



Good governance for
openness and accountability
in politics and governance

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Proposals for the improvement of a current state

Openness of institutions of executive power in the region and Macedonia

METAMORPHOSIS
Foundation for Internet and Society



ActionSEE



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Introduction

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

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

The policy of openness must be the policy of all governments in the region and it must be defined as other significant policies as well as it must not be a result of a current decision or of a current mood of power. Each regional country has its own specific political conditions in which it develops its openness but a significant space for a joint regional operation on the improvement of the state may be noticed.

An introduction of a concept of the open government in the region of the Western Balkans was most commonly dictated by requests of integration processes or motivated by the improvement of the international reputation of a country through the participation in initiatives for the open administration. Towards following positive trends, an essential internal need, which represents a basis for this principle, is often neglected –it is actually government’s openness for citizens’ and society’s contribution with the aim to creating public value.

This approach leads to a problem regarding the implementation of rules of transparency and openness, especially on lower levels of public administration, where a social importance of this approach is not recognized, but it is considered as an unpleasant obligation imposed through international requests. Therefore, the policy of openness in the regional countries requires not only an expression in strategic documents, but also loud advocates of the concept of an open government on the highest social and state functions.

Our proposal is addressed to decision-makers of executive power in the regional countries on all levels: Government, ministries and executive agencies. It can be useful for representatives of international institutions and for colleagues from NGOs, who deal with these issues.

In order to achieve a public dialogue of higher quality regarding these topics we will organize a series of public events, in which we will hear opinions of all interested stakeholders, and try to find joint sustainable solutions for the development in this area.

In addition, we will respect principles of transparency of research and inform institutions about all details of its conducting and adopted conclusions. We remain at your disposal for all suggestions, benevolent critics and discussion regarding our policy paper.

OPENNESS OF INSTITUTIONS OF EXECUTIVE POWER FROM THE REGION

After the analysis of a number of methodologically circled data we noticed similarities and differences regarding the state in this area within regional countries. Generally, results indicate that from regional perspective the openness of executive power is not on a satisfactory level. It approximately amounts to only 47% of fulfilled indicators. Clear, consistent and policies of openness grounded in strategic documents do not exist. A change of approach and treatment of this important segment of functioning of current and future governments is necessary.

Each country has its own specific political conditions in which it develops its transparency and openness, with which we will deal in the second part of this document, but a significant space for the joint regional cooperation regarding the improvement of situation can be noticed.

There is no a strategic approach to the openness in the regional countries. On the basis of collected data we can conclude that openness is treated on ad hoc basis and in most countries the policy of openness, which would be equal with other policies of executive power, is not created. The policy of openness is set in a way where it most commonly represents a good will of the executive power and it is actually the situation which is far from desired condition. It is, for now, a compilation of various rulebooks, acts and obligations and not philosophy or approach actively promoted by governments. Transparency, openness and accountability in good governance represent basic preconditions of high-quality executive power and they must not be treated as gifts for citizens.

The policy of openness should not depend on external initiatives, but it must be a part of internal policies. Only then all international initiatives obtain their full affirmation since they upgrade on existing healthy bases in each regional country.

In a participatory process it is necessary to adopt strategic documents and annual action plans, which deal with the development of openness. It is necessary, within countries, to plan development and equalize the openness of institutions of the executive power. These differences are currently enormous and the question whether these institutions belong to the same country is imposed.

After the introduction of strategic planning, it is necessary to consider adoption of law on the Government and ministries since this and other issues related to the functioning of public administration would be solved in the most efficient way.

Our monitoring has shown several “critical points” i.e. critical obstacles for the development of openness in the region.

Transparency and communication

Governments must pay a special attention to the implementation of laws on access to information, which, generally, do not provide satisfactory results. The attention must also be paid to independence and current capacities of institutions responsible for the implementation of laws. Communication with citizens is the next important segment, which must be significantly improved in the following period. Apart from classic methods of communication, executive power must use more modern ways of communicating with citizens. Respecting the principle of publishing data in open data formats¹ represents a regional problem. These formats would increase availability and facilitate citizens' data collection.

Planning and spending of public funds

A special attention should be also paid to strengthening of financial transparency given that regional governments do not have completed practice of publishing financial information and documents.

Institutions of executive power, which publish information on budget, which would make this document understandable for citizens and explain which type of service they receive for money they gave to the country, are very rare. In addition, information regarding how planned funds were spent are very scant. It is necessary to make visible all payments from the state budget and leave citizens an opportunity to personally control this spending.

Also, on official websites of executive power plans for public procurements are not published, while calls and decisions regarding public procurements and belonging contracts and annexes to agreements were not available in most cases.

1) Open data are data structured in computer-understandable format, which provides opportunity of free and repeated use.

Efficiency, effectiveness and citizens' expectations from powers

A significant question of functioning of executive power and its openness towards citizens is a creation of clear indicators of the success of government policies, which will be available to citizens. Accountable powers transform their electoral promises in official state policies, but they also create an opportunity for citizens to check its results.

Regional governments yet should establish unique methods and procedures for high-quality control of their policies, and they do not have developed adequate methods for measurement of their policies' performance. A sufficient attention was not paid to the establishment of the unique method according to which ministries would inform the Government about their work on an annual level. All stated items negatively reflect on informing citizens about performance of their policies.

Openness of the Executive Power in the Republic of Macedonia

According to its openness, the executive power of the Republic of Macedonia is ranked last in the region, with a score of only 36% completion of relevant indicators. This is a defeating result and implies an urgent need for implementation of laws, policies and documents that govern this area. In addition, although the state has joined the Open Government Partnership as early as August 2011² and has committed to continuous improvement of milestones related to open, transparent, effective and efficient state institutions that communicate and cooperate with citizens³, more efforts are needed to deliver commitments assumed⁴.

Moreover, the Government should pay greater attention to implementation of the Law on Free Access to Public Information which, in general, has not improved transparency and demonstrated 30% completion of indicators, despite the fact that this law came into force in 2006. On the other hand, according to the Global Right to Information Rating⁵, Macedonia ranks 16 out of 111 states, while compared to other states in the region, freedom of information laws in Kosovo, Bosnia and Herzegovina and Montenegro are ranked lower on this list⁶, but the index scores for these states are much better than the index score for Macedonia.

Therefore, in the future, the state should pay special attention to independence and capacity of the Commission for Protection of the Right to Free Access to Public Information, and should increase its competences on law enforcement. Also, it is of utmost importance for the state to address main barriers faced by journalists in terms of access to information, i.e. shortfalls identified with information holders when responding to information requests, with special focus on excessive and ungrounded classification of information on the part of information holders, especially in cases when such information is not subject of protected regime in terms of access to public information⁷.

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

3) <https://www.opengovpartnership.org/country/macedonia>

4) https://www.opengovpartnership.org/sites/default/files/Macedonia2014-2015_FinalEnglish_0.pdf

5) <https://www.opengovpartnership.org/country/macedonia>

6) Ibid. According to their freedom of information laws, Kosovo, Bosnia and Herzegovina and Montenegro hold the 25th, 29th and 51st position on this rank list.

7) https://ec.europa.eu/neighbourhood-enlargement/sites/news/files/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf

In the period 2014-2018, the Government's strategic priorities and goals included transparent and efficient operation of the government and public administration as well as better quality of services for citizens and business community, by means of implementing comprehensive public administration reforms⁸. On this account, in the future, goals defined in 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.

Practices show that not a single institution has been "sanctioned" for being insufficiently open⁹. Notable differences have been observed in terms of openness of the Government, ministries and other state administration bodies. In Macedonia, the research showed that the index of openness has plummeted in regard to the government, followed by the ministries and all the way to other state administration bodies. More specifically, the Government demonstrated 52% completion of indicators, the ministries – 32%, whilst other state administration bodies fulfilled only 25% of relevant indicators on openness. Hence, the concept of openness must be systematically addressed.

Government of the Republic of Macedonia

According to the Index of Openness, the Government of Republic of Macedonia is ranked the last in the region, with only 52% completion of indicators. This means that, in the future, efforts are needed to improve practices on availability of information related to government work, budget spending, public procurement procedures and publication of contracts and annexes thereto, to improve proactive transparency and access to information, by means of mechanisms on public sessions and strengthened participation of interested stakeholders in policy-making process, implementation of codes of ethics, mechanisms on prevention of corruption, as well as monitoring and evaluation of policies implemented by the institutions.

Major problem was identified in terms of transparency of Government's sessions. The official website of the Government does not host session agendas, documents reconsidered at Government's sessions, minutes or even primary regulations that govern its work, for example, the Law on the Government of Republic of Macedonia. Hence, 39% completion under the transparency index does not come as surprise, and the state is again on the bottom of the regional list. Moreover, publication of these documents significantly affects possibilities for stakeholders and citizens to participate in policies that are of special interest for them and affect their standard and quality of living as well as their communication with the Government. The Macedonian Government has 73% completion under the index of accessibility.

8) <http://vlada.mk/programa/strateski-prioriteti-i-celi>

9) Proactive transparency is an obligation for all information holders arising from the Law on Free Access to Public Information, and implies publication of information related to their competences and work, as well as programmes, strategies, positions, opinions, studies, public procurement calls and tender documents, information on organizational setup, operation costs, etc.

Citizens in the Republic of Macedonia do not have the possibility to understand the Budget by means of graphic and narrative explanations, because the government's website does not publish the "civic budget", which is budget document¹⁰ intended for the non-expert public. 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 is a precondition for their participation in allocation of public funds.

In addition, according to the Law on Budgets¹¹, the Ministry of Finance presents the Government with semi-annual report on budget spending for the current year, however these reports are not published on its website. The last state budget available in open format dates from 2014¹². Also, the search function for the current Budget¹³ is disabled, therefore analysis of the pdf format, which is publicly available, is hindered. This situation accounts for 34% completion under the index on budget transparency and is close to the average score in the region, which accounts for 44%.

Website of the Government does not host its plan on public procurements. The completion percentage of the transparency indicator regarding government's public procurements is 60%.

Publication of annual work reports by the Government is one of the key instruments on openness, as well as control of its performance by the citizens. Nevertheless, the Government has no practice on publishing its annual work reports. Under the website section "projects", it publishes current and completed projects from its work programme¹⁴, and the accountability report for the period 2011-2012¹⁵, but they lack precisely calculated state budget costs, i.e. projects are not linked with relevant budget accounts/programmes from which the costs were covered.

The Government has adopted the Rulebook on Open Data and the Law on Use of Public Sector Data¹⁶. The new portal on open data, www.otvorenipodatoci.gov.mk, established in 2014, allows stakeholders to browse specific data. Stakeholders criticize the prioritization of data requests used for development of applications or new tools to encourage economic development and job creation¹⁷.

As regards civic participation, mechanisms designed for that purpose exist only formally. Although the second Action Plan under the Open Government Partnership prioritized transparency and participatory policy making, civil society organizations express concern about the difficult environment in which they operate and about limited commitment to dialogue on the part of the Government¹⁸. Public consultations and coordination with the civil society continue to be insufficient¹⁹. The new Strategy on Public Administration Reform, that will be adopted, needs to address these issues, i.e. annual plans on regulatory impact assessment (RIA) need to be mandatorily published.

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

11) Law on Budgets ("Official Gazette of the Republic of Macedonia" no. 64/2005; 4/2008; 103/2008; 156/2009; 95/2010; 180/2011; 171/2012; 192/2015 and 167/2016)

12) <http://www.otvorenipodatoci.gov.mk/Templates/Pages/OpenDataPage.aspx?page=40>

13) <http://www.finance.gov.mk/mk/node/4105>

14) <http://vlada.mk/proekti-blog>

15) http://vlada.mk/sites/default/files/OTCET_NA_VLADA_2011-2012.pdf

16) <http://www.otvorenipodatoci.gov.mk/zakon-za-koristenje-na-podatoci-od-javniot-sektor>

17) https://www.opengovpartnership.org/sites/default/files/Macedonia_Final_2014-15_0.pdf, pg. 32

18) https://www.opengovpartnership.org/sites/default/files/Macedonia_Final_2014-15_0.pdf, pg. 30

19) <http://mcms.org.mk/images/docs/2016/ogledalo-na-vladata-2016.pdf>

Ministries

The ministries in the Republic of Macedonia have an average of 32% completion under the general indicators on openness. Under this degree of openness, ministries in Macedonia are the most closed in the entire region.

Notwithstanding, at state level, the ministries' relevant completion rates on openness range from 18% for the Ministry of Defence to 52% for the Ministry of Labour and Social Policy.

Macedonia has the worst rank in the region in terms of access to information, despite the fact that the adopted freedom of information law is of exceptional quality. Overall completion rate for indicators on access to information is insufficient and stands at 37%.

The ministries demonstrate the poorest completion or fail to complete indicators on prevention of conflict of interests, in particular due to non-publication of the officials' asset declarations on their websites and often fail to upload links to the State Commission for Prevention of Corruption where said asset declarations are uploaded pursuant to the law.

The ministries have the best completion rate of 41%, but are still insufficiently open in terms of transparency indicators on budget planning, organizational setup, and public procurements. In addition, the ministries in the Republic of Macedonia have the lowest score on openness because they publish information on other websites, as required by certain laws. Hence, only 13% of ministries publish plans on public procurements on their websites, while 13% of them publish procurement notices (call for bids) and/or decisions on public procurements (meaning that 80% of them do not publish procurement notices and decisions on public procurements). In Macedonia, established practices imply publication of information related to public procurements on the national portal designated for public procurements, but according to international standards on transparency, information should also be published on websites of relevant institutions.

In the same vein with the previous recommendation are issues related to the budget. Only the Ministry of Finance publishes all information related to openness of budgets and is therefore assessed with high completion rate of 99%. The ministry complies with its law-stipulated obligation on publishing semi-annual reports on budget spending, annual budget and final balance sheet which, inter alia, contain budget information for 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.

Reporting, monitoring and strategic planning are pursued under extremely low level of openness, with completion rate of 12%. However, this is mainly due to the ministries' non-responsiveness to questions submitted in written by watchdog organizations.

Based on data disclosed, and those contained in the database, it is evident that the ministries should prioritize openness in their operation.

State Administration Bodies

Other Executive Bodies

Openness of other executive bodies is low in all states from the region and ranges from 17% to 49%. In Macedonia, openness of the executive agencies is assessed with a score of 25%.

Most of other executive bodies do not publish data related to the institution's budget, and therefore the overall score on budget transparency accounts for 13%. Only 13% of them have published their respective annual budgets in the last three years, and 13% have also published their semi-annual reports on budget spending.

Information on organizational set-up is also insufficient. Only 29% of other executive bodies have published names of staff members and/or their job positions, while 39% have published their organograms, scope of work and/or work biographies. The situation is slightly better in terms of publication of laws that are relevant to these agencies (56%).

Interaction of other executive bodies with the citizens is exceptionally low. At only 11%, this aspect of their operation is ranked the lowest in the region. Executive bodies must seriously reconsider the possibility for enabling citizens to submit online complaints and remarks related to their work.

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 increasing their transparency and accountability to citizens. The Regional index of openness of executive power is established in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

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

The principle of transparency includes that organizational information, budget and procedure of public procurements are publicly available and published. Accessibility is related to ensuring and respecting procedures for a free access to information, improving availability of information through a mechanism of a public debate and strengthening interaction with citizens. Integrity comprises of 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 informing and questionnaires delivered to institutions.

Through around 80 indicators per institution we have measured and analyzed the openness of 275 institutions of executive power and collected over 15000 pieces of data regarding institutions.

The measurement was conducted in the period from October to the end of December 2016. A set of recommendations and guidelines directed towards institutions was developed on the basis of research results.

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

Standards and recommendations of numerous international organizations (such as Access Info Europe, EU, IPU, OECD, OGP, SIGMA, WORLD BANK, etc.) were analyzed

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

- Social Innovations
- Environment
- Human Rights
- Good Governance

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