

GOOD GOVERNANCE

FOR OPENNESS AND
ACCOUNTABILITY IN POLITICS
AND GOVERNANCE

Author: Blinera Meta Shala, Deputy Director, Open Data Kosovo

Openness of the Parliament of Kosovo

Proposals for the improvement of the current state



This publication has been produced with the assistance of the European Union as part of the ACTION SEE – Accountability, Technology and Institutional Openness Network in SEE Project

Author: Blinera Meta Shala, Deputy Director, Open Data Kosovo

Openness of the Parliament of Kosovo

Proposals for the improvement of a current state

Pristina, April 2017

INTRODUCTION

In cooperation with partners from the regional NGO network **ActionSEE**, Open Data Kosovo (ODK) drafted a policy paper analyzing the level of transparency, openness and accountability of parliaments across the Western Balkan countries.

The policy paper is a result of research conducted by ActionSEE members over several months in winter and spring 2016-2017. The project aims to assess the current state-of-affairs in this area, and on the basis of measurement of levels of parliamentary openness devise recommendations to address the existing challenges. Additionally, the project strives to foster respect for the principles of good governance, among which openness occupies a significant place.

Declaration on Parliamentary Openness sets out the obligations of parliaments to ensure that citizens can make use of legal aid while exercising their right to access to parliamentary information. Parliaments should encourage openness and share examples of good practice with other parliaments in order to increase openness and transparency. Furthermore, cooperation with non-governmental organizations that conduct monitoring of parliamentary work, as well as citizen engagement, should be employed as a way to ensure that parliamentary information is complete, accurate and accessible.

Taking into account the aforementioned, it is necessary that regional parliaments, which have so far failed to do so, sign the Declaration on Parliamentary Openness and start working on its implementation in due course.

The policy paper is addressed to policy-makers in the parliaments of the Western Balkans. Representatives of international organizations, colleagues from the NGO sector dealing with related issues, and media may also find it useful.

The project team is at your disposal for all suggestions and feedback.

Openness of Legislative Power in the Region

Regional parliaments meet on average 63% of the openness criteria. This result is not satisfactory, particularly bearing in mind that parliaments are public bodies directly elected and accountable to citizens. Parliaments play a key role in any democratic system and should stand at the forefront of efforts to enable citizens to monitor their work effectively and with ease. However, akin to the executive power, the highest legislative bodies do not have a strategic approach to openness policy. Requirements of openness may be indirectly deduced from the Constitution, Rules of Procedure and other acts, and as such are subject to different interpretations and political expediency.

Information regarding parliamentary work belongs to public and thus it is necessary to constantly strengthen the culture of parliamentary openness.¹ Openness policy should be developed by following information and communications trends, using new technologies and publishing data in machine-readable formats.

Insufficient Transparency of Organizational and Financial Information

In most cases, parliaments are not transparent regarding the publication of information from sessions of parliamentary committees. Majority of parliaments do not publish voting records and lists of MPs who attended board sessions. In addition, in a lot of countries committee sessions are not broadcasted.

Most Western Balkan parliaments have to strengthen their respect for the principle of fiscal openness. Parliaments predominantly do not meet even the minimum of international standards on budgetary transparency, that set out the obligation to ensure public availability of financial documents.² Most official parliamentary websites do not contain information on budgets for the past three years. Moreover, an overwhelming majority does not publish final accounts. Parliaments should conduct control of public expenditure during the year and publish mid-year reports on budget spending.

¹)Declaration on Parliamentary Openness
Available at: <https://goo.gl/FJHWVS>
Access: 27.03.2017

²)Best Practices for Budget Transparency,
OECD, 2002.
Available at: <https://goo.gl/qamVDW>

Guidelines for Parliamentary Websites,
Inter-Parliamentary Union, 2009
Available at: <https://goo.gl/gD2Wg0>
Access: 27.03.2017

Insufficiently Developed Mechanisms for Citizen Engagement

Western Balkan Parliaments should strengthen their representative function through the establishment of communication channels with citizens and include the latter in the process of policy formulation. What is more, parliaments should pay special attention to the development of electronic services.

Legislative bodies should be open to communication with citizens and identify suitable communication channels, whether via telephone, e-mail, or by seeking to develop more innovative ways that enable a two-way communication with their constituencies. Furthermore, it is necessary to fully leverage the existing mechanisms for communication, in particular social networks. According to the present assessment, majority of parliaments do not have accounts on social networks or fail to use them with sufficient frequency.

Additionally, monitoring unveiled the need for strengthening the capacities needed to ensure a complete and consistent implementation of Law on Free Access to Information³.

(Un) Ethical Behavior of Members of the Parliament

Consistent implementation of Codes of Conduct is of fundamental importance for increasing the level of political accountability and citizens' trust in parliamentary work. However, while some regional countries have not adopted a Code of Conduct, other countries fail to actively promote it or effectively implement it. Western Balkans parliaments should establish clear mechanisms for monitoring the implementation of Codes of Conduct of Members of the Parliament, and determine sanctions for each violation of prescribed ethical standards. Regional practice shows that violation of Codes of Conduct in most cases does not result into sanctioning inappropriate behavior and it is usually subject to political agreements. Also, it is necessary to institute rules that will oblige member of parliaments to publish documents of procedures regarding violation of Code's provisions. In that way transparency of these procedures would be increased.

³) Monitoring has shown that the majority of parliaments do not have an established training system or guidebook for civil servants in a way that civil servants would access data which are published according to the Law on Free Access to Information and assume other obligations envisaged by the Law.

Limited Ability of Parliaments to Control Other Branches of Power

The research reveals that a number of mechanisms for parliamentary control of executive power is established in the countries of the region. However, their implementation is mostly of formal nature. In practice, visible effects of control are missing. Examples of measures that brought about specific outcomes, in relation to sanctions for representatives of executive or other branches of power, are very rare.

Parliaments must not be places of uncritical adoption of proposals made by the executive power, but places of their review and effective control. Legislative obligations of Members of the Parliament must not be an excuse for neglecting their oversight and control function, which represents one of the central guarantees of democracy.

All Western Balkans parliaments are obliged to endeavor and fully implement the existing mechanisms and strive to contribute to increasing the level of political accountability in their respective countries.

Openness of the Parliament of Kosovo

Kosovo's Parliament scored 60% in the indicators of openness, thus arriving second in the ranking of Western Balkan parliaments. It is trailing behind Montenegro, which leads with 80%, and shares the second place in a tie with Albania, which has equally received the mark of 60%. This result is somewhat satisfactory, showing some clear efforts to increase parliamentary openness. However, there is room for improvement. The analysis below offers a number of observations that can be made on the basis of the collected data, and is followed by recommendations on how current state-of-affairs could be improved.

The openness of the Kosovo Parliament was measured and ranked through a set of 102 indicators measuring the degree of openness in four areas: Accessibility, Efficiency, Integrity, and Transparency.

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.⁴ 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 fulfill 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 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.

⁴Law on Access to Public Documents, Article 10

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 a 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.

Research methodology

Openness is a key condition for a functioning democracy to take root, as it allows citizens to receive information necessary to participate in the public life, contribute to effective decision-making and hold institutions responsible for the policies they enact.

A number of countries undertakes specific actions towards increasing their own transparency and accountability to citizens. The regional index of parliamentary openness is developed in order to evaluate to what extent citizens of the Western Balkans receive complete and understandable information from their institutions.

The regional index of openness measures to what extent parliaments are open to citizens based on the following four principles: 1. transparency, 2. accessibility 3. integrity and 4. effectiveness.

The principle of **transparency** includes the fact that organizational information, budget and public procurement are publicly available and published. **Accessibility** is related to ensuring and respecting procedures for a free access to information and strengthening interaction with citizens. **Integrity** includes mechanisms for the prevention of corruption, implementing codes of conduct and regulation of lobbying. The last principle, **effectiveness**, is related to monitoring and evaluation of policies conducted.

Following international standards, recommendations and examples of good practice, respect for these principles is further assessed through quantitative and qualitative indicators, which are estimated on the basis of information availability on official websites, legal framework's quality on specific questions, other sources of public information and questionnaires delivered to institutions.⁵

Openness of Western Balkan Parliaments was measured and analyzed through more than 100 indicators and more than 1000 data pieces collected. The assessment was conducted between October and December 2016. Based on the research results, this set of recommendations and guidelines, directed towards institutions was developed.

⁵Standards and recommendations of numerous international organizations (such as Access Info Europe, EU, IPU, OECD, OGP, SIGMA, WORLD BANK, etc.) were analyzed.

About ActionSEE

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

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

OPEN DATA KOSOVO

Address: "Bajram Kelmendi" Street, K.I.G, 16
10 000 Prishtina, Kosovo

Email: info@opendatakosovo.org

Website: www.opendatakosovo.org