



Good governance for
openness and accountability
in politics and governance

Authors: Dance Danilovska, Nada Naumovska

Proposals for the improvement of the current state

Openness of the parliaments in the region and in the Republic of North Macedonia

METAMORPHOSIS
Foundation for Internet and Society



ActionSEE



**National Endowment
for Democracy**

Supporting freedom around the world

This policy paper is part of NED-National Endowment
for Democracy funded project.



This project is funded by the European Union.

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of ACTION SEE project partners and can in no way be taken to reflect the views of the European Union.

Authors: Dance Danilovska, Nada Naumovska

Research team from Metamorphosis Foundation for Internet and Society:
Bardhyl Jashari, Executive Director
Mila Josifovska, Project Coordinator

Proposals for the improvement of the current state

Openness of the parliaments in the region and in the Republic of North Macedonia

Views and opinions stated in this document represent authors' opinions
and they do not necessarily reflect the donors' views.

Skopje, July 2019

Introduction

In cooperation with the partners from the regional network of CSOs “ACTION SEE”, Metamorphosis Foundation for Internet and Society has prepared the analysis of the level of transparency, openness and accountability of the parliaments in the region of Western Balkans. This paper is 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 in the region through an objective measurement of openness of the parliaments and to address recommendations for its improvement. Furthermore, our goal is to improve the respect of principles of good governance, where openness occupies a significant place and we believe that we share the same goals with the institutions involved within this research.

These recommendations for public policy, accompanied by a thorough analysis, constitute the third document of this character. Last year, following the implementation of the research, members of the network also made recommendations towards improving the openness of the monitored parliaments.

Thorough analyses have been made based on the results of the research conducted in 2016, which provide an overview of the situation in the Republic of North Macedonia and the region, including perceived shortcomings and good practices in this area. Based on these analysis, recommendations and “roadmaps” were made in the past two years, i.e. in 2017 and 2018, in order to stimulate improvement in the specific areas covered by this research.

Members of the ACTION SEE network, basing their work on the findings and results of the penultimate monitoring, have improved and adapted the research methodology and indicators last year, hoping that the new information gathered will contribute to a higher quality of project results. The purpose of using new and improved indicators is to add new dimensions to the research and to contribute more effectively towards the improvement of the openness of institutions in the region.

Having prior knowledge, specific results and analysis of regional openness, and at the same time believing that the parliaments will be guided by the presented steps for improvement of the situation in these areas and will work to improve them, we have decided to strive for a higher level of openness of the parliaments in the region. Thus, in the last two years our research has been enriched with indicators that advocate for a higher standard of proactive transparency.

Parliamentary openness in the Western Balkans region

The results of the conducted research show that the parliamentary openness at the regional level increased in 2018 in comparison to 2017 and 2016. The regional average in the final round of measurement scored **65%**, which is 4% higher than the previous year (61%). This finding is encouraging due to the fact that in 2017 new indicators were added, which tightened the measurement criteria and led to drop in the score in the year when the methodology was revised and became stricter. We believe that such research approach added up to the fact that after failing to meet the advanced indicators in 2017, parliaments consequently started to cope with and develop their openness according to research findings and recommendations.

However, this years' research also shows significant regional differences in the level of parliamentary openness. The gap among national parliaments varies from **79%**, scored by the Montenegrin parliament, to **46%** scored by Bosnia and Herzegovina. In addition, the progress in the level of openness remains uneven, while a decline was recorded in the cases of several parliaments. **Significant progress** of 23% is recorded in Kosovo whose national parliament in 2018 scored 72% in comparison to 49% in 2017. **Slight progress** in 2018 is recorded in Serbia and North Macedonia, ranging from 3% to 4%, leading to the latest results of 58% and 63% of openness respectively. The **slight decline** in 2018 is recorded in the cases of parliaments of Montenegro (79%) and Albania (71%), in comparison to 2017 when Montenegro scored 80%, while Albania scored 75%.

However, general conclusion is that the parliamentary openness **remains unsatisfactory**. The highest legislative bodies of the region still lack 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 and in 2018. Requests for openness can only be indirectly derived from the Constitution, Rules of Procedure and other laws or acts, such is the Law on Free Access to Information of Public Importance or requirements from the EU accession process. As such, they are subject to different interpretations and readiness of the parliamentary majority to comply with the good governance and democratic principles.

Information on the work of the 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, findings show 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 and confirmed also in 2018, when 4 out of 6 parliaments did not provide answer to the questionnaire – Serbia, Montenegro, North Macedonia and Bosnia and Herzegovina. 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 in the development of parliamentary openness in the region.

Transparency, accessibility and communication with citizens

Research findings show that the openness in the domain of **transparency** increased at the level of the whole region. The only parliament whose score declined in this area is the Parliament of Albania lowering its result for 9% in comparison to 2017. However, it is worrying to see that when it comes to **accessibility to citizens**, parliaments are stagnating for years, scoring **regional average of around 61% both in 2017 and in 2018**. Parliaments need to work on improving their contact with citizens in order to fully conduct their role as the highest representative institution in regional political systems. This is particularly important in Bosnia and Herzegovina that in 2017 and 2018 scored a little above of one third of indicators – 39% and 37% respectively.

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 implementation. It should be of utmost importance 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 the MPs, 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. The 2018 research also shows that information on the activities of MPs in parliamentary 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.

Interaction with citizens, including possibilities to contact the parliament through e-mails, other online communication channels or to submit an e-petition, dropped in 2018 reaching an alarmingly low level with average regional score of 31%, in comparison to 35% in 2017. The parliament of Montenegro, which holds the title of the champion of openness, scores only 31% in citizen interaction. Parliaments which interacted the least with citizens in 2018 are the parliaments of Serbia (24%) and Bosnia and Herzegovina (14%). 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 institution. Another regional problem is the respect for the principle that data should be published in open data formats, which would increase accessibility and make it easier for citizens to collect information.

Results in citizen interaction are particularly interesting due to the fact that in each country there is basis for conducting **public consultations**, particularly in Albania (100%), Kosovo (77%) and Montenegro (77%). In this regard, parliaments have mostly developed instruments which allow the parliament to organise public hearings, invite civil society or experts to participate and submit proposals, and enables citizens and civil society to, for example, attend the sessions of the parliamentary committees.

What certainly raises concern is the fact that transparency and communication with citizens remain low 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 2018, increased for 10% percent in comparison to 2017, and amounts 51%. However, half of the countries continued performing unsatisfactory in this area: Bosnia and Herzegovina (23%), Serbia (30%) and North Macedonia (38%).

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 Parliament 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 continue to have a good basis for conducting **parliamentary oversight**, which includes procedures which allow the parliament to question the government and hold it accountable, but also the parliamentary committees to include experts in the consultation regarding some legislative pieces or policy areas. This year, the Parliament of Kosovo (95%) overtook the best ranking position that was held by the Parliament of Montenegro, which again scored 93%. When it comes to state with the other national parliaments, results have not suffered changes in comparison to the previous round of measurement with parliaments of Albania (88%) and North Macedonia (83%). The Parliament of Serbia is the only one which suffered a decline of 5%, scoring 67% in 2018, in comparison to 72% in 2017. However, it is necessary to significantly strengthen the parliamentary oversight at the level of the entire region, with an emphasis on ensuring its full implementation in practice. Parliaments in the region continued to formally apply this function in 2018, 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 again by the European Commission in the individual reports for each country, published in May 2019. This situation brings us back to last year's conclusion. Deterioration of the Parliament as key institution in securing the rule of law and functional system of checks and balances, reflecting in seldom and perfunctory performance of the oversight over the executive, pose serious challenges to region's democratic and EU integration process. All parliaments in the region must undertake efforts to fully and substantially implement the existing mechanisms, thereby contributing to increasing the level of political accountability.

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

For the third year in a row, the research showed that 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 MPs. Strategic planning of parliaments at the regional level is even lower than previous years. This aspect of parliamentary openness relates to the legal basis and the capacities of the parliament to conduct regulatory impact assessments of laws and other legal documents that are being adopted in the parliament and implemented by the government. In comparison to 2017, when four parliaments fulfilled some indicators in this area, in 2018 only three remained with results – Albania (33%), Bosnia and Herzegovina (40%) and Montenegro (33%). Parliaments of **Serbia and Kosovo scored zero points for the second consecutive year**, while the North Macedonian Parliament joined their company in 2018. This situation, which keeps repeating from year to year, continues to have an impact on the quality of parliamentary performance, as parliaments fail to conduct impact assessment and sound planning.

The situation with lobbying slightly improved in 2018, when Serbia joined North Macedonia and Montenegro as a country which adopted regulation in this area.

However, Serbia remains the only country in the region which does not have the Code of Ethics for MPs, as North Macedonia adopted this document in 2018. However, the general conclusion is that the implementation of the Code of Ethics remains weak at the level of the entire region.

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

Openness of the Parliament of the Republic of North Macedonia

The openness of the Parliament of the Republic of North Macedonia has not improved significantly compared to 2018. It meets 63% of the openness indicators, which is 5% more than 2018 and 6% more than 2017.

The trend of a slight improvement of the institutional openness is noted on a regional level as well, as in the last year the parliaments have improved the fulfillment of the openness indicators by 4%. Currently, the regional average of openness is 65%, thus the Parliament of the Republic of North Macedonia with its 63% of openness falls exactly within the regional average.

This mild increase indicates that the Parliament has implemented an insignificant or minimal part of the recommendations of this survey made in the past two years. Indeed, it can be said that the adoption of the Code of Ethics for MP's behavior¹ in 2019 is the only indicator for active transparency that has driven the active openness of the Parliament in the last three years. However, despite the poor progress, the Parliament is in second place in regard to the openness of the institutions in North Macedonia immediately after the Government which meets 78% of the openness indicators.

It seems that despite the several initiatives² by the Parliament to engage in improving the transparency, functionality and credibility of the institution, the ongoing social context and the political crises³ affect these processes, such as the amendments to the Rules of Procedure, since for a longer period of time no consensus can be reached between the parliamentary parties for its amendment. But despite the minimal progress in addressing the identified shortcomings, the Parliament is implementing the established good practices of openness. Thus, the Parliament continues to regularly publish the session calendars and work agendas for the plenary sessions of the working bodies, the videos and transcripts of the plenary sessions, the attendance and voting patterns of MPs, the contacts and biographies of the MPs (but not their salaries and the funds they requested for travel expenses), as well as regular publication of thorough annual reports.

The remark remains that the Parliament should improve the openness of the working bodies (committees) by announcing the presence of the MPs in the session, the transcripts and videos, as well as the manner of voting if the MPs. According to current practice, the conclusions and proposed amendments are published and the videos, despite being broadcasted on the national parliament TV channel, are not published on the Parliament's website.

CSOs indicate that the minutes of the sessions of the working bodies should be published, while the structure of the minutes is uneven and in practice does not follow the provisions of the Rules of Procedure. Regarding the quality of the prepared minutes there has been some progress, but only in the work of a small number of commissions⁴.

1) Code of Conduct for the Members of Parliament of the Republic of North Macedonia <http://sobranie.mk/materialdetails.nsp?materialId=6313a878-faf4-4b55-8c52-9c7d793da203>

2) The institution has accepted the initiative for the so-called Jean Monnet process initiated by the three MEPs Ivo Weigl, Eduard Kukan and Knut Fleckenstein, which aimed at greater involvement of the Parliament in the country's EU integration processes; Measures to improve the Parliament's democratic environment were part of the Plan 3 - 6 - 9 (<http://viada.mk/sites/default/files/programa/2017-2020/Plan%203-6-9%20MKD.pdf>), which was a plan for implementing the European Commission's urgent reform priorities and the recommendations of the expert group led by Priebe; The Parliament was part of a project to strengthen the Parliament's capacity to improve the regulatory and institutional framework of the Parliament, funded by the EU and other initiatives.

3) In 2016 the country was in one of the deepest political and institutional crises and early parliamentary elections took place at the end of the year, which changed the composition of the Parliament after more than 10 years. The following year, the Parliament was blocked by the opposition because of the detention of six opposition MPs who were prosecuted for involvement in a violent intrusion into the Parliament on 27 April 2017 as a reaction of the newly elected Speaker of Parliament. 2018 was marked by the ratification of the Prespa Agreement between North Macedonia and Greece, which has resolved the decades-long name dispute between the two countries. The ratification of the Agreement was followed by a long and arduous process of constitutional changes, with which the name of the state, the Republic of North Macedonia, was formalized.

4) Fifth Parliamentary Accountability, Transparency and Productivity Index Report for January 1 - March 31, 2018 http://most.org.mk/wp-content/uploads/2017/07/Index-Report-5_ENGFinal.pdf

Improving the consultation processes in law-adoption

For three consecutive years, the Parliament meets 61% of the indicators for consultation processes with the public in the processes of adopting laws and other policies. This assessment is due to the opportunity for experts and representatives of CSOs to participate in the sessions of the working bodies. But such an opportunity is not an obligation for the Assembly.

The lack of guarantees for consultative processes has been noted as a weakness in numerous reports, so it is no coincidence that the Parliament within the Open Government Partnership – Open Parliament initiative has included five measures in the 2018-2020⁵ action plan, including the measure adopted to improve citizen's participation in the legislative and oversight process of the Assembly.

Within the Open Parliament initiative, the institution itself concludes that there is a lack of rules of procedure for citizen's participation in the work of the Parliament, that the oversight mechanism is not used enough and that there is no possibility for citizens to participate⁶. In order to improve the consultation process, the Parliament envisaged four goals in the period from 2019 to 2022: (1) increasing the percentage of working bodies that have incorporated experts in their work up to 30%; (2) adopting an Act for regulating oversight debates; (3) increasing the participation of citizens and CSOs in the sessions of the working groups up to 70%.

The Parliament must take seriously its commitment to the Open Government Partnership – Open Parliament initiative and the consultative process must be guaranteed and mandatory, not optional.

In addition, a specificity of several parliamentary compositions adopted laws in a shortened procedure, but this practice is slowly being abandoned in 2018. In 2016, out of 366 adopted laws, 238⁷ were adopted in shortened procedure. In 2017 there is slight improvement, out of a total of 42 laws in shortened procedure, only 24 were adopted⁸. In 2018, 175 laws were adopted in regular procedure, and 71 laws in shortened procedure⁹. The practice of adoption of laws in shortened procedure must be limited only to envisaged conditions, because the shortened deadlines further reduce the possibility of quality consultative processes. What is unusual for 2018 and for the current Parliament is that the MPs are proponents of laws in almost 50% of the adopted laws (126 of the adopted laws are proposed by the Government, and 120 are proposed by the MPs). The inactivity of the MPs in this area has been repeatedly criticized, but the increase of activity also reinforces the need for a guaranteed and mandatory consultation process when adopting laws. The laws coming to the Parliament as Government proposals are expected to have undergone the necessary consultation process in accordance with the Rules of Procedure of the Government¹⁰.

The increased activity of proposing laws by the MPs means that this mandatory mechanism for consulting the Government has not happened and, moreover, entails adopting rules of procedure or other internal acts that will guarantee the consultation of the draft laws with the stakeholders.

5) Available at <http://www.mioa.gov.mk/?q=mk/documents/open-government-partnership>

6) Ibid

7) Annual Report of the Assembly for 2016, <https://bit.ly/2ILYw16>

8) Annual Report of the Assembly for 2017, <https://bit.ly/2kebaFE>

9) Annual Report of the Assembly for 2018, <https://bit.ly/2k7CrjG>

10) Rules of Procedure of the Government of the Republic of North Macedonia, Article 66, <https://bit.ly/2kcZm6w>

Financial transparency and information of public importance

Openness indicators in regard to the state budget note an increase of 11% compared to last year, but with only 38% fulfillment, they continue to represent the weakest segment in the information spectrum published by the Parliament on its website. The Parliament has the practice of publishing the draft state budget, but not the final or the semi-annual budget spending reports or the final budget account. The Citizen's Budget has not yet been published on the Parliament's website, nor there is a link to the website of the State Commission for Prevention of Corruption, where the asset declarations of MPs are published. There is also no link to the Single Public Procurement System.

The disclosure of financial transparency data is one of the measures the Parliament envisioned under the Open Government Partnership – Open Parliament initiative in which is noted the need to increase the financial transparency and budgetary autonomy of the Parliament. It is noted a failure to publish the Parliament's procurement plan, insufficient detail of the Parliament's budget and the unavailability of the reports on the implementation of the Parliament's budget¹¹.

Access to information indicators have also slightly increased from 61% last year to 65% in the last year of the survey. However, on the website of the Parliament there is no person responsible for access to information of public importance, and the list of public information has not been updated and published.

In this segment the survey has noted insufficient sharing of content from the work of the Parliament, insufficient sharing of all relevant documents related to the legislative process, insufficient information on the voting of the MPs and inaccessibility on the Parliament's website for visually impaired persons¹². The Open Government Partnership – Open Parliament initiative envisages the development of a new website that will overcome these shortcomings, but in this process it will be crucial to transfer the already published information on the existing website.

Communication mechanisms with citizens should be further promoted

The indicators for the interaction of the Parliament with citizens have decreased from 64% to 47% in the last year. It is worrying that when it comes to citizens' accessibility, the parliaments in the region have stagnated throughout the years when this survey was conducted, i.e. the availability level is at 61%. All parliaments must work to improve the contacts with the citizens in order to fulfill their full role as the highest representative body of citizens.

The survey shows that citizens are divided in terms of their familiarity with the work of the Parliament, i.e. 49% of the citizens are partially or fully acquainted, while 50% are little or not familiar with the performance of the MPs¹³. Citizens often use traditional media to get informed on the work of the Parliament, but the Parliamentary Channel was the source of information for only 3% of those surveyed.¹⁴

11) Available at <http://www.mioa.gov.mk/?q=mk/documents/open-government-partnership>

12) Ibid

13) The Parliament under a magnifying glass: A Survey of Citizens' Perceptions and a Report on the Quality of the Debate... shorturl.at/ltVY6

14) Ibid

What is striking is that none of the respondents received information about the Parliament through the Parliament's website.¹⁵ The Parliament shows awareness of the poor interaction with the public, the insufficient dissemination of information about the everyday work of the institution and insufficient presence on the social networks. The Parliament can receive e-mails from citizens addressed to the MPS and the Speaker of Parliament, but there is no special channel for submitting complaints, proposals and an e-petition channel. The design of the new website should be aimed at facilitating the communication channels with the citizens and encourage their participation.

15) *Ibid*

Research methodology

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

Institutions around the world are taking specific actions to increase their transparency and accountability towards the citizens. In order to determine the extent to which the people from the Western Balkans receive timely and understandable information from their institutions, a regional Openness Index was developed.

The regional Openness Index measures the extent to which institutions of the Western Balkans are open for citizens and society, based on the following four principles: 1. transparency, 2. accessibility 3. integrity and 4. awareness. The principle of transparency implies that organizational information, budget and public procurement procedures are published and are publicly available. Accessibility is related to ensuring and respecting procedures for a free access to information, improving accessibility of information through the mechanism of public debates and strengthening the interaction with citizens. Integrity includes mechanisms for the prevention of corruption, implementation of the Code of Ethics and regulation of lobbying. The last principle, awareness, is related to the monitoring and evaluation of policies which are conducted by the institutions.

Following the international standards, recommendations and examples of good practices, these principles are further developed through specific, quantitative and qualitative indicators, which are evaluated on the basis of: information accessibility on the official websites of the monitored institutions, the quality of the legal framework for specific questions, other sources of public informing and questionnaires delivered to the institutions.

The measuring was conducted from December 2018 until the end of March 2019. The process of data collection was followed by a data verification process, resulting in a standard error of +/- 3%. Based on the results of the research, we developed a set of recommendations and guidelines for the institutions.

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 for Internet and Society is an independent, nonpartisan and nonprofit foundation based in Skopje, Republic of North Macedonia. Its mission is to contribute towards the development of democracy and towards increasing the quality of life through innovative use and sharing of knowledge. Our guiding values are openness, equality and freedom.

The program areas that Metamorphosis operates in are:

- Media for Democracy
- Education for Innovation
- Social Accountability
- Human Rights Online

Metamorphosis Foundation

address: ul. "Apostol Guslarot" 40, 1000 Skopje, N.Macedonia
e-mail: info [AT] metamorphosis.org.mk
tel: +389 2 3109 325
www.metamorphosis.org.mk