



THE OPENNESS OF LEGISLATIVE POWER

Recommendations for improvement of the current situation



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1. Introduction

Based on the methodology for measuring institutional openness, MJAF! Movement has prepared this paper on policies, in which the levels of transparency and accountability of the legislative power in the Republic of Albania are analyzed. The paper presents the results of a comprehensive research, based on scientific methodology, created by members of the ActionSEE network[1]. The purpose of this research is to present a general view of the current state of the legislative power, as well as to contribute to the implementation of the reforms undertaken for public administration, to influence the reinforcement of the principles of good governance and to help institutions in the more efficient implementation of their duties. This document contains the results of the research carried out during the period March - August 2022, as well as recommendations for improving the institutional openness of the parliament. Taking into consideration the work done over the years, in partnership with regional organizations, some of the indicators that measure performance have been reviewed and changed depending on the measured results, which presented the state of the institutions of the Republic of Albania, including the good practices in this field.

In this study, the methodology for measuring the performance of public institutions has been improved and modified; its indicators are adapted on the basis of results and findings of monitoring, developed in the past years, aiming to generate information that will contribute to better project results. The purpose of using new and improved indicators is to add a new dimension to this research and a more efficient approach to improving institutional openness in the country. Possessing knowledge, concrete results and analyzes of open institutional governance, as well as believing in the improvement of the work of the legislative power in this area, also influenced by the concrete steps presented in the prepared guides, we intend to advocate for a higher level of openness in Albania. For this reason, indicators have been added to this research, which advocate for higher standards of proactive transparency.

The policy of open government should be a policy implemented in all parliaments and should be defined like other important policies, and not come as a result of an actual decision or the state of the current party in power. Our proposal is addressed to decision-makers of the legislative power in the Republic of Albania. This paper may be useful for representatives of international institutions and for colleagues from civil society organizations who work on such issues. In order to achieve a high-quality public dialogue on these issues, as well as to ensure the achievement of the principles of research transparency, public institutions will be informed about all the details of the performance and the conclusions drawn. The database with the open data collected within this program will be accessible to all those interested[2]. We are at your disposal for all suggestions, constructive criticism and discussions related to this paper!

2. Institutional Openness of the Parliament in the Republic of Albania

In April 2021, the central elections were held for the voting of Members of the Parliament of the Republic of Albania. During the electoral campaign period, shortly before the election date, a database with sensitive data of approximately 910 thousand citizens of Tirana was made public in the media. The leaked data contained information on names, ID card numbers, phone numbers, as well as citizens' preferences for voting for political parties. Such an event violates the law in force no. 9887, dated 10.03.2008 "On the protection of personal data", an event that happened again in December of the same year, with the leakage of information about the salaries of the citizens of Albania. The Information and Data Protection Commissioner's Office stated in its annual report on these events with recommendations and decision: the drafting of strategies for the Information Security Management System and the establishment of monitoring structures, continuous training staff, creating a complete register of Information and Communication Technology equipment in use, etc.[3]

In the last year, the administration of the institution is engaged in the development of the platform "Consultation of Draft Laws, in order to respect the principle of transparency and for an open Parliament as close as possible to the citizen, on the official website of the Parliament the platform "Consultation of Draft Laws" will offer the possibility of online consultation of all draft laws that the parliamentary committees will publish. The consultation will be open to the public, civil society organizations and interest groups.[4]

2.1. The Parliament in the Republic of Albania

The Parliament of the Republic of Albania, in the measurements made for the published data of the institutional activity of 2021, scored 65.05% in the fulfillment of the indicators of institutional openness. Compared to the results of 2018, the institution has recorded a decrease in performance in terms of openness, specifically transparency. In the last measurements, the Parliament of Albania has completed 72.11% of the indicators of institutional openness, being one of the most open institutions at the regional level. For the year 2021, compared to the countries of the region, the Parliament of Albania ranks third in the Western Balkans region, where the performance of the countries is presented as follows: Montenegro 85.45%, North Macedonia 71.89%, Bosnia and Herzegovina 46.25% and Serbia 43.04%.

More specifically, the main pillars from which the National Index of Institutional Openness is generated for the Parliament of Albania result in 46.29% fulfillment of transparency indicators, 63.03% of accessibility indicators, 56.84% of integrity and 60.47% of effectiveness. 30.46% of the documents published for this institution are accessible in open data format. All performance measurement pillars are down from 2018, namely transparency 14.16 percentage points, accessibility 20.4 percentage points, integrity 26.02 and effectiveness 18.05 percentage points. As a result, the achievement of publication in open data formats has decreased by 11.65 percentage points.[5]

Transparency

The transparency component indicates that less than half of the measuring indicators of the Parliament's performance have been fulfilled. At the time of conducting the research, the website of the Parliament of Albania created difficulties for its users to access the search engine for the information published on it; this engine became active later on the site.

Information about the institution's personnel is also missing. A complete list of personnel, along with their names and positions, is not published on the site. Such details are available for certain services, such as the Civil Society Coordinator and the Freedom to Information Coordinator.

Even for this institution, annual work plans and periodical reports are not published, while the annual work report is available on the website. The strategies according to which the work of the parliament presidency is conducted are not published, either.

The amendments submitted for discussion or approved at the meeting are missing from the institution's official website. But draft laws, approved laws and Regulatory Impact Assessment reports are easily found in the main Documentation menu.[6]

As for the agendas of the following sessions, the Parliament of the Republic of Albania does not publish the calendars respectively for the periods September - December / January - July. The work calendars published on the site present the work plan for one-month periods.

While the details of the voting method of the deputies of the plenary sessions are published continuously on the website, the voting of the deputies in the permanent committees remains an indicator that marks negatively for these institutions. The information is summarized in the minutes, not according to the individual vote of each deputy.

Despite the legal framework for public procurement procedures, which results in accordance with the standards referred to these measurements, the indicators for the implementation of this procedure by this institution have not resulted positively. The site does not contain any information about the institution's procurement procedures, from calls to the execution of contracts.

Information about the state budget is published through the approved law, discussions carried out in commissions and plenary sessions, but periodic reports and annual statements of institutions cannot be found inside the site.

Accessibility

The component with the highest performance noted for this institution, accessibility, measures the legal framework for ensuring the right to information, ensuring the participation of experts in the work of parliamentary committees, creating a legal procedure that ensures the participation of citizens in decision-making processes, direct channels of communication and filing of complaints related to the institutional work of the presidency, the creation of educational materials, the mechanism of e-petitions and accounts in social networks to be as close as possible to the citizen with the published institutional information.

For all of the above, the Parliament of the Republic of Albania fulfills most of the indicators, both in terms of legal drafting and work practice. Information and educational meetings about the work of the legislative body are prepared and distributed by the Parliamentary Institute, while the involvement of citizens to give their comments is made possible through the consultation platform.[7]

Integrity

The Parliament of the Republic of Albania publishes on its official website the code of conduct and ethics for MPs. This code contains and provides for the regulation of issues related to gifts, conflict of interest or the use of public property as a result of involvement in political life, as well as the relevant procedures to deal with violations. However, this code does not provide for the procedure for making public the measures taken specifically for violations of norms or for unethical behavior.

Referring to the legal framework still, the legislature has not yet produced a law regulating the activity of lobbyists. The whistleblower protection law has been regulated since 2016 and is also published on the institution's website. According to the law no. 9049, dated 10.04.2003 "On the declaration and control of assets, financial obligations of elected officials and some public servants", the annual declaration of MPs and/or ministers as declaration subjects is an obligation. The publication of these asset declaration files is done only through a request addressed to the High Inspectorate for the Declaration and Control of Assets and Conflict of Interest, so they are not published by institutional will. All property files are submitted to the inspectorate in a structured and organized form, and stored according to an electronic procedure.

Reports on integrity plans remain an issue for the Parliament of Albania. Information on the annual performance of institutional integrity, specifically law-making, is not published on the official website. Also, there is no information about the institution's participation in training in the field of integrity during 2021.

Effectiveness

In 112 questions to generate the institutional transparency of the Parliament of Albania, the effectiveness component was measured by completing six indicators. Specifically, this component has measured the extent to which regulatory impact assessment is applied for existing and new laws, publication of questions and answers during question sessions, sanctions for non-participation in commissions, reports of monitoring and listening activities, review of audit reports of the High Council of State (auditing authority), as well as the legal regulation for the inclusion of experts in commissions.

The Regulatory Impact Assessment is a procedure which is being followed more and more compared to previous years; it is a procedure, a system, which ensures the critical evaluation of the positive and negative effects of proposed and existing laws. In the case of the Albanian legislature, this system has been followed so far for measuring the effects of new proposals, but still for the existing legal framework.

As for the question and answer session, the official website of the legislature contains only the questions addressed in such sessions. In the standard of awareness for participation in commissions, ministers or other officials are not yet penalized for absences in commission meetings where they are invited and have clarifying or presenting competence for changes or legal initiatives. Meanwhile, the Parliament reviews the reports of the Supreme Council of the State, but there is no legally regulated right to consult with experts on various issues, according to the programs.

3. Methodology of the research

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. The National Index of Institutional Openness of the legislative power was built in order to determine the degree to which citizens receive and understand information from their institutions. The National Index of Institutional Openness measures the degree to which public institutions are open to citizens and society, based on four basic principles, which are: (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 based on 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 112 indicators, we measured and analyzed the institutional openness of the Parliament of the Republic of Albania. The measurements were carried out during the period March - August 2022.

4. Recommendation for improvement of the current situation

Referring to the international standards of good governance and institutional openness, the Parliament of the Republic of Albania should increase institutional efforts to improve levels of transparency and effectiveness through awareness, with the aim of increasing proactivity and providing information to the general public. The construction of the institution's new official website has caused a number of documents, accessible in previous evaluations, not to be found online during the monitoring period of this year. Considering the legislative, electoral and controlling functions of the Parliament, the importance of publishing public and educational information for the citizen receives greater attention, compared to other public institutions.

More specifically, the Parliament of the Republic of Albania should engage more in increasing budget transparency; the publication of public procurement procedures, starting from forecasts to the realization of contracts, as well as the publication of periodic budget reports of anticipated and realized expenses of the institution. It should be emphasized that at the general level of the public administration in Albania, there should be more attention in the proactive approach of publishing official public information. The Parliament, like all public institutions, should be oriented by the mindset of publishing the forecast and realization of the activities of the institutional activity, that is, both from the programmatic and financial point of view. In this way, anyone interested has the opportunity to evaluate the annual performance of the institution in achieving the objectives, which reduces the possibility of perceiving the manipulation of institutional data.

Continuous training of personnel in the field of information, publication of data in open formats and storage of personal data, with the aim of increasing the proactivity of the institution vis-à-vis the general user, emphasizing the importance of storing sensitive data generated during the processes of work.

Adding the legal framework for regulating the activity of lobbyists, creating the mechanism of online petitions and making it mandatory to publish the asset declaration files of MPs, ministers and other public officials.

5. References

[1] ActionSEE “Accountability, Technology and Institutional Openness in the South Eastern Europe” is a regional network of organizations from the countries of the Western Balkans that have built the Regional Openness Index. In order to generate the National Index of Openness for Albania, the same methodology was followed, as MJAF! Movement is part of this network since 2016.

[2] ActionALBANIA “Accountability, Technology and Institutional Openness in Albania”: <https://actionalbania.org/en>

[3] Annual report of Information and Data Protection Commissioner's Office, 2021: <https://bit.ly/3W5M3kH>

[4] Public consultation platform: <https://konsultimi.parlament.al/>

[5] The Albanian Parliament, 2018:

<https://opennessindex.actionsee.org/institutions/id:1569>

[6] Access link here: <http://www.parlament.al/dokumentacioni/aktet>

[7] Public consultation platform: <https://konsultimi.parlament.al/>