



Good governance for
openness and accountability
in politics and governance

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Proposals for the improvement of a current state

Parliament openness in the region and Macedonia

METAMORPHOSIS
Foundation for Internet and Society



ActionSEE



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Introduction

In cooperation with the partners from the “ACTION SEE” regional NGO network, Metamorphosis Foundation for Internet and Society prepared the policy paper in which we analyze the level of transparency, openness, accountability of the executive power in the Western Balkans region.

The paper represents a result of a comprehensive research, based on a scientific methodology, conducted by the members of the ACTION SEE network during the previous several months. The aim of our activities is to determine the actual state of play in the region through an objective measurement of the openness of the executive power and to address recommendations for its improvement. Also, we seek to improve the respect of the good governance principles, where openness occupies a significant place.

We believe these are the aims we share with the institutions covered by this research.

The public policy proposal, with annexed analysis, is the second document of this kind. Last year, after the research was conducted, the network members gave recommendations on improving the openness of government institutions.

Based on the results found by the 2016 research, several analyses that provide an overview of the state of play in the RM and the region have been made, including noted drawbacks and good practices in this area. On the grounds of these analyses, recommendations and roadmaps on improving the specific areas covered by the research were prepared as well.

Basing their work on the findings and results found by the last monitoring, the ACTION SEE network members began improving and adjusting the research and indicator methodology, hoping that the newly gathered information will contribute to higher quality research results. The purpose of using new and improved indicators is adding new dimensions to the research as well as more effective contribution for enhancing the openness of institutions in the region.

With our previous knowledge, concrete results and analysis of the regional openness, and hope that the institutions of the executive power will be guided by the presented steps for improving the state of play in these areas and will work on enhance it, we decided to pledge ourselves to a higher level of openness of the government institutions in the region. Therefore, this year's research has been enriched with indicators that strive for a higher standard of proactive transparency.

Parliamentary openness in the region

Having analysed a large number of **methodically** rounded data, we noticed similarities and differences in the situation in this area in the countries of the **region**.

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

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

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

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

Information on the work of parliament belong to citizens, and it is necessary to constantly improve the existing level of culture of parliamentary openness. Openness policy should develop as the pace of the new technologies picks up. New technologies should be used fully, as it would, inter alia, support and facilitate the publishing of data in a machine-readable form. In support of this, there is a datum showing that parliaments in the region are not committed to publishing data in an open format, thereby refuting and minimising the usable value of the published information. The lack of desire to work on improving the openness and transparency of the parliaments is genuine, is confirmed by the fact that in 2017 half number of parliaments that were subjected to research have not submitted answers to the questionnaires, which are a key part of the entire research. The reluctance to answer the questionnaire is in itself an indicator of insufficient openness and of lack of interest in promoting openness. Our monitoring has shown several "critical points", i.e., key obstacles to the development of parliamentary openness in the region.

Transparency, accessibility and communication with citizens

The observed decline in the transparency and accessibility of parliaments in the region has to be stopped and significantly improved so that these institutions, selected by citizens and for citizens, could act fully as the pillars of democracy in these societies. Although the existence of the Law on Free Access to Information of Public Importance in the region greatly contributes to larger transparency of parliaments, it is necessary to further strengthen its application, and it is imperative that parliaments make an effort to improve their own proactivity in publishing information on their work.

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

Furthermore, publishing of information on the work of parliaments and of deputies is rarely accompanied by their accountability for the achieved results and the quality of work of this institution.

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

What certainly raises concern is the fact that transparency and communication with citizens are at the lowest level when it comes to preparing, discussing, adopting and presenting (in open data format) the most important annual legislative act in every country – the state budget. The average result for every country in 2017, in the area of the state budget is 41%, whereas in all countries, with the exception of Albania (86%) and Montenegro (58%), these percentages range from 19% (Serbia) and 32% (Kosovo). It is essential that parliaments in the region make an effort to fully appreciate the significance, role and opinion of civil society in democracy and to improve the mechanisms of cooperation with it. It has been noted that despite the existing mechanisms and declarative determination of the holders of legislative power, parliamentary cooperation with civil society in the region has been generally violated. The Republic of Serbia ceased the cooperation with the Open Parliament following the protest that this initiative lodged to the way that the Budget Law for 2018 had been debated and adopted.

Parliamentary oversight – good basis and poor implementation

Parliaments in the Western Balkans region have established good bases for conducting **parliamentary oversight** - except in the case of Kosovo that meets only 19% of the indicators set. However, it is necessary that this function of the legislative power be significantly strengthened at the level of the entire region, with an emphasis on ensuring its full implementation in practice. A good legislative basis for the exercise of parliamentary oversight does not imply that it shall actually be implemented in practice.

Parliaments in the region continued to formally apply this function in 2017, which led to the fact that the results of the parliamentary oversight actually lack. The need to strengthen the control and oversight function of the parliament in terms of its effective implementation was emphasised by the European Commission in the individual reports for each country, published in April 2018.

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

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

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

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

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

- 1) Three persons considered close to the current parliamentary opposition were found guilty of the murder of the MP Zijadin Sela and were sentenced to 80 years of jail time in total. The trial of MPs and other 24 defendants who stormed the Parliament is scheduled for 22 August 2018.
- 2) <https://novatv.mk/pratenitsite-preku-zhan-mone-go-otvoraat-delovnikot/>
- 3) Code of Ethics for MPs in the Parliament of the RM, <http://sobranie.mk/materialdetails.nsp?materialId=6313a878-faf4-4b55-8c52-9c7d793da203>
- 4) Monitoring of the implementation of the last three months of the Plan 3-6-9, <http://idscs.org.mk/wp-content/uploads/2018/05/WEB-Izveshtaj-3-6-9-9-MK.pdf>
- 5) Plan 3-6-9, <http://vlada.mk/sites/default/files/programa/2017-2020/Plan%203-6-9%20MKD.pdf>

Openness of the Parliament of the Republic of Macedonia

The Macedonian Parliament has demonstrated the same level of openness as last year, it fulfills 58% of the indicators of openness, which is 1% less than 2017.

This shows that the new members of parliament and the ruling majority still haven't attained visible results regarding the active transparency of this institution. Despite the demonstrated interest of working on greater transparency, opposition's blockade of the Parliament affects these efforts.

The opposition had been blocking the Parliament mostly because six opposition parliamentarians have been detained for six months, for whom the Public Prosecutor's Office of the Republic of Macedonia has data that they played a part in the violent attack of the Parliament. The attack on and violence over lawmakers of the incumbent majority occurred after the new members of parliament elected the new Parliament Speaker on 27 April 2017 in a four-month-long constitutive session, which according to the opposition was contrary to the provisions of the Rules of Procedure¹.

Notwithstanding the atmosphere of constant blocking of the Parliament by two compositions of MPs, the institution accepted the Jean Monnet process initiative, initiated by the three MEPs, Ivo Vajgl, Eduard Kukan and Knut Fleckenstein, whose objective was a greater engagement of the Parliament in the country's Euro-integration processes². During 2018, lawmakers of all parliamentary party groups have worked on issues on amending the Rules of Procedure of the Parliament, Code of Ethics and budget independence. These are efforts to make the Parliament more efficient, transparent and effective when meeting citizens' expectations. However, the lack of consensus on most issues brought only a partial success of the process, which resulted in adopting only the Code of Ethics³.

Further, certain cooperation has been registered regarding the passing of reform laws with the voting of the opposition, for instance, the voting on the Law on the Operational Technical Agency and the Law on Interception of Communications - both part of the reform laws package⁴.

In addition, measures for improving the democratic atmosphere in the Parliament were proposed by the Government in the Plan 3-6-9⁵, which was a Plan for implementing the urgent reform priorities of the European Commission as well as the recommendations of the senior expert group led by Priebe.

Albeit it's a matter of proposals by the Government, the Speaker committed to the measures during the presentation of the Plan in the Parliament, which also include strengthening of the role and participation of civil society members in the work of Parliaments working bodies⁶.

But regardless of the deep institutional crisis, the Parliament continues to implement the established good practices of openness reflected by the regular publication of agendas of plenary sessions and working bodies, videos and shorthand notes from plenary sessions, attendance lists and vote scores by MPs at plenary sessions, contact information and biographies of MPs (but not their salaries and benefits claimed for travelling costs) as well as detailed annual reports.

Nevertheless, as with all parliaments in the region, Parliament of the Republic of Macedonia should work on improving the openness of its working bodies (committees), by publishing attendance lists from their sessions, shorthand and video records, as well as vote scores by MPs participating in the working bodies. According to current practices, conclusions and proposed amendments are published, while in spite of being broadcasted on the national Parliament TV Channel, video records (broadcasted after several days and without information when certain sessions will be published) are not uploaded on the Parliament's website.

Civil society organizations point out that minutes from sessions of working bodies are not being published, while their structure is not synchronized and does not follow the provisions of the Rules of Procedure in practice. There has been a progress in regard to the minutes, but it is shown by a small number of committees⁷.

The Parliament still fails to publish conclusions and minutes from meetings between the Parliament Speaker and the parliamentary party groups' coordinators. Decisions of great importance to the citizens as well as the work of MPs are made at this coordinative sessions, but given the current practice, such decisions and minutes are not being published.

Improvement of consultative processes when passing laws

The Parliament has a score of 61% under the indicators of consultative processes with the public when passing laws and other policies. This score has been reached thanks to the possibility of participation of experts and civil society organizations representatives in the working bodies' sessions allowed by the Rules of Procedure. But this possibility is not an obligation of the Parliament.

The number of laws for which the Parliament has requested the opinion of the expert or general public has been assessed by the indicators of consultative processes with the public when passing laws.

6)

Other measures contained in the Plan 3-6-9 related to the Parliament: For strengthening the accountability, the Government proposes to the Assembly, in addition to the regular, also to introduce thematic sessions for questions by MPs once a week in duration of one hour • Compulsory elaboration of legislative proposals by the Government, at expert level, before the parliamentary bodies • Restoring the crucial oversight role of the Committee for Oversight of the Work of the Security and Counter Intelligence Directorate and the Intelligence Agency through regular meetings at which the UBK and the Intelligence Agency will be actively involved • Restoring the crucial supervisory role of the Committee for Oversight of the Implementation of the Special Investigative Measure for Interception of Communications by the Ministry of Interior, the Financial Police, the Customs Administration and the Ministry of Defense through regular meetings at which all competent institutions will participate • Involvement of the parliamentary intelligence oversight committees in the Intelligence and Security Services Reform Project • Reactivation of the Club of Women MPs • Reactivation of the Standing Inquiry Committee for Human Rights • Increasing the role of the opposition in the work of the Parliament through enabling a majority in and chairing of a considerable number of parliamentary committees.

7)

5th Report on the Accountability, Transparency and Productivity Index of the Parliament of the Republic of Macedonia 1 January – 31 March 2018, http://most.org.mk/wp-content/uploads/2017/07/Index-Report-5_ENGFinal.pdf

- 8) Overview of the State of Play of the Implementation of Plan 3-6-9, <http://vlada.mk/sites/default/files/programa/2017-2020/faktografskiizveshtajplan369.pdf>
- 9) The Inter-party parliamentary group on rights of persons with disabilities has been reactivated; Club on youth issues and policies has been established and Inter-party parliamentary group on rights of LGBTI persons has been constituted.
- 10) Parliament's Annual Report for 2016, <http://sobranie.mk/content/izvestai/IZVESTAJ%20ZA%20RABOTATA%20NA%20SOBRANIETO%20NA%20RM%202016.pdf>
- 11) Parliament's Annual Report for 2017, <https://www.sobranie.mk/content/izvestai/IZVESTAJ%20ZA%20RABOTATA%20NA%20SOBRANIETO%20NA%20RM%202017.pdf>
- 12) Report from the field survey on the public perception regarding the regulatory impact assessment process, <http://idscs.org.mk/wp-content/uploads/2018/01/%D0%88%D0%B0%D0%B2%D0%BD%D0%BE%D1%81%D1%82%D0%B0-%D1%81%D0%B2%D0%B5%D0%B4%D0%BE%D0%BA-%D0%B8-%D1%83%D1%87%D0%B5%D1%81%D0%BD%D0%B8%D0%BA-%D0%B2%D0%BE.pdf>
- 13) Code of Ethics for MPs in the Parliament of the RM, <http://sobranie.mk/materialdetails.nspx?materialId=6313a878-faf4-4b55-8c52-9c7d793da203>

Public opinion has been requested only for 50% of law and other acts or strategies by the working bodies, which once again confirms that the consultative process must be guaranteed and compulsory, and not optional.

Despite the low percentage of publicly consulted laws, the activation⁸ of specific specialized bodies⁹, whose mandate is of key importance, such as for instance the Inquiry Committee for Human Rights, which didn't have a meeting during the previous parliamentary composition, should be saluted.

Additionally, multiple parliamentary compositions have been passing laws in summary proceedings. In 2016, as many as 238¹⁰ out of 366 laws have been passed in summary proceedings, while 2017 notes insignificant betterment, i.e. 24¹¹ out of 42 laws have been passed in summary proceedings. This practice decreases the possibility of quality consultative processes even more, and it is also opposed by the majority of citizens¹².

The Parliament of Macedonia has passed a Code of Ethics

The Parliament of the Republic of Macedonia passed its first Code of Ethics¹³ on 11 June 2018, a period outside of the research timeframe, and that contributes to the low 44% fulfillment of the indicators of openness in the area of the institution's integrity, which also assesses the lobbying rules (100% fulfillment) and the conflict of interest policies (59% fulfillment).

However, the adoption of the Code with the consensus of the political parties in the Parliament has to be saluted, but the Macedonian Parliament, as well as the assemblies in the region, will have to establish clear mechanisms for monitoring the implementation of the Code of Ethics. The practice in the region shows that the violation of the Code of Ethics does not always result in sanctions, but is the subject of a political agreement. The consistent application of the Code of Ethics is crucial for increasing the degree of political accountability and public confidence in the work of the legislature.

The Code aims to affirm the dignity and reputation of lawmakers and increase public's confidence in the Parliament. Parliament's reputation has been jeopardized multiple times in the past years, and the violent events from 27 April 2017, when the public witnessed MPs' participation in the violence, completely undermined the image of the people's deputy function as well as the Parliament in general.

Control mechanisms of the Parliament

The indicators of parliamentary oversight have been fulfilled with a high score of 83%, only the Parliaments of Albania (88%) and Montenegro (93%) have demonstrated better results. These results are high because the Macedonian Parliament guarantees the general control mechanisms: MPs' questions, impeachment, oversight discussions etc. But 2017 was a specific year because the fundamental general mechanism used by the Parliament - the MPs' questions - remained rather unused. During the first six months in office¹⁴, the newly elected Government answered MPs' questions only once, and there have been 41 MPs' questions¹⁵ in total. Government's intention was to increase the number of sessions on MPs' questions from one to four a month, but this initiative wasn't passed by the Parliament¹⁶.

Public information and fiscal transparency

The indicators of access to information and fiscal transparency are at the same level - 61% and 62% completion of the indicators of openness. The fact that the Parliament hasn't pointed out the officer in charge of access to public information on its website, and it neither updates nor publishes an annual list of public information, is defeating.

With regard to the state budget, the indicators of openness are 2% lower than last year, and the score of 27% is the lowest demonstrated by the Parliament. In this regard, it is of great importance for the lawmakers to continue the pledges from the Jean Monnet process directed precisely toward the budgets, its transparency and independence.

The Parliament publishes the proposed state budget, but not the final version of the Budget of the RM or the semi-annual reports on budget spending or the final trial balance. Although the practice of publishing the Civic Budget on their websites has been started by the Government and several ministries, the Parliament still has not done so. Parliament's website does not feature links to the State Commission for Prevention of Corruption's website, where the MPs' asset declarations are uploaded, as well as the Electronic System for Public Procurements.

Mechanisms for communication with citizens need greater promotion

The increased score of indicators of Parliament's interaction from 61% to 64% is insignificant because the recommendations remain unchanged.

The Parliament needs to do more regarding the organization and perfection of communications using the available tools¹⁷, and that should inspire MPs to use and promote the tools for communication with the citizens on a larger scale.

- 14) <https://time.mk/c/5c3cf043c6/prva-sednica-za-pratenicki-prasanja.html>
- 15) Parliament's Annual Report for 2017, <https://www.sobranie.mk/content/izvestai/IZVESTAJ%20ZA%20RABOTATA%20NA%20SOBRANIETO%20NA%20RM%202017.pdf>
- 16) <http://vistinomer.mk/nema-pratenichki-prashana-ednash-vo-nedelata/>
- 17) Parliament's website features a separate section dedicated to the communication of MPs and the Speaker with the citizens; the institution has profiles and is active on social networks and has its own YouTube channel.

Methodology of research

Openness represents a key condition of democracy since it allows citizens to receive information and knowledge, necessary for an equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct.

Around the world institutions undertake specific activities with the aim to increase their transparency and accountability to citizens. The Regional Index of Openness was established in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

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

The principle of transparency includes that organizational information, budget and procedure of public procurements are publicly available and published. Accessibility is related to ensuring and complying with procedures for a free access to information, improving accessibility of information through a mechanism of a public debate and strengthening interaction with citizens. Integrity comprises a mechanism for prevention of corruption, conducting code of ethics and regulations of lobbying. The last principle, effectiveness, refers to monitoring and evaluation of policies conducted by institutions.

Following international standards, recommendations as well as examples of good practice, these principles are further developed through special quantitative and qualitative indicators, which are evaluated on the basis of: accessibility of information on the official websites of institutions, quality of a legal framework for individual issues, other sources of public information and questionnaires delivered to institutions.

By using more than 110 indicators per institution we have measured and analyzed the openness of all parliaments in the region and collected over 1000 pieces of data. The collection of data was followed by a process of data verification, which resulted in standard error of +/- 3%.

ActionSEE is a network of civil society organizations that jointly work on promoting and ensuring government accountability and transparency in the region of South-East Europe, raising the potential for civic activism and civic participation, promoting and protecting human rights and freedoms on the internet and building capacities and interest within civil society organizations and individuals in the region in using technology in democracy promotion work.

Metamorphosis Foundation is an independent, nonpartisan and nonprofit foundation based in Skopje, Macedonia. Its mission is to contribute to the development of democracy and increase the quality of life through innovative use and sharing of knowledge. Our guiding values are openness, equality and freedom. Program areas that Metamorphosis operates in are:

- Social Innovations
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