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OPENNESS OF INSTITUTIONS OF EXECUTIVE POWER IN THE REGION AND IN ALBANIA

RECOMMENDATIONS FOR THE IMPROVEMENT OF THE STATUS



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QEVERISJA E HAPUR E PARLAMENTIT NË RAJON DHE NË SHQIPËRI

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JULY 2018

INTRODUCTION

In cooperation with partners from the regional network of NGOs ActionSEE, MJAF! Movement prepared a policy paper in which we analyze a level of transparency, openness and accountability of executive power in the West Balkans region.

This paper is a result of a comprehensive research based on scientific methodology, conducted by the members of the ActionSEE network during the period from December 2017 to the end of February 2018. The purpose of the study was to present a comprehensive overview of the current state in the stated areas, and also contribute to the implementation of reforms in public administration, to influence strengthening the principles of good governance and aiding the institutions in their a more efficient implementation in their operations. We find that these are the aims we share with the institutions subject of research.

Policy proposal with its accompanying analysis is the second document of its kind. Following the conducted research, members of the network prepared the Recommendations for improvement of the openness of institutions of government for the last year.

Policies providing current state overview in the institutions of Albania and the region, including observed shortcomings and good practices in the area, were developed on the basis of results of research conducted in 2016. Upon the aforementioned analysis, recommendations and “road maps” for improvements in specific areas covered by the research were developed the previous year.

Members of the ActionSEE network undertook improvement and modification of the research methodology and its indicators on the basis of the results and findings from the monitoring conducted in the previous year, hoping that the new information obtained would contribute to better project results. The aim of using new and improved indicators is adding a new dimension to the research and more efficient approach to improvement of the openness of institutions in the region.

Possessing the knowledge, concrete results and the analysis of regional openness, and believing that the institutions of executive power would work on improvements in the area led by simply presented steps for making the improvements, we decided to advocate for the higher level of openness of the governmental institutions in the region. Therefore, this year’s research is upgraded by indicators advocating for higher standards in proactive transparency.

Openness policy must be adopted by all the governments in the region; it must be defined as all other important policies and not as a result of an instantaneous decision or as a current inclination of a government. Even though each country in the region has its own, specific political conditions in which it develops openness, there is considerable room for joint regional activities on improving the current state in the area.

Our proposal is addressed to decision-makers of the executive power in the regional countries on all levels: Government, ministries and all bodies of state administration. It can be useful for representatives of international institutions, as well as colleagues from NGOs who deal with these issues.

In order to achieve a higher quality public dialogue regarding these topics, we will organize a series of public events in which we will hear listen to the opinions of all interested stakeholders and try to find joint sustainable solutions for development in this area.

In addition, we will respect the principles of the research transparency of research and inform the institutions of all details of its conducting and adopted conclusions.

We remain at your disposal for all suggestions, benevolent criticism, and discussion regarding our policy paper.

Openness of institutions of executive power in the region

After the analysis of a number of methodologically circled data, we noticed similarities and differences regarding the state in this area within regional countries.

Generally, results indicate that from a regional perspective the openness of executive power is not on a satisfactory level. Instead of the expected progress in the area of openness, institutions of executive power in the region had even worse results in comparison to the previous year. Openness approximately amounts to only 38% of fulfilled indicators, whereas the percentage for the previous year was higher, at 41%.

To remind, research conducted this year demanded a higher level of openness of institutions in comparison to the previous year by the addition of new

indicators for measuring openness. Thus, making the criteria more demanding. We believe that such, more demanding research approach affected this decline in the performance score in the openness of executive power. On the other hand, results and analyzed data suggest that the institutions themselves generally performed no activities at overall development of openness, so the introduction of new indicators is not counterbalancing the drop in openness. As found and stated in the analysis performed in 2017, as well as this year, policies of openness which are clear, consistent and grounded in strategic documents do not exist. The data also reveals that openness levels decrease from higher to lower levels of government and bodies with activities and policies closer to citizens.

Each country has its own specific political conditions in which it develops its transparency and openness, with which we will deal in the second part of this document, but a significant space for the joint regional cooperation regarding the improvement of situation can be noticed.

Decrease in openness at the regional level, with the exception of the Government of Macedonia which made significant progress, shows that executive power institutions performed no activities on the development of their openness in the past year. The focus of stakeholders in executive and legislative power on elections and elective process in the past year had to determine determining the impact on priorities set forth by governments in regional countries, and Our research only offered a confirmation of that fact.

The lack of a strategic approach to openness is still evident in the regional countries. The data obtained suggest that in a large number of cases there is still no expression/exhibition/exposition of openness and transparency of institutions of the executive power in relevant documents (strategies, procedures or policies related to the issues). Although a small number of institutions of executive power has documents which, in a way, regulate their openness, the practice is not uniform, not in approach to even close to openness, neither in the type of document nor the bylaws regulating the issue.

Uniformity is absent not present between the regional countries but also in the institutions of executive power within one country.

Not even the presence of international initiatives advocating openness in regional countries contributed to an increase in openness and transparency of institutions of executive power. Lack of internal policies and aspiration to work on improvement in these areas is clearly reflected in the presence of countries in such initiatives.

The fact that willingness to work on improvement in the area of openness and transparency of the institutions of executive power in the region is lacking, was confirmed by the lower number of institutions which had taken active part in the conducted research and returned answers to questionnaires, key part of overall research, in comparison to the previous year. Lack of willingness to answer the questionnaire is by itself an indicator of decrease of openness and lack of interest in the promotion of openness.

The recommendation that the strategic documents and annual action plans addressing the development of openness must be adopted, remains. Within countries, it is necessary to plan development but also to secure uniformity on openness in institutions of executive power. After the introduction of strategic planning, it is necessary to consider passing of the Law on Government and Ministries since that would present the most efficient manner of dealing with this, but also other issues in the functioning of public administration. Our monitoring has shown several “critical points” i.e. critical obstacles for the development of openness in the region.

Transparency and communication

Although there are examples of good practice in the implementation of laws on free access to information among the institutions of executive power in the region, they are not widely present, not even within a single country of origin. Institutions of government still exercise their own will in the level of the determination of level to which the aforementioned law shall be implemented and the steps are not being taken in the direction of introducing legal advancements in the area providing for proactive transparency, publishing of registers and guides for access to information and publishing of all the answers to requests for access to information.

Communication with citizens is far from satisfactory and in the future period, we expect significant activities on improving the current state. The situation remains unchanged in the domain of modern ways of communicating with the citizens and classic methods of communication still prevail. Respecting the principle of publishing data in open data format which would increase availability and facilitate citizens' data collection represents a regional problem.

Planning and spending of public funds

The practice of publishing financial information and documents is still highly un non uniform, and transparency of spending public funds is at an extremely unsatisfactory level. Strengthening the financial transparency should be in focus and also one of the priorities of institutions of executive power in the region in the future which asks for special efforts to be taken in that direction.

Information on a budget, but also information on how planned funds were spent are rarely published. Ministries of Finances of the regional countries are in majority of cases the institutions which have a history of published data, whereas other institutions of executive power scarcely and incompletely use this opportunity. The budget for citizens and the ability to have citizens' involvement in process of planning and spending public funds is possibility unknown to regional institutions of executive power.

Also, the practice of not publishing plans for public procurements is still widely present, while calls and decisions regarding public procurements and belonging contracts and annexes to agreements were not available in most cases.

Efficiency, effectiveness and citizens' expectations from powers

A significant question of the functioning of executive power and its openness towards citizens is a creation of clear indicators of the success of government policies, which will be available to citizens and according to which the citizens may monitor the realization of policies and their success rate.

Regional governments should yet establish single methods and procedures for high-quality control of their policies, and they do not have developed adequate methods for measurement of their policies' performance. A sufficient attention was not paid to the establishment of the single method according to which ministries would inform the Government about their activities annually.

All stated items negatively reflect negatively on informing citizens about the impact and effects of operations performed by executive power.

1) Open data are data structured in computer-understandable format, which provides opportunity of free and repeated use.

2) https://www.akep.al/images/stories/AKEP/INFORMIM/LIGJ_Nr-119-2014_PER-DREJTEN-INFORMIMIT140415.pdf

3) The Albanian Core Executive reaches 55% of the criteria of openness, Line Ministries meet 42%, while Executive Agencies account for 21% of all criteria.

Openness of the executive power in Albania

Executive power in the Republic of Albania reached 36% of the fulfilled indicators of the openness, based on the results of the 2017 measurements of 2017. This result is similar to the previous measurement conducted by the partners of ActionSEE network. The membership of Albania in Open

Government Partnership and other initiatives of the government for sharing power and being accountable to the citizens represent steps that are being taken in the implementation of the openness policy.

Over the last years, high pressure is being performed by civil society organizations focusing on good governance issues that work closely with the office of the Commissioner's for the Right of Information and Data Protection to increase the level of transparency and accountability toward the citizens.

This action is based on the law on Freedom of Information , which is being considered to be revised and to shorten the days of the responsiveness toward any request for public information.

The year 2017 also represented the election year for the creation of the government. A second term of the previous government, with a new ministerial cabinet and a merger of executive agencies, showed some different findings compared to the previous research. What is noticed in this research is the decrease in of the level of the openness along the level, from the highest to the lower bodies of the executive power . The lack of qualified and acknowledged to the transparency policy personnel, as well as the lack of publishing the appointed responsible person to deal with the openness issue is still a system's problematic. This result shows that the plans for the implementation of the openness principles, change of public servants' mentality to provide information toward citizens and the willingness of institutions to include citizens in decision- making processes are in continuous focus to be tested and improved.

Core Executive

The decline of by 3% compared to the previous measurement, the Core Executive of the Republic of Albania has performed approximately 55% of the openness. Even though this result is too close with the average percentage of the region, it does not represent a satisfactory level on the implementation of the openness policy, compared this with the international standard in which our research is based on.

The Albanian government has scored 75% of the fulfilled indicators of awareness principle, 72% of accessibility indicators, 55% of integrity and 40% transparency. It is noticed that conflict of interest, code of ethics, lobbying, budget transparency and public procurement procedures present low scores in this measurement.

There is no information on the transparency of the government or state budgets on the official website of the Albanian Government. Also, there are not published budget plans, mid-reports on the expenditures, the state of public debt, as well as annual factic expenditures compared with the budget planning. Furthermore, no documents on the submission on time of the annual draft budget by the prime ministry to the Albanian Parliament are published.

This submission should be done at least three months prior discussions on parliamentary committees.

The indicators regarding public procurement procedures perform similarly. Any information related to the public procurements plans, calls on procedures, decisions on public procurements, contracts and annexes of the procedures, is not published on the prime ministry's website. The government scores negatively on the transparency of spending the revenues of the budget. Integrity is another core principle which performs at low levels, too. The lobbying activities are still not regulated in the Albanian legal frame. In addition, the government has not published any integrity plan or any anti-corruption strategy/policy.

A revised of guidelines on access to information is one of the indicators to measure the openness of public institutions toward citizens and other stakeholders who work with these institutions. This guideline is not updated on the official website of the prime ministry, where moreover, the responsible person signed to be this institution's Coordinator of FOI is not published.

Regarding ministerial cabinet activity, there are no positive scores on publishing materials and agendas of the meetings. Cabinet's meeting weekly plans are not published, agendas of the future governmental sessions lack, meetings of the core executive are not opened to media representatives, as well as there is lack of publishing the minutes of these meetings. Documents of annual work planes or the formats how the line ministries should report to the prime ministry office are not accessed, as well.

Referred to the organizationve information, names of public officials and public servants, their functions, and contacts, are partly published on the website. Organized and structured data on asset cards of the officials are missing on the prime ministry/ministry's website.

Line Ministries

Line ministries in the Republic of Albania have scored 42% of seet indicators on openness. In this conducted research, 11 ministries are evaluated, compared to 18 line ministries estimated in the previous measurements. With the second term of the "Rama" government, the competences of two or three ministries are merged in one, thus shrinking the size of the government and increasing responsibilities within a single institution.

Performance under four pillars of good governance for these ministries is: 44% accessibility's fulfilled indicators, 42% transparency, 41% integrity indicators and 40% of performance indicators. For these components, the ministry with the best performance is the Ministry of Culture with 75.7%, while the lowest result is performed by the Ministry for Europe and Foreign Affairs.

The holding of public consultations procedures remains an issue to be addressed to line ministriires to pay more attention; public consultations score 9% of implementation. Although Albania is in the fourth year of the adoption of the law no. 146/2014 "On notification and public consultation", the results continue to be unsatisfactory.

The Ministry of Finance and Economy, the Ministry of Health and Social Protection, and the Ministry of Infrastructure and Energy are the only ministries that have named and published the Coordinator for Public Consultations .

4) http://www.hidaa.gov.al/ligje/Ligji_146-2014,_per_njoftimin_dhe_konsultimin_publik.pdf

5) Article 10, law no.146/2014 "On Notification and Public consultation"

6) <http://www.konsultimipublik.gov.al/>

However, these ministries have not conducted any meetings with interested groups to be part of public policy making.

As the law provides, public consultations are going to be conducted on a single platform for all public institutions' legal initiatives, by publishing the calls for consultations and all the necessary documents for the effective implementation of the process. Observing the of platform konsultimepublike.gov.al , it is noted that the list of institutions is not updated, providing information for institutions' public consultations procedures, as well as publishing the new list of line ministries.

Another indicator, Monitoring, and Evaluation, has a low score, with 27.3% of set indicators. It was noted that the indicators used by line ministries often appeared unclear and not specific to measure the performance of civil servants. Line ministries do not use specific and clear indicators to measure the performance of the civil servants.

The control of budget transparency disclosure represents a way of assessing institutional transparency towards citizens, estimating indicators related to the annual budget, annual expenditures, mid-year report on budget spending, public procurement procedures that the institution has conducted during 2017. Based on the measurements, only 34% of ministries publish their institutional budgets and 11.5% publish information on public procurement. The Ministry of Finance and Economy is the one that publishes the budget information of all public institutions. Also, there are five ministries, such as the Ministry of Defense, the Ministry of Health and Social Protection, the Ministry of Infrastructure and Energy, the Ministry of Justice and the Ministry of Tourism and Environment, websites of which do not contain any budget information. On the other hand, Public Procurement Agency is the responsible institution to conduct the procedures of public procurement of any public institution in the Republic of Albania, on the website of which each institution owns a personal account to announce the calls and any related information of its public procurements. Through an advanced search, citizens can access the calls for procurements that contracting authorities, in this case, public institutions, publish on the platform.

Executive Agencies

Executive Agencies in the Republic of Albania scored 21% of the openness set indicators. National Agency of Tourism performed the highest result with 47% of fulfilled indicators, while the Agency of Bankruptcy Supervision, the Regional Agency of Health System and the National Agency of Income scored the lowest performance in respecting the principles of good governance, with 0 indicators fulfilled.

The performance under the four pillars of good governance for the sample of agencies measured in this research is: 27% completion of performance indicators, 22% accessibility indicators, 21% transparency and 7% integrity indicators.

7) <http://app.gov.al/>

Approximately 29% of these institutions have not set up an official website, while those agencies that have an official site score low values in terms of access to information, with only 28% of set indicators, and 15% of citizen interaction.

Regarding internal anti-corruption policies and trainings conducted on conflict of interest/preventing corruption/whistleblowing in case of irregularities, agencies score 7% of set indicators.

The budget transparency of the Executive Agencies in Albania is also at 7%, which comes as a result of the non-updating websites, as well as the lack or non-understandable tables of the annual budget.

Public procurement presents a concerning issue in terms of agency performance, with approximately 7% of transparency indicators fulfilled. As it is for all the institutions of Executive Power, the Executive Agency also conducts procurement procedures through the Public Procurement Agency.

RESEARCH METHODOLOGY

Openness is a key requirement of democracy because it enables citizens to obtain the information and knowledge needed for equal participation in political life, efficient decision-making and holding institutions accountable for policies they implement.

Institutions around the world are undertaking concrete actions in order to increase their transparency and accountability towards citizens. With a view to determine the extent to which the citizens of the Western Balkans receive timely and understandable information from their institutions, the Regional Openness Index has been developed.

The Regional Openness Index measures the degree to which the institutions of the Western Balkan countries are open to citizens and society, based on four principles: (1) transparency (2) accessibility (3) integrity and (4) efficiency.

The principle of transparency implies that organizational information, budget, and public procurement procedures be publicly available and published. Accessibility refers to the provision of an abiding by procedures for free access to information and to the enhancement of the information accessibility through the mechanism of public hearings and strengthening of interaction with citizens. Integrity includes mechanisms for the prevention of corruption, the implementation of the Codes of Ethics and the regulation of lobbying. The last principle, efficiency, concerns the monitoring and evaluation of policies implemented by institutions. Following international standards, recommendations and examples of good practice, these principles are further elaborated through specific quantitative and qualitative indicators that are assessed on the basis of availability of information on official internet sites of institutions, the quality of the legal framework for individual issues, other sources of public information and questionnaires forwarded to institutions.

Through more than 180 indicators, we measured and analyzed the openness of all the institutions of the executive power in the region and collected over 10,000 data. The data collection was followed with data verification process which resulted in the standard error of +/-3%.

The measurement was conducted in the period from December 2017 to the end of February 2018.