ActionSEE

Accountability, Technology and Institutional Openness Network in SEE

Regional Roadmap on good governance for the Western Balkans

Action steps for common recommendations from country roadmaps published by the ACTION SEE Network

Based on the Regional Index of Openness of state institutions

Based on the measuring for 2018

Skopje, November 2019

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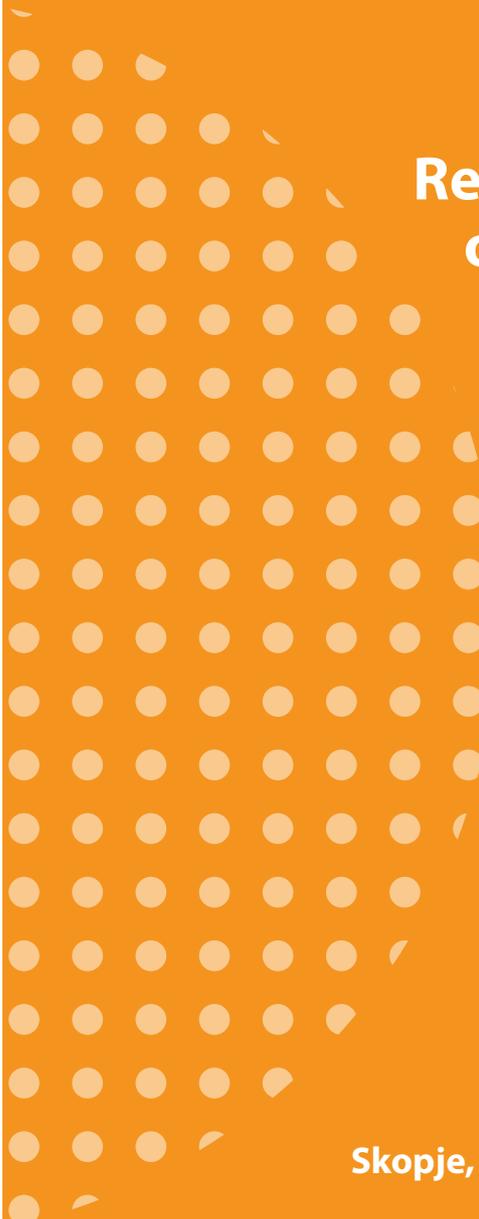Based on the measuring for 2018

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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.

CONTENT

1. INTRODUCTION AND GENERAL INFORMATION

This document should be used as a general overview of common issues that Western Balkan countries are facing in terms of openness, as defined by international standards. Also, it could be used as a guide the for most pressing action steps that all countries should take to improve the openness of their institutions. The ACTION SEE project produced the country roadmaps for each of the Western Balkan countries, where you can find a detailed proposal for action steps that each of the measured institutions should take. The Regional Roadmap, however, contains the most important recommendations for the region as a whole.

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 the 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, the institutional responsiveness is an indicator on openness itself, and second, the institutions' non-responsiveness 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 to the end of March 2019. 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.

Readers can find methodology and general project information at the end of this paper.

2. STATE INSTITUTIONS

2.1. EXECUTIVE

Third year in a row, executive institutions in the Western Balkans meet below 50% of openness indicators. Although the result of over 48% of the satisfied indicators is slightly better than in the previous two years in which the measuring was conducted, there are no significant changes. Individual openness champions contributed to a slight improvement in results, which still confirms that the openness is treated on ad hoc basis. However, radical changes that would imply planned openness policies and their consistent implementation in all countries have not yet taken effect.

The leader of openness of the institutions of executive power in the region is Montenegro with 62% of the openness indicators met. In general, governments in the Western Balkan region fulfil on average 63.62% of the openness indicators, whereas the line ministries fulfil 50% and state administration bodies fulfil 32.22% of the openness indicators. The results have once again confirmed that the institutions of executive power are more open as we are moving towards higher organizational levels of government.

The principles of proactive transparency and openness of executive institutions in the Western Balkans are not at a satisfactory level. From country to country, institution to institution, key documents that give the public an insight into the work plans, achieved results and financial flows of these institutions are not publicly available. The public equally has no access to the decision-making process. The Government sessions are closed to citizens, and transcripts, as well as documents that are decided upon in a small number of cases, are available on the institutions' pages.

Outdated websites make it difficult to access those few documents that are available. eGovernment systems, although they exist in all countries, are underutilized and equally inaccessible to citizens and the public.

Taking the above into the consideration, the crucial recommendation for the improvement of the openness of executive institutions remains the same. Strategic documents and annual action plans addressing the development of openness should be adopted through which the uniformity of openness of institutions of executive power should be secured. The adoption and consistent implementation of such documents and action plans, as well as consistent application of existing documents guaranteeing their openness, are the path to greater openness of the institutions of executive power.

ACTION STEPS

Transparency

- Create an official website which is regularly updated with relevant information and has a functional search tool.

- Publish work plans and reports on activities for the past three years at least on official websites (quarterly/semi/annual).

- Publish minutes and/or transcripts of Governments' sessions, along with the documents considered at Government's sessions as well as the documents adopted by the Government on official websites.

- Publish the organisational structure of institutions on the website, including competencies of the institution, notable biographies and a list of all employees and, if needed, their contact details and salaries for each position within the institution.

- Publish all financial documents of the institution on their website (annual budgets, budget spending's and related reports, budget rebalance).

- Publish all documents related to the public procurement procedures, including annual plans, the open calls, procurement decisions and concluded contracts, with all related amendments.

- Develop the Budget for Citizens for a better understanding of the financial flows of the executive institutions.

- Ensure the maintenance of archived documents and present them on official websites.

Accessibility

- Publish registers of documents on official websites.

- Publish the updated guide to access to information on official websites, containing contact details of responsible officials.

- Follow deadlines related to access to information.

- Educate employees on accessing the archives of documents and the credible enforcement of freedom of information laws.

- Ensure that the laws on freedom of access to information are binding for related institutions and consistently implemented. An independent body responsible for implementing the law on freedom of access to information is a possible solution to ensure full access.

- Publish information for which free access has already been granted.

- Each executive institution should have developed a communication strategy with citizens and the wider public.

- Use online tools for communicating with citizens, including communication through social media.

- Improve the process of public consultations, using online tools to conduct the consultation. All the necessary information related to public consultations should be published at the official website of the institution, including reports on conducted consultations.

⊡ Ensure that all published information is in an open data format.

Integrity

⊡ Adopt an integrity plan or any other internal anti-corruption policy which includes measures to prevent and eliminate various forms of corrupt and unethical behaviour within the institution.

⊡ Publish asset cards of officials on official websites in an open data format.

⊡ Implement a sanction system for those officials who falsely present information on asset cards.

⊡ Define procedures for fully implementing ethical codes and sanctions when they are breached.

⊡ Regulate lobbying activities.

⊡ Educate employees on conflict of interest, prevention of corruption and whistleblowing.

Awareness

⊡ Create procedures for quality planning and control of how policies are implemented and their impact.

⊡ Create indicators for evaluating efficiency of each implemented policy.

⊡ Implement a uniformed system of mandatory annual reports of each institution.

⊡ Create a system for regulating inter-ministerial consultations, including publishing consultation reports on the official websites of each institution.

2.2 PARLIAMENT

Legislative bodies of the Western Balkan countries achieved a slightly better result this year in terms of openness than last year, and they meet 66% of the openness indicators. Although progress is not great in percentage terms (only 5%), it is still significant given the introduction of stricter criteria for measuring openness last year. Openness, however, is not at a satisfactory level.

Significant results were achieved by the parliaments od Montenegro and Kosovo, with 79% and 72% fulfilment of the indicators of openness, while the parliaments of Bosnia and Herzegovina scored the lowest on the openness list (46%). A lack of uniformity of openness of parliaments in the region is visible, with wide variations between countries.

There is still no strategic approach to building a systematic openness of parliaments and following the principles of proactive transparency. Each parliament builds openness by applying different documents, which are interpreted differently, depending on the context. Such an approach leads to different levels of openness of these institutions.

The fact that three parliaments in the region did not respond to the questionnaire sent to them through this project is also indicative mark on the worrying state of openness.

While the transparency of parliaments is slowly increasing, citizens' access to these institutions is stagnant. Research results show that there is no active work to remedy this situation, and out of all the countries in the region, Bosnia and Herzegovina is the worst in this regard.

Proactivity in publishing information concerning the work of parliaments is still just a policy written on the paper. While the houses of parliaments publish a certain amount of information about their work, the situation with the committees operating within them, is completely the opposite. The information about their work is almost impossible to find.

Documents are still not published in machine-readable formats.

The gap between the citizens and these institutions is increasing as the interaction with the citizens declines. In this context, the worst countries are Serbia and Bosnia and Herzegovina.

The strategic planning of the parliaments at the regional level is even lower than in the previous years. The work of the parliaments is still not based on the establishment of a uniform methodology and appropriate indicators for measuring the results and the quality of their work and the work of the MPs.

Parliaments in the Western Balkans region continue to have good bases for conducting parliamentary oversight. However, it is necessary to significantly strengthen the parliamentary oversight at the level of the entire region, with an emphasis on ensuring its full implementation in practice.

Serbia joined North Macedonia and Montenegro as a country which adopted the regulation in the area of lobbing. However, Serbia remains the only country in the region which does not have the Code of Ethics for MPs.
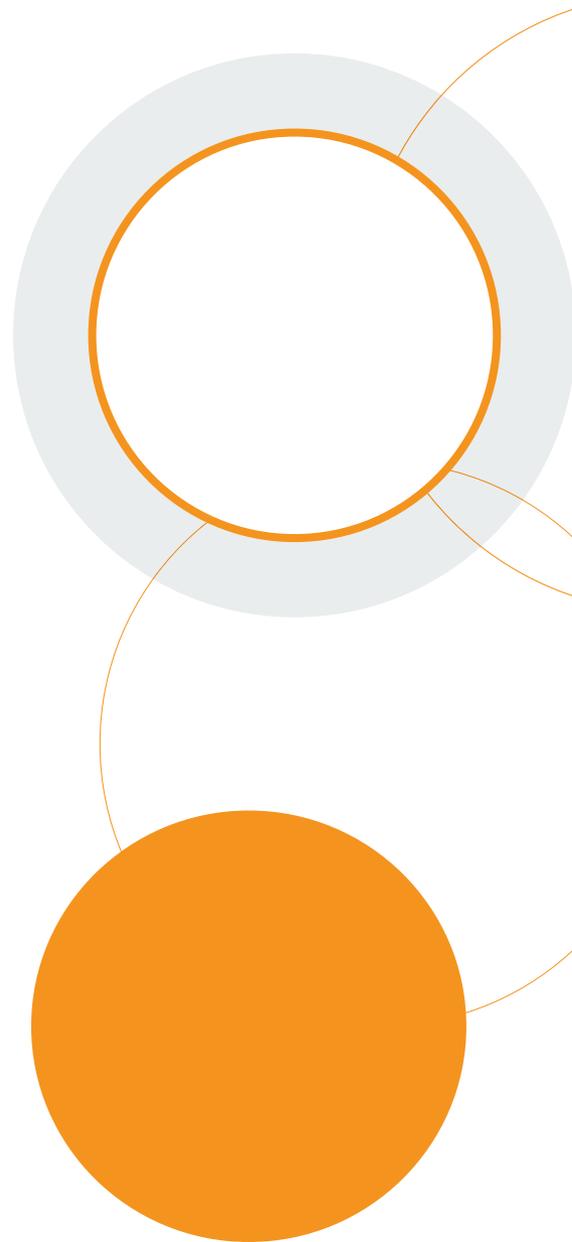
ACTION STEPS

Transparency

- Strategically plan the openness of regional parliaments.
- The official websites of the parliaments should be regularly updated with relevant information and have a functional search tool.

- Publish work plans and reports on activities for the past three years at least on the official websites (quarterly/semi/annual).

- Publish minutes and/or transcripts of parliaments' sessions, along with the laws and documents considered at these sessions as well as the laws and documents adopted by the parliaments on their official websites.

- The practice of adoption of laws in urgent or expedited procedure should be limited only to envisaged conditions, in order to ensure a quality public consultation process.

- Provide information on how MPs vote on plenary sessions.

- Develop and implement report mechanisms of parliamentary representatives and their official activities.

- Publish video transmissions and recordings of plenary sessions.

- Publish lists of names, positions and contact details of civil servants on the official websites, including salary categories of public servants.

- Publish all financial documents, final and semi-annual, of the institution on their official websites (budgets, budget spendings and related reports, budget rebalance).

- Publish all documents related to the public procurement procedures, including annual plans, the open calls, procurement decisions and concluded contracts, with all related amendments.

- The parliaments should improve the openness of the working bodies (committees) by announcing the presence of the MPs in the session, publishing the transcripts and videos of these sessions, as well as the voting records.

- Prepare and publish the Citizens' budget on the official websites of the parliaments.

- Ensure all published information is in an open data format.

Accessibility

- The websites of the parliaments should contain information about the person responsible for access to information of public importance.

- The list of public information should be updated and published on the parliaments' websites.

- An archive of all documents should be regularly maintained and publish on the official websites.

- Create a legal obligation for conducting training in the field of access of public information.

- Ensure that the laws on freedom of access to information are binding for related institutions and consistently implemented. An independent body responsible for implementing the law on freedom of access to information is a possible solution to ensure full access.

- Publish received requests for accessing information.

- Publish information for which free access has already been granted.

- Create guidelines for raising concerns, complaints and making appeals available on the website.

- Form a direct online communication channel available at the website through which citizens can raise concerns, complaints and appeals.

- Create new communication channels with citizens by using social networks and online petitions.

- Develop a system for involving the public in consultations on legislations in parliamentary procedures.

- Ensure all published information is in an open data format.

Integrity

- ⊞ Adopt codes of ethics with clear supervision procedures.

- ⊞ Publish codes of ethics on the official websites, as well as who is responsible for supervising them.

- ⊞ Revise and continuously improve current codes of ethics.

- ⊞ Publish asset cards of all members of parliaments on the official websites.

- ⊞ Regulate lobbying activities in all countries, including adopting a law on lobbying, mandatory register of lobbyists and independent body in charge of managing the register.

Awareness

- ⊞ Promote mechanisms which increase the participation of citizens and experts in parliamentary procedures.

- ⊞ Enable participation and expertise of professionals in evaluating the impact of laws and other acts prior to their adoption.

- ⊞ Regularly publish all information related to public consultations.

- ⊞ Create new or strengthen the existing mechanisms for the assessment of potential impacts of existing and draft legal acts (including regulatory assessments, RIA).

- ⊞ Establish participation, transparency and quality evaluation within the RIA process.

- ⊞ Politically empower parliaments and their oversight competencies, so they could scrutinize the work of the governments.

2.3 JUDICIARY

The openness of the Western Balkan judicial institutions has remained extremely low for the third year in a row. Courts and prosecutors' offices fullfil less than half of the indicators that measure their openness.

The recommendations that have been issued over the past two years to strengthen the openness and transparency of judicial institutions have not been taken into account, nor have they been the subject of their interest. This is further confirmed by the fact that almost half of the judicial institutions in the region did not respond to the questionnaires submitted, which further examine their openness.

When it comes to prosecutors' offices in the region, Montenegro and Kosovo lead the way in openness, with 54% and 50% of openness indicators met. The situation is similar regarding the openness of the courts in the region, with 57% of the openness indicators being met by the courts of Montenegro and 49% by the Albanian courts.

From the lack of official websites, non-publication of basic data on the work of the institutions, work plans, reports and other public documents, to the non-publication of justified court decisions (or "rationales within the verdicts"), the palette of problems that need to be addressed in order to achieve full transparency and openness of judicial institutions does not decrease.

Systems for random allocation of cases have been established within judicial institutions in almost all the countries. They are essential to the independence and impartiality of the judiciary. But, stronger controls over the system need to be put in place to prevent possible misuse.

Institutions' relations with the media remain unsettled. Many prosecutors' offices have not yet adopted any kind of guidelines on cooperation with the media and the manner of reporting.

ACTION STEPS

Transparency

- All judicial institutions should have their own websites, regularly updated with all relevant information and have a functional search tool.

- Official websites should contain all information available on the bulletin boards of courts and prosecutors' offices.

- Publish work plans and reports on activities for the past three years at least on official websites (quarterly/semi/annual), including current strategies institutions implement.

- Publish all financial documents, final and semi-annual, of all judicial institutions on their websites (budgets, budget spending's and related reports, budget rebalance).

- Publish data on salaries of prosecutors, judges, members of the judicial and prosecutorial councils and other officials on the official websites.

- Publish organisational charts on the official websites of the judicial institutions, as well as biographies of judges and prosecutors and their direct contact details.

- Publish all documents related to the public procurement procedures, including annual plans, the open calls, procurement decisions and concluded contracts, with all related amendments. It is recommended that these documents should be published on the official websites of all judicial institutions.

- Create and enforce strategies which ensure openness and transparency.

- Ensure all information is published in an open data format.

Accessibility

- The websites of the judicial institutions should contain information about the person responsible for access to information of public importance, along with the updated guidance for free access to information.

- The list of public information should be updated and published on the official websites.

- An archive of all documents should be regularly maintained and published on the official websites.

- Publish received requests for accessing information, as well as information for which access has already been granted.

- Train responsible officials in dealing with freedom of information requests.

- Establish systems for random allocation of cases within prosecutors' offices.

- Establish and maintain electronic databases for court verdicts.

- Publish justified court decisions (or "rationales within the verdicts"), trial records and separate opinions of panel members, as well as confirmed indictments.

- Establish a special department for communication with the public.

- Set up and consistently implement procedures for cooperating with the media, including regular publication of press releases and updates on the websites of courts and prosecutors' offices.

- Ensure documents are also published in languages of minorities and include sign language interpreters and use Braille texts.

⊡ Improve the capacities of courts and prosecutors' offices for persons with reduced mobility.

Integrity

⊡ Publish codes of ethics on the official websites.

⊡ Develop and publish integrity plans and report on their implementation.

⊡ Monitor and implement codes of ethics.

⊡ Ensure that violations of the codes of ethics are properly sanctioned.

Awareness

⊡ Deliver annual reports to responsible authorities on time.

⊡ Improve reporting to the judicial and prosecutorial councils by creating special forms for reporting on the work of courts and prosecutors' offices.

⊡ Add information on disciplinary measures and complaints, as well as information on solved cases and verdicts in the annual reports.

2.4. LOCAL SELF-GOVERNMENT UNITS (LSGUs)

The level of openness of the local self-governments in the Western Balkans remains at a non-satisfactory level, for the third year in a row. The institutions from the region meet 36% of the openness indicators, which is a slight improvement in comparison to the previous year of measurement, with 31% of fulfilled indicators.

The stagnation in the openness of the local self-governments is particularly worrying when one considers that they are the most important service for citizens. Their closeness or lack of concern about how to make it easier for citizens to access the services and provide them with the space for participation in their local community's policymaking seriously undermines the basic principles of democracy. Local self-government units need to take a more serious approach in promoting the fundamental values of openness, with more active work and access.

The need for a strategic approach to improve the openness of local self-government units is urgent. However, adopting a strategic document is not enough. It must be insisted on its consistent application, with strict supervision and control.

On a more positive note and in comparison to the results from the previous year, significant progress can be noticed in the results of the level of openness of the local self-government in Kosovo, Albania and Bosnia and Herzegovina. On the other hand, the level of openness of the local self-government in Serbia is the only one that marks a setback, which further shows the lack of commitment of these institutions in the promotion of openness in the previous period.

The regional accessibility level remains law, with only 27% of fulfilled indicators of openness. In most cases, citizens remain deprived of information regarding public consultation. There is still a lack of plans, calls and reports from the public consultations and debates containing written explanations and provided answers published on their websites. All of this prevents citizens from timely participating

in discussions and decisions of local importance. Information and documents published in an open data format is still an unknown term to public officials of these institutions.

Also, a complete set of information of public importance, necessary for the regular functioning of local self-governments, lacks on their official websites. Those are the contact information on persons responsible for access to information of public importance, information bureaus that would serve as documentation centers or public databases, published responses to requests for public information, updated FOI guides, or a separate section for relevant FOI information.

When it comes to the awareness level in the region (49.12%), in comparison to the previous year, there has been a decline of 5.15%. This decline is an indicator that the local self-governments do not take seriously their commitment towards strategically managing the institutions. They are mostly lacking in developing strategies and action plans for their implementation. The local self-governments also require indicators of performance when preparing their annual work programme and reports for the municipal assemblies and presidents of local self-governments.

This means that the local self-governments would need to focus more on the creation of a written action plans for the implementation of their development strategies, to assure a higher level of awareness. The local self-governments should make sure that the documents are provided in an open data format and that they are compiled in a manner that is understandable for the wider audience, which facilitates the public monitoring and acting on the progress and setbacks of the local self-governments.

The research also noted equally low transparency in the areas of finance, organizational data, annual work programs and reports, strategic documents and other. The principles of proactive transparency are not respected, nor is the information published in an open format. The capacities of the civil servants themselves are not strong enough to meet and fulfil the required standards of openness and transparency.

ACTION STEPS

Transparency

- Improve the organization and administration of local self-government websites. Most often they are unserviceable and unsystematic, with limited search capabilities.

- Publish work plans and reports on activities for the past three years at least on the official websites (quarterly/semi/annual), including indicators of performance.

- Publish all financial documents, final and semi-annual, on their websites (budgets, budget spending's and related reports, budget rebalance).

- Publish minutes and/or transcripts of assembly sessions, along with the documents considered at those sessions as well as the documents adopted by the municipal assemblies on official websites. This also includes creating press releases after the sessions.

- Publish video transmissions and recordings of assembly sessions.

- Develop and publish the Citizen's budget.

- Publish a list of civil servants and state employees, with their titles, and data on salaries of civil servants on the official websites of LSGs.

- Publish all documents related to the public procurement procedures, including annual plans, open calls, procurement decisions and concluded contracts, with all related amendments. The recommendation is that these documents should be published on the official websites of all local self-governments.

- Present all information in an open data format.

- Present names and contact information on civil servants on official websites.

Accessibility

- The websites of the LSGs should contain information about the person responsible for access to information of public importance, along with the updated guidance for free access to information.

- The list of public information should be updated and published on official websites.

- An archive of all documents should be regularly maintained and published on official websites.

- Publish received requests for accessing information, as well as information for which free access has already been granted.

- Present the information in an open data format.

- Publish the official guide for access to information on official websites.

- Increase the scope of communicational channels with the citizens (e-consultations, online communications and social media).

Integrity

- Organise and participate in trainings and workshops dealing with anti-corruption policies, conflict of interest and whistleblowing

- Adopt and publish the Integrity Plan on the official websites of the local self-governments.

- The local self-governments should have clearly defined internal anti-corruption policies, which imply measures to prevent and eliminate various forms of corruption and unethical behaviour within the institution.

⊡ Establish and maintain a direct online channel through which citizens can file complaints and express concern.

Awareness

⊡ Publish evaluations and work reports of the last three years on official websites.

⊡ Ensure that annual work programmes are planned in accordance with performance indicators.

⊡ Prepare development strategies and action plans.

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. ABOUT THE 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

Country roadmaps

Albania

https://bit.ly/2EYBlXL

Bosnia and Herzegovina

https://bit.ly/2Qeeah4

Kosovo

https://bit.ly/2PUqtik

North Macedonia

https://bit.ly/36upLPb

Montenegro

https://bit.ly/2PBbsTG

Serbia

https://bit.ly/2POmViP