



Openness of institutions of executive power in the region and Bosnia and Herzegovina

ZaštoNe 

 **ActionSEE**



**National Endowment
for Democracy**

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This proposal of practical policies is part of the project
financed by NED - National Endowment for Democracy.



This project is co- financed by the European Union.
The practical policy proposal was made with help of European Union.
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PROPOSALS FOR THE IMPROVEMENT OF A CURRENT STATE

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Sarajevo, June 2018

Introduction

In cooperation with partners from regional network of NGOs ActionSEE, Zašto ne? Sarajevo prepared a policy paper in which we analyze a level of transparency, openness and accountability of executive power in the West Balkans region.

This paper is a result of comprehensive research based on scientific methodology, conducted by the members of the ActionSEE network during several previous months. Aim of overall research is to present comprehensive overview of current state in the stated areas, and also contribute the implementation of reforms in public administration, to influence strengthening the principles of good governance and aid the institutions in their more efficient implementation in their operations. We find that these are the aims we share with the institutions subject to research.

Policy proposal with its accompanying analysis is the second document of its kind. Following the conducted research, members of the network prepared the Recommendations for improvement of openness of institutions of government last year.

Policies providing current state overview in the institutions of BiH and region, including observed shortcomings and good practices in the area were developed on the basis of results of research conducted in 2016. Upon the aforementioned analysis, recommendations and “road maps” for improvements in specific areas covered by research were developed the previous year.

Members of the ActionSEE network undertook improvement and modification of the research methodology and its indicators on the basis of results and findings from the monitoring conducted in the previous year, hoping that the new information obtained would contribute to better project results. Aim of using new and improved indicators is adding new dimension to the research and more efficient approach to improvement of openness of institutions in the region.

Possessing the knowledge, concrete results and analysis of regional openness, and believing that the institutions of executive power would work on improvements in the area led by simply presented steps for making the improvements, we decided to advocate for the higher level of openness of institutions of government in the region. Therefore, this year’s research is upgraded by indicators advocating for higher standards in proactive transparency.

Openness policy must be adopted by all the governments in the region, it must be defined as all other important policies and not a result of instantaneous decision or current inclination of government. Even though each country in the region has its own, specific political conditions in which it develops openness, there is considerable room for joint regional activities on improving the current state in the area.

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

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

In addition, we will respect the principles of transparency of research and inform the institutions of all details of its conducting and adopted conclusions.

We remain at your disposal for all suggestions, benevolent criticism and discussion regarding our policy paper.

Openness of institutions of executive power in the region

After the analysis of a number of methodologically circled data we noticed similarities and differences regarding the state in this area within regional countries.

Generally, results indicate that from regional perspective the openness of executive power is not on a satisfactory level. Instead of the expected progress in the area of openness, institutions of executive power in the region had even worse results in comparison to previous year. Openness approximately amounts to only 38% of fulfilled indicators, whereas the percentage for the previous year was higher, at 41%.

To remind, research conducted this year demanded higher level of openness of institutions in comparison to the previous year by addition of new indicators for measuring openness making the criteria more demanding. We believe that such, more demanding research approach resulted in decrease in openness of institutions of executive power. On the other hand, results and analyzed data suggest that the institutions themselves generally performed no activities at overall development of openness, so the introduction of new indicators is not counterbalancing the drop in openness.

As found and stated in the analysis performed in 2017, as well as this year, policies of openness which are clear, consistent and grounded in strategic documents do not exist. The data also reveals that openness levels decrease from higher to lower levels of government and bodies with activities and policies closer to citizens.

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

Decrease in openness at regional level, with the exception of the Government of Macedonia which made significant progress, shows that executive power institutions performed no activities on development of their openness in the past year. Focus of stakeholders in executive and legislative power on elections and elective process in the past year had determining impact on priorities set forth by governments in regional countries, and our research only offered a confirmation of that fact.

Lack of strategic approach to openness is still evident in the regional countries. The data obtained suggest that in large number of cases there is still no expression of openness and transparency of institutions of executive power in relevant documents (strategies, procedures or policies related to the issues). Although a small number of institutions of executive power has documents which, in a way, regulate their openness, the practice is not uniform, not in approach to openness, neither in type of document or bylaw regulating the issue. Uniformity is not present between the regional countries but also in institutions of executive power within one country.

Not even the presence of international initiatives advocating openness in regional countries contributed to increase in openness and transparency of institutions of executive power. Lack of internal policies and aspiration to work on improvement in these areas is clearly reflected on the presence of countries in such initiatives.

The fact that willingness to work on improvement in the area of openness and transparency of the institutions of executive power in the region is lacking was confirmed by the lower number of institutions which had taken active part in the conducted research and delivered answers to questionnaires, key part of overall research, in comparison to the previous year. Lack of willingness to answer the questions in the questionnaire is by itself an indicator of decrease of openness and lack of interest in promotion of openness.

Recommendation that the strategic documents and annual action plans addressing the development of openness must be adopted remains. Within countries it is necessary to plan development but also to secure uniformity of openness of institutions of executive power. After introduction of strategic planning it is necessary to consider passing of the Law on Government and Ministries since that would present the most efficient manner of dealing with this, but also other issues in functioning of public administration.

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

Transparency and communication

Although there are champions and examples of good practice in implementation of laws on free access to information among the institutions of executive power in the region, they are not widely present, not even within a single country of origin. Institutions of government still exercise their own will in determination of level to which the aforementioned law shall be implemented and the steps are not being taken in direction of introducing legal advancements in the area providing for proactive transparency, publishing of registers and guides for access to information and publishing of all the answers to requests for access to information.

Communication with citizens is far from satisfactory and in the future period we expect significant activities on improving the current state. Situation remains unchanged in the domain of modern ways of communicating with the citizens and classic methods of communication still prevail. Respecting the principle of publishing data in open data format which would increase availability and facilitate citizens’ data collection represents a regional problem.

Planning and spending of public funds

Practice of publishing financial information and documents is still highly non uniform, and transparency of spending public funds is at extremely unsatisfactory level. Strengthening the financial transparency should be in focus and also one of priorities of institutions of executive power in the region in the future which asks for special efforts to be taken in that direction.

Information on budget, but also information on how planned funds were spent are rarely published. Ministries of Finances of the regional countries are in majority of cases the institutions which have history of published data, whereas other institutions of executive power scarcely and incompletely use this opportunity. Budget for citizens and ability to have citizens’ involvement in process of planning and spending public funds is possibility unknown to regional institutions of executive power.

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

Also, practice of not publishing plans for public procurements is still widely present, while calls and decisions regarding public procurements and belonging contracts and annexes to agreements were not available in most cases.

Efficiency, effectiveness and citizens' expectations from powers

A significant question of functioning of executive power and its openness towards citizens is a creation of clear indicators of the success of government policies, which will be available to citizens and according to which the citizens may monitor realization of policies and their success rate.

Regional governments should yet establish single methods and procedures for high-quality control of their policies, and they do not have developed adequate methods for measurement of their policies' performance. A sufficient attention was not paid to the establishment of single method according to which ministries would inform the Government about their activities annually. All stated items negatively reflect on informing citizens about impact and effects of operations performed by executive power.

EXECUTIVE GOVERNMENT IN BOSNIA AND HERZEGOVINA (The Council of Ministers of Bosnia and Herzegovina, The Government of the Federation of BiH; The Government of Republika Srpska)

The executive power in BiH has a far more complex structure and composure than the countries in the region. This research, therefore, required a specific methodological approach in order to provide data comparable to that from other countries. Since neither entity nor state governments could be compared to other states' governments individually, all three governments were included in the research. The sum total of their scores was used to get the overall results for the executive power in BiH.

The executive branch of government meets 45% of the openness indicators.

The principle of accessibility, with emphasis on access to information, interaction with the citizens and public consultations, is met with 39% of the indicators.

The criteria of awareness is met with 45% of the indicators.

When it comes to the integrity of the executive in BiH, it meets 47% of the indicators in this field, while the principle of transparency is met with 49% of the indicators.

One of the dominant problems with transparency of the executive branch that has been identified, is the lack of complete transparency of government sessions on all levels. Although there are always some limits to coverage of the government sessions, the public in BiH doesn't have insight into some elements which should be available to it (key points of discussion at the session, for example). The website of the Council of Ministers of BiH doesn't provide the materials discussed at its session, publishing only the agenda, conclusions and a press release after the session. Minutes from the sessions aren't published either, so the citizens are denied a complete insight into the dynamics and approach to policies and issues which influence their lives. The same conclusions apply to the sessions of the entity governments. This aspect of the executive's work needs to be significantly improved.

The budget transparency is met with 47% of the indicators, that compared to last year's 58% represents a significant decline. The budgets are not entirely searchable, making it harder to conduct budget analysis, comparisons, or utilizing the budget data. The citizens are not given an opportunity to analyze budgets through narrative and graphic clarifications which should be available through "Citizens' budgets", or similar forms which present the budgets in a way that is simple and easy to understand.

The Council of Ministers of BiH hasn't published the Law on budget in its final text for the past three years, nor has it published the Law on execution of the budget. The entity governments have laws on budgets and budget execution published for the last two years.

BiH has a solid transparency of public procurement, scoring 53% of the indicators, which is worse when compared to the previous year when this indicator was filled 71%, out of which the RS Government has 60%, FBiH Government 51% while Com BiH has the lowest score, with 48% of the indicators met. Official web pages have public procurement plans for the current and the past two years. The information on completed public procurements are, however, very scarce. It is only possible to gain insight into notifications, decisions and reports on the conducted public procurement procedures. There are usually no contracts, or information on the most successful bidders, available to the public.

Publishing the yearly work reports is one of the key instruments of openness and oversight of the executive powers by the citizens. The executive branch in BiH meets only 44% of the indicators in subcriteria relating to the availability of reports on the work (for the last three years), which is identical to the result compared to last year.

The CoM BiH should adopt instructions, for both its ministries and the wider area of its jurisdiction, which would list, in detail, the necessary data to be published on official websites, and the form in which it should be done. Specifically, the documents should be in open data format; the publishing of the data should be made mandatory and mechanisms should be set in place to guarantee that these principles are fully implemented. The same recommendations should be implemented by the entities' governments.

BiH has not yet adopted a new Strategy of administrative reforms for the 2016-2020 period. The previous Strategy for Public Administration Reform was adopted in 2006. The implementation of the Strategy should create a more efficient and accountable public administration, which would serve the citizens better at a lower cost and base its work on principles of transparency and openness, while also fulfilling the conditions required for the EU integrations. This way, the public administration would become a positive factor in the continuous and sustainable social and economic growth. Unfortunately, in the latest Report of the Audit Office of the BiH Institutions, it has been concluded that in the last ten years, only one project within the framework of the public administration reform has been realized within the stipulated deadline.

² Strategija reforme javne uprave za period 2016-2020. http://www.adsfbih.gov.ba/uploaded/posebnidokumenti/strategija_reforme_ju_u_bih.pdf

³ Izvještaj Ureda za reviziju javne uprave za 2016. godinu http://www.revizija.gov.ba/revizioni_izvjestaji/finansijska_revizija/Izvjestaji_2016/?id=5641

The ministries in BiH (on state and entity level)

The ministries in BiH, on average, meet only about 27,08% of the openness criteria, which is a testament to the low level of openness of the executive power in BiH.

The differences between the ministries on state and entity levels are stark. The highest score was recorded for the state Ministry of Justice, which meets 54,60% of openness indicators; while the Ministry of Administration and Local Self-Governance of Republika Srpska has the lowest score, with only 13,24% of the criteria met. These ministries had same results previous year, so that it is possible to notice that there hasn't been any significant changes.

The accessibility indicator, which includes access to information, interaction with citizens and the mechanism of public consultations, the Bosnian-Herzegovinian ministries meet only 15% of the criteria analyzed. A small number of questionnaires returned by the Ministry of Bosnia and Herzegovina, which included questions about education, seminars and similar activities with the aim of education and increasing the accessibility of institutions, additionally contributed to the poor result in this field.

When it comes to public consultation and interaction with citizens, this year's results are identical to last year's. Only 9% of the BiH ministry carry out some kind of public consultations and interactions with citizens, which is a devastating fact given that public consultations represent the main and basic way of civic participation in decision-making processes.

The web portal e-Konsultacije was launched in BiH with the aim to enable citizens to participate in the creation and implementation of public policies that are under the jurisdiction of the BiH institutions, not only through classical methods of public consultation, but also through the internet. This platform for public online consultation has not yet come to life in its full capacity, but the number of the 47 institutions currently registered on this platform is not negligible, and the fact that the number of them grows daily.

The criteria of awareness is unsatisfactory. BiH ministries have only 17% of the indicators met. However, 27% of the ministries publish their work programs online, while the number of the ministries which published their work reports for the past three years is almost half of that (15%).

⁴ „eKonsultacije“ (<https://ekonsultacije.gov.ba/>) is a web platform which enables the citizens and CSO-s to get informed on and included in the process of drafting of certain legal acts

The integrity of all the analyzed ministries is at 17,53%, since assets cards of the ministers are not publicly available on any of the ministries' websites. Since the Central Electoral Committee has been requested to remove the assets cards of the officials from their online presentation, they have become largely unavailable to the public. The CEC does not issue these cards at request, and the only way to get insight into their content is to browse them at the CEC's premises. In addition to questions about the availability of assets cards, two new questions have been included this year's research, which are related to anti-corruption policies the adoption and publication of the Integrity Plan, which, in addition to being legally binding, has only 36% of surveyed institutions.

The overall rating of transparency of BiH ministries is at modest 38% of the indicators met.

The ministries fulfill only 39% of the indicators in the sub-area of public procurement. Around 36% of the ministries in BiH hasn't published the public procurement plan for the past year. The monitoring showed that only 62% of the ministries publishes calls and 73% decisions on public procurements. Although there is a separate portal for public procurements, which unifies the process of public procurement on all the administrative levels, the standards of transparency dictate that all the financial documents of the institutions, including those in the area of public procurement, should be published on the institutions' web pages in order to provide the public with information and secure full transparency in public procurement procedures.

Only 12% of the ministries have budget data available on their websites (average score for the past three years), while over 85% of the ministries hasn't published a single budget document for the past three years. This trend of non transparent spending of public money requires a systematic approach and a far stronger efforts of both the public institutions and the civil society in order to change this practice.

The ministries in BiH aren't dedicated enough to providing the public with information on their work. In a lot of cases, the search of the ministries' web pages doesn't provide information on either their plans or the results of their work in the past year.

Around 54% of the ministries doesn't publish basic information on their employees, while the information on the public officials' salaries is not shared on any of the ministries' websites. The situation in this field remained unchanged compared to last year's results.

⁵e-Procurement is the BiH Public Procurement Portal, where data about bidders, contracting authorities and public procurement notices is available (<https://www.ejn.gov.ba/>)

In a lot of cases, the information on the ministries' websites are not systematically organized, they contain sections which are empty of content or not updated, with limited search options. The poor organization of data often makes the official websites look like labyrinths which hide even the information which are uploaded on the websites. The principle of open data is not respected and there is no consistent approach to updating and using the existing social network profiles of the institutions.

It is a noteworthy and not so rare occurrence of the lack of websites or practice that the ministry has a small space/page within the Government web portal. Such practice alone would not be a problem if these institutions had all the necessary information there or if they presented these information in a simple and intuitive way for users.

All this considered, along with additional findings which are omitted here due to the limited space, it is clear that the ministries need to change the approach to openness fundamentally to align it with the principles presented in the introductory part of this analysis. It is necessary to emphasize that there are certain institutions that can serve as an example, and that all the others can, with a little will and effort, work on better communication and efficiency of the use of time, thus making it easier for both the citizens and themselves in everyday work.

Other executive institutions in BiH

The official web pages of executive administrative bodies are often not up to date and are not fully searchable in 77% of the cases. This result represents a deterioration of 12% compared to the previous year, which is not negligible, and it can be concluded that there is not much account for the technical side and functionality. For example, the Demining Commission in BiH does not yet have its own website, and it is harder to get basic contact information, the Federal Forestry Authority only has information about the competencies of this institution within the website of the Federal Ministry of Agriculture, Water Management and Forestry, the Administration of Bosnia and Herzegovina for the protection of plant health did not have a website until the beginning of this year, etc.

The transparency of the administrative bodies on state and entity levels is at only 24%.

Almost 93% of the institutions don't publish their budgets. Adding to that an even weaker result in publishing final budget accounts and semi-annual reports on budget execution, we get the full scope of the low budget transparency in these institutions.

About 64% of the institutions don't publish the public procurement plans. Calls for public procurement calls are published by 30% of institutions, while decisions are more common with 47%. Informations about contracts for public procurement procedures are almost impossible to find, and the percentage of institutions that publish them is meaningless.

When we talk about the level of administrative bodies in BiH at the state and entity levels in terms of access to information and interaction with citizens, we find 15% of satisfied indicators. When we compare this result with last year's figure of 34%, we come to the conclusion that things do not go in progressive direction, and that institutions really need to make efforts to become more open, more transparent, and thus contribute to the formation of a more responsible society.

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 opportune 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 conduct and regulation of lobbying. The last principle, effectiveness, is related to monitoring and evaluation of policies which are conducted.

Following the international standards, recommendations⁶ 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 about 80 indicators per institution, we measured and analyzed the openness of 275 executive authorities and collected over 15,000 institution data. After the monitoring was carried out, a control phase followed that showed a standard measurement error of +/- 3%.

Measurement was carried out in the period from January to the end of April 2018. Based on the results of the research, a set of recommendations and guidelines that are directed to the institutions have been developed.

ACTION SEE is a network of civil society organizations that work together to promote and ensure the transparency and accountability of institutions in Southeast Europe, increase the potential for civic activism and participation, promotion and protection of human rights on the internet, and building capacity for the use of new technologies.

⁶ Standards and recommendations of numerous international organizations (such as Access Info Europe, EU, IPU, OECD, OGP, SIGMA, WORLD BANK, etc.) were analyzed.