

Openness of institutions of executive power in the region and BiH

PROPOSALS FOR THE
IMPROVEMENT
OF A CURRENT STATE





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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 EU. Content is solely responsibility of the ActionSEE network and in no way reflects the views of European Union.

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Sarajevo, 2019

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.

The policy paper is a result of extensive research, based on scientific methodology, conducted by the Action SEE members in the past few months. The aim of the overall research is to provide a detailed overview of the situation in these areas, and to contribute to implementation of the public administration reform, to have the effect on strengthening the principles of good governance and to help the institutions implement them more effectively in their work.

This document is the third in a row in which we review the state of openness of institutions and recommendations for improvement. After the first research that was done in 2016, we have started to improve and adapt the research methodology and its indicators, based on our knowledge on the findings and results of monitoring. This year's research has been carried out on the basis of indicators that will enable a precise picture of how many executive authorities have been working to improve their openness over the past year.

The policy of openness must be the policy of all governments in the region, and it must be formulated and written as other important policies and must not be the result of the current decision or the current mood of the government. Each country in the region has its own specific, political conditions in which its openness develops, but one can notice a significant space for a common regional action for improvement of the situation.

Our policy paper is addressed to decision-makers in the executive power institutions of the countries of the region at all levels: the Government, ministries and other state administration bodies. It may also be of benefit to representatives of international organizations, as well as to colleagues from the NGO sector dealing with these issues.

For the purpose of more quality public dialogue on these topics, we will organize a series of public events where we will hear the opinions of all interested parties and try to find joint sustainable solutions for development in this area.

We will also respect the principles of transparency of the research and introduce institutions with all the details of its implementation and its conclusions. We remain open to all suggestions, well-meaning criticisms and discussions regarding the policy paper.



OPENNESS OF EXECUTIVE POWER INSTITUTIONS IN THE REGION

The executive authorities in the region meet on average 48.6% of openness criteria. Although this result represents a slight improvement of about 5% compared to the previous research, there are not many reasons for satisfaction. An increase in the level of openness is most commonly seen as an endorsement by individual authorities in the countries of the region, and not as a rule of the system of government. The reason for this lies in the lack of clear policies that preserve the value of openness and, above all, rules and sanctions in case of their failure to comply.

The research has once again confirmed that the institutions of executive power are more open as we are moving towards higher organizational levels of government. Thus, governments in the region fulfil on average 63.62% of openness indicators, line ministries 50% and state administration bodies 32.22%. Inequality has been observed within the group of institutions itself, which testifies that the issue of openness in principle depends on the will or commitment of the person who is the head of that institution, and not the developed practices and regulations of the state. Such a situation calls into question the good practice recognized by individual institutions in situations where personal changes occur.

It is to be expected that the presence of international initiatives in the countries of the region, such as the Open Government Partnership (OGP), will contribute to the development of the openness of institutions of executive power. The commitment and engagement of the countries of the region to this initiative is at a different level, which also testifies about the readiness of governments to implement and promote standards of openness and accountability.

Such standards also deserve the attention of the European Union (EU), bearing in mind that it is necessary to take place in parallel with other reforms that the state is pursuing on the road to the EU. In the recent progress reports, numerous problems are highlighted in the field of transparency, starting from the inconsistent application of the law on free access to information to insufficient transparency of the budget and the public procurement system. All countries in the region should devote themselves to promoting the legally guaranteed proactive access to information, since nobody should have a monopoly on information of public importance that belongs to citizens.

Also, it is necessary to plan and develop openness policies that should be based on legal and strategic documents of the state. This would ultimately represent the crown of the multi-year process and the efforts of domestic and international actors in the "opening up" of state administration. In order to contribute to the establishment of such a system, below are some of the key shortcomings that the countries of the region have to eliminate in order to ensure openness in the work of the public administration.

Organizational and financial transparency

The principle of proactive access to information is not being applied satisfactorily in the institutions of executive power in the region. Citizens of the region continue to find difficult information about what institutions do and how they plan and spend their funds. The problems are present in terms of transparency of the budget, final accounts and public procurement procedures. Also, there are rare institutions in the region that publish their periodical financial reports.

The situation is not satisfactory in terms of publishing programs and work reports, although these are the basic documents through which institutions should provide citizens with an idea of what they are planning to do and what they did during the year. The practice of compiling and publishing semi-annual work reports appears as an exception in a very small proportion of institutions.

Transparency of the decision-making process

Most of the countries in the region did not ensure the transparency of government sessions. Although transcripts should be published according to transparency standards as well as there should be video transmission from sessions, most governments do not publish even the minutes and materials from the sessions. Thus, citizens can be informed about the activities of the largest number of regional governments only on the basis of statements issued by governments after sessions.

Such a practice must be changed urgently, as denial of information about key policies, that the government is planning, directly diminishes the ability of citizens to control the ones they have chosen and who should be responsible for their activities. A particular problem is the unjustifiable classification of documents with the mark of secrecy.



Accessibility and communication with citizens

Most websites of executive authorities are regularly updated with news and current affairs. However, significant space for improvement is noted for the organization and content administration. Governments of most countries have obsolete internet sites that need to be reconstructed in line with the development of modern information and communication solutions. The largest number of organs is currently very far from the standard that prescribes "three clicks to the desired information" on the website. Publishing data in open data format¹ is still not a practice in the region.

Although most governments in the region have established an e-government system, it has not been sufficiently implemented in practice. The usefulness of the many services offered through these portals is questionable due to their insufficient use. Although governments should make efforts to implement eGovernment promotion campaigns, a significant number of websites do not even have a banner or instruction on how to use this portal. Also, the eGovernment system in the region does not provide local services that would be important for improving the daily functioning of citizens. The models of interaction with citizens are still dominated by conventional ways of communication. Less than half of the executive authorities have and regularly use social networks as a means of informing and communicating with citizens.

Policy Planning and Coordination

Governments in the region have yet to establish procedures and practices for better planning and coordination of their policies, as well as providing mechanisms through which citizens can clearly monitor their implementation. Governments in the region generally do not have the practice of planning public policies in the long run in the form of a program of work. Executive authorities are also not sufficiently devoted to measuring the quality and impact of their work, or are rare institutions that have told us to use performance indicators when preparing their programs and work reports.

¹ **Open data** is data structured in computer understandable format, which gives the possibility of free use and re-use.

EXECUTIVE AUTHORITY IN BiH

(Council of Ministers of BiH, Government of FBiH, Government of Republika Srpska)

Executive authority of BiH has a much more complex structure compared to the countries in the region, so comparing its results with the results of other countries required a specific methodological approach. Seeing as the entities' governments and the Council of Ministers of BiH could not have been independently compared to regional countries' governments, all three levels of the executive authority of BiH became the subject of the research. This analysis uses the overall score to present the situation in Bosnia and Herzegovina.

The executive authority of BiH meets 45% of the openness indicators. The principle of accessibility - which focuses on the access to information, citizen interaction, and the carrying out of public consultations - of the executive authority of BiH meets 39% of the indicators.

Overall, the executive authority of BiH meets 45% of the awareness, and 47% of the integrity indicators, while the category of transparency fulfills 49% of the indicators. The main issue with the transparency of authority is the inability to achieve full transparency during the sessions of the executive authority bodies. Granted, there are always certain limitations with the coverage of the executive authority bodies' sessions, however the BiH public does not have an insight into certain elements which should be publicly available, such as the progress of the discussion, or at least its key moments.

Council of Ministers of BiH's official website does not contain insight into the materials debated during the session. Only the agenda, statements and conclusions are available. Similarly, it is not common practice to publish session minutes, which would enable the citizens to form a clearer picture regarding the dynamics and ways of analyzing certain policies and issues that directly affect their quality of life. When it comes to the governments of Republika Srpska and Federation of BiH, and the openness of their sessions, the situation is similar. This aspect of the executive authority needs to be further improved.

The budget transparency meets 49% of set indicators, a slight increase compared to last year's 47%. The possibility to research anything budget-related is limited, which makes any form of comparison and analysis very difficult. There are no narrative or graphic budget analyses available to the citizens. These should be available in the „Citizens' budget“ and similar documents, and should be simple and easy to understand.



Not a single website from the above-mentioned institutions contains these types of documents. The transparency of the public procurement process in Bosnia and Herzegovina meets 58% of indicators, a 5% increase compared to last year's 53% (per each institution: the government of Republika Srpska – 65%, Council of Ministers of BiH – 58%, and the government of the Federation of BiH – only 51%).

The official websites contain public goods and services procurement plans for the current and the previous two years. Data regarding public procurement procedures carried out are rather scarce. Namely, it is possible to find the announcements, decisions and reports on only some of the public procurement procedures. Contrast and data regarding the highest bidders are generally missing. The publishing of annual work reports and general organizational information represents one of the key aspects of openness and enables the citizens to control the work done by the executive authority. The executive authority of BiH meets only 55% of indicators which refer to the items mentioned above.

The Council of Ministers of BiH should issue instructions for the relevant ministries and for the scope of its own subject matter, which would define the mandatory website information and the manner in which it is published. These documents should be in an open data format, and a strict and mandatory implementation of this kind of data publishing principle should be ensured. The entity governments should also follow these recommendations. BiH still has not adopted the new Strategic Framework of Public Administration Reform for the period between 2018 and 2022. The previous Strategic Framework of Public Administration Reform was adopted in 2006.

Implementing the Strategy should enable a creation of a public administration more effective and responsible for its actions, one that serves its citizens more efficiently with less costs, is based on transparent and open procedures while fulfilling all the necessary European integrations requirements, thus enabling a continuous and sustainable socio-economic development. Unfortunately, the latest report from the Audit Office of the Institutions of BiH shows that only one public administration reform project has been realized within the previously established deadline in the last ten years.

Researching the openness of said institutions this year, it can be noticed that little time was devoted to technical details and functionality of websites. The "Search" option is not available on the websites of either the Government of FBiH or the Government of Republika Srpska. The above institutions showed a decline in the category of accessibility, considering that there had been no issues with the search engine during the research done in the previous years.

STATE AND ENTITY MINISTRIES IN BiH

The ministries in Bosnia and Herzegovina average a total score of 29% of the analyzed criteria in the categories of transparency, accessibility, awareness and integrity, which further indicates to the executive authority's low level of openness. There is a substantial difference in results between state and entity ministries. The best-ranked one is the Ministry of Justice with 56% of total indicators met. The Ministry of Economy and Entrepreneurship of Republika Srpska is in the last place, however it was formed two months prior to the beginning of this research, which was definitely a contributing factor to such outcome.

The criterion of accessibility, which includes access to information, citizen interaction and the public consultation mechanism, is met with 17% success by the BiH ministries. A small number of answered questionnaires further contributed to the low score in this category. The questionnaire contained points such as held educations, seminars and similar activities the goal of which was to educate and increase institutional accessibility. When it comes to public consultations and citizen interaction, this year's results are identical to those of last year. Only 9% of ministries in BiH implement some type of public consultations and citizen interaction. Considering the fact that public consultation serves as the main method of citizen participation in the processes of decision-making, this is crushing information.

The website "eKonsultacije" was launched with the goal of enabling citizens to participate in the creation and implementation of public policies under BiH institutions' jurisdiction, via classic public consultation methods as well as the internet. Unfortunately, the online public consultation platform is yet to get under way in its full capacity.

When it comes to awareness, the ministries in Bosnia and Herzegovina meet 35% of the set indicators. The ministries meet only 36% of analyzed criteria in the category of transparency, public procurement procedures to be specific. Despite the existence of a public procurement portal that unites the public procurement process from all levels of governance, the transparency standards necessitate that all institutions' financial documents, including documents referring to public procurement, be published on the corresponding official websites, so as to honor the right of the public to be completely informed and have transparency regarding the public procurement procedures. Only 10% of the ministries state-wide made certain budget information available on their official websites.



This trend of nontransparent budget spending requires a systematic approach and more of a commitment by the public administration and civil society, so as to initiate and implement the necessary changes to this sort of practice. The ministries in BiH are not committed to informing the public about their activities, and consequently, in most cases, the public is unable to look up their plans and previous results on official websites. These websites contain information on the ministers but not the rest of the staff, such as information on salaries and number of staff. The situation here remains unchanged compared to last year.

Official websites of the ministries contain information which, in most cases, is not systemized. Certain sections are empty or not up-to-date, with quite limited search options. Poor data organization makes the websites resemble labyrinths that seem to hide even the published information. The principles of disclosing information in an open data format are not followed and there is no uniform principle when it comes to updating and using the existing accounts on social media. There are cases where the website is non-existent, or where the government web portal has a small area dedicated to a ministry.

This would not be a problem if these institutions offered all the necessary information, or if that information could be accessed easily and intuitively by the users. With this in mind, as well as some additional research results that are not listed here due to limited space, it is clear that the ministries' approach to openness needs a radical change according to the principle specified at the beginning of this text. There are however some institutions that can serve as great examples. With a bit of effort and determination, improving communication and time management is possible, which would make day-to-day affairs much easier.

OTHER ADMINISTRATIVE BODIES IN BiH

Administrative bodies in BiH (45 of which is part of this research) meet a modest 26% of openness indicators. The work awareness of the administrative bodies in BiH meets 28% of set indicators. Only 30% of administrative bodies publish their annual agendas on the official websites, and 17% publish their work reports. Compared to last year, the difference in results is insignificant. When it comes to disclosing the staff lists, their occupations and positions within the organization, the research showed that only 2% of administrative bodies have this information available on their websites. About 43% of bodies withhold basic information regarding their staff – names, salaries and contact information, the same result as last year.

Administrative bodies' official websites have done worse when it comes to updating and publishing information – in 30% of cases, it is extremely difficult finding the desired information, or it does not exist.

The transparency of the administrative bodies (both state and entity) amounts to a humble 29% of met indicators. Almost 93% of administrative bodies do not disclose the budget figures on their websites. With this in mind, and considering the even worse result regarding the publishing of budget execution reports and the semi-annual report on budget costs, a clear picture on the lack of budget transparency is formed. About 52% of administrative bodies do not even disclose the public procurement plans. Calls for tenders can be found in 29%, and decisions in 43% of cases. Contract information regarding the conducted public procurement processes is almost impossible to find. Considering the overall number of researched institutions, the results are meaningless.

When it comes to administrative bodies in BiH on both state and entity levels and their openness regarding the access to information and citizen interaction, they meet 18% of set indicators. Comparing this year's result to last year's 15%, it can be concluded that the institutions must work much harder to become more open and transparent, which would lead to a creating of a more responsible society.

Despite the unsatisfactory overall results, there are institutions head and shoulders above the rest in proactivity and transparency of published information. For example, the Public Administration Reform Coordinator's Office meets 81%, the Communication Regulatory Agency – 56.62%, and the Market Surveillance Agency of BiH 54.64% of indicators.



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. awareness. 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, awareness, is related to monitoring and evaluation of policies which are conducted.

Following the international standards, recommendations 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 December to the end of April 2019.

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.

