



Accountability, Technology and
Institutional Openness Network
in SEE

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

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

Based on the
measuring
for 2017

Skopje, October 2018



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Metamorphosis mission is to contribute to the
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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 December 2017 to March 2018. 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 MACEDONIA

MAIN CONCLUSIONS

The openness of the executive power¹ in the Republic of Macedonia occupies the second place in the region, having fulfilled 49.6% of indicators. This significant improvement of the result was expected due to the commitment of the new Government² for returning Macedonia on the road to its European integration. The Government started publishing the session agendas³, minutes from held sessions, as well as regular press releases after the held sessions; declassified⁴ and published documents and contracts signed with foreign investors⁵; sent guidelines to the ministries with a list of 21 documents that have to be mandatorily published on their websites⁶; developed a tool for holding public officeholders accountable for their expenses⁷; abolished the material expenses fee for given public information in electronic form⁸.

The implementation of the recommendations given by the civil society sector on advancing the institutional openness made a valuable contribution to this, for instance the recommendations laid down in the Regional Roadmap⁹ for the Western Balkans countries. Given that the country has been a part of the Open Government Partnership initiative since 2011¹⁰, and the state has promised that it will be constantly improving the foundations of open, transparent, effective and efficient state institutions that communicate and cooperate with the citizens¹¹, the recommendations given by the Independent Reporting Mechanism¹² are taken into account lately and subsequent consultation process¹³ for creating the new Open Partnership Action Plan followed thereafter, working group on amending the Law on Free Access to Information¹⁴ comprised of stakeholders was formed as well. New Strategy on Public Administration Reform for 2018-2022¹⁵ was adopted, and one of its priority areas is responsibility, accountability and transparency of the public administration with commitment to strengthen the mechanisms for availability of public information as well as the capacities and competences of the Commission for Protection of the Right to Free Access to Public Information. In addition, Open Data Strategy was also drafted, which seeks to incent the publication and use of open data, thus contributing to increased transparency and accountability of state institutions, bettered quality of services they offer and stir up innovations¹⁶ at the same time.

The Government demonstrated 76% completion of indicators, the ministries have an average score of 32%, whilst other state administration bodies fulfilled only 24% of relevant indicators of openness. Hence, the concept of openness must be systematically addressed.

¹ In this research, the term executive power comprises the Government, ministries and the state administration bodies.

² The Government of the Republic of Macedonia assumed office on 1 June 2017, <http://vlada.mk/node/12802>

³ The commitment for publishing agendas was a priority of the Plan 3-6-9, which outlined the way of implementation of reforms, and it incorporated the Work Programme of the Government of the Republic of Macedonia for 2017-2020, took the Political Agreement of Przino into account, followed the recommendations of the high-level meetings with the representatives of the EU institutions, the guidelines of the European Commission in the Urgent Reform Priorities (2015), the recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception (2015), as well as a series of recommendations to the Government from previous years by the Council of Europe (Venice Commission, GRECO), the recommendations of OSCE/ODIHR, the findings and recommendations in European Commission's annual reports, including the High Level Accession Dialogue, the conclusions of the Ministerial Dialogue on the Economic Reform Program, the conclusions of the regular meetings of the bodies of the Stabilization and Association Agreement, the document prepared by the group of civil society organizations entitled "Blueprint for Urgent Democratic Reforms", and the results based on the consultations with the civil society.

⁴ The declassification and publication of documents was one of the priorities contained in the Urgent Reform Priorities as well as the Plan 3-6-9, available at <http://vlada.mk/plan-3-6-9>

⁵ Available at <http://vlada.mk/node/13308>

⁶ Agenda of a session of the Government of the Republic of Macedonia, item 22, available at <http://vlada.mk/sednica/34>

⁷ Tool for holding public officeholders accountable for their expenses, which offers the possibility to review and compare the official expenses of the President of the Government, President's Deputies, Ministers, Ministers without portfolio, Deputy Ministers, Government's Secretary General and ministries' State Secretaries. Available at <http://vlada.mk/otchetnost-trosnoci>.

⁸ Decision on amending the decision on establishing material expenses fee for given information by holders of information, published in the Official Gazette of the RM no. 140/2017 as of 4 October 2017

⁹ Regional roadmap for the Western Balkans countries, available at http://metamorphosis.org.mk/wp-content/uploads/2018/01/META_Regional-Roadmap_A4.pdf

¹⁰ <https://www.opengovpartnership.org/country/macedonia/irm>

¹¹ <https://www.opengovpartnership.org/country/macedonia>

¹² Recommendations available at <https://www.opengovpartnership.org/macedonia-mid-term-report-2016-2018-year-1>

¹³ Established dialogue with civil society organizations for creating 2016-2018 OGP Action Plan, which presented the deadlines and manner of consultations, available at <http://mioa.gov.mk/?q=mk/documents/open-government-partnership>

¹⁴ Meeting of the working group on amending the Free Access Law at the Ministry of Justice of the RM, available at <http://www.justice.gov.mk/vest/1825>

¹⁵ Available at <http://www.mio.gov.mk/?q=mk/node/1587>

¹⁶ Available at <http://mioa.gov.mk/?q=mk/node/1825>

2.1.1. GOVERNMENT OF THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

For the first time, with the publication of the "Civic Budget"¹⁷, a document¹⁸ intended for the non-expert public, the citizens of Macedonia have the opportunity to understand the Budget for 2018 by means of graphic and narrative explanations. Having in mind that the Budget is the main document that enlists government priorities in terms of policies, ensuring easy access to and understanding of the budget for citizens, the precondition for public participation in allocation of public funds has been met. Also, the searchability of the current state budget has been made easier, because the budget for 2018 is published in open format¹⁹. This situation accounts for 87% completion under the index of budget transparency, which is significantly higher i.e. more than double than the average score in the region, which accounts for 39%.

Government's website has published the Public Procurement Plan for 2017 and all of its 4 amendments. To retain the accomplished 74% completion of the indicator of transparency in public procurements²¹, and to be enhanced in the future, the Government needs to work continuously, which wasn't the practice in 2018 because the Public Procurement Plan for 2018 hasn't been published by the end of this measurement²².

The Government has established the Accountability Tool²³ as one of the commitments for increased digital accountability and transparency. This tool should provide an updated information on officials' expenditures.

Publication of annual work reports by the Government is one of the key instruments of openness, as well as control of its performance by the citizens. The practice of publishing annual work reports was inexistent in the past. For the period June 2017 - June 2018, a document containing the key measures and changes that have been implemented during the new Government's²⁴ first year in office has been published, which also contains information on the total amounts of spent/provided funds for the measures, but the key measures and the changes are not linked with relevant budget accounts/programmes that have covered the costs. The Government has adopted the Rulebook on Open Data and the Law on Use of Public Sector Data²⁵.

¹⁷ Available at <https://www.finance.gov.mk/mk/node/6810> and <http://vlada.mk/GraganskiBudzet2018>

¹⁸ <http://www.mkbudget.org/docs/GraganskiBudgetFinalS.pdf>

¹⁹ Open format of the Budget of the RM for 2018 available at <https://www.finance.gov.mk/mk/node/6429>

²⁰ Available at <http://www.vlada.mk/nabavki>

²¹ The regional average score of completion under the indicator of transparency in public procurements is 60%.

²² Read more at <http://vlada.mk/nabavki>, accessed on 30 June 2018







²³ <http://vlada.mk/node/14300> accessed on 29.10.2018

²⁴ "365 changes for better life of all citizens" available at <http://vlada.mk/1godinapromeni>.

²⁵ <http://www.otvoreniPodatoci.gov.mk/zakon-za-koristenje-na-podatoci-od-javniot-sektor>



ACTION STEPS

-  Increase of the degree of independence and the capacities of the Commission for Protection of the Right to Free Access to Public Information and increase of its competencies for implementation of the Law.
-  The Government's website should feature the documents considered at Government's sessions as well as the documents adopted by the Government, which are later published in the Official Gazette of the Republic of Macedonia
-  The Strategy on Public Administration Reform should include promotion of transparency and accountability before the citizens and the business community, by means of improving the institutions' proactive transparency, with establishment and implementation of standards, raising public awareness, and improving capacity and competences of the Commission for Protection of the Right to Free Access to Public Information.
-  In order to improve transparency of its sessions, the Government should publish the session agendas prior the sessions, documents reconsidered at sessions, minutes from sessions as well as the primary regulation that govern its work, for example, the Law on the Government of Republic of Macedonia, on its website. Publication of these documents significantly affects possibilities for stakeholders and citizens to participate in policies that are of their particular interest and affects their standard and quality of life as well as their communication with the government.
-  Publication of semi-annual reports on the spending of the budget in the current year on Government's website, using and publishing updated information through the Accountability Tool
-  To publish the data in open data format²⁶, which will increase the accessibility and facilitate the collection and analysis of data

²⁶ Open data are data structured in machine readable format, which provides opportunity of free and repeated use.

-

2.1.2. MINISTRIES

MAIN CONCLUSIONS

The percentages of ministries in the country vary from 32% of openness of the Ministry of Justice, which is below the average completion of the index of openness on the part of ministries, to the ministries who have the best scores - the Ministry of Labor and Social Policy with 64% and the Ministry of Finance with 63% completion under the indicators of openness.

On average, the ministries complete 56% of the index of transparency, and this percentage of completion is affected by published information about ministerial budgets (57%), information about the ministries' organizational structure (66%) and information about the public procurements²⁷ (20%). This average score has been significantly bettered than the regional average completion of the indicators of transparency, which stands at 49%, due to the fact that the Macedonian ministries are obliged to publish information on other websites as well, in accordance with the laws. A practice has been established this year, and 90% of ministries publish public procurement plans on their respective websites, while 2/3 of ministries do not publish the calls (announcements) and/or decisions on public procurements on their websites. Pursuant to laws in Macedonia, information about public procurements are published on the Electronic System for Public Procurements²⁸, but according to the international standards on transparency, such information has to be published on the website of the respective line ministries.

56%

is the average percentage of fulfillment of the index of transparency on the part of the Macedonian ministries

90%

of ministries publish the public procurement plans on their websites.

²⁷ The research conducted December 2017 - February 2018 assessed whether the public procurement calls, annexes and decisions on selecting from the implemented public procurements as well as public procurement plans are published.

²⁸ Pursuant to the Law on Public Procurements, Electronic System for Public Procurements has been established, which is the sole computer system available online used to provide greater efficiency and economy regarding the public procurements.



99%

is the score on openness of the Ministry of Finance because it publishes information related to openness of budgets



19%

is the percentage of fulfillment of the indicators of preventing conflict of interest within ministries

ACTION STEPS

- ✚ In order to complete the indicators on prevention of conflict of interests, ministries should publish officials' asset declaration on their websites, and also to upload links to the State Commission for Prevention of Corruption where said asset declarations are uploaded pursuant to the law.
- ✚ Ministries should publish public procurement plans and notices (calls) as well as decisions on public procurements on their websites.
- ✚ Ministries should publish semi-annual reports on budget spending as well as final accounts on their websites. Only the Ministry of Finance complies with its law-stipulated obligation on publishing semi-annual reports on budget spending, annual budget and final account which, inter alia, contain budget information on other ministries, but that does not mean that ministries themselves should not publish these data on their websites in order to make them more easily accessible to citizens.
- ✚ Ministries should prioritize openness in their work.
- ✚ No ministry has published an integrity plan or any other internal policy for fight against corruption on their websites (which includes measures for preventing or eliminating various forms of corruptive and unethical conduct in an institution).

2.1.3. OTHER STATE ADMINISTRATION BODIES

MAIN CONCLUSIONS

Regarding the four subcategories in the index of openness, their individual score is 30% fulfillment of the indicators of transparency, while the fulfillment of the indicators of integrity and effectiveness stands at insignificant 4% and 6% respectively. In other words, they do not publish information related to assumed obligations and conducting training sessions for employees on topics such as conflict of interest, prevention of corruption, whistleblowing cases of corruption, they haven't published an integrity plan or any other internal policy for fight against corruption and there is no information related to monitoring, evaluation and reports on their work.

Most of the other executive bodies neither publish data on public procurements on their websites nor refer to a link to the electronic system for public procurements, thus the overall percentage of fulfillment the indicator of transparency in the public procurements subcategory is 9. With regard to publishing budget-related information, 13% have published the annual budget for the last 3 years, and 13% have also published the semi-annual report on budget spending.

ACTION STEPS

- ✚ In order to improve the 13% budget transparency score, other executive bodies should publish their annual budget as well as the semi-annual report on budget spending.
- ✚ Taking into account that information on organizational set-up is insufficient, other executive bodies' websites should host names of employees, their positions, organograms, scope of work, biographies as well as laws relevant to the respective executive bodies.
- ✚ Executive bodies must seriously reconsider the possibility for enabling citizens to submit online complaints and remarks related to their work.

30%

is the percentage of fulfillment
of the indicators of
transparency on the part of
state administration
bodies

is the percentage of
fulfillment of the category
of executive agencies' public
procurements transparency

9%

2.2. PARLIAMENT OF THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

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 Procedure.²⁹ However, the lack of consensus on most issues brought only a partial success of the process, which resulted only in adopting the Code of Ethics.³⁰ 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 package³¹.

²⁹ Three persons considered close to the current parliamentary opposition were found guilty of the attempted 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.

³⁰ Code of Ethics for MPs in the Parliament of the RM, <http://sobranie.mk/materialdetails.aspx?materialId=6313a878-faf4-4b55-8c52-9c7d793da203>

³¹ 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-lzveshtaj-3-6-9-MK.pdf>

IMPROVEMENT OF RULES AND PRACTISES ON ADOPTING LAWS

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 salary brackets and benefits claimed for travelling costs) as well as detailed annual reports.



The 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 committees.

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 these coordinative sessions, but given the current practice, such decisions and minutes are not being published.

IMPROVEMENT OF CONSULTATIVE PROCESSES WHEN PASSING LAWS

The Macedonian Parliament fulfills 61% of the indicators of consultative processes with the public when enacting 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 set as an obligation of the Parliament.

IMPROVEMENT OF FINANCIAL 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.

Parliament
has a score of
61% under indicators
on interaction with citizens:
its official website includes
separate section dedicated to
communications between MPs
and Parliament
Speaker with citizens.

³² 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

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. Moreover, the Parliament does not publish links to the official website of the State Commission for Prevention of Corruption, which hosts assets declarations of MPs, or links to the national public procurements website.

MECHANISMS FOR COMMUNICATION WITH CITIZENS NEED GREATER PROMOTION

The increased score of indicators of Parliament's interaction from 61% to 64% is insignificant, that is why the recommendation remain unchanged.

ACTION STEPS

- ✚ The Parliament should publish data on MPs' salary brackets and requested travel expenses remunerations
- ✚ Parliament's website should contain MPs' session's attendance list, shorthand and video records as well as vote scores by MPs participating in the working bodies.
- ✚ The Parliament needs to do more regarding the organization and perfection of communications using the available tools³³, and that should inspire MPs to use and promote the tools for communication with the citizens on a larger scale.
- ✚ Video records from sessions should be published on Parliament's website.
- ✚ The Parliament should publish conclusions and minutes from coordination meetings between the Speaker and the parliamentary party groups.

³³ 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.

- ✚ Introduction of mandatory consultations with the civil sector and abandoning the practice of abusing the possibility for adopting laws in fast-tracked procedure³⁴ is necessary. That implies amendments to the existing Rules of Procedure and introduction of annual work plan by the Parliament, in order adoption of laws in urgent or fast-tracked procedure, without prior consultations and beyond anticipated work plan of the Parliament, to be avoided.
- ✚ Improvement of Parliament's oversight mechanisms. Parliament insufficiently uses oversight sessions which are established as mechanism by the Law on the Parliament, and should represent supervision instrument for enforcement of adopted laws and policies.
- ✚ The Parliament should improve and increase its role in reconsidering reports of regulatory bodies or human rights bodies.
- ✚ The Parliament should publish the final adopted version of the budget, the semi-annual reports on budget spending and the final account on its website.
- ✚ Uploading links to State Commission for Prevention of Corruption's website, which hosts MPs' assets declarations, on Parliament's website.
- ✚ Uploading links to the national public procurement website on Parliament's website.
- ✚ Communication mechanisms with citizens should be improved and promoted.

³⁴ Blueprint for Urgent Democratic Reforms, page 41, http://fosp.mk/CMS/Files/Documents/BP_MKD_FINAL_08.07.2016.pdf

Parliament should
improve and increase its role
in reconsidering
reports of
regulatory bodies

2.3. JUDICIARY

MAIN CONCLUSIONS

OPENNESS OF THE JUDICIARY IN THE REPUBLIC OF MACEDONIA

Instead of having the major control function over the state and the institutions, the Macedonian judiciary was the weakest link in the system of the state organization with years on end. For many years judicial bodies didn't have a strategic commitment for the direction they had been headed, while the political influence over the work of the judiciary were noted by all prominent domestic and international organizations. By the end of 2017, the Macedonian judiciary got its Judicial Sector Reform Strategy (2017-2022)³⁵, whose strategic direction, among other, is transparency of the judicature. The judicial bodies' reform strategy in the Republic of Macedonia is focused on transparency, however the results from its implementation cannot be registered yet.

The Macedonian courts are on the edge of the average fulfilment of the openness indicators at regional level. In other words, courts in the region have scored 40% of the indicators, while the Macedonian courts 39%. Apart from judiciary's low percentage of openness, the great 13% fall since last year raises a red flag too. Owing to this fact, the launch of the Judicial Portal of the Republic of Macedonia (www.vsrn.mk) didn't contribute to greater openness but instead it lowered courts' openness. The organization and structure of the electronic Judicial Portal of the Republic of Macedonia, launched in 2017, enables the courts to publish all required segments related to their work, but what lacks is a responsible approach of the courts and data entry on regular basis as well as complete transfer of content from the old to the new integrated website of the courts.

ACCESS TO JUSTICE

When it comes to access to justice, the courts must put greater efforts as regards media relations and pass guidelines for cooperation between courts and media. In addition, courts ought to improve websites' accessibility to persons with special needs. The principle of access to justice cannot be considered satisfied only because courts publish contact information of persons in charge of contact with persons with disabilities.

³⁵ Judicial Sector Reform Strategy (2017-2022)
<http://justice.gov.mk/Upload/Documents/2017-2022.pdf>



CODE OF CONDUCT FOR JUDGES

As regards the principle of integrity, courts attained a score of 65% under relevant indicators. More specifically, this principle includes mechanisms on prevention of corruption, application of codes of conduct and regulation of lobbying activities. In spite of adoption of Codes of Conduct for Judges in 2006 and 2014 and Codes of Conduct for Prosecutors in 2004 and 2014, i.e. in spite of the fact that these integrity mechanisms have been introduced a long time ago³⁶, there is little evidence on compliance with them³⁷.

³⁶ In addition, "Practical Guide for the New Code of Conduct" was developed, available at: <http://www.jpacademy.gov.mk/upload/PDF%20Files/Vodic%20za%20sudska%20etika%20BetettoSessa%20MK.pdf>

³⁷ EC's 2016 Country Report for the Republic of Macedonia, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf

³⁸ Law on Judicial Budget ("Official Gazette of the Republic of Macedonia" no.60/2003; 37/2006; 103/2008 and 145/2010)

OPENNESS OF THE BASIC AND HIGH PROSECUTOR'S OFFICES IN THE REPUBLIC OF MACEDONIA

The results of the public prosecution, part of the judiciary, stand at a startlingly low level of only 9% fulfillment of the openness indicators. Macedonia occupies the last place in the region, with an average of 27%. This branch of the judiciary has no champions, and the fall under the openness indicators is 15% compared to last year. The basic and high prosecutor's offices still have no websites and have jointly demonstrated a score of only 4%; the State Prosecutor's Office fulfills 43% while the Council of Public Prosecutors only 20%.

IMPROVEMENT OF FINANCIAL TRANSPARENCY OF COURTS

Courts are financed by the judicial budget, which also funds the Judicial Council of the Republic of Macedonia, the Academy for Training of Judges and Public Prosecutors and the Judicial Budget Council³⁸. Although courts have insisted on financial independence for years on end, still the judicial budget remains a part of the Budget of the Republic of Macedonia. The Index of transparency has a score of only 43%, knowing that this Index covers publication of information on organizational structure, operational budget and access to information on public procurements.

STATE PROSECUTOR'S OFFICE OF THE REPUBLIC OF MACEDONIA

State Prosecutor's Office's average fulfillment of the openness indicators is higher, but still amounts to insufficient 43%. The regional average of these institutions' openness level is low - 41%, the State Prosecutor's Office is right behind the Montenegrin, which has demonstrated a score of 65% fulfillment of indicators.

This prosecutor's office has the highest score under the principle of integrity, i.e. monitoring of state prosecution's work - 75%, while the lowest score has been demonstrated under the principle of transparency, i.e. public procurements, which stands at 16%. Last year's score of this institution under the indicators of openness of public procurements was 75%, meaning last year's strongest point is this year's weakest link in terms of openness. This is just one example of the absence of continuous practice of transparency of institutions. Such findings may also point out to untimely publication of information. This research was carried out between January and March, so it's possible that the institutions had been preparing the documents during that period and have published them on their websites behind schedule.

PROSECUTORIAL COUNCIL

The Prosecutorial Council fulfills only 20% of the openness indicators, which is 18% less than 2017 when the score was 38%. The Council has the lowest score under the principle of accessibility for the second year in a row because it doesn't fulfill the indicators of access to information at all. Besides the free access, the Council has a score of 0% under the indicators of public procurements.

Like the Judicial Council, the Prosecutorial Council fulfills some of the independence indicators (41%), at least formally, since there are legislative criteria on election of prosecutors and it has its own budget.

ACTION STEPS

- ☞ Courts should publish the salary brackets of judges and information on employees.
- ☞ Practical introduction of multiple mechanisms which imply implementation of the principle of transparency, including the manner in which court rulings and schedule of court trials are published, transparency of courts' financial operations, their relations with the media, as well as automated assignment of cases which, in addition to improving transparency, also affects judiciary's independence and the public's trust in adequate operation of the judicial system.

- ✚ In addition to appointment of spokespersons tasked to maintain communication with journalists, mechanisms for improved transparency include both the practice and legal obligation on appointing officers responsible for facilitation of citizens' free access to public information.
- ✚ Courts' websites should host information on organizational structure, planned operational budget, budget spending and public procurements.
- ✚ The official website of the Judicial Council of the Republic of Macedonia should host the institution's budget, because currently there is a category titled "judicial budget" but it doesn't include any documents³⁹.
- ✚ In order to improve their transparency, Basic Courts need to publish annual work reports on their respective websites, which was duly observed as major shortcoming under this research.
- ✚ Courts should publish Codes of Conduct on their websites.
- ✚ Courts should allow Internet access to court rulings, and they should especially work on providing searchability and easy access.
- ✚ Courts in Macedonia should provide electronic access to case files for parties involved therein, electronically available information for said parties in terms of stage of case proceedings as well as electronic access to minutes from court hearings in cases where they appear as affected parties.
- ✚ Courts' respective websites should include information on the official person for access to public information as well as register of information they possess.
- ✚ Courts' websites should also include information the planned annual operational budget as well as the budget spending.
- ✚ As regards improvement of their transparency, it is not sufficient for courts to publish only contact information of spokespersons appointed, but should also publish information such as: name, contact information and salary brackets of judges; organograms; scope of work and short professional biographies of court employees; public procurements, including contracts signed and annexes to said contracts, which are subject of interest for the public and the media; judicial budget spending.
- ✚ At the same time, the Judicial Portal of the Republic of Macedonia should also host links⁴⁰ to the State Commission for Prevention of Corruption, which publishes asset declaration of judges, as well as link to the Ministry of Finance which publishes reports on budget spending.

³⁹ Accessed on 14 May 2017
http://www.vsrn.mk/wps/wcm/connect/ssrm/2983c459-7426-446a--8217-61d1db5906df/dummy_pdf.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41L0B520APQFKICDOCR4-2983c459-7426-446a-8217-61d1db5906df-kZzRhJ2

⁴⁰ <https://goo.gl/X2w8Tf>

2.4. LOCAL SELF-GOVERNMENT UNITS (MUNICIPALITIES) IN THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

The openness of the local self-government in the Republic of Macedonia is low. Municipalities fulfil mere 24% of the indicators of openness. Given that the essence of the existence of the municipalities is to serve the citizens, we have set the indicators to show whether they base the transparency⁴¹ on publishing information on their work without request; whether shared information is in open format; whether they have established clear procedures and mechanisms for participative decision-making; whether they have established and published clear procedures on receiving public services; whether they are accountable when explaining what the public money on their disposal has been used on; how and in what way they have improved life of communities with decisions they have made.

With regard to the four principles of accessibility, transparency, integrity and effectiveness, which served as baseline for this research, the fulfillment of the indicators of integrity stands at the lowest level, that is, the Macedonian municipalities meet only 7% of indicators.

Only a third of the municipalities publish the semi-annual reports on budget execution⁴², which offer the citizens precise information on the revenues and expenditures during the year. All of this contributes to municipalities' humble fulfillment of the index of transparency, budget transparency subcategory, which stands at 37%. 80% of the municipalities covered by this research do not publish the decisions of the conducted public procurements on their websites.












Municipalities have shown greatest inefficiency under the monitoring and evaluation subcategory, which stands at insignificant 3%. They have no achievements in this area due to the fact that municipalities do not develop and do not publish indicators of efficiency that will measure municipalities' fulfillment of their objectives, obligations and tasks in accordance with their work plans.

⁴¹ Standards on transparency, accountability and civil participation on local level have been established in several documents: Law on Local Self-Government, Law on Free Access to Public Information, Code of Conduct for Local Officials, Code of Conduct for Civil Servants, Law on Prevention of Corruption, Law on Conflict of Interests, etc.










⁴² Although the control e-board, a software that takes the most important financial data on municipalities' work, has been launched, at the time of preparation of this policy paper, the e-board did not feature any data. Available at <http://indikatori.opstinskisoveti.mk/Home/Index>



ACTION STEPS

-  Owing to the fact that municipalities' activities are closely linked to the spending of public money, municipalities have to thoroughly advance their accountability in this regard, that is, to publish plans on public procurements, decisions, contracts, annexes to contracts as well as other municipal expenditures
-  Municipalities should work on providing and adhering to procedures on free access to information.
-  Municipalities ought to publish information that should be published on municipalities' websites without any prior request, such as decisions made by municipal councils, decisions made by mayors, minutes from sessions of municipal councils, municipalities' statute, councils' rules of procedures.
-  Municipalities should focus on strengthening interaction with citizens. They should improve communication with citizens via social networks, publish monthly newsletters for citizens about municipalities' work. Additionally, municipalities should organize public debates for citizens that will cover issues of local importance.
-  In order to contribute to their openness, municipalities should publish plans on public consultations with citizens regarding municipal policies, as well as minutes from meetings held with citizens.
-  The municipalities should publish instructions and guidelines for citizens regarding the manner of raising concerns and lodging complaints on the work of the administration online;
-  They need to develop plans on integrity or any other internal policy on fight against corruption (which includes measures for prevention and elimination of various form of corruptive and unethical conduct within the institution) are published;
-  There is a lack of announcements on organizing public debates for citizens on issues of local interest,
-  To post information on planned public consultation hours with citizens on municipal policies published beforehand,
-  To publish minutes from meetings with citizens, open calls and decisions on awarding funds to civil society organizations;
-  Municipalities' websites should include information on organizational structure, operational budget and information on public procurements, public procurement plans for the current year in particular, decisions, contracts and annexes thereto concluded on open public procurements as well as other municipal expenditures.

⁴³ Overall goal of the Budget Forums is to increase participation of citizens in the process on municipal budget adoption and increased transparency on the part of the municipality.

-  In order to be transparent before the public in terms of the budget process, municipalities should organize Budget Forums with citizens ⁴³.
-  Additionally, adopted budgets and final accounts should be published in open formats, which make searching easier.
-  Taking into consideration that municipalities are closely linked to spending public money, municipalities must thoroughly advance their accountability in the future, i.e. they have to publish public procurement plans, decisions, contracts, and annexes to contracts as well as other municipal expenditures.
-  Municipalities should publish Civic Budget. Civic Budget is document aimed to transparently present information contained in the municipality's annual budget and inform citizens in simple manner, with use of charts and budget illustrations, so they would understand planning and allocation of municipal budget funds. Also, it helps citizens to understand revenue sources in the municipality's budget, as well as priorities on which their money is spent.
-  Development strategies with clearly determined development goals, as well as managerial frameworks that will include indicators measuring completion of municipalities' objectives, obligations and tasks, are key for improving the poor results demonstrated under the indicators on strategic planning and monitoring and evaluation.
-  In terms of performance under indicators of transparency, there is an obvious need for coordination and establishment of certain benchmarks for all municipalities that would represent minimum standards on openness. Such standards should not imply uniformed municipalities, yet establishing guarantees for providing the minimum conditions for openness.
-  The Association of Local Self-Government Units (ZELS) should increase its role and take initiative.
-  Have to provide and promote the publication of decisions made by the Councils of the municipalities, decisions made by mayors, minutes from sessions of the Councils of the municipalities, Statute of the municipalities, Rules of Procedure of the municipalities, but also to publish information on the organizational structure, work budget for the current year, and previous years as well, final trial balances and the access to information on public procurements.
-  A call for civil participation in public consultations on budget creation on their websites

3. METHODOLOGY

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 the publication and public availability of organizational information, budget and procedure of public procurements. 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.


4. PROJECT


Good governance is 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 SOUTHEASTERN 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 in democracy promotion.

ACTION SEE project, funded by the European Union, 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!.

5. READ MORE

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

<https://goo.gl/GekpiK>

Parliament openness in the region and Macedonia

<https://goo.gl/NtcnTa>

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

<https://goo.gl/FhYddn>

Openness of judicial bodies in the region and Macedonia

<https://goo.gl/nEqAjh>

