



Accountability, Technology and
Institutional Openness Network
in SEE

Roadmap on good governance for state institutions in the Republic of Albania

On the basis of the Regional Index of
Openness of state institutions

Based on the
measuring
for 2016



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The "Accountability, Technology and Institutional Openness Network in South East Europe - ACTION SEE" project is implemented by Metamorphosis Foundation, Westminster Foundation for Democracy, CRTA – Center for Research, Transparency and Accountability, Citizens Association Why not?, Center for Democratic Transition, Open Data Kosovo (ODK) and Levizja Mjaft!.



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Movement mission is to increase active citizenship, strengthen the sense of community, promote responsible governance and improve the image of Albania in the world through encouraging participation of citizens in decision-making by influencing and monitoring policies at both local and national level; promoting volunteerism, and improve cooperation within communities; and rehabilitating the sense of protest.

Address: Rr. Jul Variboba, Pall. 3, Shk.1, AP.5,
Tirana, Albania
Web: www.mjaft.org
E-mail: info@mjaft.org

Executive Director:

Aldo Merkoçi

Research team:

Andi Bregu
Sonila Biba
Xheni Lame



ACTION SEE – Accountability, Technology and Institutional Openness Network in SEE project aims to increase the inclusion of civic society and media organisations in decision making processes and the creation of public opinion and policies, as well as to raise the capacity of civic societies to address sensitive issues.

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PROJECT COORDINATOR:

Metamorphosis Foundation
Macedonia
Web page: www.metamorphosis.org.mk

PARTNER ORGANISATIONS:

Westminster Foundation for Democracy
Great Britain
Web page: www.wfd.org

CRTA - Center for Research, Transparency and Accountability
Serbi
Web page: www.crt.rs

Citizens Association Why not?
Bosnia and Herzegovina
Web page: www.zastone.ba

Center for Democratic Transition
Montenegro
Web page: www.cdtmn.org

Open Data Kosovo (ODK)
Kosovo
Web page: www.opendatakosovo.org

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1. GENERAL INFORMATION

Openness represents a key condition for democracy - since it allows citizens to receive information and knowledge necessary for equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct. Institutions worldwide undertake specific activities with the aim to enhance their transparency and accountability before the citizens. Open governance is based on four organizational principles: transparency, accessibility, integrity and awareness. These principles apply to all branches and levels of power, from the central executive power to the local self-government, the Parliament and the judiciary. The Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society and is designed in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions. In order to measure the degree of institutional openness, the ACTION SEE partners, adhering to international standards, recommendations as well as examples of good practice, assessed institutions through special quantitative and qualitative indicators, which assess institutions on the basis of: access to information on official websites of institutions, quality of a legal framework for individual cases, other sources of public informing and questionnaires delivered to institutions.

The responsiveness of institutions to the questionnaires was an additional indicator for their openness. Plenty of institutions scored negatively on indicators due to their non-responsiveness, which is also important to mention for two reasons: first, that institutional responsiveness is an indicator on openness itself, and second, that institutions' non-responsiveness has affected their index scores negatively, because they were automatically assessed with 0. Additionally, some of the indicators could've been assessed positively only if the existing laws were implemented. The assessment was conducted in the period from October to the end of December 2016. On the basis of the monitoring of data and the findings, a set of recommendations and guidelines dedicated to institutions was developed based on the research results. The recommended steps for each category of institutions are made on the grounds of indicators that were not entirely fulfilled. Additionally, since some of the categories of institutions were assessed, i.e. executive agencies, local self-governments, courts and public prosecution offices, the recommendations and action steps for these institutions are general for the whole group of institutions. Readers can find methodology and general project information at the end of this paper.

2. STATE INSTITUTIONS

2.1. EXECUTIVE POWER IN THE REPUBLIC OF ALBANIA

2.1.1. Core executive

General conclusions

The Government of the Republic of Albania with 58% of fulfillment of openness indicators still needs to improve itself about Open Government as a key element for a better democracy. The Information is a public property and in every case it must be public. It is necessary to pay more attention to Law on Freedom of Information (FOI), the institutions must have the capacities and necessary structures to respond to citizens as this law obligates them; the information must be public and available to everyone. Communication with public should be more eloquent, by using new methods of communication and contemporary channels. Core Executive has to inform citizens about its meetings and decisions taken, about their agendas and to be an open door institution as much as possible.

Law on Budget is not published on the official website of the government referring these last three years. There is lack of understandable tables of budget accessed by citizens, lack of mid-year reporting on annual spending and the total of spending during the budgetary year, as well as the lack of publication of the budget for citizens. Also, reports on the actual public debts and its management by our government are not published. Information about Public Servants, not only the leader of institutions, but all the public servants involved in Core Executive Administration should be visible for citizens about their names, contacts, position and salaries.

Law No. 119/2014, date 18.09.2014, "on Freedom of Information" <https://www.parlament.al/akt/ligj-nr-1192014-per-te-drejten-e-informimit/>

Recommendations for action steps

To improve the situation about Core Council meetings and agendas. Allowing media to report, using live channel, as well as publishing a summary about meetings and discussions are a necessity to keep the public informed. Using these methods the government is easily accessed by citizens, giving them the opportunity to understand the decisions that this council takes.

The structural information about public servants is an obligation of FOI and international standards for the institutions to share the information of their employees. As long as this information is not published on official websites, the Commissioner of the Right of Information, as the institution that monitors the situation and penalizes the violation of the law, has to take direct actions by obligating the institutions to share the information as it is required.

Budget information must be clear and understandable. It is necessary to strengthen the practices about financial transparency. Materials must be in open data format and clearly specified about expenses and incomes in the budget. Public Procurements must be published as well. The Government should inform about its investments and decisions.

In Albania there is still a lack for a lobbying law. It is a necessity for the government to regulate this activity, by creating a specific institution which deals only with the organization and functioning of this structure.

2.1.2. LINE MINISTRIES

General conclusions

Ministries of Albania on average fulfill 34.5% of criteria of openness. This is not a good result that shows that Ministries of Albania need to work hard on these issues.

During the study some shortcomings in the fulfilment of open government standards were noticed. Ministries are not sufficiently dedicated to informing citizens about their work. Thus, by searching their websites citizens cannot find out what ministries plan to do and which results they achieved during the previous year. Official websites of ministries contain information which is not systematized in most cases; specific rubrics are empty or are not updated, with very limited possibility of searching. Therefore, websites resemble labyrinths containing information. Principles of publishing data in open data format are not respected and there is no unique principle about updating current accounts on social networks.

In Ministries websites is difficult to find detailed information about the names, salaries and contacts of public officials. Official websites contain only general information about organizational information. Ministries additionally violate the Law on free access to information given that 8.7% of them possess information about names, salaries and contacts of public officials.

Also in significant percentages, most of ministries are not transparent on providing information about annual budgets or/and public procurement contracts or procedures.

Another issue noticed during the research is low percentage of open indicators fulfilment regarding public consultations held by ministries on new laws, which do not provide public information on the open calls and the decisions taken.



34.5%

Ministries of Albania
on average fulfill
34.5% of criteria of
openness

8.7%

Ministries additionally
violate the Law on free
access to information

Recommendations for action steps

Regarding what is noticed during the research, in accordance with Open Government standards, it is important for the line ministries to take into consideration to better improve their performance.

Ministries should well structure their official websites, in order to make it easier to citizens finding public information documents. Related to this, some ministries should readjust the search engine of the websites, because in most of cases, using them does not provide the required information.

Implementation of Transparency Programs. Line Ministries in Albania should enforce the law on FOI, by implementing the Transparency Programs approved by the Commissioner of the Right of Information for each of them. They should publish information regarding annual budgets and public procurements. This is an obligation to all of the ministries; budget should not be published only by the Ministry of Finances, or public procurement procedures should not be visible only on the Public Procurement Agency website, but it is mandatory to each institution to provide information on budget expenses of its activity.

Based on the performance of the implementation of the Law on Public Consultation, it is noticed that public consultations on new laws are not conducted by the ministries, as there are no penalties in case this procedure is not held. So, it is important to intervene in the existing law, by improving its content and insuring its well implementation.

2.1.1. Executive Agencies

General conclusions

These institutions of public administration violate the Law on Freedom of Information regarding publishing a proactive information: only 17.77% of them publish annual work reports on their websites, 19.23% of them publish list of civil servants and state employees with their titles, but only 5.08% of bodies publish the information about who are their public officials, the value of their salaries and their contacts, 69.23% of bodies publish laws and regulations that control the work of institution on their websites.

Budgetary transparency of Executive Agencies meets the lowest percentages among executive power institutions, by not giving information of final accounts data and mid-year reports to the spending of budget funds are not accessible by citizens. The same situation is noticed regarding public procurements, where 7.7% of these organs publish public procurement plans on the website, but none of them publishes the calls and decision.

Recommendations for action steps

Opening and updating official websites and publishing annual reports on their work.

Adhering to the Law on Freedom of Information by publishing all the information required by the law and respecting the deadline for answering FOI requests.

Providing information on names and positions of civil servants and the budget of the

Improving transparency on public procurement procedures, by making visible each document of them on their websites.

17.77%

of them publish annual work reports on their websites

of bodies publish laws and regulations that control the work of institution on their websites

69.23%

2.2.Parliament in the Republic of Albania

General conclusions

According to the research results the Parliament of Albania meets 60% of indicators of openness. This result means that there is still work to be done to have a better performance of Albanian Parliament's activity. It is important to mention there are implemented some good practices by Parliament administration, but it still needs to adopt international practices to make Parliament of Albania more opened.

On the Parliament's website you can find a list of MPs and information regarding their life resumes. Every three weeks, the calendar of the draft laws planned to be discussed in Parliamentary Committees is updated on the official website. All legal acts such as draft laws, adopted laws and submitted amendments are published. Also, the website contains information on attendance of MPs on committee sessions and all the discussions done regarding these committees' agenda.

Even though the Parliament achieves the best results of Albanian institutions, there are several significant questions this institution must deal with in order to achieve international standards of openness and accountability.

Recommendations for action steps

To strategically plan the development of openness and accountability of the Parliament of Albania through identification of key problems and ways for their solving. It is important to improve Rules of Procedure and Code of Conduct of MPs.

To improve communication of the Parliament of Albania with citizens through opening a channel for a "fast" communication on even two social networks. To enable citizens to submit e-petitions. To adopt a unique methodology on regulatory impact evaluation (RIA analysis) and significantly strengthen the Parliament's capacities for creation of these studies.

To improve budgetary transparency of the Parliament and approach it to citizens. To increase transparency of the process of adopting the budget of Albania. To increase transparency of public procurement.

<https://www.parlament.al/>, accessed on 17.08.2017

Regulatory impact analysis (RIA) is a systemic approach to critically assessing the positive and negative effects of proposed and existing regulations and non-regulatory alternatives (OECD, 2009, <http://www.oecd.org/gov/regulatory-policy/ria-tool-for-policy-coherence.htm>, accessed on 17.08.2017)



2.3. Judiciary in the Republic of Albania

General conclusions

The openness of Judiciary in the Republic of Albania achieves to 22% of the fulfilment of indicators. This result is quite low compared to the Executive and Legislative Power institutions in our country. Judiciary is considered as one of the most corrupted powers in Albania and one of the biggest challenges that the country has to face to integrate in European Union. This was an expected result.

The Judiciary Reform was one of the reforms undertaken recently by Albanian Government. There is a general public opinion, that judiciary in Albania is corrupted, in both cases, at its level of internal organization and in dealing with issues. The international organizations reports have concluded to that point, too. According to European Commission, "The functioning of the justice system continues to be affected by politicization, limited accountability, poor institutional co-operation, insufficient resources, and long procedures and delay processes." As a result of this situation, Albania sought for assistance of the Venice Commission to intervene in this system, to increase transparency and efficiency, by creating an ad hoc commission to deal with the drafting of legal and constitutional acts, for juridical system reform.

The overall approval of this reform took more than a year work, because of disagreements between the main political parties of the country. On May 22th 2017, by voting of Vetting Commissions is approved the first process of reform, which opens the doors for the further implementation of it. One of the changes brought by implementation of this reform is the separation of the existing structure of the High Council of Justice in: the High Council of Courts and the High Council of Prosecutors.

Regarding the General Prosecution Office in Republic of Albania, it has performed at 19% of fulfillment of assessed indicators. This shows a low level of the performance of this institution, compared to other countries in the region. Accessibility's indicator has amounted to 11%, which indicates for the many problems that this institution carries. Prosecutions are closed institutions in terms of transparency and accessibility. It is very difficult to find information regarding these institutions by online research, or to take information by using a questionnaire, because due to the study it has resulted that the responsible persons of contact do not respond to these questionnaires.

During the period of judiciary monitoring, the reform has been in discussion processes, so, for the fulfillment of the indicators of judiciary openness in Albania, we have found equivalent structures to adapt to the methodology followed by all the partners in the region.

Analysis of Judiciary in Albania, June 2015,
http://reformatorejtesi.al/sites/default/files/dokument_ shqip.pdf

Albania Progress Report 2014, pg. 39:
https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

Recommendations for action steps

Public Decisions, the court decisions should be published, all the stakeholder might check about issues they are interested in as well as individual included in a trial might get information in a fast way saving time and financial costs.

It is very important that everyone have Access to the court, the buildings must be accessible and offer assistance with different facilitations needed as sign languages interpreter or Brail text and so on. Court administration should break the borders that do not allow someone to have access in a trial.

Budget and financial transparency is a key point of open governance, so the courts have to publish their final accounts for the annual year and for the previous years.

Structural information, transparency and accountability is very linked with information about public servants, so on official websites should be published the information about names, contacts and salaries of the Courts Administration.

2.4. LOCAL SELF-GOVERNMENT UNITS IN THE REPUBLIC OF ALBANIA

General conclusions

The openness of the Local Self-Government Units in the Republic of Albania reaches 12% of the fulfillment of indicators, an unsatisfactory result for the performance of this power. This was mostly because of the Administrative-Territorial Reform, undertaken by the Albanian government, which came as a result of Albania's membership in the European Charter of Local Self-Government. More specifically, the local territory was divided into 12 regions and 61 municipalities according to Law no. 30/2015 "On some amendments and additions to Law no. 8652, dated 31.07.2000, "On the organization and functioning of local government", as amended".

What we have noticed is that, this reform is implemented only on territorial and not on administrative level, so it makes the functional framework of local self-government units to be still unstructured and producing inefficiencies. Most of these units are in structuring and territorial organizing processes, to adapt their activity according to the law, still not well-consolidated.

Also, according to the Law No.119 / 2014, dated 18.09.2014 "On the Right of Information", In Chapter II "The Right of Information and Transparency", it is defined that any public authority must compile and publish the transparency programs, including the public administration of local self-government units in the Republic of Albania as well.

Being a new-made reform in our country, there is still not any concrete assessment of the effectiveness of this reform. For the functions and their duties of local government units for implementing many important services for the citizens, this percentage must take the attention of the institutions, to raise awareness and to respond to improvement of this situation.

European Charter of Local Self-Government, Strasbourg, 15.X.1985

<http://80.78.70.231/pls/kuv/f?p=201:Ligj:30/2015:02.04.2015>

Recommendations for action steps

Implementation of the Administrative-Territorial Reform not only at the territorial level but also at the administrative level.
Adhering to the articles of the Law on Freedom of Information.
Publication of budget information clearly and structurally and in open data format.
Penalties for consultative processes violations.
Publishing the Program of Transparency.

3. METHODOLOGY

The Regional Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society. Openness is a key condition for democracy because it enables citizens to obtain the information and knowledge they need to equally participate in public debates, to take enlightened decisions and to hold governments accountable. Openness also supports good governance because it allows governing elites to reconsider and draw on ideas and expertise dispersed in society.

The Regional Index of Openness measures the extent of institutions' openness to citizens and society based on the following four principles: 1. transparency, 2. accessibility 3. integrity and 4. awareness.

The principle of transparency means that a government provides clear and relevant public information on its work. This information relates to the organization and work of government institutions, mostly to budgeting and public procurement procedures. Accessibility is related to ensuring and adhering to procedures on free access to information and strengthening interaction with citizens as well.

Integrity includes mechanisms for preventing corruption, adopting codes of conduct and regulating lobbying activities.

The last principle, **awareness**, is related to monitoring and assessment of policies which are conducted. Awareness denotes the availability and provision of information and knowledge within the government.

The four principles are further disaggregated into individual questions that are assessed on the basis of information availability on official websites, legal framework's quality for specific questions, other sources of public informing and questionnaires delivered to institutions. The Openness Index assesses how these four principles are realized in the following institutions or sets of institutions: core executive; line ministries; executive agencies; parliament; local self-government; courts; public prosecution. Since these institutions perform different functions in the process of governing or policy-making, individual questions are adapted to match the profiles of the respective institutions.

METHODOLOGICAL CONSTRAINTS

Research methodology provides a formal insight into the achieved level of institutional openness in the region. However, in certain cases, its conclusions on how the institutional openness functions on the ground are limited. The very existence of the legal framework on institutional openness is not a guarantee that good governance principles are implemented in practice. This research provides a space for further, in-depth policy analyses of particular segments of openness and good governance principles implementation, which would be valuable for obtaining a comprehensive and clear picture of the openness of public institutions in the region.

Moreover, differences in governance structure and territorial organization between Western Balkans countries limit, to a certain extent, the comparative assessment of the achieved levels of institutional openness. In that regard, results of executive, legislative and judicial openness sometimes do not reflect actual relations between different institutions at both, national and regional levels.

4. PROJECT

Good governance is the key to rule of law. While corruption, transparency, rule of law and good governance are always in the spotlight, the understanding of systemic problems, which hardly receive sufficient coverage, remains scant. The “ACCOUNTABILITY, TECHNOLOGY AND INSTITUTIONAL OPENNESS NETWORK IN SOUTH-EASTERN EUROPE - ACTION SEE” project aims to raise awareness of such challenges by facilitating cooperation among civic organizations and consolidated strategic efforts for representation.

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

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

SPECIFIC PROJECT GOALS:

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

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

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

Action SEE is a network of civil society organizations that jointly work on promoting and ensuring government accountability and transparency in the region of Southeastern 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 i democracy promotion.

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5. READ MORE

Proposals for the improvement of a current state - Openness of institutions of executive power in the region and Albania

<http://www.mjaft.org/en/reports/openness-institutions-executive-power-region-and-albania>

Parliament openness in the region and Albania

<http://www.mjaft.org/en/reports/report-albanian-parliament-openness>

Analysis of the openness of local self-government in Albania and the region

<http://www.mjaft.org/en/reports/openness-local-self-government-units-albania-and-region>

Openness of judicial bodies in the region and Albania

<http://www.mjaft.org/en/reports/openness-judicial-bodies-region-and-albania>

