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OPENNESS OF INSTITUTIONS OF EXECUTIVE POWER IN THE REGION AND ALBANIA



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PROPOSALS FOR THE IMPROVEMENT OF A CURRENT STATE

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INTRODUCTION

In cooperation with partners from a regional network NGO “Action See” MJAFT! Movement prepared the policy paper, in which we analyze a level of transparency, openness, accountability of executive power in the region of Western Balkans.

The paper represents a result of a comprehensive research, based on a scientific methodology, conducted by members of the Action SEE network during the previous several months. The aim of our activities is to determine the actual state in the region through an objective measurement of openness of the executive power and to address recommendations for its improvement. Also, the aim is to improve respect of principles of good governance, where openness occupies a significant place.

The policy of openness must be the policy of all governments in the region and it must be defined as other significant policies as well as it must not be a result of a current decision or of a current mood of power. Each regional country has its own specific political conditions in which it develops its openness but a significant space for a joint regional operation on the improvement of the state may be noticed.

An introduction of a concept of the open government in the region of the Western Balkans was most commonly dictated by requests of integration processes or motivated by the improvement of the international reputation of a country through the participation in initiatives for the open administration. Towards following positive trends, an essential internal need, which represents a basis for this principle, is often neglected –it is actually government’s openness for citizens’ and society’s contribution with the aim to creating public value.

This approach leads to a problem regarding the implementation of rules of transparency and openness, especially on lower levels of public administration, where a social importance of this approach is not recognized, but it is considered as an unpleasant obligation imposed through international requests. Therefore, the policy of openness in the regional countries requires not only an expression in strategic documents, but also loud advocates of the concept of an open government on the highest social and state functions.

Our proposal is addressed to decision-makers of executive power in the regional countries on all levels: Government, ministries and executive agencies. It can be useful for representatives of international institutions and for 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 the development in this area.

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

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

OPENNESS OF INSTITUTIONS OF EXECUTIVE POWER FROM 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. It approximately amounts to only 41% of fulfilled indicators. Clear, consistent and policies of openness grounded in strategic documents do not exist. A change of approach and treatment of this important segment of functioning of current and future governments is necessary.

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.

There is no a strategic approach to the openness in the regional countries. On the basis of collected data we can conclude that openness is treated on ad hoc basis and in most countries the policy of openness, which would be equal with other policies of executive power, is not created. The policy of openness is set in a way where it most commonly represents a good will of the executive power and it is actually the situation which is far from desired condition. It is, for now, a compilation of various rulebooks, acts and obligations and not philosophy or approach actively promoted by governments. Transparency, openness and accountability in good governance represent basic preconditions of high-quality executive power and they must not be treated as **gifts** for citizens.

The policy of openness should not depend on external initiatives, but it must be a part of internal policies. Only then all international initiatives obtain their full affirmation since they upgrade on existing healthy bases in each regional country.

In a participatory process it is necessary to adopt strategic documents and annual action plans, which deal with the development of openness. It is necessary, within countries, to plan development and equalize the openness of institutions of the executive power. These differences are currently enormous and the question whether these institutions belong to the same country is imposed. After the introduction of strategic planning, it is necessary to consider adoption of law on the Government and ministries since this and other issues related to the functioning of public administration would be solved in the most efficient way.

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

Transparency and communication

Governments must pay a special attention to the **implementation of laws on access to information**, which, generally, do not provide satisfactory results. The attention must also be paid to independence and current capacities of institutions responsible for the implementation of laws.

Communication with citizens is the next important segment, which must be significantly improved in the following period. Apart from classic methods of communication, executive power must use more modern ways of communicating with citizens. Respecting the principle of publishing data in *open data* formats represents a regional problem. These formats would increase availability and facilitate citizens¹ data collection.

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

Planning and spending of public funds

A special attention should be also paid to strengthening of financial transparency given that regional governments do not have completed practice of publishing financial information and documents.

Institutions of executive power, which publish information on budget, which would make this document understandable for citizens and explain which type of service they receive for money they gave to the country, are very rare. In addition, information regarding how planned funds were spent are very scant. It is necessary to make visible all payments from the state budget and leave citizens an opportunity to personally control this spending.

Also, on official websites of executive power plans for public procurements are not published, 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. Accountable powers transform their electoral promises in official state policies, but they also create an opportunity for citizens to check its results.

Regional governments yet should establish unique 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 the unique method according to which ministries would inform the Government about their work on an annual level. All stated items negatively reflect on informing citizens about performance of their policies.

Openness of the executive power in Albania

Openness of the executive power in Albania amounts to 32.04% of fulfilled indicators. This result is expected and it is in accordance with the previous measurement of openness. Through negotiations for accession to the European Union, Open Government Partnership and other activities, the Government started with creating policy of openness. This was contributed by numerous initiatives from NGOs and "Transparency Program", a concrete way through which our public authorities build and increase transparency in their institutional activity.

The promotion of openness, equally with other policies of the executive power, must achieve belonging place. This problem caused that promotion of openness certainly do not happen and there are bodies, which do not respect legal obligations in this area, principles and practices of good governance without any consequences. This has created significant differences in openness of the Government, ministries and executive agencies. In Albania, all the reforms taken in public administration and regulations on law² have given to us the picture of better governance, but the actual performance of our executive indicates otherwise.

An additional argument for adoption of the strategic document regulating this area is the fact that openness significantly decreases as we move towards bodies which are on a lower hierarchical level³. It is obvious that there are a significant number of institutions opposing the introduction of the concept of openness and they must systematically work on this problem with the involvement of top managers in the system.

3) The Government of Albania meets **52%** of **criteria of openness**, ministries meet approximately **34.5%**, while executive agencies meet **21.31%** of all criteria.

2) Strategy of Intersectoral Reform in Public Administration 2015-2020; no.119/2014 "Law on FOI"; no. 146/2014 "Law on public consultations"

All noticed is a clear signal that requires a fast reaction and dedicated work in order to better improve the practices or regulations dealing with this topic. The strategy of development and promotion of openness must not be only written, but also effectively implemented to increase transparency and citizens' participation in decision making.

THE GOVERNMENT OF ALBANIA

The Government of Republic of Albania is ranked the fifth of six region countries of Western Balkan on the openness and it amounts to 58% of fulfilled indicators. Compared with other regional countries, this score means there is still room for better improvement, although the evaluation is does not vary much from the percentage of countries better performed in government openness. How, Albania, as well as other Balkan countries, aims to achieve international standards in terms of open government and this score shows that there is still work ahead to be done.

Full transparency of the Government's sessions is a problem in our country. There are no agendas of coming sessions published on the official website of the Prime Ministry. The meetings of government are hold behind closed doors, not allowing the media participation between the participants. Also, there is not possible to access all the documents or materials related to the discussions and the minutes of the sessions' activity, so that the citizens can get a picture of discussions dynamic about specific policies, which directly affect their interests and life quality.

Regarding to organogram of the institution, there is lack of information on the names of public officials, positions, job description, as well as assets possessed by these officials.

Law on Budget is not published on the official website of the government referring these last three years. There is lack of understandable tables of budget accessed by citizens, lack of mid-year reporting on annual spending and the total of spending during the budgetary year, as well as the lack of publication of the budget for citizens. Also, reports on the actual public debts and its management by our government are not published.

Publishing annual reports on the Government's work represents one of key instruments of openness, but also of control of its work by citizens. Documents on public procurements also are not published on the website. These documents include annual plan of public procurements the Government is going to implement, open calls for procurements, the results of the procedure and its evaluation.

Annual reports on the Government's work, which give to the citizens and the interest groups the opportunity to know and check the activity of the government, are published on 2014 and 2015, but they are not published

on the website in open data format. On the other hand, the annual program of Government's work is published only in the first year of the current executive, by not informing the citizens on the programs of the other years of governance, which makes impossible to them to compare what the government has realized from what it has planned.

The Government should adopt instructions for state bodies regarding how and in which way to publish data on the websites in open data format. After that, a strict implementation of the principle of publishing data should be ensured. According to this study, only 6.7% of documents are published in open data format.

On integrity issues, Albanian government remains in low levels compared to other countries of region. Despite that the institution states there is a clear mechanism for implementing Code of Ethics in their internal organizational activity, this document is not published on the official website. Whilst, lobbyist and lobbying activities are not regulated by the law yet.

Ministries

Ministries of Albania on average fulfill 34.5% of criteria of openness. This is not a good result that shows that Ministries of Albania need to work hard in this direction.

Differences in results among ministries in Albania are enormous – the best ranked ministry fulfills 57% Ministry of Economic Development Trade and Entrepreneurship of criteria and the worst one fulfills a half less – 2.59% The Ministry of State Relation with Parliament, this is a new ministry without budget and website.

Ministries are not sufficiently dedicated to informing public about their work. Thus, by searching their websites public cannot find out what ministries plan to do and which results they achieved during the year. Official websites of ministries contain information which is not systematized in most cases, specific rubrics are empty or are not updated, with very limited possibility of searching. Therefore, websites resemble labyrinths containing information. Principles of publishing data in open data format are not respected and there is no unique principle about updating current accounts on social networks.

Ministries in Albania have published organizational information 52.8% at the official website. In Ministries website is difficult to find detailed information about the names, salaries and contacts of public officials. Official websites contain only general information about organizational information. Ministries additionally violate the Law on free access to information given that 8.7% of them possess information about names, salaries and contacts of public officials. 2.63% of ministries publish list of civil servants and state employees with their titles.

Only 17% of ministries published their budgets for the previous three years on their official websites, while on the websites of 68.7% of ministries there is no budget for any of the previous three years. Also, there is no any final account from the previous three years available on websites of even 86% of ministries.

Additionally, 84% of ministries did not publish plans for public procurement for the previous year. Monitoring indicated that only 2.6% of ministries publish calls and decisions about public procurements, but they do not publish contracts and annexes regarding public procurements.

26% of ministries fulfill public consultation and 42% of ministries publish consultation in data format.

Taking into consideration mentioned data and data which we do not mention due to limitations of space, it is clear that approach to openness should be changed completely according to the principle stated in the introduction of this part of the text.

Executive agencies (or – other public administration bodies)

Executive agencies fulfill only 21.31% of the indicators of openness.

43.15% of these organs have official website, but they are often non-updated and in 61.5% of cases it is very difficult to find sought documents. Slightly 26.92% of executive agencies have an active account on social networks.

These institutions of public administration violate the Law on free access to information in the part related to a proactive publishing of information: only 17.77% of them publish annual work reports on their websites, 19.23% of them publish list of civil servants and state employees with their titles, but only 5.08% of bodies publish the information about who are their public officials, the value of their salaries and their contacts, 69.23% of bodies publish laws and regulations that control the work of institution on their websites.

Only 2.54% of these bodies published budgets on their websites. Budgetary transparency of executive agencies is 2.33%, given that data on final accounts and mid-year reports to the spending of budget funds are not accessible by citizens.

Regarding public procurements, 7.7% of these organs publish public procurement plans on the website, but it has been noticed lack of information regarding calls and decision. Only 11.54% of bodies publish contracts and annexes to agreements on public procurements.

METHODOLOGY OF RESEARCH

Openness represents a key condition of democracy since it allows citizens to receive information and knowledge, necessary for an equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct.

Around the world institutions undertake specific activities with the aim to increasing their transparency and accountability to citizens. The Regional index of openness of executive power is established in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

The Regional index of openness measures a degree up to which institutions of Western Balkan countries are open for citizens and society and it is based on the following four principles:

1) transparency, 2) accessibility, 3) integrity and 4) effectiveness.

The principle of **transparency** includes that organizational information, budget and procedure of public procurements are publicly available and published. **Accessibility** is related to ensuring and respecting procedures for a free access to information, improving availability of information through a mechanism of a public debate and strengthening interaction with citizens. Integrity comprises of a mechanism for prevention of corruption, conducting code of ethics and regulations of lobbying. The last principle, effectiveness, refers to monitoring and evaluation of policies conducted by institutions.

Following international standards, recommendations as well as examples of good practice, these principles are further developed through special quantitative and qualitative indicators, which are evaluated on the basis of: accessibility of information on the official websites of institutions, quality of a legal framework for individual issues, other sources of public informing and questionnaires delivered to institutions.

Through around 80 indicators per institution we have measured and analyzed the openness of 275 institutions of executive power and collected over 15000 pieces of data regarding institutions.

THE MEASUREMENT WAS CONDUCTED IN THE PERIOD FROM OCTOBER TO THE END OF DECEMBER 2016. A SET OF RECOMMENDATIONS AND GUIDELINES DIRECTED TOWARDS INSTITUTIONS WAS DEVELOPED ON THE BASIS OF RESEARCH RESULTS.