ActionSEE

Accountability, Technology and Institutional Openness Network in SEE

Roadmap for Good Governance
for The State Institutions in Kosovo

Based on the Regional/ Openness Index

For Year: 2016

Road Map for
Good Governance
for The State Institutions in Kosovo

For Year: 2016

Pishtina, September 2017

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.

CONTENTS

1. GENERAL INFORMATION

Openness represents a key condition of democracy - since it allows citizens to receive information and knowledge, necessary for an equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct. Around the world institutions undertake specific activities with the aim to increasing their transparency and accountability to citizens.

Open government is based on four organizational principles: transparency, accessibility, integrity and awareness. These principles apply to all branches and levels of government, from the central executive to local self-government, parliament and the judicial system.

The Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society and is designed in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

The Index of Openness is part of the ACTION SEE – Accountability, Technology and Institutional Openness Network in SEE Project funded by the European Union, implemented by 7 organizations in 6 countries:

Metamorphosis Foundation in Macedonia, CRTA – Center for Research, Transparency and Accountability in Serbia, Citizens Association Why not? In Bosnia and Herzegovina, Center for Democratic Transition (CDT) in Montenegro, Open Data Kosovo (ODK) in Kosovo and Levizja Mjaft! in Albania, and Westminster Foundation for Democracy.

Furthermore, ActionSEE 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.

For this purpose, in order to measure the degree of institutional openness, ACTION SEE partners following international standards, recommendations as well as examples of good practice, assessed institutions through special quantitative and qualitative indicators, which evaluate institutions on the basis of: accessibility of information on the official websites of institutions, quality of a legal framework for individual issues, other sources of public informing and questionnaires delivered to institutions.

The responsiveness of institutions to the questionnaires was an additional indicator for their openness. A lot of institutions got negative scores on indicators due to their non-responsiveness, which is also important to mention for two reasons: first, that institutional responsiveness is an indicator for openness itself, and second that institution's non responsiveness has affected their index scores negatively, because they were automatically graded as 0. Additionally, some of the indicators could've been graded positively if only the existing laws were implemented.

The measurement was conducted in the period from October to the end of December 2016. Based on monitoring data and findings, a set of recommendations and guidelines directed towards institutions was developed on the basis of research results. Recommended steps for each category of institutions are done on the basis of indicators that were not entirely fulfilled. Additionally, since some of the categories of institutions were sampled, i.e. executive agencies, local self-governments, courts and prosecutions, for these institutions the recommendations and action steps are general for the whole group of institutions.

Readers can find methodology and general project information at the end of this document.

2. STATE INSTITUTIONS

2.1. CORE EXECUTIVE

2.1.1 GENERAL RECOMMENDATIONS

Access to Information

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 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 to information does not seem to apply to state owned enterprises, public companies, or other entities that are owned or controlled by the state. 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.2 We recommend the institution to adopt this practice as it would simplify the procedure for both the public official and the applicant.

The core executive is also lacking in a more active interaction with citizens, in which Kosovo scored the lowest in the region of Western Balkans. 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 scores relatively high on the public consultation indicators amounting to 68.75%. We recommend creating a mechanism for enabling citizens and stakeholders to challenge decisions, where the proper process of public consultation has not been carried out.

Monitoring, Reporting, Strategic Planning

Kosovo has the lowest score on awareness/effectiveness out of all Western Balkan countries, scoring only 24.96%. One of the main elements missing at the level of Core Executive is the overall evaluation and monitoring of projects and policies. 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 openness challenge as well as an inefficiency risk. We recommend tackling this issue more strategically by putting in place a system of evaluation and monitoring of projects and policies.

Integrity

One area in which the Core Executive is performing well is the 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 score of 100%.

Transparency

One of the biggest pitfalls of Kosovo's Core Executive 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. The official gazette of the country contains the overall budget that covers the overall spending of Kosovo institutions. However, the website fails to provide accessible, understandable and comprehensive information on the planned budget and government spending, which issue we advise should be tackled immediately.

Organization Information

The Core Executive of Kosovo scored above average 63%, when it comes to transparency in organizational information. 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 country's three official languages, the reports are scattered around and do not follow a specific pattern. The website search engine does not work properly which makes it difficult to look for items within the website.

Public Procurement

The major problem when it comes to transparency is public procurement. Kosovo is behind Montenegro, Serbia, Bosnia and Herzegovina, and Macedonia, with a score of only 40%. The website of the Prime Minister's Office fails to provide procurement plans and results. An effective way of significantly improving the transparency score would be to publish procurement regulation, plans and results on the website in a way that can be accessed by the citizens.

2.1.2 ACTION STEPS

In order to increase its overall score, we recommend the Office of the Prime Minister to undertake the following steps:

Access to Information

- Create and update lists of registers of documents they have in their possession, and to make them publicly available
- Ensure that the government has active Facebook and Twitter accounts for communication with the public
- Design a plan or strategy for developing skills and capacities of civil servants for social media use as part of their official duties
- Extend the right of access to state owned enterprises by making the change in the relevant legislation or regulations
- Regulate lobbyists and lobbying activities by adopting a law for this domain
- Institute a mandatory existence of a register of lobbyists and place an independent body in charge of managing the register
- Establish a mechanism through which citizens are able to challenge decisions that were taken through an appropriate process

Monitoring, Reporting, Strategic Planning

- Create a framework and a set of indicators for the monitoring of performance and effectiveness of policies, and the impact of reform programs and plans (during implementation and ex post); draft an internal document that regulates and guides monitoring and evaluation of programs and projects
- Establish a procedure for reporting of achievements and shortcomings of policies to the OPM by the line individual ministries
- Strengthen the existing mechanisms for the assessment of potential impacts of existing or prepared legal acts (including regulatory assessments, RIA)
- Create a body within the Prime Minister's Office charged with strategic planning of government policies

Integrity

- Establish clear mechanisms for the implementation of the Code of Ethics
- Further develop and specify procedures within the Code of Ethics for dealing with violations of the Code

Transparency

- Ensure that understandable and comprehensive information about budgets and final accounts on budget spending is published on the OPM's website (including tables and verbal explanations), publish a mid-year report on budget spending
- Ensure that the draft law on the budget and the supporting budget documentation include costs that are differentiated by spending units, functional and economic classification
- Institute the practice of releasing In-Year reports on actual debt to the public
- Develop a legal basis for a transparent budgeting process including public participation in the preparations of the state budget
- Create and Publish a Citizens Budget

Organisation Information

- Publish the annual work program, information regarding the personnel (including names and positions), salaries, contacts, institutional scope of work, organogram, staff resumes and work reports, as well as list of registers of documents in its possession on the website
- Ensure publication of press releases on government sessions and information about press conferences following cabinet meetings on the OPM's website
- Publish agendas of upcoming government sessions and minutes from them on the government website

Public Procurement

- Make the required amendments in the law in order to institute prohibition on participation of companies convicted of bribery in future procurement bids
- Ensure that contracting information is publicly available on the OPM's website
- Ensure that plans, calls, decisions, contracts and annexes related to public procurement are published on its website
- Complete the existing rules and procedures in order to enable unsuccessful bidders to instigate an official review of procurement decisions
- Complete the existing legal framework in order to ensure competitive bidding in major procurements (>0.5% of GDP)
- Define specific conditions for sole sourcing (situation in which a supplier is the only source of a skill or technology)
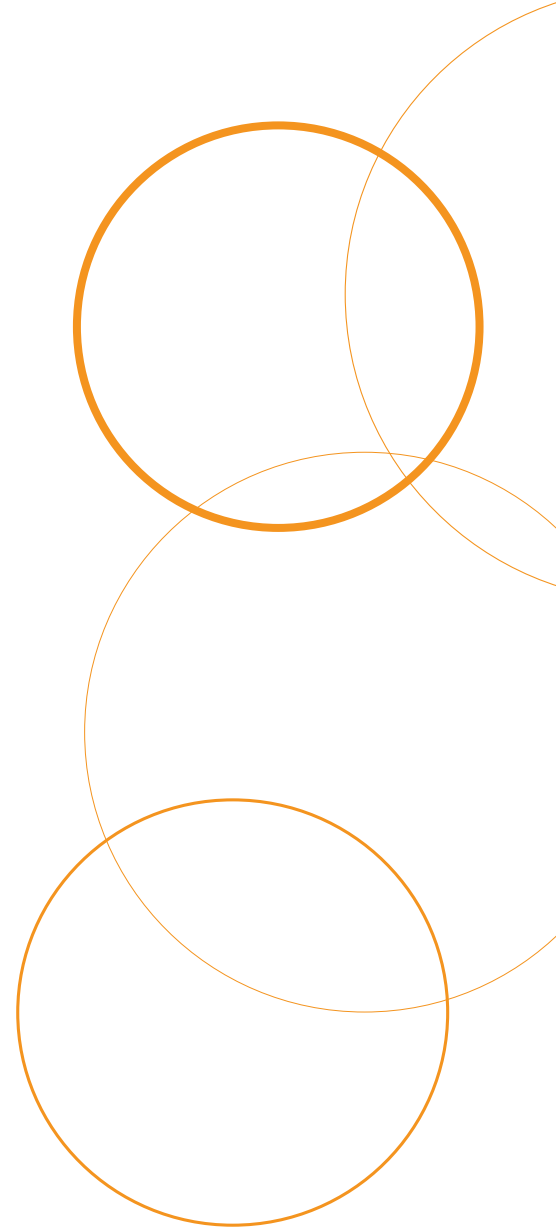
Ministries

Ministries of Kosovo fulfil the criteria of openness by 41%.

Kosovo Ministries scored quite low on Accessibility. A pattern of low scores can be seen in NGO participation in drafting laws. The score is quite low also for the calls, outcomes, reports and evaluations of public consultations. In this aspect, Ministry of Youth, Culture and Sports and Ministry of Environment and Spatial Planning stands out with the highest score of 51%, while Ministry of Education, Science, and Technology scores lowest with only 10%. Kosovo ministries should make an effort to continually engage NGOs in public consultations.

When it comes to Awareness, Kosovo ministries, just like the Prime Minister's Office, score low on monitoring and evaluation of their policies and programs, and the impact of their reforms. We recommend the ministries to do framework and a set of indicators for the monitoring of performance and effectiveness of policies, and the impact of reform programs and plans (during implementation and ex post).

Kosovo ministries scored above average on the element of Transparency with a total of 53%. Budget remains a weak aspect of transparency for Kosovo ministries; only seven ministries have published their budgetary information. Kosovo ministries should publish understandable and comprehensive information about budgets and final accounts on budget spending on their website.

Scores for the transparency of Public Procurement vary greatly from one ministry to another, some failing completely with 0%, while others achieve a full 100%. 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 18.65% of indicators of openness, ranking at the very bottom of the list behind Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia.

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 score 0% when it comes to access to information, citizen interaction and monitoring. None of the executive agencies has published budgets on their websites. This poses a serious risk of budgetary non-transparency. We recommend all executive agencies to work towards creating a more transparent and accountable institutions of themselves, in all domains of openness.

2.2 PARLIAMENT

2.2.1 RECOMMENDATIONS

Accessibility

Kosovo Parliament scored 47.73% on the aspect of Accessibility. This score puts Kosovo Parliament at the very bottom of the list compared to the other regional countries in the Western Balkans. In the index scoring, Kosovo appears quite high when it comes to the existing infrastructure for freedom of information, embodied by the Law on Access to Public Documents. The institution has a designated person who deals with Freedom of Information (FOI) requests and there is a reasonable minimum time limit for responding to requests. However, the right of access to information does not seem to apply to state owned enterprises, public companies, or other entities that are owned or controlled by the state. 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. This is similar to the situation in the executive power institutions and other public institutions. Instituting such practice would simplify the procedure for both the public official and the applicant. Similar flaw is commonly found in all countries of the region, but is relatively simple to remedy and would immediately increase the institution's openness score.

It is unclear whether there is a training and guidance system established to enable public servants to assess records, datasets and other information to fulfil their obligations under the law on access to documents. In response to the questionnaire sent to the Parliament, the latter claimed this mechanism exists but no further information was provided in support of the claim.

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. This is reflected in the solid score received by Kosovo in this.

A mechanism of online petitions is not established, and there does not seem to be a plan to move in this direction. In the two related indicators Kosovo scores zero. Kosovo Parliament should aim to move towards more modern ways of interacting with citizens. Adopting the practice of e-petitions will without doubt increase the openness of the Parliament in terms of accessibility.

Effectiveness

Kosovo scores 50% when it comes to Effectiveness which is related to strategic planning and parliamentary monitoring as means of openness. Again, similarly to the findings that came out from the assessment of the Executive Power, Kosovo's Parliament fails to evaluate the effectiveness and impact of its laws, whether those being prepared or those already in force. Impact evaluation is important as it enables to spot instances of ineffective policy and law making. Ways on how to measure the impact of laws should be contemplated, and then employed systematically.

Integrity

Kosovo scores high on the integrity component with a total score of 83%, standing second behind Montenegro with a score of 97%. The indicators of integrity measure codes of ethics, the conflict of interest prevention, lobbying rules - which do not apply to Kosovo, and declaration of wealth by Members of the Parliament. All of these aspects are regulated by the law and provide a good basis for developing parliamentary integrity. The same pattern is observed in the index for the executive power, demonstrating the importance of embedding asset declaration rules in the law.
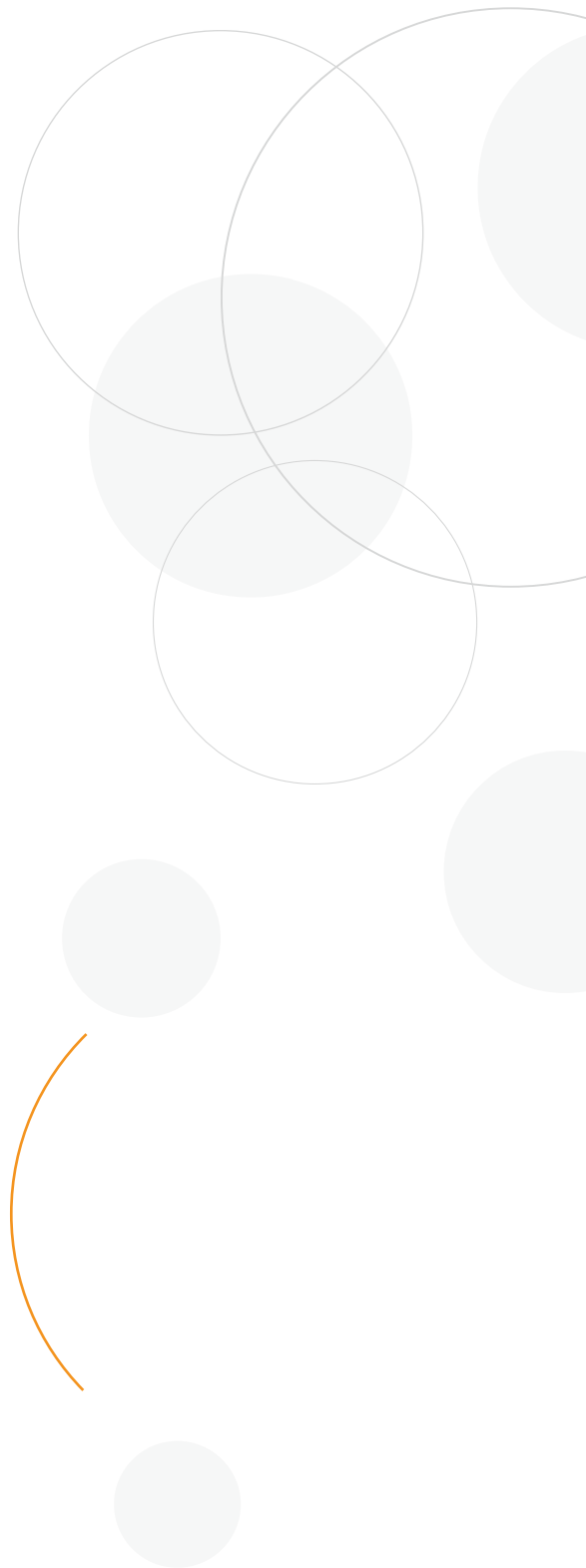
Transparency

Assessment of the level of transparency of the Kosovo Parliament was done by measuring 46 indicators related to organizational information, public procurement, and state budget. In these categories Kosovo scored 60%, falling right behind Montenegro which received the score of 86%.

Overall, Kosovo Parliament has a good score with regards to organizational information – a component that looks at the quality and quantity of information on the functioning of this institution. The official website of the Parliament is populated with all the laws, law amendments, draft legislation, regulations, strategies and work reports. The Parliamentary sessions are regularly broadcasted, agendas are published in advance, and the website is consistently updated. What is missing is the record of attendance of MPs, as well as more information on public officials working in this institution. The aim should be to publish information on the different departments, public officials who work there, including their resumes and salary information, in order to achieve full organizational transparency.

Similarly, to the research conducted at the level of the Executive, Kosovo Parliament is scoring very poorly on transparency related to public procurement. The calls and decisions on public procurement procedures are not published on the website. Neither are the contracts, annexes, and public procurement plans. In the area of public procurement, Kosovo Parliament as well as other public institutions remain on the dark side, and public procurement fails to be made public. This lowers Kosovo's score across institutions and the overall country score. Kosovo is the last one in the region to start thinking about opening up the information on public procurement to the public, which is a crucial element of transparency and good governance.

The same patterns can be observed in indicators regarding transparency of the State Budget. The final accounts of budget spending are not published on the website; neither is the mid- year report. One recommendation is to publish the so-called citizen's budget, a way of simplifying complex institutional budget into an easy-to-grasp format for the regular citizen, in view of increasing fiscal transparency.

2.2.2 ACTION STEPS

In order to increase its overall score, and address the previously stated issues, the Kosovo Parliament should undertake the following steps:

Accessibility

- Create mechanisms for obtaining public comments on draft legislation
- Create a regular practice of requesting public comments on laws/strategies/declarations/other acts and documents
- Ensure that the Parliament has active Facebook and Twitter accounts for communication with the public
- Establish an e-petitions mechanism and create a communication policy/plan for its promotion
- Start to actively promote the e-petition mechanism on its website or social media
- Extend the right of access to state owned enterprises by making the required change in the relevant legislation or regulations
- Create obligation for public authorities to create and update lists of registers of the documents in their possession, and to make them public
- Establish a training and guidance system to enable court employees to assess records, datasets and other information assets for disclosure
- Further enhance the available information about the access to the parliamentary building (e.g. visitors' centre, guided tours, educational visits, vesting hours, access to plenary sessions etc.)
- Establish a parliamentary procedure for bringing representatives of the governmental Cabinet to the Parliament to answer MPs' questions

Effectiveness

- Strengthen the existing mechanisms for the assessment of potential impacts of existing or prepared legal acts (including regulatory assessments, RIA)

Integrity

- Regulate lobbyists and lobbying activities by adopting a law for this domain
- Institute a mandatory existence of a register of lobbyists and place an independent body in charge of managing the register
- Strengthen the existing mechanisms for the monitoring of implementation of the Code of Ethics for the Members of Parliament
- Devise procedures for making public information on the final results of investigations into charges of unethical behaviour
- Institute a binding nature (via law or regulation) of decisions of an independent oversight body
- Establish an independent oversight body or information commission to ensure compliance with right to information rules
- Complete the existing oversight documentation for the past period (particularly the past 2 years)
- Strengthen the accountability of the audit office to the parliament

Transparency

- Publish documentation and voting records for the committee sessions
- Publish transcripts and voting records of the plenum on the website
- Publish the institutional organogram, scope of work, resumes, personnel names, positions, salaries, contacts, list of registers of documents in its possession, annual work plan on the website
- Improve broadcasting of audio and video transmissions of its working bodies
- Improve broadcasting of audio and video transmissions of plenary sessions
- Provide regular information of attendance of MPs in committee and plenary sessions
- Establish participation, transparency and quality evaluation within the RIA process
- Establish policies and procedures that govern the Parliament's publications and relations
- Make the required amendments in the law in order to institute prohibition on participation of companies convicted of bribery in future procurement bids
- Ensure that plans, calls, decisions, contracts and annexes related to public procurement are published on its website
- Complete the existing rules and procedures in order to enable unsuccessful bidders to instigate an official review of procurement decisions
- Complete the existing legal framework in order to ensure competitive bidding in major procurements (>0.5% of GDP)
- Define specific conditions for sole sourcing (situation in which a supplier is the only source of a skill or technology)
- Ensure that the government budget proposal is discussed in a sufficient number of committee sessions
- Ensure that the draft law on the budget and the supporting budget documentation include costs that are differentiated by spending units, functional and economic classification
- Ensure that budget and final accounts on budget spending are published on the Parliament's website, publish a mid-year report on budget spending
- Create a practice of the State Audit Office conducting audit of the final accounts
- Publish a Citizens Budget

2.3 JUDICIARY
2.3.1 RECOMMENDATIONS

Accessibility

The Kosovo Judicial Council is by far the least accessible of all Court Councils in the region of Western Balkans. While Albania ranks first with a score of 73.7%, Kosovo managed to rack up a mere 28.95%. This mediocre result is attributable to a number of factors. First, the Kosovo Judicial Council does not have a mechanism for interacting with the media, who are not allowed to attend the KJC sessions. This is despite the fact that the Council has established a dedicated Public Information Office. Second, the KJC lacks a public complaint mechanism that would enable citizens to raise complaints regarding the work of judges and civil servants. Third, a training and guidance system that would equip the court employees with the skills to assess information for disclosure and thus fulfil their obligations under the RTI law is absent. These three areas thus constitute the fields of intervention we recommend decision-makers to focus on in order to improve the Council's accessibility.

Awareness

Awareness is another area in which the Kosovo Judicial Council finds itself at the very bottom of the regional ranking. While the court councils of Bosnia and Montenegro fulfil 100% of the criteria, KJC scores lower than half of that (47.4%). The most problematic aspects of the current situation in the justice sector are the lack of impartial system that prevents 'judge shopping' (the practice of judges selecting the cases they will adjudicate based on their preferences), lack of information on number of received, dealt with and pending cases, and absence of reporting of the courts to a higher authority. The overall score of the awareness of the justice institutions is weighed down by the Court of Appeals which received 0% across all criteria under scrutiny.

Integrity

The availability of information, guidelines and procedures related to the integrity of the justice system is the strongest point of Kosovo's judiciary. The KJC attains the second highest mark in the region (78.2%) and Kosovo courts top the ranking with 100%. However, it needs to be noted that the criteria fulfillment of which is evaluated here related to a mere existence of Codes of Ethics for judges and court personnel. They do not, in any way, reflect the actual levels of integrity in Kosovo's justice system. The three Basic Court, the Supreme Court, the Court of Appeals and the Special Chamber all meet all the set benchmarks (whether the Code of Ethics exists and is published). Only the KJC fails to fulfill some of the criteria, namely the existence of procedures for filing complaints against alleged unethical behavior, surveys to assess citizen trust in the justice system and need for a mandatory ethic training for judges.

Transparency

Three sub-domains are examined within the 'Transparency' domain - transparency of budgetary information, organizational information and public procurement. The overall transparency of information provided by the KJC is low, Kosovo comes second to last (43.4%), followed only by Albania with 20.7%. The ranking is topped by Montenegro (73.1%) and Serbia (63.5%). However, performance varies significantly from sub-domain to sub-domain. While transparency of KJC's public procurement is assessed at 0%, budgetary transparency is at 21.3% and organizational information at 74.5%. The public procurement and budgetary transparency are thus major obstacles to KJC's better performance overall and should constitute one of the priority intervention areas for decision-makers. Specifically, efforts to improve performance should focus on ensuring that procurement plans, calls, decisions, and contracts are published on the Court's website, as well as budgets and final accounts on budget spending.
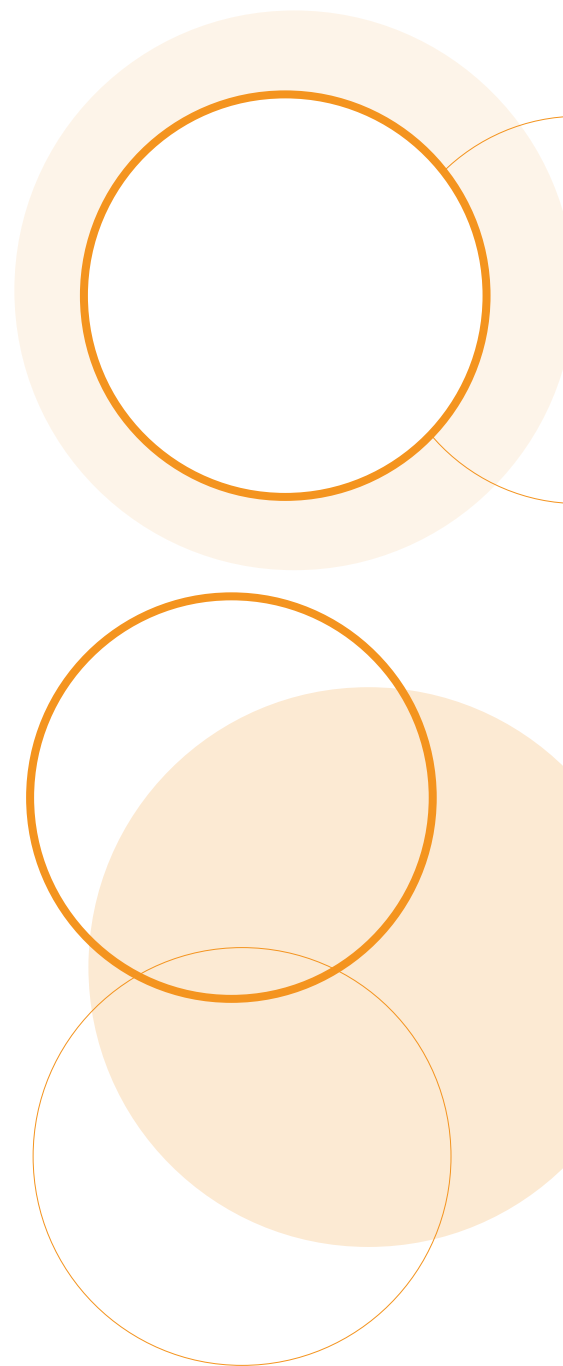
2.3.2 ACTION STEPS

In order to increase its overall score, the Kosovo Judicial Council should undertake the following steps:

Accessibility

- Develop dedicated press guidelines setting out rules and principles governing the relationship between the Council and the media, and enable media representatives to attend the Council sessions subject to necessary exceptions
- Establish a practice of conducting surveys about citizen trust in the judicial system
- Establish a training and guidance system to enable court employees to assess records, datasets and other information

Awareness

- Ensure that it reviews all implementation reports submitted by the courts and clearly defines obligations and deadlines for reporting by the courts
- Allocate separate budget lines of the Council's budget to building maintenance, operation and costs, investments in new buildings, legal aid, training and education of judges, and computerization (equipment, investments and maintenance)

Integrity

- Establish a procedure for filing of complaints against alleged unethical behaviour and in regards to the work of judges and civil servants, and make the relevant information available on the Council's website
- Institute a mandatory ethics training for judges; identify internal and external, including foreign, sources of funding for ethics trainings

Transparency

- Ensure that budgets and final accounts on budget spending are published on its website
- Ensure that plans, calls, decisions, contracts and annexes related to public procurement are published on its website
- Publish work programs, plans, and information regarding the personnel (including names and positions), salaries, contacts to Council members, institutional scope of work, organogram, and staff resumes, as well as list of registers of documents in its possession on the website. The Council should ensure that the website is regularly and consistently updated with the current information.

2.4 SUPREME COURT

2.4.1 ACTION STEPS

In order to increase its overall score, the Supreme Court of Kosovo should undertake the following steps:

- Ensure that judicial proceedings are conducted in public, excluding specific, well-defined and justified exceptions
- Ensure verdicts include rationales for decision
- Publish the institutional organogram, scope of work, names, positions, salaries and staff resumes, current judiciary strategies, work programs and plans, the list of registers of documents in the Court's possession, records from hearings (subject to limited exceptions), statistics on the volume of cases received, clearance rates, duration of the pending cases (by court and by judge), anonymised verdicts in cases against juveniles on the Court's website. Consistently and regularly update the website with this and other legally required information.
- Issue a general prohibition against the public participating in cases against juveniles
- Establish safeguards against delay (performance standards, normal times for stages in the judicial proceedings)
- Further strengthen the obligation to send a report to the competent authority
- Make possible for citizens to follow progress of their case online
- Institute a procedure regarding the usage of minority languages and scripts
- Establish a public complaint mechanism concerning the work of judges and civil servants
- Establish a training and guidance system to enable court employees to assess records, datasets and other information assets for disclosure and to undertake their obligations in line with ROI

2.5 PROSECUTION

2.5.1 RECOMMENDATIONS

Accessibility

Access to information is the Achilles' heel of the Prosecutorial Council of Kosovo, fulfilling only 18.2% of the criteria It does better than Albania and Macedonia whose Prosecutorial Councils do not satisfy any of them and effectively receive an accessibility score equal to 0%. On the other hand, these results should not serve as an excuse for Kosovo, as the rest of the countries of the Western Balkans perform significantly better, Bosnia ranking first with a respectable 72.7%. The result is low even for Kosovo standards, only two institutions are marked lower than the Prosecutorial Council, the Public Prosecution (14.6%) and the executive agencies (16.7%). The PC owes its low score to the failure to make available contact information of the responsible person for FOI, establish a public complaint mechanism regarding the work of the prosecution, and lack of guidelines that regulate media reporting and that enable prosecution employees to assess information and undertake their obligations under the RTI law. The only benchmark satisfied is to publish decisions of the Prosecutorial Council on its website.

Awareness

While the Prosecutorial Council of Kosovo fares better on awareness in absolute terms, it does relatively worse as compared to the neighboring countries. It occupies the second to last spot with 39.1%, with Albania hitting the rock bottom 0% and Montenegro scoring a full 100%. It is in the better half within the Kosovo institutional landscape where the average awareness rate is 25%. The drawbacks are mainly found in reporting where there is no obligation and deadline for reporting of the Prosecution Office towards the competent authority, there is a lack of regulations specifying the content and forms of PC's reports and the Prosecution Office does not report problems that occur in the work report. The only satisfied criteria are the requirement of the PC to submit a report on its work and for those report to include disciplinary measures for prosecutors.

Integrity

The Prosecutorial Council performs significantly better on integrity than on the previous two variables. It boasts a score of 80.7% and occupies a third position regionally, following Montenegro (91.2%) and Bosnia (89.5%), and leaving behind Macedonia (71.9%), Serbia (59.7%) and Albania (38.6%). While this is a respectable score, a quick look at other institutions in Kosovo suggests existence of space for further improvement, a number of institutions achieving the same or higher score, including three reaching a full 100% on integrity. The two benchmarks that pull the PC's integrity score down are the absence of surveys assessing citizens' trust in the prosecutor's office and lack of a formal disciplinary system concerning complaints against prosecutors.

Transparency

The score of the Prosecutorial Council of Kosovo on transparency is subpart, with 34.1% of met criteria it is followed by Macedonia (27.1%) and Albania (1.7%), but outperformed by Montenegro (47.0%), Bosnia (54.2%) and Serbia (55.4%). Scrutinizing the results deeper below the surface brings to light the stark differences between the transparency of budget, organizational information and public procurement. Whereas the Prosecutorial Council of Kosovo boasts the second highest transparency of organizational information (71.2%), it fails utterly in budgetary and public procurement transparency (0%). With regards to the budgetary transparency, the Prosecutorial Council does not make budgets available online and the final accounts on budget spending are not published on the website. In a similar vein, plans, calls, decision, contracts and annexes related to public procurement are not published on the Council's website, earning it a grade of 0. Finally, the organizational information transparency could further be increased by a more complete publication of organizational structure, personnel information, work programs and plans.

2.5.2 ACTION STEPS

In order to increase it's the openness, the Kosovo Prosecutorial Council should undertake the following steps:

Accessibility

- Establish guidelines regulating the media reporting on under the Council's review
- Make public the contact information of the person responsible for FOI in the prosecution office
- Establish a training and guidance system to enable prosecution employees to assess records, datasets and other information

Awareness

- Define obligations and deadlines for reporting by the Prosecution Offices towards competent authority, and set out regulations specifying the form and content of such reports
- Create an obligation for the Council to submit reports on its work
- Allocate separate budget lines of the Council's budget to building maintenance, operation and costs, technical infrastructure, legal aid, training and education of prosecutors

Integrity

- Establish a practice of conducting surveys about citizen trust in the prosecutor's office
- Establish a public complaint mechanism and a formal disciplinary system for complaints against prosecutors, and their work

Transparency

- Ensure that plans, calls, decisions, contracts and annexes related to public procurement are published on its website
- Publish work programs, plans, list of registers of documents in its possession, information regarding the personnel (including names and positions), salaries, contacts to Council members

2.6 OFFICE OF THE CHIEF PROSECUTOR

2.6.1 RECOMMENDATIONS

Accessibility

The Office of Chief State Prosecutor meets just about one third of the assessed benchmarks related to awareness, which places it in the penultimate position in the regional ranking. This is mainly due to the fact that only on two indicators it earns a full 100% - inclusion of disciplinary measures and complaints against prosecutors into the annual reports and existence of an oversight mechanism of the Basic State Prosecution by the Hight State Prosecution. The gaps to be filled are: including indicators of performance e.g. number of resolved cases into the annual report, creating a mechanism for the allocation of cases and ensuring oversight of the Office by a competent authority.

Awareness

The Office of Chief State Prosecutor meets just about one third of the assessed benchmarks related to awareness, which places it in the penultimate position in the regional ranking. This is mainly due to the fact that only on two indicators it earns a full 100% - inclusion of disciplinary measures and complaints against prosecutors into the annual reports and existence of an oversight mechanism of the Basic State Prosecution by the Hight State Prosecution. The gaps to be filled are: including indicators of performance e.g. number of resolved cases into the annual report, creating a mechanism for the allocation of cases and ensuring oversight of the Office by a competent authority.

Integrity

Kosovo's Office of Chief State Prosecutor meets all criteria within the integrity domain and thus occupies a rare first place in the regional comparison, accompanied by Montenegro.

Transparency

The Office of Chief State Prosecutor does not stand out for its mark for transparency, it satisfies roughly a third of the criteria and falls behind all countries but Albania. The reasons for this can be found in the complete lack of transparency in budgetary and public procurement affairs, for both of which the Office receives a 0%. Only with regards to the organisational information the matters are more optimistic, scoring 59.7% and following behind Serbia (77.8%) and Montenegro (74.2%). The budget and final accounts on budget spending are not published on the website, and neither are procurement plans, calls, decision, contracts and annexes. Transparency of organisation information could further be increased by focusing on publication of full organogram, scope of work, resumes, work programs and plans, and personnel information being published online, as well as by making all data available on a notice board as foreseen by the law.

2.6.2 ACTION STEPS

In order to increase its overall score, the Office of the Chief State Prosecutor should undertake the following steps:

°

- Create a notice board in the prosecution and publish on it all legally required information
- Ensure free access of the public to the prosecution's offices
- Establish a practice of reporting on monitoring of media outputs regarding the work of the prosecution
- Institute a procedure regarding the usage of minority languages and scripts

°

- Establish a mechanism for a systematic allocation of cases
- Ensure that the report on the work undertaken in the previous year is sent to the competent authority, and that the report includes indicators of performance for the activity of the Office (number of resolved cases, number of delivered verdicts etc.)
- Conduct regular oversight of the work of the Basic State Prosecution Office establish the required processes and allocated personnel capacities

u

- Ensure that understandable and comprehensive information about budgets and final accounts on budget spending is published on the
- Office's website (including tables and verbal explanations
- Ensure that plans, calls, decisions, contracts and annexes related to public procurement are published on the Office's website
- Publish the institutional organogram, scope of work, staff resumes, work programs and plans, list of registers of documents in its possession on the Office's website, as well as other legally required information
- Establish a training and guidance system to enable court employees to assess records, datasets and other information assets for disclosure and to undertake their obligations in line with FOI

3. METHODOLOGY

The "Regional Index of Openness" is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society. Openness is a key condition for democracy because it enables citizens to obtain the information and knowledge they need to participate as equals in public debates, to take enlightened decisions and to hold governments accountable. Openness also supports good government because it allows governing elites to consider and draw on ideas and expertise dispersed in society. Open government is based on four organizational principles: transparency, accessibility, integrity and awareness. These principles apply to all branches and levels of government, from the central executive to local self-government, parliament and the judicial system.

The principle of transparency means that a government provides clear and relevant public information about what it is doing. This information relates to the organization and work of government institutions and in particular to budgeting and public procurement procedures. Transparency enables citizens and the public to understand and assess the government's work. However, governmental transparency may be constrained by obstacles that prevent citizens and the public from accessing the information they perceive as important. An open government should also seek to remove such obstacles and to accommodate the concerns and demands of citizens and society. Openness therefore requires that public authorities strive to provide all opportunities and procedures for access and to enhance their accessibility.

There are two additional, internal obstacles to a transparent and open government. Firstly, officeholders may have incentives to abuse their public office in order to further private interests. While openness itself reduces such incentives, private interests could lead officeholders to hide or manipulate the information they are expected to provide to the public. Secondly, state institutions may be locked in a culture of secrecy that prevents them from accumulating knowledge about themselves – the informational basis needed for transparency in public. To address these internal obstacles, open government should incorporate the principles of integrity and awareness. Integrity rules and mechanisms discourage officeholders from the pursuit of private interests.

Awareness denotes the availability and provision of information and knowledge within government. This principle is particularly relevant for the executive since this branch of government is entrusted with the exercise of state power. Liberal constitutions have therefore assigned powers to the legislative and judicial branches that allow them to monitor and review the policies and actions of the executive. With regard to the parliament and the courts, awareness is thus conceived as the capacity of these institutions to monitor the work of the executive. But awareness also refers to the availability of knowledge within the central executive, that is, to the exchange of information between different ministries and the arrangement of institutions that constitute the core executive – cabinet, general secretariat or prime minister's office, prime minister and other coordinating institutions, for example units drafting legislation.

While transparency towards the public, accessibility, integrity and organizational awareness promote accountability, they do not cover accountability completely, since accountability also includes the ability of citizens or their representatives to sanction an incumbent government that they view as violating its responsibilities. The Openness Index does not include this dimension of accountability; it is focused on the informational and knowledge conditions of meaningful democratic accountability. The four principles are further disaggregated into individual questions that are assessed on the basis of websites, other public information sources and interviews. The Openness Index assesses how these four principles are realized in the following institutions or sets of institutions: core executive; line ministries; executive agencies; parliament; local self-government; courts; public prosecution. Since these institutions perform different functions in the process of governing or policy-making, individual questions are adapted to match the profiles of the respective institutions.

4. PROJECT

Good governance is key to rule of law. And while issues of corruption, transparency, rule of law and good governance are always in the spotlight, there remains a lack of understanding and systemic problems that hardly receive sufficient coverage. The "Accountability, Technology and Institutional Openness Network in South East Europe - ACTION SEE" project aims to raise awareness of such challenges by facilitating cooperation among civic organizations and consolidated strategic efforts for representation.

ACTION SEE provides a platform for dialogue and a concrete tool to measure the degree to which state institutions uphold principles and standards of open governance (Openness index).

The project aims to increase the inclusion of civic society and media organizations in decision making processes and the creation of public opinion and policies, as well as to raise the capacity of civic societies to address sensitive issues.

Specific project goals:

- Promote a dynamic civic society which effectively mobilises citizens for active participation in issues related to the rule of law and good governance and affects policies and decision making processes at a national and regional level.

- Strengthen mechanisms for dialogue between civic organisations and government institutions and influence good governance and public administration reforms.

- Stimulate civic and media organization networking at local and EU level, allowing the exchange of know-how, skills and connections, as well as increase the influence of their representation efforts.

5. READ MORE

Here we can link to all findings and results (excel sheet) for each country and the region, policy papers for each country and the region, link to road map for other countries and the region, and general road map that would be produced as a general guideline for all Western Balkan countries. Presumably, all of this would be published on Action SEE website before we publish the Road Maps.