

Analysis of the Openness of the Assembly in Kosovo

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Introduction

Utilizing the past experience with partners from the regional network of NGOs “Action SEE” Open Data Kosovo has prepared the policy paper where it analyzes the level of transparency, openness, and accountability of the legislative power in Kosovo for the year 2019. The policy paper is a result of extensive research based on scientific methodology conducted by Open Data Kosovo in the past few months. The aim of the overall research is to provide a detailed overview of the situation in Kosovo, and to contribute to the implementation of the public administration reform where the insights from the Assembly are taken in consideration in the development of the Strategy for Modernization of Public Administration. This paper also aims to strengthen the principles of good governance and help institutions implement them more effectively in their daily work.

After an evaluation of the proposed aim in the past years, done so for three consecutive years from 2016 to 2018, this paper draws analysis of the level of openness and recommendations for improvement for the year 2019. The methodology and its indicators have been constantly improved and adapted to the respective year’s demands. This policy paper also brings out a comparative element where ODK has drawn an analysis of improvement along the years when the measurement has been carried.

The policy of openness must be the policy of all governments in the region and it must be formulated and treated equally as other important policies. Such a policy should maintain its objectivity in the matter and must not be influenced in any case by current political decisions or other political elements. This policy paper is addressed to the Assembly and to decision-makers who could benefit from this paper if its results and recommendations are carefully taken into consideration. The paper may also be of benefit to representatives of international organizations, as well as to colleagues from the NGO sector dealing with these issues.

ODK has respected the principles of transparency of the research and introduced institutions with all the details of its implementation and its conclusions. ODK remains open to all suggestions, constructive criticisms and discussions regarding the policy paper.

Methodology of research

Openness represents a key condition for democracy as it allows citizens to receive information necessary for equal participation in political life, effective decision-making and accountability of institutions for their policies. Institutions around the world undertake specific activities with the aim of increasing their transparency and accountability to citizens. The Regional index of openness of core executive power is established in order to define to which degree citizens of Kosovo receive accessible and understandable information from their institutions.

The Regional index of openness measures a degree up to which institutions of Western Balkan countries are open to citizens and society and it is based on the following four principles: 1) transparency, 2) accessibility 3) integrity and 4) awareness. The principle of transparency requires that organizational information, budget and procedure of public procurements are publicly available and regularly published and updated. Accessibility is related to ensuring and respecting procedures for a free access to information, improving availability of information through public debates and strengthening interaction with citizens. Integrity comprises the elements of prevention of corruption, conducting code of ethics and regulation of lobbying. The last principle, awareness, refers to monitoring and evaluation of policies conducted by institutions.

Following the international standards, recommendations, and examples of good practice, these principles are further developed through specific, quantitative and qualitative indicators. Such principles are evaluated on the basis of: information accessibility on official websites of institutions, legal framework's quality for specific questions, other sources of public information, and questionnaires delivered to institutions. The data collection followed a model with a data verification process which resulted in the standard error of +/-3%. The measurement was conducted in the period from May 2020 to the end of December 2020. A set of recommendations directed towards institutions was developed on the basis of research results.

The openness of the Assembly in 2016

Kosovo's Assembly scored 60% in the indicators of openness. This result is somewhat satisfactory, showing some clear efforts to increase assembly openness. However, there was room for improvement. Kosovo Assembly scored 47.73% on the aspect of Accessibility. It scored 50% when it came to Effectiveness which is related to strategic planning and assembly monitoring as means of openness. Kosovo scored high on the integrity component with a total score of 83% and it scored 60% on the aspect of transparency.

The openness of the Assembly in 2017

Kosovo's Assembly scored 49% based on the indicators of openness. This result was not evaluated as satisfactory, considering that in the last measurement Kosovo was ranked second in the region scoring 60% of the indicators. This showed that there had been no increase of efforts for Assembly Openness, therefore the country had witnessed a drop down of three places. During this year's measurement, Kosovo scored 45% on the aspect of accessibility, 16% in terms of awareness, 69% in regards to the integrity component, and 48% in the transparency section.

The openness of the Assembly in 2018

The Assembly of Kosovo scored overall 73%. Kosovo's ranking the respective year was more satisfying than that of the year before, demonstrating an increase of efforts for Assembly Openness with many tools and mechanisms in place such as Transparency Forum, the office for cooperation with Civil Society, opening of the committee meetings etc. Nevertheless, there was still room left for improvement. Also, it has to be noted that the research has been done for the assembly as an institution and the policies in place rather than an analysis of the work of the MPs. The Kosovo Assembly scored 55% on the principle of Accessibility, 80% on the component of awareness, 82% on the integrity principle, and 78% on the principle of transparency.

The openness of the Assembly in 2019

The Kosovo Assembly received an overall score of 80,5% in the openness for the year 2019. Such a score shows great improvement of this institution during the years. As there is always room for improvement, such a score shows that the Assembly has been increasing its openness over the years. When first measured back in 2016, the Kosovo Assembly scored 60% on the indicators, while now the score shows the improvement due to efforts made within the years. If we were to compare such a score in a regional context, Kosovo Assembly has a lot more to do in terms of its openness however, in a national context such an improvement is satisfactory. The index results were achieved taking into consideration the four Principles for Assembly openness, which include: transparency, accessibility, integrity and awareness. In the following section, there will be a detailed explanation of the key principles and the score of the Assembly in the areas.

ACCESSIBILITY (68%)

Accessibility addresses the level of citizens, CSO, interested actors to participate in the work of the Assembly, included but not limited to the Freedom of Information Act and other regulations. In this regard, the Kosovo Assembly scored 68% on the principle of Accessibility which is 13% higher than the previous year. In terms of the communication with the public, there were no direct online communications channels in place that provided access to direct communication between the general public and the Assembly; however, ODK in collaboration with the Kosovo Assembly are developing the E-participation digital solution which will be launched in February 2021. Such a solution; a public consultation platform enables direct communication between the general public and the MPs.

In theory, public consultation offers an opportunity for the interests of a more diverse assortment of members of the public to access political power and shape its exercise. Apart from the public consultation platform to be developed, the Kosovo Assembly is also accessible via social media channels such as Facebook¹ which enables that the activities of the Assembly are effectively communicated to a younger audience. The Assembly of Kosovo needs to conduct more training for the staff in the field of access to public information. According to the survey filled by the Kosovo Assembly representatives, the staff of the Kosovo Assembly has taken part in several training sessions organized by the Kosovo Institute of Public Administration on the topics of personal data protection and access to public documents in 2018 and 2019. Such training sessions and workshops are usually organized by the civil society organizations and other agencies/institutions which in turn help Kosovo public officials deal with requests on access to public documents. Even though there is no legal obligation for the Kosovo Assembly staff to conduct training sessions or workshops, it's officials are, nevertheless, benefiting from such capacity building opportunities by taking part in them.

¹ <https://www.facebook.com/kuvendi.skupstina>

Kosovo has been highly evaluated in the Accessibility index scoring due to its good infrastructure for freedom of information, as foreseen in the Law on Access to Public Documents which has been successfully revised in July 2019. According to this law, the institution has a designated person who deals with Freedom of Information (FOI) requests who spends a reasonable minimum time responding to requests. In addition to this, the Law has also introduced the Commissioner for Information and Privacy who will overview the implementation of the law and make sure that the requests are being treated accordingly and in a timely manner. However, the dichotomy in the process of practically implementing such a law comes into play in this specific case. As also discussed with the internal staff of the Information and Privacy Agency, the Commissioner for Information and Privacy has not yet been selected by the Kosovo Assembly. Since the legal establishment of the Information and Privacy Agency, the Agency lacks the Commissioner for Information and Privacy, and the current highest position is the one of the executive director.

The right to access information does not apply to state-owned enterprises, public companies, or other entities that are controlled by the Assembly, 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 legally required.

In terms of the search bar button feature, there have been improvements in the official Assembly website, a feature which now works and makes it easier for citizens to navigate and check available documents or reports on the platform.

Electronic petitions is a promising field in terms of institutional openness and civic participation and engagement. Such a field is crucial to increasing the role of openness within the assembly and it falls into the accessibility component. Up to this date, there are no mechanisms endorsed by the Kosovo Assembly regarding the e-petitioning system. This is why, in the three indicators related to e-petitioning, Kosovo has scored zero points. Since this form of citizen engagement in the work of the public administration entities is highly encouraged and endorsed by many international networks i.e. the Open Government Partnership², we recommend that the Kosovo Assembly moves towards such systems; more transparent and accessible ones than the traditional petitions.

² <https://www.opengovpartnership.org/policy-area/e-petitions/>

Maintaining a good relationship with the civil society, thus engaging the civil society in the implementation process of laws is a crucial element towards an open and accountable government. In this regard, the Kosovo Assembly maintains a good relationship with the civil society as also foreseen by the rules of procedures in assembly committees (Rules of Procedure Art 65). In addition, there is a designated person in charge of maintaining relations and regular communication with CSOs and following up with the online registration platform for interested parties. Another achievement of the Kosovo Assembly is the establishment of the non-formal group for Transparency and Accountability in the Assembly, which works directly towards increasing transparency and accountability in the Assembly and engages MPs, public officials, CSOs, international organizations, and citizens in this process. This is then reflected positively in the score received by Kosovo related to the indicator of Accessibility.

AWARENESS (75%)

Following the Awareness component, the Assembly of Kosovo scored 75%. Due to significant achievements being reached within only one year regarding the principle of awareness, such a satisfactory score was received. In regards to strategic planning, aiming to provide a detailed and systematic appraisal of the potential impacts of a new regulation in order to assess the regulation meeting and achieving the desired objectives, the Assembly of Kosovo did not respond. Since there are no regulatory impact assessments (RIA) mechanisms in place in Kosovo, the Assembly could not provide an answer in regards to this specific category. As such, the Assembly scored a 0% in this specific indicator, which in turn provided a 75% score in terms of the Awareness component.

On the contrary, on the Assembly monitoring subdomain, Kosovo scores 100%. Such a score indicates a higher overall score on the Awareness component. As part of this subdomain, the Assembly activities and hearings are in most cases recorded, open for the public and archived. In terms of the assembly procedures, the representatives of the Core Executive can be brought to the Assembly in order

to answer MPs' questions. Also, there is a procedure in place for conducting a Motion of No Confidence. An Assembly group or MPs are also able to file a petition for an interpellation to consider an issue related to the work of the Government or a Ministry.

Additionally, according to Article 66 as part of the Rules of Procedure of the Assembly of Kosovo, the committees have the right to consult experts for the purpose of obtaining information on a subject under debate. The public hearings in place may be held by them and may even be entered into the general discussion with the persons furnishing information insofar as it is necessary to clarify the facts. All this enables the citizens to be informed and updated with all the changes that are or may be affecting their daily lives. This fulfills the requirements of the awareness principle and hence places Kosovo even higher in this ranking.

INTEGRITY (96%)

The Integrity component represents a mechanism for prevention of corruption, regulations of lobbying, and conducting code of ethics. The Kosovo Assembly has scored a total of 96% in this component.

The Code of Ethics for the Members of the Assembly is an effective tool towards preventing and mitigating corruption in Kosovo. Such a Code is annexed in the Rules of Procedures which is published on the websites and regulates issues on the use of state property, gifts, conflict of interest, and political activity. The office of the President of the Assembly accepts the written declaration within (30) days of the inaugural session of the Assembly, therefore it should be updated within (30) days of any material change which occurs. Information on assets, income sources, income amount, and liabilities are provided by the assets card of members. Such data is organized and structured in an easily accessible way for the public. Even though access to data pertaining to the declaration of property is not published, such access is provided to the citizens upon requests as it is granted in accordance with the Law on Access to Public Documents and with the Law on Protection of Personal Data.

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

The third subdomain as part of the Integrity component is the Lobbying part. Lobbying is the communication with public officials, political decision-makers, or representatives, let that be direct or indirect, in order to influence public decision-making and is usually carried out by or on behalf of a client or any organised group. More specifically, in Kosovo there are no regulations in place that regulate the lobbying rules. In recent years lobbying has become an area of increasing regulation, with a priority placed on understanding who specifically lobbies. If all lobbying activities are made public and protection prioritizes public interest, such lobbying rules are of great values.

TRANSPARENCY (88%)

The Assembly of Kosovo scored a total of 88% on the principle of Transparency, which shows progress comparing it to past year's results. The component of Transparency encompasses the organizational information, budget, and procedure of public procurements and it assures that such elements are publicly available and published. In the subdomain of organizational information, the Kosovo Assembly scored a total of 84%. The organizational information subdomain picks up on the quality and quantity of information with regards to the effective operation of the Assembly. "The Assembly of Kosovo is a signatory of the declaration of Assembly Openness and has implemented the action plan for an open and transparent assembly by 2020³. In line with the declaration the Assembly has developed the strategy for information and Communication to the

³ http://www.kuvendikosoves.org/Uploads/Data/Files/17/2020_06_23_VendimidheRregullorjaperrrendindheqasjenemediavedhetepublikutnepuneneKuvendit_CeARNKtVc4.pdf

assembly (2019–2021)⁴. One of the most important documents which the Assembly has adopted is the regulation for communication with media and the public in the work of the assembly, which has set rules and procedures to the staff as well as third parties which follow the work of the assembly to ensure communication.”

The official website of the Assembly offers easy access to laws, amendments, draft legislation, regulations, strategies and work reports. Another feature which contributes to the Assembly’s transparency is the online Legislative Tracking System that enables citizens to be more involved in the legislative process since they can track at what stage the law is. The voting records from plenary sessions of the Assembly are also published on the website. In addition, the Assembly performs video transmission of plenary sessions, which as a whole encourages active participation of citizens in the legislative process, thus strengthening the role of Assembly as an institution. Compared to previous years, Kosovo’s Assembly is also making progress on transparency related to public procurement by now scoring a total of 93% in this subdomain. Citizens can access the contracts to public procurement procedures, which are available on the website, as well as the results of major public procurement bids. As also filled in the survey sent to the Assembly officials, all major public procurement bids (including the notification and the process) are published via the state portal on public procurement⁵ as also foreseen by law. Yet, there is room for improvement since calls on public procurement procedures are still not publicly available. Nevertheless, the Assembly of Kosovo has successfully published the final procurement plan which can be freely accessed by Kosovo citizens⁶.

The Assembly began to publish more detailed financial reports on a quarterly and annual basis regarding its expenditures. The data is provided in a very user-friendly and downloadable .xls format which can be easily accessed by Kosovo citizens. This is a significant milestone from last year’s findings and shows Kosovo’s willingness to make quick and effective changes for progress in the infrastructure and the information itself provided to the public. Ultimately, a recommendation which has been addressed through last year’s measurement and is still valid is to publish the so-called citizen’s budget, in order to increase the transparency of the Assembly in the component of the State Budget. Such a budget is recommended to be published in a user-friendly and easy-to-grasp format for the ordinary citizens, in order to increase fiscal transparency.

4 [http://www.kuvendikosoves.org/Uploads/Data/Files/17/2019_02_08_StrategjiaperinformimdhekomunikimeKuvenditteRepublikesseKosoves%27\(1\)_BHz2KECcKL.pdf](http://www.kuvendikosoves.org/Uploads/Data/Files/17/2019_02_08_StrategjiaperinformimdhekomunikimeKuvenditteRepublikesseKosoves%27(1)_BHz2KECcKL.pdf)

5 <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=327>

6 <http://www.kuvendikosoves.org/shq/raporte/prokurim/>

Citizen Engagement in the Work of the Assembly in Kosovo

ODK in collaboration with UBO Consulting has conducted ground research to bring into perspective the views and thoughts of the Kosovo citizens on the work of the Kosovo Assembly. As part of this measurement a total of 1065 citizens of the Republic of Kosovo chosen comprehensively targeting all ethnic groups, ages, socio-economic backgrounds, sex, and residence. There have been interesting findings from this poll derived which will be used as good practices for the further implementation of the project. In regards to the survey, only 6.1% of respondents follow the work of the Kosovo Assembly often. Around 35% of the respondents follow the work of the Assembly sometimes, 37% rarely follow it, and around 22% of the respondents never do so. Such findings leave a lot to think in regards to the work of the Assembly of Kosovo and Kosovo citizens. These findings could either imply that citizens are not interested to know more about the work of the Assembly of Kosovo, or that the work of the Assembly fails to be provided in an understandable and accessible format. In both situations the element of openness is affected, as for the Assembly to be open and transparent, besides from the work of the Assembly, the push from the citizens is equally important.

The following question which was addressed was the satisfaction of the respondents, namely, Kosovo citizens with the work of the Assembly of Kosovo. Only around 1% of the respondents are highly satisfied with the work of the Assembly, whereas, around 23% of the respondents are partially satisfied with the work of the Assembly. This then left around 33% of the respondents feeling neutral about the work of the Assembly, and lastly around 17% are dissatisfied with the work of the Assembly of Kosovo. The last question raised was whether the respondents feel and think that they can contribute in the initiatives undertaken by the Assembly of Kosovo, where around 27% of the respondents felt that they do have a say and that they can contribute in the initiatives undertaken by the Assembly of Kosovo. Around 52% answered that they don't think that they can contribute to the initiatives of the Assembly of Kosovo, and around 21% of the respondents didn't reflect their opinions in this regard. It is crucially important to incorporate citizens' beliefs and points of views in the recommendations in the policy papers, and as such, the findings simultaneously show that very few citizens are engaged, let alone interested, in contributing to the work of these institutions. The lack of citizen's willingness to engage is also an issue in itself.

RECOMMENDATIONS

ACTION STEPS

In order to increase its overall score, we recommend the Assembly of Kosovo to undertake the following steps:

Pass the legislation of the e-signature;

Start implementing the e-petitioning system;

Implement the Regulatory Impact Assessments (RIA) Mechanisms in order to provide a detailed and systematic appraisal of the potential impacts of a new regulation to then assess the regulation meeting and achieving the desired objectives;

Push forward the regulation of lobbying rules;

Publish the so-called citizen's budget, in order to increase the transparency of the Assembly in the component of the State Budget;

Conduct more training for the staff of the Assembly in the field of access to public information;

Select the Commissioner on Information and Privacy for the respective Agency;

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