



Accountability, Technology and
Institutional Openness Network
in SEE

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

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

Based on the
measuring
for 2016



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1. GENERAL INFORMATION

Openness represents a key condition for democracy - since it allows citizens to receive information and knowledge necessary for equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct. Institutions worldwide undertake specific activities with the aim to enhance their transparency and accountability before the citizens.

Open governance is based on four organizational principles: transparency, accessibility, integrity and awareness. These principles apply to all branches and levels of power, from the central executive power to the local self-government, the Parliament and the judiciary.

The Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society and is designed in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

In order to measure the degree of institutional openness, the ACTION SEE partners, adhering to international standards, recommendations as well as examples of good practice, assessed institutions through special quantitative and qualitative indicators, which assess institutions on the basis of: access to information on official websites of institutions, quality of a legal framework for individual cases, other sources of public informing and questionnaires delivered to institutions.

The responsiveness of institutions to the questionnaires was an additional indicator for their openness. Plenty of institutions scored negatively on indicators due to their non-responsiveness, which is also important to mention for two reasons: first, that institutional responsiveness is an indicator on openness itself, and second, that institutions' non-responsiveness has affected their index scores negatively, because they were automatically assessed with 0. Additionally, some of the indicators could've been assessed positively only if the existing laws were implemented.

The assessment was conducted in the period from October to the end of December 2016. On the basis of the monitoring of data and the findings, a set of recommendations and guidelines dedicated to institutions was developed based on the research results. The recommended steps for each category of institutions are made on the grounds of indicators that were not entirely fulfilled. Additionally, since some of the categories of institutions were assessed, i.e. executive agencies, local self-governments, courts and public prosecution offices, the recommendations and action steps for these institutions are general for the whole group of institutions.

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



2. STATE INSTITUTIONS

2.1. EXECUTIVE POWER IN THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

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 joined the Open Government Partnership as early as August 2011¹ and has committed to continuous improvement of milestones related to open, transparent, effective and efficient state institutions that communicate and cooperate with citizens², more efforts are needed to deliver commitments assumed³.

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 2006.⁴

In the period 2014-2018, the government's strategic priorities and goals included transparent and efficient operation of the government, especially when it comes to employees in the public administration⁵. More quality services were supposed to be provided to the citizens and the business community by means of thorough administration reforms, however practices shows that not a single institution has been "sanctioned" for being insufficiently open⁶.

¹ <https://www.opengovpartnership.org/country/macedonia/irm>

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

³ https://www.opengovpartnership.org/sites/default/files/Macedonia2014-2015_FinalEnglish_O.pdf

⁴ According to the Global Right to Information Rating, the Macedonian Law holds the high 16th place out of 111 whereas laws in Kosovo, Bosnia and Herzegovina and Montenegro hold lower ranks, but the overall index of these states is better than the Macedonian.

⁵ <http://vlada.mk/programaa/strateski-prioriteti-i-celi>

⁶ Active transparency is an obligation of all information holders arising from the Law on Free Access to Public Information, and implies publication of information related to their competences and work, such as: programmes, strategies, positions, opinions, studies, public procurement calls and tender documents, information on organizational setup, operation costs, etc.

2.1.1. GOVERNMENT OF THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

According to the index of openness, the government of the Republic of Macedonia ranks the lowest in the region and has a score of 52% under the relevant 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.






When it comes to citizens' participation, mechanisms exist as a formality only. Albeit 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 government's limited commitment to dialogue⁷. Public consultations and coordination with civil society remain insufficient⁸.

⁷ https://www.opengovpartnership.org/sites/default/files/Macedonia_Final_2014-15_O.pdf
page 30

⁸ <http://mcms.org.mk/images/docs/2016/ogledalo-na-vladata-2016.pdf>



ACTION STEPS

-  Increase of the degree of independence and the capacities of the Commission for Protection of the Right to Free Access to Public Information and increase of its competencies for implementation of the Law.
-  Addressing the major impediments 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 information⁹.
-  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.
-  Taking into account 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. Publication of "Civic Budget" on government's website, which is a document¹⁰ on budget intended for the non-expert public, so citizens of Macedonia could understand the budget through graphic and narrative explanations.
-  In order to improve transparency of its sessions, the government should publish the session agendas, documents reconsidered at sessions, minutes from sessions as well as the primary regulation that govern its work, for example, the Law on the Government of Republic of Macedonia, on its website. Publication of these documents significantly affects possibilities for stakeholders and citizens to participate in policies that are of special interest to them and affects their standard and quality of life as well as their communication with the government.

⁹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf

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.finance.gov.mk/mk/node/4105>

- Publication of semi-annual reports on the spending of the budget in the current year on government's website, which pursuant to the Law on Budgets¹¹, will be delivered to the government by the Ministry of Finance.
- Publication of the current budget in searchable format, because searchability of the current budget¹² is impossible, which hinders the analysis of the available .pdf format.
- Publication of the public procurement plan on government's website in order to improve government's transparency regarding public procurements which is 60%.
- Publication of annual work reports by the government is one of the key instruments of openness, as well as control of its performance by the citizens.
- Government's dedication to dialogue and improvement of participation of citizens by using the mechanisms which currently are a formality.
- Addressing public consultations and coordination with civil society in the new Strategy on Public Administration Reform, which will be adopted, i.e. compulsory publication of annual plans on regulatory impact assessment (RIA), to begin with.



2.1.2. MINISTRIES

MAIN CONCLUSIONS

Ministries in the Republic of Macedonia have an average of 32% completion under the general indicators on openness. Under this degree of openness, Macedonian ministries 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 Defense to 52% for the Ministry of Labor 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 have the best completion rate of 41%, but are still insufficiently open in terms of transparency indicators on budget planning, organizational set-up 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 (calls for bids) and/or decisions on public procurements (meaning that 80% of them do not publish procurement notices and decisions on public procurements).

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%.

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 writing 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.

The infographic consists of two overlapping circles. The top circle is light orange and contains the text '32% is the average completion under the general indicators on openness of the ministries in Macedonia'. The bottom circle is a darker orange and contains the text '80% of the ministries don't publish procurement notices and decisions on public procurements'.

32%

is the average completion
under the general
indicators on openness
of the ministries
in Macedonia

80%

of the ministries don't publish
procurement notices and
decisions on public
procurements



99%

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



13%

publish procurement notices
and/or decisions on
public procurements

ACTION STEPS

- ✚ In order to complete the indicators on prevention of conflict of interests, ministries should publish officials' asset declaration on their websites, and also to upload links to the State Commission for Prevention of Corruption where said asset declarations are uploaded pursuant to the law.
- ✚ Ministries should publish public procurement plans and notices (calls) as well as the decisions on public procurements on their websites. In Macedonia, established practices imply publication of information related to public procurements on the national public procurements website, but according to international standards on transparency, information should also be published on websites of relevant institutions.
- ✚ Ministries should publish semi-annual reports on budget spending as well as final accounts on their websites. Only the Ministry of Finance complies with its law-stipulated obligation on publishing semi-annual reports on budget spending, annual budget and final account which, inter alia, contain budget information on other ministries, but that does not mean that ministries themselves should not publish these data on their websites in order to make them more easily accessible to citizens.
- ✚ Ministries should prioritize openness in their work.

2.1.3. OTHER STATE ADMINISTRATION BODIES

MAIN CONCLUSIONS

Openness of other executive bodies is low in all states from the region and ranges from 17% to 49%. In Macedonia, openness of 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 3 years, and 13% have published their semi-annual reports on budget spending. Information on organizational set-up is also insufficient.

Interaction of other executive bodies with citizens is exceptionally low. At only 11%, this aspect of their operation is ranked the lowest in the region.

ACTION STEPS

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

17-49%

is the score of openness
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the region

Openness of
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in Macedonia is assessed
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25%

2.2. PARLIAMENT OF THE REPUBLIC OF MACEDONIA

MAIN CONCLUSIONS

Although the Parliament, i.e. the legislative branch of government, is the most open in the country, its low score of 59% under indicators on openness ranks the Macedonian Parliament below the average of 63% calculated for openness of parliaments in the region. Despite the serious institutional crisis, the Parliament remains the most open window among the three branches of government, as it regularly publishes agendas of plenary sessions and working bodies, videos and shorthand notes from plenary sessions, attendance lists and vote scores by MPs at plenary sessions, contact information and biographies of MPs and annual reports as well.

The Parliament should improve, i.e. establish the practice on publishing conclusions and minutes from coordination meetings organized by the Parliament Speaker with the parliamentary party groups. Decisions made at these coordination meetings are of great importance for the citizens and for the work of MPs, but according to practices in place, these decisions and minutes are not published.

IMPROVEMENT OF RULES AND PRACTISES ON ADOPTING LAWS

Parliament of the Republic of Macedonia has score of only 35% under indicators on consultative processes with the public in adopting laws and other policies. On annual level, the Parliament adopts high number of laws, but worrying is the fact that these laws are enacted in fast-tracked procedure¹³, while the Parliament is not obligated to organize consultations with the civil sector and other stakeholders.

MACEDONIAN PARLIAMENT SHOULD ADOPT CODE OF CONDUCT

Parliament of the Republic of Macedonia has not adopted the Code of Conduct for MPs in spite of announcements¹⁴.

¹³ Among total of 366 laws adopted in 2016, as many as 238 were adopted in fast-tracked procedure (<http://sobranie.mk/content/izvestai/IZVESTAJ%20ZA%20RABOTATA%20NA%20SOBRANIETO%20NA%20RM%202016.pdf>); among total of 606 laws adopted in 2015, as many as 339 were adopted in fast-tracked procedure (<http://sobranie.mk/content/izvestai/2011-2014/IZVESTAJ%20ZA%202015%20godina.pdf>) or among total of 167 laws adopted in 2014, 59 were adopted in fast-tracked procedure (<http://sobranie.mk/content/izvestai/2011-2014/IZVESTAJ%202014%2010.05%20-%2031.12.2014.pdf>).

¹⁴ <http://sobranie.mk/prebaruvanje.nsp?x=q=%D0%B5%D1%82%D0%B8%D1%87%D0%BA%D0%B8%20%D0%BA%D0%BE%D0%B4%D0%B5%D0%BA%D1%81>



IMPROVEMENT OF PARLIAMENT'S OVERSIGHT MECHANISMS

The main oversight mechanism used by the Parliament concerns sessions for MP questions, which has been assessed as insufficient. In practice, MP questions are almost unequivocally addressed to the government and line ministers, but not to officials appointed by the Parliament, although the Rules of Procedure allow such possibility. Also, the Parliament insufficiently uses oversight sessions, which have been established as mechanism by the Law on the Parliament, and should represent supervision instrument for enforcement of adopted laws and policies.

IMPROVEMENT OF FINANCIAL TRANSPARENCY

Indicators on state budget openness have an exceptionally low score of 29%, therefore the Parliament should take serious measures to improve general, but also budget transparency.

Parliament of the Republic of Macedonia publishes the proposed budget, but not the final adopted version of the budget, or the semi-annual reports on budget spending and the final account. Only document in this regard hosted on the Parliament's website is the proposed final account submitted by the Ministry of Finance.

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

COMMUNICATION MECHANISMS WITH CITIZENS SHOULD BE PROMOTED MORE

Parliament of the Republic of Macedonia has score of 61% under indicators on interaction with citizens: its official website includes separate section dedicated to communications between MPs and Parliament Speaker with citizens and this institution is present and active on social networks as well.

But, despite these mechanisms, the Parliament's reports and other relevant documents do not include information on how much does the Parliament actually engages in communication with citizens and whether this practice leads to actual and

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efficient involvement of citizens, therefore mechanisms on communication with citizens need to be improved and promoted.

An especially important mechanism for communication between MPs and citizens are local offices established in MPs' "native" municipalities, where - according to the Law on Parliament - MPs should be available to meet citizens every last Friday of the month. However, the Parliament's annual report does not include information on manner and extent to which MPs have complied with this obligation and citizens' entitlement.

ACTION STEPS

- ✚ Parliament should publish data on MPs' salary brackets, requested travel expenses remunerations, because such data are always a subject of interest and criticism by the public and the media as well.
- ✚ Parliament's website should contain MPs' sessions attendance list, shorthand and video records as well as vote scores by MPs participating in the working bodies.
- ✚ Video records from sessions should be published on Parliament's website.
- ✚ Parliament should publish conclusions and minutes from coordination meetings between the Speaker and the parliamentary party groups.
- ✚ Introduction of mandatory consultations with the civil sector and abandoning the practice of abusing the possibility for adopting laws in fast-tracked procedure¹⁵ is necessary. That implies amendments to the existing Rules of Procedure and introduction of annual work plan by the Parliament, in order adoption of laws in urgent or fast-tracked procedure, without prior consultations and beyond anticipated work plan of the Parliament, to be avoided.
- ✚ Macedonian Parliament should adopt Code of Conduct. Practices indicate the necessity for its adoption because mechanisms, such as inquiry committees for resolution of certain unethical acts, are inefficient.

¹⁵ Blueprint for Urgent Democratic Reforms, page 41, http://fosm.mk/CMS/Files/Documents/BP_MKD_FINAL_08.07.2016.pdf

- ✚ Improvement of Parliament's oversight mechanisms. Parliament insufficiently uses oversight sessions which are established as mechanism by the Law on the Parliament, and should represent supervision instrument for enforcement of adopted laws and policies.
- ✚ Parliament should improve and increase its role in reconsidering reports of regulatory bodies or human rights bodies.
- ✚ Mandatory reconsideration of these reports, at least on the part of working bodies, must be taken into account as possibility.
- ✚ Parliament should publish the final adopted version of the budget, the semi-annual reports on budget spending and the final account on its website.
- ✚ Uploading links to State Commission for Prevention of Corruption's website, which hosts MPs' assets declarations, on Parliament's website.
- ✚ Uploading links to the national public procurement website on Parliament's website.
- ✚ Communication mechanisms with citizens should be improved and promoted. Parliament's reports and other relevant documents should include information on how much does the Parliament actually engages in communication with citizens and whether this practice leads to actual and efficient involvement of citizens.

Parliament should
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2.3. JUDICIARY

MAIN CONCLUSIONS

OPENNESS OF THE JUDICIARY IN THE REPUBLIC OF MACEDONIA

Over the last several years, in continuity, judicial authorities in Macedonia have been subject of criticism by domestic and international experts, institutions and organizations. The state is facing a major challenge to ensure independence and to eliminate political influence on decision making at prosecution and judicial services, as well as to enable depoliticized appointment and promotion of judges and prosecutors¹⁶. Lack of strategic framework¹⁷ on reforms in the judicial branch of government in Macedonia has contributed to its undermined independence, which is indispensable in order to yield benefits from previously implemented reforms and to safeguard the judicial system against further backsliding.

Transparency of courts is a highly important element that contributes to judiciary's independence. In addition, transparency in terms of court performance and publicity of court proceedings could contribute to increased citizens' trust in the judicial system as a whole.

All above enlisted remarks about the judiciary are duly mirrored in the Index of Openness of Judicial and Prosecution Offices. Under the indicators on openness, courts in the Republic of Macedonia have a score of 52%. Majority of Basic Courts demonstrated scores above the average of 52% under the indicators on openness, while Appeal Courts and the Supreme Court of the Republic of Macedonia are ranked slightly above the average with score in the range of 55% to 57%.

As regards the principles of transparency, accessibility, integrity and effectiveness, which served as baseline for this research, courts have the lowest score under indicators on transparency, standing at only 33%, including indicators on publication of information on organizational structure, operational budget, and publication and access to information on public procurements.

¹⁶ Recommendations of the Senior Experts' Group on Systemic Rule of Law Issues Relating to the Communications Interception revealed in 2015, also known as the Pribe Report, available at:

https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf

¹⁷ Although by the end of 2015 the draft strategy on judiciary reforms for the period 2016-2020 was in final stage of development, to present it is not adopted.

As part of this research, the principle of accessibility concerns establishment and compliance with procedures on free access to information and enhanced interaction with citizens. In this regard, courts have scored 58% under relevant indicators, while the Judicial Council demonstrated a score of 71%.

CODE OF CONDUCT FOR JUDGES

As regards the principle of integrity, courts attained a score of 65% under relevant indicators. More specifically, this principle includes mechanisms on prevention of corruption, application of codes of conduct and regulation of lobbying activities. In spite of adoption of Codes of Conduct for Judges in 2006 and 2014 and Codes of Conduct for Prosecutors in 2004 and 2014, i.e. in spite of the fact that these integrity mechanisms have been introduced a long time ago¹⁸, there is little evidence on compliance with them¹⁹.

PRINCIPLE OF PUBLICITY AND ACCESS TO INFORMATION

As indicated above, dynamics and implementation of judicial reforms are under continuous monitoring by international and domestic institutions and organizations. Access to court rulings is an obligation assumed by the state and implies improved online accessibility of court rulings, improved searchability and easy access.

At this level of accessibility (publicity and access to information), courts have an average score of 58% under relevant indicators, i.e. 45% under the indicators on publicity and 69% under the indicators on access to information.

As regards enabling publicity of court hearings, courts do comply with legal provisions²⁰, but some of them stressed that “due to lack of courtrooms or lack of interest on the part of the public²¹” they have observed absence of the public at court hearings, i.e. established that the interest is entirely dependent on “subject matter of court proceedings in question²²”.

IMPROVEMENT OF FINANCIAL TRANSPARENCY OF COURTS

Courts are financed by the judicial budget, which also funds the Judicial Council of the Republic of Macedonia, the Academy for Training of Judges and Public Prosecutors and the Judicial Budget Council²³. Although for years on end, courts have insisted on financial independence, the judicial budget is part of the Budget of the Republic of Macedonia.

¹⁸ In addition, “Practical Guide for the New Code of Conduct” was developed, available at: <http://www.jpacademy.gov.mk/upload/PDF%20Files/Vodic%20za%20sudska%20etika%20BetettoSessa%20MK.pdf>

¹⁹ EC’s 2016 Country Report for the Republic of Macedonia, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf

²⁰ Articles 353 to 356 of the Law on Criminal Procedure and Articles 286 to 292 of the Law on Litigation Procedure

²¹ Responses obtained from the Basic Court in Kavadarci on the questionnaire used for qualitative assessment of indicators.

²² Responses obtained from the Basic Court in Strumica on the questionnaire used for qualitative assessment of indicators.

²³ Law on Judicial Budget (“Official Gazette of the Republic of Macedonia” no.60/2003; 37/2006; 103/2008 and 145/2010)

²⁴ Sectors addressed under the draft Strategy on Judiciary Reforms (2016-2020) include: courts, penitentiary system, access to justice and transparency, policy and coordination, administrative judiciary, information technology system and e-justice.

²⁵ Accessed on 14 May 2017 http://www.vsrn.mk/wps/wcm/connect/ssrm/2983c459-7426-446a-8217-61d1db5906df/dummy_pdf.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE.Z18_L8CC1J41LOB520APQF.KICDOCR4-2983c459-7426-446a-8217-61d1db5906df-kZzRhJ2

The Index of transparency has a score of only 33%, knowing that this Index covers publication of information on organizational structure, operational budget and access to information on public procurements.

ACTION STEPS

- ✚ Development and adoption of Strategy on Judiciary Reforms²⁴.
- ✚ Practical introduction of multiple mechanisms which imply implementation of the principle of transparency, including the manner in which court rulings and schedule of court trials are published, transparency of courts' financial operations, their relations with the media, as well as automated assignment of cases which, in addition to improving transparency, also affects judiciary's independence and the public's trust in adequate operation of the judicial system.
- ✚ In addition to appointment of spokespersons tasked to maintain communication with journalists, mechanisms for improved transparency include both the practice and legal obligation on appointing officers responsible for facilitation of citizens' free access to public information.
- ✚ Courts' websites should host information on organizational structure, planned operation budget, budget spending and public procurements.
- ✚ The official website of the Judicial Council of the Republic of Macedonia should host the institution's budget, because currently there is a category titled "judicial budget" but it doesn't include any documents²⁵.
- ✚ In order to improve their transparency, Basic Courts need to publish annual work reports on their respective websites, which was duly observed as major shortcoming under this research.
- ✚ Courts should publish Codes of Conduct on their websites.
- ✚ Courts should allow Internet access to court rulings, and they should especially work on providing searchability and easy access.



- ✚ Courts in Macedonia should provide electronic access to case files for parties involved therein, electronically available information for said parties in terms of stage of case proceedings as well as electronic access to minutes from court hearings in cases where they appear as affected parties.
- ✚ Courts' respective websites should include information on the official person for access to public information as well as register of information they possess.
- ✚ Courts' websites should also include information the planned annual operation budget as well as the budget spending.
- ✚ As regards improvement of their transparency, it is not sufficient for courts to publish only contact information of spokespersons appointed, but should also publish information such as: name, contact information and salary brackets of judges; organograms; scope of work and short professional biographies of court employees; public procurements, including contracts signed and annexes to said contracts, which are subject of interest for the public and the media; judicial budget spending.
- ✚ At the same time, the Judicial Portal of the Republic of Macedonia should also host links²⁶ to the State Commission for Prevention of Corruption, which publishes asset statements of judges, as well as link to the Ministry of Finance which publishes reports on budget spending.

²⁶ http://www.vsrn.mk/wps/portal/osskopje1/sud/bl/linkovi/korisni%20linkovi!/ut/p/z1/tVTLbSlwEPyV9sAx8oa8zDFQCIUg2oJL4gvKE1yIE0ICVb-pkWqQCVphfDF8np2NDveNaLIQZR7O7bwCpZyby3OLtXnuqWqgldgA5loYHbbgMEYyxYx0OwUgCcvbQEAA09bJlg9QFRct-BBI9sdsMdDA4M5II2bWI8DW5bRK6KIBmWeR7xAbpGX0VeAF1mxRG5W-msWzJNV A7ZI2AA_2B3a8ZX6Y41YJXmbMsvBw5MWcBC5PpBplW6qkua4oOkelEstfSwJQWxOpTIWI08zzuWUqGVXmEFVpQ6K77z4cly4W_5FQJpNf3s4FeNgIMPfmxCnBohz6gQR3GFYUYP4Bxv2eASbqyZuLnpgpC6Y5Fe0R4mieiRyf_fOcz-jOf-sZt6W-sXr6SfIDX5eJHaOajzmghaLiIKTEep8g5nzyBYm-bDTXFLKe8iN4L5Fw5zFICEqwkEiHEAfa0tDo-3k_j5LjN8Na8_wQI34no/dz/d5/L2dBISEvZ0FBIS9nQSEh/?urile=wcm%3Apath%3A%2Fpublic_mk%2Fsud%2Fbrzi%2Blinkovi%2Fkorisni%2Blinkovi%2Fkorisni%2Blinkovi

2.3.1. PUBLIC PROSECUTION OFFICES

MAIN CONCLUSIONS

The score of 26% under the indicators on openness calculated for prosecution offices is extremely low. Only the independent executive institutions in the Republic of Macedonia are less open and they have a score of 24% under relevant indicators. The situation is better, but still unsatisfactory, in the case of the State Prosecution Office of the Republic of Macedonia, with a score of 51% under the indicators on openness.

As regards information accessibility, which is also used to assess openness of institutions, the State Prosecution Office enjoys a hierarchical top position compared to basic and higher prosecution offices, and the small scope of information of these lower-echelon prosecution offices are published only on the website of the State Prosecution Office.

Absence of individual websites for basic and higher prosecution offices would not have been perceived as fault if the official website of the State Prosecution Office is richer in information. Single sources of information available on this website include the annual work report for all public prosecution offices and incidental press releases.

BASIC AND HIGHER PROSECUTION OFFICES

Analyzed in terms of categories, basic prosecution offices have a defeating score of 1% under indicators on transparency, as they do not have own websites.

Said categories of information, with the exception of annual reports, are not uploaded on the website of the State Prosecution Office as well. Furthermore, in terms of access to information, prosecution offices scored 38% under relevant indicators, which is a result of the fact that, at the time of this research, the websites hosted information on officers responsible for free access to public information.

In their responses to the questionnaire, institutions claimed that they have established system and guidelines on training employees on how they should provide access to case files and other information at their disposal.

As regards performance monitoring for prosecution offices, they have a score of 42% under the indicators on openness. On the other hand, their score under the indicators on integrity accounts for 50%, mainly due to adoption of the Code of Conduct for Prosecutors, but this document is not uploaded on the State Prosecution Office's official website.

STATE PROSECUTION OFFICE OF THE REPUBLIC OF MACEDONIA

Average score of 51% calculated for the State Prosecution Office under the indicators on openness is higher, but it remains unsatisfactory. This prosecution office has the highest score under accessibility, i.e. access to public information – 75%, while its lowest score is noted under transparency – 37%. In spite of the fact that this office is the highest body within the prosecution service hierarchy before which basic and higher prosecution offices are held accountable and should therefore serve as example, it has failed to publish any information related to its budget and is therefore assigned a score of 1% under these indicators.

In contrast, this institution has published many information related to public procurements and is therefore assigned score of 75% under indicators on openness.

ACTION STEPS

- ✚ Designing separate websites for basic and higher prosecution offices that will contain all information related to these institutions and/or enrichment of information on basic and higher prosecution offices already available on the website of the State Prosecution Office of the Republic of Macedonia.
- ✚ In order to improve their transparency, public prosecution offices should publish current strategies; programmes and work plans; annual reports; competences; organograms; personnel, including name, surname salary brackets of prosecutors etc. on their websites.
- ✚ Prosecution offices' websites should contain information on persons responsible for providing public information.

State Prosecution Office's average score under the indicators on openness is higher, but it's still unsatisfactory and amounts

51%

State Prosecution Office has failed to publish any information related to its budget and is therefore assigned a score of

1%

²⁷ Shadow Report on Chapter 23 developed by Network 23, available at: http://www.epi.org.mk/docs/lzvestaj_mk.pdf, page 13

²⁸ EC' 2016 Country Report for the Republic of Macedonia, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf, page 13 & 54.

- ☞ Code of Conduct for Prosecutors should be published on the website of the State Prosecution Office of the Republic of Macedonia.
- ☞ The State Prosecution Office of the Republic of Macedonia should publish information on its budget on its website.
- ☞ The State Prosecution Office should continue the practice of publishing information on public procurements.
- ☞ Adoption of the draft strategy which, inter alia, is geared towards increased transparency of judicial bodies²⁷, should become one of the priority policies to be adopted, as stepping stone on the path to address serious weaknesses faced by judicial bodies.

2.3.2. COUNCIL OF PUBLIC PROSECUTORS

MAIN CONCLUSIONS

The Council of Public Prosecutor has score of only 38% under the indicators on openness and proves to be yet another weak link in the system of prosecution services. The Council has the lowest scores for accessibility, as it fails to demonstrate any performance under indicators on access to information, however the highest of its scores are under the indicators on integrity 72%, i.e. 82% for the code of conduct and 62% for independence.

Its score under the indicators on transparency is exceptionally low and stands at 27%. Remarks of the European Commission presented in its last country report are serious²⁸, and underline the need for urgent efforts for reforms at judicial bodies.

ACTION STEPS

- ☞ The Council of Public Prosecutors' website should include information on public procurements.
- ☞ Its website should also contain the work reports, work plans, strategies and budget as well.

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

MAIN CONCLUSIONS

Citizens of the Republic of Macedonia are guaranteed the right to local self-government, whereby local self-government units are defined at the level of municipalities. The essence behind the existence of municipalities is to serve the citizens, and base their transparency on open data and information, clear procedures on participatory decision making, clear procedures on receiving public services, as well as being held accountable for spending public funds at their disposal for the purpose of improving community life²⁹.

Municipalities have a score of 34% under the index on openness. As regards the principles of transparency, accessibility, integrity and effectiveness, which provide the baseline for this research, municipalities demonstrated the lowest performance under indicators on accessibility, i.e. they have a score of only 27% under indicators related to provision of and adherence to procedures regarding free access to information and strengthened interaction with citizens.

The principle of transparency includes that information on organizational structure, operational budget and public procurement procedures is publicly available and published. In order to improve their transparency, municipalities, which have a score of 35% under the index of transparency, must make every publicly funded activity public, whereas information on these activities must be equally and easily accessible to all citizens.

Municipalities lack the practice of publishing contracts and annexes thereto concluded on open public procurements. As much as two thirds of analyzed municipalities don't publish the public procurement plan for the current year. Data that show 0% completion under the indicators on public procurements on the part of 11 municipalities are concerning, and provide space for suspicion that possible abuses and corruption activities may occur, which weakens citizens' trust in elected representatives.

²⁹ Standards on transparency, accountability and civic participation on local level have been established in several documents: Law on Local Self-Government, Law on Free Access to Public Information, Code of Conduct for Local Officials, Code of Conduct for Civil Servants, Law on Prevention of Corruption, Law on Conflict of Interests, etc.

³⁰ Article 3 of the 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)

³¹ Overall goal of the Budget Forums is to increase participation of citizens in the process on municipal budget adoption and increased transparency on the part of the municipality.

The Law on Budgets³⁰ establishes the principle of transparency, which implies access of the public to all stages of budget planning and execution. This means that all budget beneficiaries, including the municipalities, are obligated to be transparent before the public in terms of the budgeting process. Only a small number of municipalities have established practice on organizing Budget Forums with citizens³¹.

Municipalities have a score of 49% under the index on transparency, subcategory on budget transparency. High share of municipalities publish adopted budgets and final accounts, but in protected .pdf format, which makes them difficult for searching.

Despite the fact that open data have been prioritized on local level by the state under the Open Government Partnership, this research showed that municipalities have a score of only 8% under indicators on open data.

Municipalities have a score of 42% under indicators on awareness. This category is comprised of several areas, those being: 1. Monitoring and evaluation; 2. Reports; 3. Strategic planning. Municipalities demonstrated highest performance in terms of reporting (79%), as public enterprises and mayors are obliged by law to account for their operation before the Municipal Council.

Furthermore, they have a score of 33% under indicators on strategic planning, because only one third of municipalities has adopted developmental strategies with clearly defined development goals. In this segment, municipalities have the lowest performance (21%) in the field of monitoring and evaluation.

Taking into consideration the major differences observed among municipalities in terms of performance under indicators on transparency, there is obvious need for coordination and establishment of certain benchmarks for all municipalities that would represent minimum standards on openness. Such standards should not imply uniformed municipalities, yet establishing guarantees for providing the minimum conditions for openness.

ACTION STEPS

- ✚ Municipalities should work on providing and adhering to procedures on free access to information.
- ✚ Municipalities ought to publish information that should be published on municipalities' websites without any prior request, such as decisions made by municipal councils, decisions made by mayors, minutes from sessions of municipal councils, municipalities' statute, councils' rules of procedures.
- ✚ Municipalities should focus on strengthening interaction with citizens. They should improve communication with citizens via social networks, publish monthly newsletters for citizens about municipalities' work. Additionally, municipalities should organize public debates for citizens that will cover issues of local importance.
- ✚ In order to contribute to their openness, municipalities should publish plans on public consultations with citizens regarding municipal policies, as well as minutes from meetings held with citizens.
- ✚ Every publicly funded activity must be public, whereas information on these activities must be equally and easily accessible to all citizens. Municipalities' websites should include information on organizational structure, operational budget and information on public procurements, public procurement plans for the current year in particular, decisions, contracts and annexes thereto concluded on open public procurements as well as other municipal expenditures.
- ✚ In order to be transparent before the public in terms of the budget process, municipalities should organize Budget Forums with citizens.
- ✚ Additionally, adopted budgets and final accounts should be published in open formats, which make searching easier.

- ✚ Taking into consideration that municipalities are closely linked to spending public money, municipalities must thoroughly advance their accountability in the future, i.e. they have to publish public procurement plans, decisions, contracts, annexes to contracts as well as other municipal expenditures.
- ✚ Municipalities should publish Civic Budget. Civic Budget is document aimed to transparently present information contained in the municipality's annual budget and inform citizens in simple manner, with use of charts and budget illustrations, so they would understand planning and allocation of municipal budget funds. Also, it helps citizens to understand revenue sources in the municipality's budget, as well as priorities on which their money is spent.
- ✚ Developmental strategies with clearly determined developmental goals, as well as managerial frameworks that will include indicators measuring completion of municipalities' objectives, obligations and tasks, are key for improving the poor results demonstrated under the indicators on strategic planning and monitoring and evaluation.
- ✚ In terms of performance under indicators on transparency, there is obvious need for coordination and establishment of certain benchmarks for all municipalities that would represent minimum standards on openness. Such standards should not imply uniformed municipalities, yet establishing guarantees for providing the minimum conditions for openness.
- ✚ The Association of Local Self-Government Units (ZELS) should increase its role and take initiative.

3. METHODOLOGY

The Regional 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. Openness is a key condition for democracy because it enables citizens to obtain the information and knowledge they need to equally participate in public debates, to take enlightened decisions and to hold governments accountable. Openness also supports good governance because it allows governing elites to reconsider and draw on ideas and expertise dispersed in society.

The Regional Index of Openness measures the extent of institutions' openness to citizens and society based on the following four principles: 1. transparency, 2. accessibility 3. integrity and 4. awareness.

The principle of **transparency** means that a government provides clear and relevant public information on its work. This information relates to the organization and work of government institutions, mostly to budgeting and public procurement procedures.

Accessibility is related to ensuring and adhering to procedures on free access to information and strengthening interaction with citizens as well.

Integrity includes mechanisms for preventing corruption, adopting codes of conduct and regulating lobbying activities.

The last principle, **awareness**, is related to monitoring and assessment of policies which are conducted. Awareness denotes the availability and provision of information and knowledge within the government.

The four principles are further disaggregated into individual questions that are assessed 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. The Openness Index assesses how these four principles are realized in the following institutions or sets of institutions: core executive; line ministries; executive agencies; parliament; local self-government; courts; public prosecution. Since these institutions perform different functions in the process of governing or policy-making, individual questions are adapted to match the profiles of the respective institutions.

METHODOLOGICAL CONSTRAINTS

Research methodology provides a formal insight into the achieved level of institutional openness in the region. However, in certain cases, its conclusions on how the institutional openness functions on the ground are limited. The very existence of the legal framework on institutional openness is not a guarantee that good governance principles are implemented in practice. This research provides a space for further, in-depth policy analyses of particular segments of openness and good governance principles implementation, which would be valuable for obtaining a comprehensive and clear picture of the openness of public institutions in the region.

Moreover, differences in governance structure and territorial organization between Western Balkans countries limit, to a certain extent, the comparative assessment of the achieved levels of institutional openness. In that regard, results of executive, legislative and judicial openness sometimes do not reflect actual relations between different institutions at both, national and regional levels.

4. PROJECT

Good governance is key to rule of law. While corruption, transparency, rule of law and good governance are always in the spotlight, the understanding of systemic problems, which hardly receive sufficient coverage, remains scant. The “ACCOUNTABILITY, TECHNOLOGY AND INSTITUTIONAL OPENNESS NETWORK IN SOUTHEASTERN EUROPE - ACTION SEE” project aims to raise awareness of such challenges by facilitating cooperation among civic organizations and consolidated strategic efforts for representation.

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

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

SPECIFIC PROJECT GOALS:

- ✚ Promote a dynamic civic society which effectively mobilizes citizens for active participation in issues related to the rule of law and good governance and affects policies and decision making processes at a national and regional level.
- ✚ Strengthen mechanisms for dialogue between civic organizations and government institutions and influence good governance and public administration reforms.
- ✚ Stimulate civic and media organization networking at local and EU level, allowing the exchange of know-how, skills and connections, as well as increase the influence of their representation efforts.

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

ACTION SEE project, funded by the European Union, is implemented by Metamorphosis Foundation, Westminster Foundation for Democracy, CRTA – Center for Research, Transparency and Accountability, Citizens Association Why not?, Center for Democratic Transition, Open Data Kosovo (ODK) and Levizja Mjaft!.

5. READ MORE

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

<https://goo.gl/BoJY6f>

Parliament openness in the region and Macedonia

<https://goo.gl/dhqVJq>

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

<https://goo.gl/Pb2ZVj>

Openness of judicial bodies in the region and Macedonia

<https://goo.gl/cGUuty>

