



Accountability, Technology and Institutional Openness Network in SEE

Regional Road Map for the Western Balkans

ACTION STEPS FOR COMMON RECOMMENDATIONS FROM COUNTRY ROAD MAPS PUBLISHED BY ACTION SEE NETWORK

Based on measuring for 2016



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



Regional Road Map

on Good governance
for the Western Balkans

Action steps for common
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Metamorphosis mission is to contribute to the development of democracy and increase the quality of life through innovative use and sharing of knowledge. Our guiding values are openness, equality and freedom.

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

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 **ActionSEE**

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1. INTRODUCTION AND GENERAL INFORMATION

Openness is a pre-condition for effective democracy. 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. Indeed, 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. Across these institutions, worldwide, specific activities are being undertaken to enhance transparency and accountability to citizens.

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

To support these efforts, the ACTION SEE project has developed the Index of Openness, a composite index that measures the degree to which governments in the Western Balkan countries are open to citizens. The index is designed to determine the degree to which citizens of the Western Balkan receive timely and understandable information from their state institutions.

The Index of Openness was compiled by ACTION SEE partners adhering to international standards and examples of good practice by assessing state institutions using special quantitative and qualitative indicators, including but not limited to following areas: 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. Several institutions scored negatively on indicators due to their non-responsiveness, which is noteworthy 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 not be assessed positively because existing laws were not being implemented.

The assessment was conducted in the period from October to the end of December 2016. Based on the monitoring of data and the findings, ACTION SEE then produced country road maps for each of the Western Balkan countries, presenting detailed proposals for action points for each of the assessed institutions to implement. The recommended steps for each category of institutions are made on the grounds of indicators that were not entirely fulfilled.

This Regional Road Map should be used as a general overview of common issues that Western Balkan countries are facing in terms of openness, as defined by international standards. It focuses on the similarities that emerged across the individual country road maps. Moreover, it can be used as a guide for identifying those most pressing action points that all countries should take to improve the openness of their institutions, as it contains the most important recommendations for the whole region. Readers can find methodology and general project information at the end of this paper.



2. STATE INSTITUTIONS

2.1. CORE EXECUTIVE

Results from the Index of Openness suggest that across the region the level of openness of the executive branch of government is poor, scoring only 41% across measured indicators. The highest ranked country is Montenegro, while Macedonia is the lowest ranked country in “Core Executive” level of openness. The “Awareness” element of the Index, which addresses issues of regulatory impact assessments, was an area where executives performed particularly badly.

Executives generally lacked transparency and openness policies based on a clear, consistent and grounded strategic framework. ACTION SEE’s analysis shows that these issues are often handled in ad hoc fashion, undermining efforts to create long-term, sustainable change. Rather, countries are busying themselves with the compilation of various rulebooks, acts and obligations and avoiding a more systematic approach. Level of openness in all states still depends on “political will”. Even if laws, rules and procedures are established to guarantee openness of institutions, implementation remains reliant on political decisions/understanding as opposed to the rule of law.

A change of approach and treatment of this important issue from current and future governments is necessary. Transparency, openness and accountability in good governance represent basic preconditions of high-quality executive power and they must not be treated as favors the executive is offering to citizens. Governments must pay a special attention to the implementation of laws on access to information, which, generally, do not provide satisfactory results. Lastly, but maybe the most important of all, is the need to address the lack of financial transparency given that regional governments do not have a standard practice of publishing financial information and documents.

ACTION STEPS

Every Government in the region should adopt the central policy of openness which will apply to all entities in scope of core executive – Government, Ministries, and various agencies (Offices, Secretariats, Administrations, etc.). This policy should be strongly promoted by the Government, and it should give clear set of instructions for every person in charge (in mentioned institutions) on how to act to meet the openness criteria. Using and promoting open data standards in the disclosure of information should be a priority for the governments.

Governments in the region should establish the benchmarking system for evaluation of FOI act’s results. This system would enable the Governments to proactively upgrade their procedures on FOI requests, and to better inform the public about those requests.

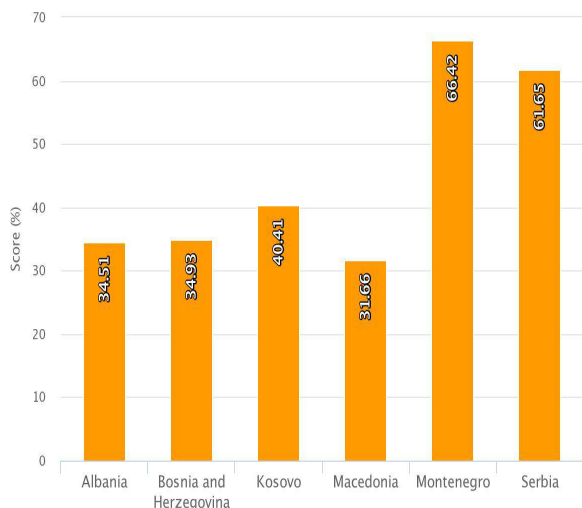
All Governments of the Western Balkan countries should publish following data, in machine-readable formats:

- o State Budget for last three years
- o All budget revisions (supplementary budgets) in last three years
- o Regular monthly reports on budget execution
- o Final Accounts for last three years

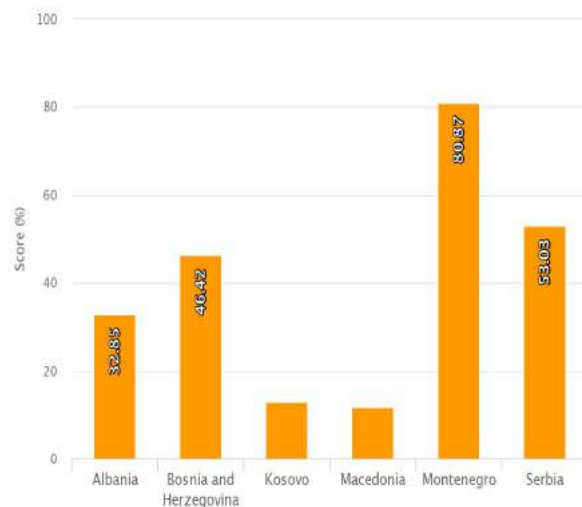
2.2. PARLIAMENT

Core executive charts

Level of openness of Line Ministries institutions



Level of openness by Awareness dimension



On the criteria of the Index of Openness, parliaments of the Western Balkan countries are the most open institutions in the region, meeting on average 63% of openness criteria. Given however that these are institutions are directly elected and accountable to citizens, these results remain disappointing, particularly as they score lowest on the “Transparency” elements of the Index. As in Core Executive, Montenegro champions in the level of openness of its parliament, while Bosnia and Herzegovina is the lowest ranking country in regards to parliaments.

As with the results for executives, these findings illustrate that the highest legislative bodies in the region do not have a strategic approach to their openness policies. Ideally, a parliamentary openness policy should be developed by following information and communications trends, using innovative technologies and publishing data in machine-readable format. Analysis from the Index, however, indicates that parliaments in the region are not dedicated to publishing data in open format, minimizing the value of the published data.

According to our data, most parliaments do not publish voting records or a list of MPs who attended committee sessions. Most of the region’s parliaments also do not meet even the minimum international standards of budgetary transparency with respect to the availability of financial documents to the public. For instance, citizens of this region are generally unable to find State Budgets for the previous three years. Additionally, a huge majority of parliaments do not publish final accounts.

Our assessments showed that a large number of mechanisms for the parliamentary control of the executive have been established in Western Balkan parliaments. However, the actual implementation is uneven due to the dominance of the executive over the legislative branch in most countries. Visible effects of control are missing in practice, thus examples of scrutiny resulting in accountability and sanctions for representatives of executive are very rare.

Regional practice shows that violations of Codes of Conduct by parliamentarians generally do not result in sanctioning inappropriate behavior, on the basis of political agreements between parties and individuals. Improvements in openness would require parliaments in the region to establish clear mechanisms for monitoring of implementation of Code of Conduct of MPs and sanctions for each violation of prescribed ethical standards.



ACTION STEPS

Parliaments should adopt the policy of openness, which will include, among other openness norms, obligation on publishing data in machine-readable formats and usage of innovative communication tools. The policy should be adopted by MPs and the Parliament’s administration, and it should consist of two columns:

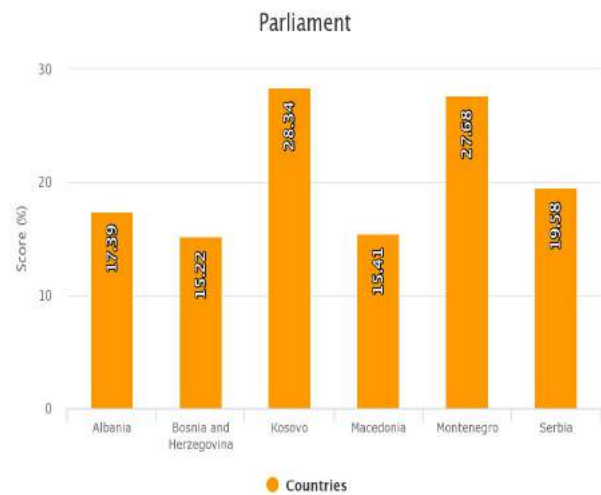
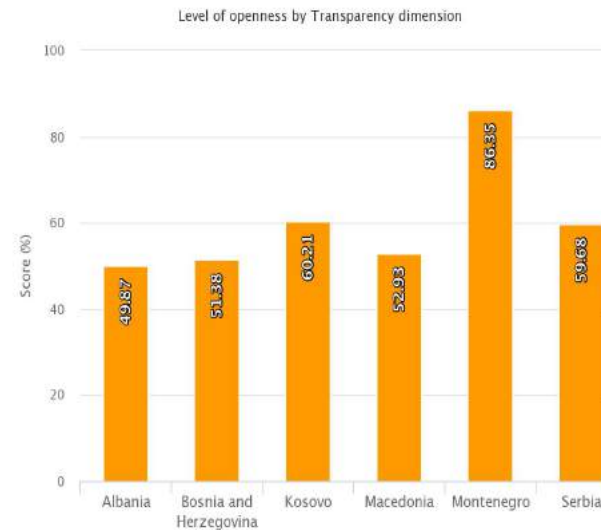
- o First column would be a set of instructions for the parliamentary service
- o Second column would be a set of recommendations for the MPs.

All Parliaments in the region should publish all voting records which is at their disposal, in a citizen/user-friendly manner that is easy to search, compare and browse. Also, MPs attendance at the plenary sessions and committee sessions should be published right after the sessions are over. Parliament’s websites should have these documents available for view and download, in machine-readable formats:

- o State Budget for last three years
- o Final Accounts for last three years
- o Citizens’ budget

Parliaments of the Western Balkan countries should all have Code of Conduct (CoC) adopted, and establish the benchmarking system for evaluation and monitoring of its implementation. Special focus should be made to external evaluation of CoC implementation and, possibly, the introduction of obligation that relevant committee(s) debate on external evaluation.

Parliaments, together with other stakeholders, should initiate the debate on oversight impotence of the legislative branch of power, while intensifying the use of oversight mechanisms and focus more on mechanisms for following-up on parliamentary conclusions and post-legislative scrutiny. It is obvious that mere existence of oversight mechanisms without political power is irrelevant, and Western Balkan societies should discuss how to politically empower parliaments, so they could scrutinize the work of Government.



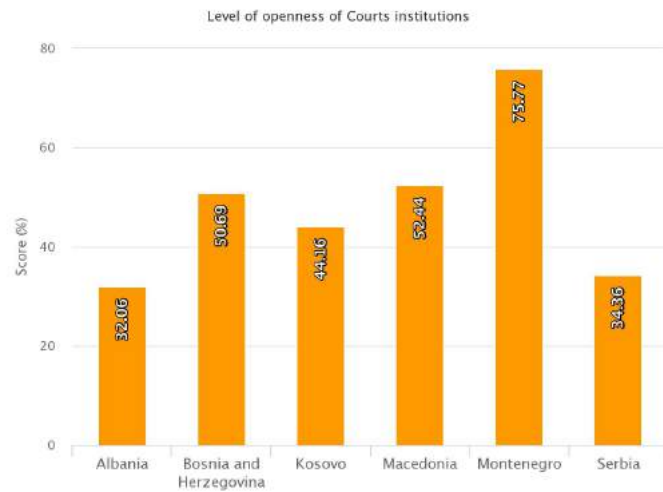
Based on the measuring for 2016

2.3. Judicial bodies

The results of the Index of Openness indicate that region-wide judicial bodies score poorly, even on basic performance indicators. Regional courts meet 48% of indicators, while prosecutions meet only 39%. This points to a crisis of openness across the judiciary in the region.

One third of courts in the region do not respect the principle of random assignment of cases. If courts do not properly organize assignment of cases, the public may have impression that judges are partial and that their own interests are present in their work.

The analysis has also shown that almost 30% of regional courts do not have active websites. The fact that more than a half of regional courts do not publish justified court decisions (or “rationales within the verdicts”) is of particular concern.



Based on the measuring for 2016

ACTION STEPS

- ☞ Random assignment of cases needs to be respected by all courts, with introducing a clear automated procedure for new cases (if there is no procedure). Computer software solutions could be useful addition to this procedure, making it more independent and random.
- ☞ All judicial bodies in the Western Balkan needs to have an online presence (to have its own website), and to ensure that the websites are active.
- ☞ All courts should publish verdict rationales as integral part of the verdict.
- ☞ All courts should establish electronic online database of cases with search option for visitors
- ☞ All prosecutor's offices should establish their own websites with basin information about jurisdiction and activities.
- ☞ Training programme for implementation of Code of Ethic should be prepared and implemented
- ☞ All prosecutor's offices should establish position for person responsible for communication with media
- ☞ All judicial bodies should prepare a communication strategy and appoint one or several persons having adequate qualifications for public and media relations
- ☞ All courts should adopt Code of Ethics of Courts and Judge and publish it on web-sites and to conduct compulsory training programmes for judges in order to ensure the implementation of the Code of Ethics



2.4. Local Self - Governments

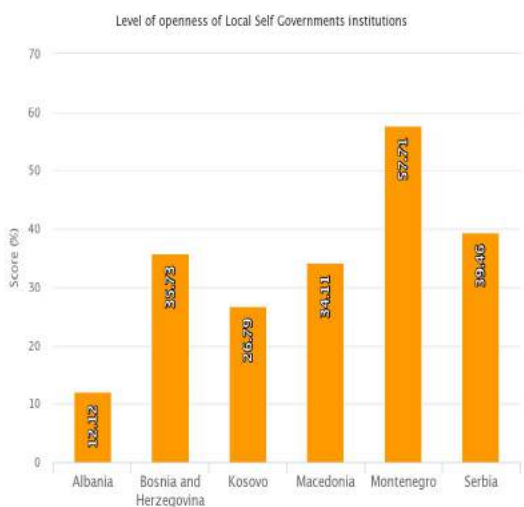
Results at a regional level on the openness of local self-government are largely disappointing, with institutions meeting on average only 34% of the indicators. Municipalities resemble black boxes more than key institutions of citizens' service.









Human Resource management in the LSGU is still in its infancy. Previous efforts in this area have been focused on professional development of employees, and in the forthcoming period, we should work on the improvement of the system of employee recruitment, on the establishment of a system measuring their performance, i.e., on the improvement of the systematization and job descriptions, in order to include the competencies of employees.

In the second step, the LSGU should adopt a plan for measuring of the employees' performance and capacities development programme. The plan for measuring of the employees' performance should comprise the determined indicators for measuring performance in the work of public services and the defined criteria of the public service quality.

In the third step, the LSGU should adopt local strategies for the human resource development (which might be a result of an inter-municipal cooperation) as a comprehensive strategic document that contributes to the local community development through the enhancement of the employees' performance and the public services quality

ACTION STEPS



- 
 Adopt the Rule Book on the compulsory contents of web presentations of the LSGU
- 
 It is necessary that the LSGU publish on their web pages names and contacts of persons authorized to act following a request for free access to information of public importance
- 
 The LSGU services that are responsible for providing services to citizens, as well as public companies, should introduce procedures for measuring satisfaction of service users
- 
 Determine the responsibility of the LSGU bodies to respect deadlines for drafting the budget and publishing the information about the budget and public procurements on the website
- 
 The improvement and introduction of the monitoring system in the LSGU should relate to the introduction of program budgeting, as one of the key elements of efficient provision of quality public administration services
- 
 The LSGU services that are responsible for providing services to citizens, as well as public companies, should introduce procedures for measuring satisfaction of service users
- 
 All local self-governments should have a strategic development plan adopted, as well as local open government plans (OGP).
- 
 All LSGU should publish their budgetary data in a timely and precise manner.



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 based on websites, other public information sources and questionnaires. The Index of Openness assesses how these four principles are implemented 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 divergent functions in the governing or policy-making process, individual questions have been adapted to match the profiles of the respective institutions.

Following the international standards, recommendations and examples of good practice, these principles are further developed through quantitative and qualitative indicators, which are estimated based on information availability on official websites, legal framework's quality for individual cases, other sources of public informing and questionnaires delivered to 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 elements 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

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 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.

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Based on the measuring for 2016

5. READ MORE

Country Road Maps

Albania

<https://goo.gl/f9dtQq>

BiH

<https://goo.gl/7VmsQv>

Kosovo

<https://goo.gl/QPyUsk>

Macedonia

<https://goo.gl/dMA7Zt>

Montenegro

<https://goo.gl/qfTiaY>

Serbia

<https://goo.gl/C3eXF3>

Country Analysis

<http://opennessindex.actionsee.org/research-findings>

Openness index comparisons

<http://opennessindex.actionsee.org/compare-countries>



