



GOOD GOVERNANCE

FOR OPENNESS AND ACCOUNTABILITY
IN POLITICS AND GOVERNANCE

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PARLIAMENT OPENNESS IN THE REGION AND MONTENEGRO



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INTRODUCTORY

In cooperation with partners from a regional network NGO “ActionSEE” Center for Democratic Transition (CDT) prepared the policy in which we analyze a level of transparency, openness and accountability of parliaments in the Western Balkans region.

The policy is a result of research, based on scientific methodology, developed by ActionSEE members during the previous months. The aim of our activities is to determine the current state in this area and to make recommendations for improvement through an objective measurement of regional parliaments’ openness. Also, the aim is to improve compliance with good governance principles, in which the openness has a significant place.

All regional parliaments must ensure a full openness of their work and thereby demonstrate a political accountability and respect of basic democracy principles. Through ensuring all relevant information parliaments must provide unimpeded insight into their work. Only open and accountable institutions can work on creation of democratic society to which all regional countries strive for.

Declaration on Parliamentary Openness defines maybe the best parliaments’ obligations - it suggests that a parliament must ensure that citizens have a legal aid while exercising their right to access parliamentary information. An obligation of a parliament to encourage openness and share examples of good practice with other parliaments in order to increase openness and transparency is emphasized. Further, cooperation with non-governmental organizations which deal with monitoring of parliamentary work and citizens is affirmed in order to ensure that parliamentary information are complete, accurate and oportune.

Taking into account all stated issues, it is necessary that all regional parliaments, which still have not done it, sign the Declaration on Parliamentary Openness as well as to work on its implementation.

Our policy is addressed to decision-makers in the parliaments of the regional countries. It may also be useful for representatives of international organizations and colleagues from NGO sector dealing with these issues.

We are at your disposal for all suggestions, benevolent critics and discussions regarding the policy.

Openness of legislative power in the region

Regional parliaments meet on average 63% of openness criteria. This result is not satisfactory, taking into account that we talk about bodies which are directly elected and accountable to citizens.

Parliaments have a key role in democratic system and thus they should be bearers of a process which will enable citizens a more effective monitoring of institutions' work. However, as it is the case with executive power, the highest legislative regional bodies do not have a strategic approach to openness policy. Requirements of openness are only indirectly tackled in the Constitution, Rules of Procedure and other acts and as such they are a subject of different interpretations and mood of a parliamentary majority.

Information regarding parliamentary work belong to public¹ and thus it is necessary to constantly improve an existing level of culture of parliamentary openness. Openness policy should be developed by following information and communications trends, using new technologies and publishing data in machine-readable format. This is supported by data indicating that regional parliaments are not dedicated to publishing data in open format and thereby use value of published data is minimized.

Insufficient transparency of organizational and financial information

The monitoring showed that parliaments lack transparency when it comes to publishing data from sessions of parliamentary committees. Majority of parliaments does not publish voting records and list of MPs who attended committees' sessions. In addition, in most countries committee sessions are not transmitted.

Majority of regional parliaments has to affirm a principle of financial publicity and openness. Parliaments mostly do not meet even a minimum of international standards of budgetary transparency² which impose availability of financial documents to the public. On official websites of most parliaments citizens cannot find budgets for the past three years.

Additionally, a vast majority does not publish final accounts. Parliaments should conduct control of public funds spending during the year and publish a mid-year reports.

1) Declaration on Parliamentary Openness. Available at: <https://goo.gl/NhTYvH>. Access: 27.03.2017.

2) Best Practices for Budget Transparency, OECD, 2002. Dostupno na: <https://goo.gl/qamVDW>; Guidelines for Parliamentary Websites, Inter-Parliamentary Union, 2009. Available at: <https://goo.gl/gD2Wg0>. Access: 27.03.2017.

Insufficiently developed communication with citizens and opportunities for their participation

Regional parliaments should strengthen their representative function through establishing communication with citizens and enabling them to participate in the process of policy creation. The parliaments should pay a special attention to development of electronic services.

Parliaments should be available for citizens and, except a possibility of establishing communication by telephone or e-mail, it is necessary to initiate innovative channels for two-way communication with citizens. Also, it is necessary to more actively use existing mechanisms for communication, especially social networks. Monitoring has shown that the majority of parliaments does not have accounts on social networks or they do not use it actively.

Additionally, monitoring recognized the need for strengthening capacities for a complete and consistent implementation of the Law on Free Access to Information³.

(Un)ethical behavior of MPs

A consistent implementation of Codes of Ethics is of a fundamental significance for increasing a level of political accountability and citizens' trust in the parliamentary work. However, while some regional countries did not adopt Code of Ethics, other countries neither actively promote it, nor effectively implement it. Parliaments in the region should establish clear mechanisms for monitoring of implementation of Code of Ethics of MPs and sanctions for each violation of prescribed ethical standards. Regional practice shows that violation of Codes of Ethics mostly does not result in sanctioning inappropriate behavior and it is usually a subject of political agreements. Also, it is necessary to establish rules which will oblige member of parliaments to publish documents of procedures regarding violation of Code's provisions. Thus transparency of these procedures would be increased.

Insufficient effect of parliamentary control of other branches of power

Monitoring determined that a number of mechanisms for the parliamentary control of executive power is established in countries from the region. However, their implementation is most commonly of formal nature.

3) Monitoring has shown that the majority of parliaments does not have an established training system or guidebook for civil servants on accessing records, datasets and other information that are required to be published under the FAI law or which would enable them to undertake other obligations prescribed by the Law.

4) Parliaments' "rubber stamping" of the laws and non-usage of the existing oversight mechanisms derives from the Western Balkan countries' political systems, which are the direct cause of domination of executive over the legislative.

5) Index of parliamentary openness, conducted by the Center for Research, Transparency and Accountability (CRTA) has shown that the Parliament of Montenegro is the most transparent in the region in 2014, 2015 and 2016. Details available at: <http://otvoreniparlament.rs/istrazivanje>. Access: 27.03.2017.

In practice visible effects of control are missing and thus examples with specific outcomes in terms of defining accountability and sanctions for representatives of executive or other branches of power, are very rare.

Parliaments must not be places for uncritical adoption of proposals of executive power, but places for its review and effective control⁴. Legislative obligations of members of parliament must not be a reason for neglecting control function, which represents one of the most significant guarantees of democracy.

All regional parliaments are obliged to take efforts for a full implementation of existing mechanisms and thereby contribute to increasing level of political accountability.

Openness of the Parliament of Montenegro

For the last three years the Parliament of Montenegro has been the most transparent in the region⁵. According to the newest research results, the Parliament of Montenegro meets 85% of indicators of openness. This respectable result indicates dedication and hard work of the current and previous convocations of the Parliament. The step forward has been made in almost all segments of the Parliament's functioning.

On the Parliament's website a list of MPs and information on their salaries are available. All annual work programs and reports for the last three years are published. Also, draft laws, adopted laws, and submitted amendments are published. The Parliament publishes all needed information on public procurements.

Even though the Parliament achieves the best results in the region, there are several significant questions this institution must deal with in order to achieve international standards of openness and accountability. Following text provides key recommendations for a continuation of development in this area:

To strategically plan the development of openness and accountability of the Parliament of Montenegro through identification of key problems and proposals for their solution. Review Rules of Procedure, MPs Code of Ethics and consider the need for adopting the Law on the Parliament of Montenegro.

It is necessary to make more detailed analysis of specific provisions of the Rules of Procedure from the aspect of its effectiveness and quality of implementation in procedural, as well as essential aspe-

ct. For example, it is necessary to additionally specify procedure of scheduling extraordinary sessions due to the fact that they caused many public polemics and ambiguities. In addition, it is necessary to revise and improve provisions of the Rules of Procedure regarding the control of executive power. The Parliament must ensure mechanisms in order to operate according to conclusions and recommendations adopted on control hearings. Fact that in 2015 only one parliamentary control was conducted, which did not get a final epilogue⁶, is worrying. Parliamentary inquiries should not have “tie result” and thus new rules for MPs must be set.

Apart from that, it is necessary to reconsider the role of the Collegium of the President of the Parliament from the aspect of transparency and scope of its work. It has happened very often that the Collegium makes, at least, disputable decisions behind door and these decisions suspend the Rules of Procedure in some parts.

The Code of Ethics represents an act which should strengthen dignity and accountability of MPs, reputation of the Parliament as well as citizens’ trust in this institution. The Code is not implemented properly and in addition, it does not prescribe adequate sanctions for possible violations. The Parliament does not have practice of initiating disciplinary procedures regarding violations of the Code of Ethics. Despite expectations, there were deteriorations in this area since the adoption of the Code of Ethics. Therefore, this act did not fulfill its purpose.

Taking into account all above stated, it is obvious that the Parliament of Montenegro must actively deal with this and other issues. It is necessary to establish a working group which will analyze the problem and make a plan of changes for documents and practices, which do not function properly. The “crown” of this process would be adoption of the Law on the Parliament. The Law would place this, the most significant democratic institution, to a belonging place and its rights and obligations would be a legal category. Adoption of the Law on Parliament would require a participation and the widest possible consensus of all parliamentary political subjects.

To increase transparency of the work of parliamentary bodies’ through introduction of direct transmissions of their meetings. To enable more simple access to voting records for all agenda items from working bodies’ sessions.

6) The answer of the Parliament to CDT questionnaire, dated on 07.11.2016, states: Inquiry Committee for collecting information and facts on the events relating to the actions of competent state authorities in the protection of state property and public interest during the sale of assets of the JSC Tobacco Plant Podgorica in bankruptcy, submitted to the Parliament of Montenegro the report with proposed measures on 20th of July 2016. During the meeting of the fifth extraordinary session in 2016 the Report of the Inquiry Committee was on agenda but as agenda was not adopted, a debate regarding this item of agenda was also not published.

7) In the Report of the European Commission about Montenegro for 2015 it is stated that "The Parliament functions in a transparent way and there is still no procedure for acting pursuant to citizens' petitions." In the Report of the European Commission for 2016 it is stated that "the actions for establishing a procedure for solving petitions and complaints are not undertaken". Available at: <https://goo.gl/GMCNFR>, <https://goo.gl/THFUPX>. Access: 31.03.2017.

8) The Government proposed 96 laws in 2015 while the MPs proposed 65 laws. 28 of them was adopted by a shortened procedure due to adjustment of the Montenegrin laws with the European law and international treaties and conventions (the response of the Parliament on the questionnaire of CDT, delivered on 07.11.2016.)

Towards a completely transparent system of decision making in the Parliament it is necessary to increase transparency of working bodies' work.

The simplest solution is introducing direct internet transmissions of parliamentary bodies' sessions but also more transparent and fast displaying of voting records for all agenda issues. Additionally, it is necessary to regularly publish information regarding attendance of MPs on plenary sessions and thus citizens would have a direct insight into the accountability of work of persons they have voted for in elections.

To improve communications of the Parliament of Montenegro with citizens through introduction of channels for a "fast" communication on at least two social networks. To enable citizens to submit initiatives.

The Parliament of Montenegro should establish direct channels of communication with citizens through social networks as soon as possible. The Parliament currently is not active on these networks and thus citizens are deprived of receiving information through them.

Except the right of proposing laws through MPs, a direct submission of initiatives and petitions must be enabled to citizens. MPs should be obliged to thoroughly consider citizens' initiatives and put them into a parliamentary procedure. Also, it is necessary to consider a possibility of submitting them electronically so that citizens would exercise their political right in a more direct and accessible way. The EU Progress Reports⁷ also indicate a problem of non-existence of a procedure for acting on petitions. Parallel with introduction of these possibilities, it is necessary to adopt communication plan for their promotion in order to inform as many citizens as possible.

To adopt a unique methodology for evaluation of legal solutions (RIA analysis) and significantly strengthen the Parliament's capacities for creation of these studies.

Legislative activity of the Parliament⁸ must be improved in a way that it will work on evaluating possible influences of legal solutions during its preparation (RIA analysis). Laws proposed by the Parliament must pass a procedure, which will show their impact on citizens' lives. In this process all actors must be involved through consultations while results of analysis must be transparently conveyed to citizens. Results of analysis must be evaluated by experts in order to increase quality. Now we have a situation in which the Parliament

conducts analysis only occasionally⁹ and there is no unique methodology for that.

To improve budgetary transparency of the Parliament and to make it approachable to citizens. To increase transparency of the process of adopting the state budget.

It is necessary to enhance publishing of the budget and final account on the website¹⁰. Also, budgetary documentation should be published in an open data format. The Parliament should present to citizens budgetary plans in a simple and understandable way through adoption of Citizens' budget. In order to conduct more effective analysis of draft budgets all committees should discuss about it and provide their opinions.

Research methodology

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

A number of countries undertakes specific actions towards increasing their own transparency and accountability to citizens. The Regional index of parliamentary openness is developed in order to define to which extent citizens of the Western Balkans receive timely and understandable information from their institutions.

The Regional Index of Openness measures to which extent parliaments are open for citizens and society based on the following four principles: **1. transparency, 2. accessibility 3. integrity and 4. effectiveness.**

The principle of transparency includes the fact that organizational information, budget and public procurement are publicly available and published. Accessibility is related to ensuring and respecting procedures for a free access to information and strengthening interaction with citizens as well.

Integrity includes mechanisms for the prevention of corruption, conducting codes of ethics and regulation of lobbying. The last principle, effectiveness, is related to monitoring and evaluation of policies which are conducted.

9) An example for the fact that analyses are not conducted or that they are of poor quality can be illustrated by the amendments to the Law on Social and Mothers' Welfare in a part related to reimbursements for mothers with three and more children in which the attention was not paid to a huge influence on the state budget. As a result of that, we have a situation where reimbursements of this right represent a huge burden for the budget and they contribute to unsustainability of public finances.

10) On the website of the Parliament budget proposal for 2015 is published. Proposals for final accounts for 2013 and 2012 are available but final versions are not available. The final accounts for 2013 and 2012 are not published (adopted version – decree on proclamation of law).

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

Following the international standards, recommendations¹¹ and examples of good practice, these principles are further developed through quantitative and qualitative indicators, which are estimated on the basis of information availability on official websites, legal framework's quality for specific questions, other sources of public informing and questionnaires delivered to institutions.

Through more than 100 indicators we have measured and analyzed openness of the regional parliaments and collected more than 1000 pieces of data.

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

CDT Research Center (RC) was established in 2011 with the support of Think Thank Fund. RC strives to advance public policies, contribute to the quality of decisions made by authorities, and enhance public dialogue, and strengthen institutions.

Using contemporary scientific - research techniques and methods **RC** specially analyzes, investigates and evaluates:

- The regularity of the electoral process;
- Transparency and accountability of public administration at national and local level;
- Negotiation processes of European and Euro-Atlantic Integrations;
- Civil society functioning

RC in its work applies standards of transparency, objectivity, and accuracy. Relying on comparative examples of good practice and concrete results it defines measures and recommendations for improvement, which are delivered to decision makers and the general public.

RC is committed to continuous building of its research capacities and mechanisms, and successfully cooperates with domestic and foreign experts.

RC has conducted a series of research projects. We recommend to your attention:

Recommendations for improvement - Openness of executive power institutions in the region and Montenegro

<https://www.cdtmn.org/dobroupravljanje/du-analize/otvorenost-institucija-izvrsne-vlasti-u-regio-nu-cg-2017-predlog-prakticne-politike/>

Recommendations for improvement of communication of the Ministry of European Affairs

https://www.cdtmn.org/wp-content/uploads/2017/03/Preporuke-za-pobolj%C5%A1anje-komunikacije-Minis-tarstva-za-Evropske-poslove_final.pdf

Policy - Depoliticized and effective electoral management - Precondition for trust in elections

<https://www.cdtmn.org/wp-content/uploads/2017/02/DIK-Policy-01022017.pdf>

Recommendations For Improvement of Work of Agency for Prevention of Corruption

<https://www.cdtmn.org/izbori/izbori-analize/preporuke-za-unapredenje-rada-agencije/>

ANB - from the necessary confidentiality to the democratic transparency

<https://www.cdtmn.org/nato/nato-analize/transparentnost-anb-predlog-prakticne-politike/>

Planning, measuring, and reporting leveraging success of government policies

<https://www.cdtmn.org/dobroupravljanje/du-analize/predlog-prakticne-politike/>

Good governance in Montenegro - challenges and recommendations for improvement

<https://www.cdtmn.org/dobroupravljanje/du-analize/dobro-upravljanje-u-cg-predlog-prakticne-politike/>

Accession negotiations between Montenegro and the EU - active and well informed citizens or mere observers in the process

<https://www.cdtmn.org/eu/eu-analize/pregovori-o-pristupanju-cg-eu/>

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