

GOOD GOVERNANCE

FOR OPENNESS AND
ACCOUNTABILITY IN POLITICS
AND GOVERNANCE

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Parliament Openness in Kosovo and in the Region

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

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Pristina, June 2018

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 during winter and spring of 2017-2018. The project aims to assess the current state-of-affairs in this area, and on the basis of measurements 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.

The 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 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.

The 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.

Parliamentary openness in the region

Having analyzed a large number of **methodically** rounded data, we noticed similarities and differences in the situation in this area in the countries of the **region**. The results of the conducted research show that the openness of parliaments at the regional level is not satisfactory. As with executive authorities, it was noted that the overall result of parliamentary openness at the regional level was lower than in the previous observation and measurement cycle. Instead of the expected progress in the sphere of openness, parliaments in the region achieved a worse result comparing to the previous research period. On average **61%** of indicators were fulfilled in 2017 in the area of openness. This score is 2% lower compared to the openness recorded in 2016, when it reached 63%.

We would like to point out that this year's research comprised and advocated a higher degree of openness of institutions in relation to last year, adding new indicators by which this openness is measured, and thus tightening the measurement criteria themselves. We believe that such a tightened approach to the research added up to the fact that the results show a decrease in openness of the legislative power. On the other hand, the results and analyzed data show that the legislative power has not made any effort to develop openness since the publishing of the previous results, so new indicators are not of the crucial importance for a general decline in the openness.

The highest legislative bodies of the region do not have a strategic approach to openness policy as it was discernible and indicated in the analysis of the parliament openness in 2016, and as well remained unchanged in the results of the monitoring conducted in 2017. Requests for openness can only be indirectly derived from the Constitution, Rules of Procedure and other acts, and as such are subject to different interpretations and moods of the parliamentary majority.

The decline in the level of openness of all parliaments at the regional level, with the exception of the Albanian Parliament that achieved a better result in 2017 (75%), compared to 2016 (60%), shows that for a year parliament had not strives to maintain the achieved degree of openness, or invest in its development.

Information on the work of parliament belong to citizens, and it is necessary to constantly improve the existing level of culture of parliamentary openness. Openness policy should develop as the pace of the new technologies picks up. Our monitoring has shown several "critical points", i.e., key obstacles to the development of parliamentary openness in the region.

Transparency, accessibility and communication with citizens

The observed decline in the transparency and accessibility of parliaments in the region has to be stopped and significantly improved so that these institutions, selected by citizens and for citizens, could act fully as the pillars of democracy in these societies.

Although the existence of the Law on Free Access to Information of Public Importance in the region greatly contributes to larger transparency of parliaments, it is necessary to further strengthen its application, and it is imperative that parliaments make an effort to improve their own pro-activity in publishing information on their work.

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

Furthermore, publishing of information on the work of parliaments and of deputies is rarely accompanied by their accountability for the achieved results and the quality of work of this institution. The average result achieved by parliaments in the region in the area of **communication with citizens**, which amounts to 35% of fulfilled indicators, is yet another reason for concern. Parliaments in the region continue to be inert and do not strive to invest in new channels of communication that can help bridge the gap between citizens and their representative body. Another regional problem is the respect for the principle that the data should be published in open data formats, which would increase accessibility and make it easier for citizens to collect information.

What certainly raises concern is the fact that transparency and communication with citizens are at the lowest level when it comes to preparing, discussing, adopting and presenting (in open data format) the most important annual legislative act in every country – the state budget. The average result for every country in 2017, in the area of the state budget is 41%, whereas in all countries, with the exception of Albania (86%) and Montenegro (58%), these percentages range from 19% (Serbia) and 32% (Kosovo).

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

Parliamentary oversight – good basis and poor implementation

Parliaments in the Western Balkans region have established good bases for conducting **parliamentary oversight** - except in the case of Kosovo that meets only 19% of the indicators set. However, it is necessary that this function of the legislative power be significantly strengthened at the level of the entire region, with an emphasis on ensuring its full implementation in practice. A good legislative basis for the exercise of parliamentary oversight does not imply that it shall actually be implemented in practice. Parliaments in the region continued to formally apply this function in 2017, which led to the fact that the results of the parliamentary oversight actually lack. The need to strengthen the control and oversight function of the parliament in terms of its effective implementation was emphasised by the European Commission in the individual reports for each country, published in April 2018.

This situation brings us back to the last year's conclusion. It is extremely important that parliaments be not a place of uncritical adoption of the executive power proposals but rather of their review and of an efficient control of everything that has been done. Legislative duties of deputies must not be a reason for neglecting the controlling function, which is one of the most important guarantees of democracy. All parliaments in the region must make efforts to fully implement the existing mechanisms, thereby contributing to raising the level of political accountability.

Weak evaluation and control of the work of parliaments and of deputies' behaviour – effects, integrity and ethics

Even in 2017, the work of parliaments in the region was not based on the establishment of a uniform methodology and appropriate indicators for measuring the results and the quality of their work and the work of the deputies. Strategic planning of parliaments at the level of the entire region meets only **25%** of the set indicators, with parliaments of Serbia and Kosovo that scored zero points in this dimension. This situation, which keeps repeating from year to year, continues to have an impact on the quality of parliamentary work and on informing citizens about the effects and outcomes of the work of the legislative power.

In most of the parliaments in the region, the Law on Lobbying has not yet been adopted.

Additionally, the integrity of the parliaments remains low due to the fact that the Codes of Ethics of parliaments in some countries of the region have not yet been adopted, or their application is extremely weak. As in 2016, even in this measurement cycle, low ethics in the work of parliament and of deputies was recorded, and last year's recommendations in this area were not applied.

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

Openness of the Parliament of Kosovo

Kosovo's Parliament scored **49%** based on the indicators of openness, thus arriving fifth in this ranking of Western Balkan parliaments. Montenegro leads as the most open of all parliaments in the region, scoring 81% based on the indicators set, while Kosovo leaves behind only Bosnia and Hercegovina, which received a score of 45%. This result is not satisfactory, considering that in the last measurement Kosovo was ranked second in the region scoring 60% of the indicators. This shows that there has been no increase of efforts for Parliamentary Openness, therefore the country has witnessed a drop down of three places. 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 116 indicators measuring the degree of openness in four areas: Accessibility, Awareness, Integrity, and Transparency.

Accessibility

The Kosovo Parliament scored **45%** on the aspect of Accessibility. This score puts the Kosovo Parliament at the bottom of the list compared to the other regional countries in the Western Balkans, leaving behind only Bosnia and Hercegovina. In the index scoring, Kosovo was evaluated as having good infrastructure for freedom of information, most importantly embodied by the Law on Access to Public Documents. The institution has a designated person who deals with FOI requests and there is a reasonable minimum time limit for responding to requests.

However, the right to access information still does not seem to apply to state owned enterprises, public companies, or other entities that are owned or controlled by the parliament, which is considered a continued problem from the last measurement. One other aspect that is preventing proper implementation of this law is the failure to publish a list of registers and documents in its possession, as required by law.¹ The Parliament of Kosovo in the past two years has not organized a single training on the field of access to public documents and open data for its officials, which would help public officials to deal with requests on access to public documents.

¹ Law on Access to Public Documents, Article 12

Another flaw in this regard is that there is no independent oversight body or information commission, which would ensure that the Law on access to public documents is being implemented within the Parliament and all the requests are being treated in a timely manner and accordingly.

It is proposed that the Parliament of Kosovo should also have a direct channel of communication on the website which would be available to citizens to raise concerns, complaints and make appeals on the work of the Parliament. This small remedy would immediately increase the institution's openness score.

Another basic problem of the accessibility of the Parliament is the search feature on the homepage. On the official webpage ² of the Parliament, this feature does not work and it makes it impossible for the citizens to check any available document on the web page.

Still, even this year, the mechanism of online petitions (also the Law on Online Petitions) has not been established and there does not seem to be a plan to move forward in this direction. In the three related indicators, Kosovo scored zero points. The Kosovo Parliament should aim to move towards more modern ways of interacting with citizens. Adopting the practice of e-petitions will without a doubt increase the openness of the Parliament in terms of accessibility.

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. Also, there is a person in charge of maintaining relations and regular communication with CSOs and with an online registration platform for interested parties. A step towards these good relations is also the non-formal group for Transparency and Accountability in the Parliament, which is working towards increasing transparency and accountability in the Parliament together with MPs, CSOs, international organizations and citizens. This is reflected in the solid score received by Kosovo in this related indicator.

2. www.kuvendikosoves.org

Awareness

Kosovo scored **16%** when it came to awareness, which is related to strategic planning and Parliamentary monitoring, as means of Openness. This is the lowest score in the region, while all other parliaments in the region have scored above 50% on these indicators. Kosovo's Parliament fails to evaluate the awareness and impact of its laws, whether those are being prepared or are already in force. The Parliament of Kosovo has not adopted any documents whether they are strategy, policy or procedure ones that deal with this issue, which would increase openness and transparency. An impact evaluation is important, for it enables the Parliament 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 scored **69%** on the integrity component, this percentage shows a drop from 83%, which was the score that Kosovo received in the last measurement. However, the country still stands second behind Montenegro, which received 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 asset declaration by the Members of Parliament. All of these aspects are regulated by the Law on the Rights and Privileges of Members of the Parliament and the Law on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials.

These two laws provide a good basis for developing parliamentary integrity but lack the development of the regulation of the code of ethics of the MPs within the parliament, despite the chapter in the Law on the Rights and Privileges of MPs. Because of the non-adoption of this regulation, another three indicators based on the mechanism of monitoring this code, procedures to deal with the violation, and an online version of it receive a score of zero.

Transparency

The assessment of the level of transparency of the Kosovo Parliament was carried out by measuring indicators related to organizational information, public procurement, and state budget. In these categories, Kosovo scored **48%**, which is a drop from the score of 60% that the country received the last time. Therefore, from being ranked second in the last measurement, this year Kosovo was ranked last in the region. The country that was ranked first in the component of Transparency is Montenegro, scoring 78% based on the indicators.

Overall, Kosovo's Parliament received a good score regarding 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. Another feature, which is contributing to the Parliament's transparency, is the online platform Legislative Tracking System that enables citizens to see which stage of adoption each law is in. The Parliamentary sessions are regularly broadcasted, agendas are published in advance, and the website is consistently updated.

What is still missing, which was a recommendation from last year's measurement as well, is the record of attendance of MPs, as well as more information on public officials that are working in this institution. The aim should be to publish information on the different departments, including: public officials who work there, their resumes, and salary information, in order to achieve full organizational transparency.

Similar to other public institutions, Kosovo's 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's 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 shares the last place with Macedonia, both scoring 44% on this component. 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. Even though in the region Kosovo is ranked third regarding transparency of the state budget, there is a lot of room for improvement. The final accounts of budget spending are not published on the website; neither is the mid-year report, which is a continuance from last year's measurement. One recommendation, which also came from last year's measurement, is to publish the so-called citizen's budget, in order to increase the transparency of the Parliament in the component of the State Budget. The citizen's budget is a way of simplifying the complex institutional budget into an easy-to-grasp format for the regular citizen, in view of increasing fiscal transparency.

RESEARCH METHODOLOGY

Openness is a key 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 undertake 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: transparency, awareness, integrity and 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 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, **awareness**, 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.

Openness of Western Balkan parliaments was measured and analyzed through more than 100 indicators and more than 1000 data points collected.

The assessment was conducted between January and March 2017.

1. Standards 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.

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