate or the information is simply not there. Furthermore, no direct online communication channel available at the website through which citizens can raise concerns, complaints and making appeals.

Regarding the Principle of Awareness, the Executive Agencies performed better. They managed to execute 50% of the requirements. Most agencies submitted the annual reports and financial report within the legal deadline based on the response from the questionnaire. In addition, half of them useful indicators of performance when developing annual work plans and reports. This enables the citizens to be informed in comparison to other principles, where Kosovo is lacking progress.

The principle of Integrity, where the Kosovar Agencies scored 12%, comprises of a mechanism for the prevention of corruption, conducting code of ethics and regulations of lobbying. Currently, there is no integrity plan or any other internal anti-corruption policy published, which would entail measures for prevention and elimination of various forms of corruption and unethical behavior within the institution. On the other hand, the Agency of Statistics did conduct training on topics of conflict of interest, preventing corruption or whistleblowing and how to act in case of irregularities.

On **Transparency** the Executive Agencies scored **27%**. This is due to the lack of consistency in posting and updating the websites of either of the Agencies. There is no information on names, positions or salaries of public officials or civil servants available. Neither the annual work program nor strategies are published on the website. In addition, none of the executive agencies have published budget plans or budget spendings on their websites. This poses a serious risk for budgetary non-transparency. There is also a substantial problem regarding transparency on public procurement concerning all of the agencies.

RESEARCH METHODOLOGY

Openness is a key condition of democracy since it allows citizens to receive information and knowledge about 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 free access to information, improving the 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 2018 to the end of February 2019. A set of recommendations and guidelines directed towards institutions was developed on the basis of research results The set of recommendations and guidelines, directed towards institutions, was developed on the basis of research results.

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 MJFT 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 mechanism of control.

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