



Accountability, Technology and Institutional Openness Network in SEE

Roadmap on good governance

for state institutions in the Republic of North Macedonia

Based on the Regional Index of Openness of state institutions

Based on the measurement for 2018

Skopje, July 2019



This project is funded by the European Union



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



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PUBLISHER:

METAMORPHOSIS

Metamorphosis Foundation for Internet and Society

Metamorphosis 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.

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

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.

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CIP - Каталогизација во публикација
Национална и универзитетска библиотека "Св. Климент
Охридски", Скопје

334.724.6:005.332.5(497.7)(047.31)

ROADMAP on good governance for state institutions in the Republic of North Macedonia : based on the regional index of openness of state institutions : based on the measuring for 2018 / [editors Bardhyl Jashari, Mila Josifovska]. - Skopje : Metamorphosis Foundation, 2019. -32 стр. ; 25 см

ISBN 978-608-263-015-1

а) Државни институции - Транспарентност - Македонија - Истражувања COBISS.MK-ID 111452426

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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 intending 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 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 in-

dividual 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 unresponsiveness, which is also important to mention for two reasons: first, that institutional responsiveness is an indicator on openness itself, and second, that the institutions' unresponsiveness has affected their index scores negatively because they were automatically assessed with 0. Additionally, some of the indicators could have been assessed positively only if the existing laws were implemented.

The assessment was conducted in the period from December 2018 until the end of March 2019. Based on 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 the methodology and general project information at the end of this paper.



2. STATE INSTITUTIONS

2.1. EXECUTIVE POWER IN THE REPUBLIC OF NORTH MACEDONIA

MAIN CONCLUSIONS

The executive power¹ in the Republic of North Macedonia meets 53% of openness indicators, analyzed in the areas of transparency, accountability, integrity and awareness. This average assessment of the fulfillment of the openness indicators covers the Government, that meets 78% of the indicators, the ministries that meet 52% and modest 29% met by the executive agencies. Hence, it is concluded that the engagements and commitment to meeting the openness standards are at different levels in different structures of the executive power, the same as last year. Also, in the same direction are the conclusions of the monitoring² of the openness to share information about the implementation of the activities from the Public Administration Reform Strategy 2018-2022³, where differences from institution to institution emerge.

To overcome this situation, the Government identified the need to create a new Strategy for Government Transparency⁴, based on the recommendation to systematically address the openness concept given in the Comprehensive plan for good governance of the institutions in the state⁵. This Strategy should identify the priority areas and provide guidelines for transparency of the Government, the ministries and other public administration bodies (accountable before the Government).

During a consultation process a Draft Law on Free Access to Information was prepared⁶ which stipulates the commitment of the Public Administration Reform Strategy to strengthen the mechanisms for access to public information, as well as to strengthen the capacities and competences of the second instance organ, which decides on appeals in cases where free access to information is restricted.

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

² Available at <https://bit.ly/2knHKF2> p.24 (Accessed on 12 July 2019)

³ Available at <http://www.mio.gov.mk/?q=mk/node/1587>

⁴ Conclusion of the Government of RSM available at <https://vlada.mk/sednica/126> (Accessed on 12 July 2019)

⁵ Available at <https://bit.ly/2lO56nv>

⁶ Available at <https://bit.ly/2kaOoOZ>

7 Active transparency (or proactive transparency) means the obligation of information holders to make information arising out of their competence and work available. The Law on Free Access to Public Information regulates this obligation of public information holders with Article 10.

8 Available at <https://www.vlada.mk/komunikaciska-strategija> (Accessed on 17 July 2019)

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

10 Available at <https://bit.ly/2kdjfuk>

11 Government Work Program 2017-2020, Available at <https://bit.ly/2kpRvCH>

12 Available at <http://budget.finance.gov.mk/>

13 Citizen's budget is a budget document for the unprofessional public.

In addition, the Government committed itself to the concept of active transparency⁷ and accountability of all government institutions towards the citizens, and prepared and published the Communication Strategy of the Government of the Republic of North Macedonia 2019-2020⁸. Active transparency obligations are also set out in the National Action Plans - Open Government Partnership⁹. It can therefore be concluded that the action step to improve active transparency recommended in the Comprehensive plan for good governance for state institutions in the state is embodied in several strategic documents of the Government. The future improvement of the openness indicators of executive agencies and ministries and their approximation to the individual index of the Government depends on their implementation.

2.1.1. GOVERNMENT OF THE REPUBLIC OF NORTH MACEDONIA

According to the Openness Index, the Government of the Republic of North Macedonia is second in the region and meets 78% of the indicators. From a regional point of view, the result is very good, since two years ago occupied the last place in the region with only 52%¹⁰ and further corresponds with the Government's commitment to promoting openness¹¹.

A redesigned Government website with an "Open Government" section has been set up where the Government's Budget for the current year is published together with the budgets, budget rebalances and final accounts for the last ten years. Moreover, the practice of publishing the Public Procurement Plans on the Government's website for 2018 and 2019 with the amendments continued as well as the practice of publishing the Citizen's Budget¹² of the state with the opportunity for citizens to understand the 2019 Budget through graphic images and narrative explanations¹³.

This year's survey showed that the planned upgrading of the existing Open Data Portal is completed and a new data.gov.mk portal has been launched.

When it comes to citizen's participation, the Government has continued to apply the established rules for involvement of the interested



parties in the policymaking, through organizing Open Days for CSO's initiatives¹⁴, the Government Council for cooperation with and development of the civil sector¹⁵ that has been actively working in the past year since its formation and has created the Draft-Model for the inclusion of the CSO's in the EU negotiation process¹⁶, and holding consultations with representatives of the CSOs through their participation in the working groups for creating new policies.

The practice of publishing a document containing the measures and changes that have been implemented in the first two years of the Government's mandate¹⁷ continued, but this document does not indicate the amounts spent/provided for the measures, nor the changes made to the budget lines from which the costs are incurred. Given that the publication of annual reports on the work of the Government is one of the key instruments of openness, but also for the control of the work by citizens, the Government should publish such a document in the future.

ACTION STEPS

- ✚ The format of the published budget information on the Government's website should be upgraded, from PDF¹⁸ to open format, given that such practice has already been established by the Ministry of Finance¹⁹.
- ✚ Although the new section "Open Government" contains the concluded Public Procurement Contracts²⁰ of the Governments in the last two years, timelines should be created and followed for the publishing of Public Procurement Contracts on the websites, as none of them have been published in the last six months, and in the meantime ten contracts have been concluded and published on the Electronic System of Public Procurement²¹.
- ✚ 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 North Macedonia.

14 Available at <https://www.nvosorabotka.gov.mk/?q=node/315>

15 Available at <http://nvosorabotka.gov.mk/?q=node/99>

16 Annual Council Work Report for 2018, Available at <https://bit.ly/2lynSiz>

17 Available at <https://vlada.mk/2GodiniOdgovorno>

18 Portable Document Format

19 Available at <https://www.finance.gov.mk/mk/node/575> (Accessed on 19 July 2019)

20 Available at <https://vlada.mk/javni-nabavki>

21 In the Republic of North Macedonia, in accordance with the legislation, the Electronic public procurement system is the only information system available on the internet, which is used to enable greater efficiency, transparency and cost-effectiveness in the field of public procurement. Available at <https://e-nabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>

22 GRECO - Fifth Round of Evaluation on "Preventing Corruption and Promoting Integrity with Central Government (Highest Executive Bodies) and Law Enforcement Bodies" available at <https://vlada.mk/node/18341> (Accessed on 20 July 2019)

23 Available at <https://bit.ly/2kmGxOf>

24 Available at <https://vlada.mk/2GodiniOd-governo>

☞ The degree of independence and the capacities of the Commission for Protection of the Right to Free Access to Public Information as well as its competencies for implementation of the Law should be increased.

☞ The Single National Electronic Registry of Regulations (ENER) should in the future be modified with the possibility to accept online initiatives and stakeholder proposals with a feedback mechanism and consultation.

☞ To meet the integrity standards and the given recommendations in the fifth round of GRECO's²² evaluation of the Republic of North Macedonia, the Government should "conduct an analysis of the practical application of the system of sanctions in regard to violation of rules, conflict of interests, integrity, anti-corruption, and also to ensure that sanctions are effective, proportionate and dissuasive"²³.

☞ It is recommended that the Government's website contain an integrity plan or any other internal anti-corruption policy which includes measures to prevent and eliminate various forms of corrupt and unethical behavior within the institution.

☞ The document containing the measures and changes that have been implemented in the first two years of the Government's mandate²⁴ should indicate the amounts spent/provided for the measures, and the changes made to the budget lines from which the costs are incurred.

2.1.2. MINISTRIES

MAIN CONCLUSIONS

Ministries in the Republic of North Macedonia meet an average of 52% of openness indicators which is approximately the same as the level of openness of ministries in most of the countries in the region. However, ministries in the country vary from meeting 23% of the indicators such as the Ministry of Culture, which is twice lower than the average of the Openness Index fulfillment by the ministries, to



the highest place occupied by the Ministry of Information Society and Administration with 68%. The second place is occupied by the Ministry of Interior with 66%, and the Ministry of Defense with 64% holds the third place.

Ministries meet an average of 63% of the transparency index, which is influenced by the published information on ministries' budgets (68%), information on organizational structure of ministries (67%), and information on public procurements²⁵ (45%). They have outperformed the region's average of 56% fulfillment of transparency indicators because the law obliges them to publish information on other websites as well. From the recommendations made last year²⁶, in the direction that ministries should publish public procurement plans, open calls and public procurement decisions on their websites, this year such a practice has been established and all ministries have published procurement plans on their websites, while half of the ministries have not yet published the open calls (advertisements) and/or procurement decisions on their websites.

In line with publishing information connected to the budget on the websites of all ministries, last year they were obliged by the Government to publish their budgets as part of the list of 21 mandatory documents. The Ministry of Finance published all information connected to budget openness and is therefore rated with 99%, while this year the Ministry of Interior, the Ministry of Environment and Physical Planning, the Ministry of Labor and Social Policy, the Ministry of Local Self-Government and the Ministry of Transport also achieved excellent performance. Only the Ministry of Culture does not publish any information in this category and is therefore rated with 0%.

In terms of meeting the accessibility index in the subcategory of information access, the ministries meet 55% of the indicators, which is close to the region's average of 50% but is still an indicator of the lack of active disclosure of public information. The integrity index met by the ministries is at 43% since same as the previous year no ministry has published an integrity plan or any other internal anti-corruption policy on its website (which includes measures to prevent and eliminate different forms of corrupt or unethical behavior in the institutions).

Ministries meet
an average of

63% of the
transparency index

99%

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

²⁵ The research conducted in the period November 2018-February 2019 was evaluated whether the calls for public procurement, contracts, annexes and selection decisions from the conducted procurement, as well as the public procurement plans were published.

²⁶ "Comprehensive good governance plan for state institutions" Available at <https://bit.ly/2lO56nv>



37%

awareness of
ministries



50%

of the ministries do
not use performance
measurement indicators

Ministries do poorest with the awareness indicators with only 37%, while in the sub-category of monitoring and policy evaluation they meet modest 33% of the indicators. Asked whether they use performance measurement indicators when preparing annual work plans and reports, one half of the ministries responded negatively.

ACTION STEPS

- ✚ It is recommended that all ministries should publish open calls (advertisements) and/or procurement decisions on their websites, to meet the national transparency standards.
- ✚ In line with publishing information connected to the budget on their websites, ministries should follow and respect the Government's recommendation to publish the 21 mandatory documents.
- ✚ In order to complete the indicators on prevention of conflict of interests, ministries should publish officials' asset declaration on their websites, and upload links to the State Commission for Prevention of Corruption where said asset declarations are uploaded according to the law.
- ✚ Ministries should focus on establishing and using performance measurement indicators while preparing annual work plans and reports.

2.1.3. OTHER STATE ADMINISTRATION BODIES

MAIN CONCLUSIONS

The openness of other state administration bodies is at a low level in all the countries in the region and varies from 26% to 43%, with the state administration bodies in the Republic of North Macedonia meeting 29% of the indicators.

When analyzed individually by areas in the four subcategories of the Openness Index, they meet 39% of the transparency indicators, accessibility indicators are met with only 20%, awareness indicators






with only 7% and extremely low, the integrity indicators are met with 3%. Low compliance with the integrity index means that both in 2017 and in 2018 they have not published any information on commitments or trainings for employees on conflict of interest, corruption prevention, corruption reporting, etc.

Most of the other state administration bodies do not publish the documents related to public procurements on their websites, nor do they post links to the electronic public procurement system. Thus, the overall assessment for meeting the transparency indicators in the sub-category of public procurement is only 23%. In terms of publishing budget related information, indicators are met with 51% which means that some of the other state administration bodies published the annual budget and the semi-annual report on budget spending. The information on the organizational structure is also insufficient and accounts for 41% of the indicators.

Given that the fulfillment of the indicators for information access of the state administration bodies is 26%, which is significantly lower than the percent of the Government (83%) and the ministries (55%), the already stated need for creating a new Government Transparency Strategy²⁷ is confirmed, which will be based on the recommendation²⁸ to systematically address the openness concept, and will cover the Government, the ministries and other state administration bodies.

ACTION STEPS

-  The other state administration bodies should publish internal anti-corruption policy documents and documents containing information related to monitoring, evaluation and reports of their work.
-  It is recommended that the other state administration bodies publish the documents related to public procurements on their websites and post links to the electronic public procurement system.
-  A procedure for receiving complaints and remarks from the citizens regarding their work should be established through



²⁷ Conclusion of the Government of RSM available at <https://vlada.mk/sednica/126pg.31> (Accessed on 12 July 2019)

²⁸ The recommendation was made in the Comprehensive Good Governance Plan for the state institutions in the country. Available at <https://bit.ly/2lO56nv>

online service in order to prevent the poor interaction of other state administration bodies with the citizens and the small amount of public information disclosed on their websites without being requested.

2.2. PARLIAMENT IN THE REPUBLIC OF NORTH MACEDONIA

MAIN CONCLUSIONS

The openness of the Parliament has not improved significantly compared to 2018. Meeting 66% of the openness indicators, it falls exactly within the regional average of 66% of openness.

This mild increase indicates that the Parliament has implemented an insignificant part of the recommendations of this survey made in the past two years. The adoption of the Code of Ethics for MP's behavior²⁹ in 2019 is the only indicator for active transparency that has driven the active openness of the Parliament in the last three years. Despite the poor progress, the Parliament is in second place in regards to the openness of the institutions in North Macedonia immediately after the Government which meets 78% of the openness indicators. In spite of the several initiatives³⁰ by the Parliament to engage in improving the transparency, functionality and credibility of the institution, the ongoing social context and the political crises³¹ 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.

Nevertheless, the Parliament is implementing the established good practices of openness and 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, as well as regular publication of thorough annual reports. Regarding the quality of the prepared minutes there has been some progress, but only in the work of a small number of commissions³².

²⁹ Code of Conduct for the Members of Parliament of the Republic of North Macedonia <http://sobranie.mk/materialdetails.nspx?material-Id=6313a878-faf4-4b55-8c52-9c7d793da203>

³⁰ 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://vlada.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.

³¹ 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.

³² 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



IMPROVEMENT OF CONSULTATIVE PROCESSES WHEN PASSING LAWS

The Parliament marks an increase in the indicators related to consultation processes with the public from 61% to 88%, mainly due to the way in which the Parliament has answered the questionnaires. Given the rules of procedure that provides the opportunity for experts and representatives of CSOs to participate in the sessions of the working bodies, the Parliament gives positive reviews to the consultative mechanisms.

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 citizens cannot participate³³. In order to improve the consultation process, the Parliament envisaged four goals in the period from 2019 to 2012: (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%.

In addition, a specificity of several parliamentary compositions adopted laws in a shortened procedure, but this practice is slowly being abandoned in 2018. 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.

Strikingly, in 2018 the MPs are proponents of laws in almost 50% of the adopted 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 Government³⁴. 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.

The Parliament marks an increase in the indicators related to consultation processes with the public to

88%

33 Ibid

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

IMPROVEMENT OF FINANCIAL TRANSPARENCY

There is an increase of 11% in the openness indicators regarding the state budget in comparison 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, nor the Citizen's Budget.

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 as 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 budget³⁵.

Access to information indicators have also slightly increased from last year, but the Parliament's website does still not have information about the person responsible for access to information of public importance, nor has the list of public information 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 persons³⁶. 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 NEED GREATER PROMOTION

The indicators for the interaction of the Parliament with citizens have decreased from 64% to 47% in the last year which is alarming. 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








³⁵ Available at <http://www.mioa.gov.mk/?q=mk/documents/open-government-partnership>

³⁶ Ibid



or fully acquainted, while 50% are little or not familiar with the performance of the MPs³⁷. Citizens often use traditional media to get informed on the work of the Parliament, and only 3% use the Parliamentary Channel as the source of information.³⁸ Strikingly, none of the respondents received information about the Parliament through the Parliament's website.³⁹

ACTION STEPS

-  The Parliament should publish the salaries of the MPs and the requested remuneration for travel expenses.
-  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.
-  The video records from the sessions should be published on the Parliament's website.
-  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.
-  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.
-  The Parliament should publish the minutes of the sessions of the working bodies regularly and should unify the structure of the minutes which in practice does not follow the provisions of the Rules of Procedure.
-  The Parliament should obtain the practice of publishing the final and/or semi-annual budget spending reports or the final budget account, as well as the Citizen's Budget, on the Parliament's website. They should also upload these docu-





37 The Parliament under a Magnifying Glass: A Survey of Citizens' Perceptions and a Debate Quality Report.
<https://bit.ly/30UCNmk>

38 Ibid

39 Ibid

The Parliament must work to improve the contacts with the citizens in order to fulfill their full role as the highest representative body of citizens

ments as links to the website of the State Commission for Prevention of Corruption, where the asset declarations of MPs are published, and to the Single Public Procurement System.

-  The website of the Parliament should contain information about the person responsible for access to information of public importance.
-  The list of public information needs to be updated and published on the Parliament's website.
-  The Parliament must work to improve the contacts with the citizens in order to fulfill their full role as the highest representative body of citizens.
-  The design of the new website should be aimed at facilitating the communication channels with the citizens and encourage their participation.

⁴⁰ Analysis of the implementation of the Judicial Sector Reform Strategy (2017-2022) for the period 2018/2019, <https://bit.ly/2nr2Vri>

⁴¹ European Commission's North Macedonia 2019 Report <https://bit.ly/2EGrVAe>

⁴² Analysis of the implementation of the Judicial Sector Reform Strategy (2017-2022) for the period 2018/2019, <https://bit.ly/2nr2Vri>

2.3. JUDICIARY

MAIN CONCLUSIONS

OPENNESS OF THE JUDICIARY IN THE REPUBLIC OF NORTH MACEDONIA

After years of international reports noting regression in reforms with particular observations on state capture and selective justice, for the first time in the European Commission's 2018 Progress Report, good progress was noted in implementation of judicial system reforms based on the Judicial Sector Reform Strategy.⁴⁰ Mostly positive assessments of the independence of the judiciary were given by the European Commission in 2019, primarily due to the numerous legislative changes in this area, in line with the guidelines given in the urgent reform priorities for the state and by the Venice Commission.⁴¹ The civil society also positively assesses the transparency of the process of passing the legislation, stakeholder and civil society involve-



ment, and the quality of the proposed laws and policies.⁴² However, the active transparency of the judicial authorities, according to the data from this research, remains low.

Unlike the courts in the region, whose average openness indicators mark a drop of 4%, the openness indicators of courts in North Macedonia mark an improvement but their degree of openness is still assessed with a modest 43%. The courts are best placed in the area of transparency (50%), but they have not yet published the salaries of judges and information on court staff.

Besides the expectations that the introduction of the electronic Judicial Portal of RNM (www.vsrn.mk) in 2017 will contribute to greater uniformity of the courts' transparency, the research shows large differences between the courts. The principle of integrity is the weakest point of the courts (35% indicator fulfillment) because they do not publish the codes of ethics on their websites and only three courts from the research sample responded positively to the question of whether they have conducted trainings for standards for corruption and conflict of interest.

Access to justice and public information

In regards to accessibility, the courts need to focus significantly on the lack of an adequate mechanism for communication with vulnerable groups and media. It is not sufficient for the courts to publish a special link and contact persons for exercising the right of access to information, but they also need to publish the already provided information, i.e. given as a response to requests for free access to public information.

Efficiency or familiarity with the work of the courts

Monitoring and evaluation standards, as part of the efficiency principle, are extremely important, primarily because they form the public's views on the operation, efficiency and independence of the

courts. The courts in North Macedonia meet only 41% of the standards and they should improve primarily in terms of timely publishing of court reports on the single Judicial Portal. Also, even though RNM has introduced an Automated Court Case Management Information System, its application needs to be constantly monitored to overcome and avoid system abuses identified in a separate report in 2017.⁴³

Judicial Council

Over the past two years, the Judicial Council shows an identical level of openness, after a significant decline in the fulfillment of transparency indicators in 2017. The principle of availability of the Judicial Council is still with the lowest rate (28%), primarily due to the lack of good communication channels with citizens and the media and the nonexistence of a guide for filing complaints and petitions from citizens through the web portal and a guide for the media. The principle of transparency is also low (37%) due to the lack of public procurement policies and non-disclosure of public procurement related information.

The Judicial Council, at least in the formal sense, satisfactorily fulfills the independence indicators with 76%, because according to the Constitution it is defined as an independent body, there are legal criteria for the election of judges, and it has its budget and administrative control over the Supreme Court.

Openness of the prosecution in the Republic of North Macedonia

With staggeringly low results, the Public Prosecutor's Office level, meets only 4% of the openness indicators. The Basic and Higher Prosecutor's Offices still do not have their own websites and together they meet only 4% of the indicators while the Council of Public Prosecutors meets only 32%. The Prosecutor's Office of the RNM is hierarchically placed as the highest authority over the Basic and High-

⁴³ Report on the inspection into the functionality of the information system and oversight of the application of the provisions of the Court Rules of Procedure in the courts <https://bit.ly/2oeN67I>



er Prosecution Offices and little information about them is posted solely on the website of this prosecution.

As with the Judicial Council, the Council of Public Prosecutors, at least formally, fulfills some of the independence indicators (41%), because there are legal criteria for the election of prosecutors and it has its budget.

ACTION STEPS

- ✚ The Center for Information Technology at the Supreme Court of RNM, as well as the Judicial Reform Council should pay more attention to the up-to-date and uniform publication of information by all courts.
- ✚ The courts should publish the codes of ethics on their websites.
- ✚ The courts should conduct capacity building activities for their employees in regards to the standards for corruption and conflict of interest.
- ✚ The courts should publish the salaries of the judges and information on the court staff.
- ✚ The Center for Information Technology at the Supreme Court of RNM must ensure timely publication of verdicts and compliance with this legal obligation by all courts.
- ✚ The courts' websites need to be accessible to people with visual impairments and specific guidelines on the rights of vulnerable groups should be published.
- ✚ The courts' websites need to contain guidelines for communication between the media and the public with judicial authorities.
- ✚ Besides publishing a special link and contact persons for exercising the right of access to information, the courts should

44 The standards on transparency, accountability and citizen participation at local level in the country are set out in several documents: Law on Local Self-Government, Law on Free Access to Public Information, Code of Ethics for Local Officials, Code of Ethics for Civil Servants, Law on Prevention of Corruption, Law on Conflict of Interest etc.

publish the given responses to requests for free access to public information.

- ☒ The courts should improve primarily in terms of timely publishing of court reports on the single Judicial Portal.
- ☒ There is a serious need for better monitoring of the application of the Automated Court Case Management Information System to overcome and avoid system abuses.
- ☒ There is a need for the application of good channels of communication with citizens and the media by the Judicial Council and the creation and publishing of a guide for filing complaints and petitions from citizens through the web portal, as well as a guide for the media.
- ☒ The Judicial Council should host public procurement related information on its website.
- ☒ The prosecution needs to take into account the recommendation aimed at either creating separate websites for the Basic and Higher Prosecution or creating a single (joint) website with information on them.

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

MAIN CONCLUSIONS

The local self-government units (LSGUs) in the Republic of North Macedonia meet only 25% of the indicators of openness, which is well below the average of the region, denoting that the low level of engagement and commitment by the LSGUs to meet the openness standards. This index shows an alarming state of openness of the LSGUs, given the essence of their existence - to serve the citizens, base transparency on open data and information, have clear procedures



for participatory decision-making as well as clear procedures for obtaining public services, but also to explain in detail the usage of the public money and how they have improved community life⁴⁴.

The National Action Plan for Open Government Partnership (2018-2020) has for the fourth time set the priority “Transparency at Local Level” and the foreseen a set of commitments⁴⁵. However, in order to overcome the alarming situation in the LSGUs it is highly necessary to remove the previously identified risk for the sustainability of the Open Government Partnership initiatives taken at local level, i.e. to allocate funds to municipalities to implement the commitments.

The principle of transparency, which implies that information on organizational setup, budgeting and public procurement procedures are publicly available and published on the websites of the municipalities, is met by 31% of the indicators. However, in regards the transparency of budgets, it should be noted that there is no regular practice of consistently publishing the adopted budgets in the last three years in protected PDF⁴⁶ files, publishing of the semi-annual budget execution reports and the Citizens⁴⁷ which makes it difficult for the citizens to understand the revenues and expenditures during the year.

When analyzing the principle of accessibility, which includes respecting procedures and ensuring free access to information, active transparency, and accessibility of information through the mechanism of public consultation and interaction with citizens, municipalities fulfill a modest 19% of the indicators. Namely, this low percentage of fulfillment is due to the fact that the LSGUs do not publish plans, calls or public consultation reports with stakeholders that contain written explanations of the proposals, which are accepted or rejected, nor do they information on project proposals by the CSOs and their selection criteria and list.

The Macedonian LSGUs are the weakest in the category of efficiency (14%) that refers to the monitoring and evaluation of policies imple-








⁴⁵ National Open Government Partnership Action Plan (2018-2020) Available at <https://bit.ly/2lB8W3l>

⁴⁶ Portable Document Format

⁴⁷ Budget document intended for the unskilled public.

mented by municipalities, the process of strategic planning and reporting to the Municipal Council. Their compliance with the performance indicators is 3.5 times lower than the regional average of 49% fulfillment of the Municipal Efficiency Index. The LSGUs are best rated in terms of the sub-category of the index that relates to reporting to the Municipal Council due to the legal obligation of municipalities to develop annual work programs and because public enterprises and mayors are required to report to the Municipal Council on their work.

ACTION STEPS

-  The LSGUs have to consistently publish the adopted budgets in the last three years in open formats, to make it easier for citizens to search.
-  The LSGUs should obtain the practice of publishing semi-annual budget execution reports and the Citizen's Budget through which citizens receive accurate information on revenues and expenditures during the year.
-  The LSGUs should thoroughly advance their accountability in publishing public procurement information, i.e. publishing public procurement plans, appeals and decisions.
-  The LSGUs' websites should contain information related to the names, positions and contacts of the officials, i.e. the municipal organograms.
-  The LSGUs should publish plans, calls and public consultation reports with stakeholders that contain written explanations of the proposals, which are accepted or rejected.
-  The LSGUs' websites should incorporate calls for project proposals by the CSOs, decisions regarding the allocation of funds to CSOs and ranking lists of results.
-  Repeating itself for the third year in a row, the recommendation given in the Comprehensive Plan of Good Governance



for State Institutions⁴⁸ in regards to the LSGUs publishing information which is their obligation under Article 10 of the Law on Free Access to Public Information remains.

- ✚ The LSGUs' websites should contain fixed consultation hours for the presidents of the Municipal Councils in which they would consult with citizens.
- ✚ The LSGUs must improve their communication with the citizens through social networks, as well as monthly publishing of newsletters for the citizens on the work of municipalities.
- ✚ In order to achieve a higher level of integrity, the LSGUs should publish integrity documents/policies/plans or any other internal anti-corruption policy (which includes measures to prevent and eliminate various forms of corrupt and unethical behavior within the municipalities) on their website.
- ✚ As only 3 of the evaluated LSGUs have adopted development strategies with clearly defined development goals but the same are incomplete, it is recommended that all LSGUs start working on adopting development strategies with clearly defined development goals containing a specific timeframe, budgetary implications and responsible bodies for its implementation.

3. METHODOLOGY

Openness is the key condition of democracy since it allows the citizens to receive information and knowledge about 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 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 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.



4. PROJECT


Good governance is key to the rule of law. While issues of corruption, transparency, rule of law and good governance are always in the spotlight, there remains a lack of understanding and systemic problems that hardly receive sufficient coverage. 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 organisations and consolidated strategic efforts for representation.



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

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

SPECIFIC PROJECT GOALS:

-  Promote a dynamic civic society which effectively mobilises 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 organisations and government institutions and influence good governance and public administration reforms.
-  Stimulate civic and media organisation 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 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.

The 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 and Levizja MJAFT!.

5. READ MORE

Openness of the core executive institutions in the region and in the Republic of North Macedonia

Proposals for the improvement of the current state

<https://bit.ly/2J85k1N>

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

Proposals for the improvement of the current state

<https://bit.ly/2Jb92ry>

Openness of the judicial bodies in the region and in the Republic of North Macedonia

Proposals for the improvement of the current state

<https://bit.ly/2PUEWLa>

Openness of the local self-government in the region and in the Republic of North Macedonia

Proposals for the improvement of the current state

<https://bit.ly/2PBnqgg>

