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PARLIAMENT OPENNESS IN THE REGION AND ALBANIA



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QEVERISJA E HAPUR E PARLAMENTIT NË RAJON DHE NË SHIPËRI

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INTRODUCTORY

In cooperation with partners from a regional network NGO “ActionSEE”, MJAFT! Movement prepared the policy in which we analyze a level of transparency, openness and accountability of parliaments in the Western Balkans region.

The policy represents a result of research, based on scientific methodology, developed by ActionSEE members during the previous months. The aim of our activities is to determine a real condition in this area and to make recommendations for its improvement through an objective measurement of regional parliaments’ openness. Also, the aim is to improve respecting principles of good governance, in which the openness occupies a significant place.

All regional parliaments must ensure a full openness of their work and thereby demonstrate a political accountability and respect of basic principles of democracy. Through ensuring all relevant information parliaments must provide unimpeded insight into their work. Only open and accountable institutions may work on creating democratic society all regional countries strive to.

Declaration on Parliamentary Openness defines parliaments’ obligations in the best way suggesting that a parliament must ensure that citizens have a legal aid while exercising their right on access to parliamentary information. An obligation of a parliament to encourage openness and share examples of good practice with other parliaments in order to increase openness and transparency is emphasized. Further, cooperation with non-governmental organizations which deal with monitoring of parliamentary work and citizens is affirmed in order to ensure that parliamentary information are complete, accurate and opportune.

Taking into account all stated items, it is necessary that all regional parliaments, which have not done it, sign the Declaration on Parliamentary Openness as well as to work on its implementation.

Our policy is addressed to decision-makers in the parliaments of the regional countries. It may also be useful for representatives of international organizations and colleagues from NGO sector dealing with these issues.

We are at your disposal for all suggestions, benevolent critics and discussions regarding the policy.

OPENNESS OF LEGISLATIVE POWER IN THE REGION

Regional parliaments meet on average 63% of openness criteria. This result is not satisfactory, taking into account that we talk about bodies which are directly elected and accountable to citizens.

Parliaments have a key role in democratic system and thus they should be bearers of a process which will enable citizens a more effective monitoring of institutions' work. However, as it is the case with executive power, the highest legislative regional bodies do not have a strategic approach to openness policy. Requirements of openness may be indirectly taken from the Constitution, Rules of Procedure and other acts and as such they are a subject of different interpretations and mood of a parliamentary majority. Information regarding parliamentary work belongs to public¹ and thus it is necessary to constantly improve an existing level of culture of parliamentary openness. Openness policy should be developed by following information and communications trends, using new technologies and publishing data in machine-readable format. This is supported by data indicating that regional parliaments are not dedicated to publishing data in open format and thereby use value of published data is minimized.

1) Albania is also member of Declaration on Parliamentary Openness. Available at: <https://openingparliament.org/declaration/>.

Insufficient transparency of organizational and financial information

It is defined by monitoring that parliaments are mostly not transparent when it comes to publishing data from sessions of parliamentary committees. Majority of parliaments does not publish voting records and list of MPs who attended boards' sessions. In addition, in most countries committee sessions are not transmitted.

Majority of regional parliaments has to affirm a principle of financial public and openness. Parliaments mostly do not meet even a minimum of international standards of budgetary transparency² which impose availability of financial documents to the public. On official websites of most parliaments citizens cannot find budgets for the all previous three years. Additionally, a huge majority does not publish final accounts. Parliaments should conduct control of public expenditure during the year and to publish midyear reports on budget spending.

2) Best Practices for Budget Transparency, OECD, 2002. Available at: <https://goo.gl/qamVDW>; Guidelines for Parliamentary Websites, Inter-Parliamentary Union, 2009. Available at: <https://goo.gl/gD2Wg0>. Access: 27.03.2017.

Insufficiently developed communication with citizens and possibility of their participation

Regional parliaments should strengthen their representative function through establishing communication with citizens and including them

in the process of policy creation. The parliaments should pay a special attention to development of electronic services.

Parliaments should be available for citizens and expect a possibility of establishing communication by telephone or e-mail, it is necessary to initiate innovative channels for two-way communication with citizens. Also, it is necessary to more actively use existing mechanisms for communication, especially social networks. Monitoring defined that the majority of parliaments does not have accounts on social networks or they do not use it actively.

Additionally, monitoring recognized the need for strengthening capacities for a complete and consistent implementation of Law on Free Access to Information³.

(Un) ethical behavior of MPs

A consistent implementation of Codes of Conduct is of a fundamental significance for increasing a level of political accountability and citizens' trust in the parliamentary work. However, while some regional countries did not adopt Code of Conduct, other countries neither actively promote it, nor effectively implement it. Regional parliaments should establish clear mechanisms for monitoring of implementation of Code of Conduct of MPs and sanctions for each violation of prescribed ethical standards. Regional practice shows that violation of Codes of Conduct mostly does not result in sanctioning inappropriate behavior and it is usually a subject of political agreements. Also, it is necessary to establish rules which will oblige member of parliaments to publish documents of procedures regarding violation of Code's provisions. In that way a transparency of these procedures would be increased.

Insufficient effects of parliamentary control of other branches of power

Monitoring determined that a number of mechanisms for the parliamentary control of executive power is established in regional countries. However, their implementation is most commonly of formal nature. In practice visible effects of control are missing and thus examples which gave specific outcomes, related to defining accountability and sanctions for representatives of executive or other branches of power, are very rare.

Parliaments must not be places for uncritical adoption of proposals of executive power, but places for its review and effective control. Legislative obligations of members of parliament must not be a reason for neglecting control function, which represents one of the most significant guarantees of democracy.

3) Monitoring has shown that the majority of parliaments does not have an established training system or guidebook for civil servants and in that way civil servants would access data which are published according to the Law on Free Access to Information and assume other obligations envisaged by the Law. In the Republic of Albania, Freedom of Information is regulated by **the Law No.119/2014, date 18.09.2014** <http://www.dap.gov.al/legjislacioni/per-administraten-publike/127-ligj-nr-119-2014-per-te-drejten-e-informimit-2>, accessed: 19.04.2017

All regional parliaments are obliged to take efforts for a full implementation of existing mechanisms and thereby contribute to increasing level of political accountability.

Openness of the Parliament of Albania

According to the research results the Parliament of Albania meets 60% of indicators of openness. This result means that there is still work to be done to have a better performance of Albanian Parliament's activity. It is important to mention there are implemented some good practices by Parliament administration, but it still needs to adopt international practices to make Parliament of Albania more opened.

4) <https://www.parlament.al/>, accessed:19.04.2017

On the Parliament's website⁴ you can find a list of MPs and information regarding their life resumes. Every three weeks, the calendar of the draft laws planned to be discussed in Parliamentary Committees is updated on the official website. All legal acts such as draft laws, adopted laws and submitted amendments are published. Also, the website contains information on attendance of MPs on committee sessions and all the discussions done regarding these committees' agenda.

Even though the Parliament achieves the best results of Albanian institutions, there are several significant questions this institution must deal with in order to achieve international standards of openness and accountability. In the following part we will provide key recommendations for a continuation of development in this area:

TO STRATEGICALLY PLAN THE DEVELOPMENT OF OPENNESS AND ACCOUNTABILITY OF THE PARLIAMENT OF ALBANIA THROUGH IDENTIFICATION OF KEY PROBLEMS AND WAYS FOR THEIR SOLVING. IT IS IMPORTANT TO IMPROVE RULES OF PROCEDURE AND CODE OF CONDUCT OF MPS.

It is necessary to be stricter on the specifics of the Rules of Procedure from the aspect of its effectiveness and quality of implementation in Parliamentary Sessions. The Parliament of Albania publishes on its official website the agenda for the upcoming session, but the discussions held during the session rarely stand in accordance with planned agenda. For example, the first part of the session plans discussions related to the draft laws that are going to be approved and the second part contains discussions for other issues. But the MPs, attending the session, discuss about other issues, such as Executive Power performance or matters of public concern, by diverting the draft laws foreseen to be discussed. Also, the Parliament must implement the law on the public consultations, by providing information of conclusions and recommendations adopted on public hearings. There is still no information on how the recommendations

of groups of interests are reflected in final draft laws discussed in the Parliament of Albania, which requires improvement of mechanisms of this law implementation.

The Code of Conduct also represents a mechanism that needs to improve in the Parliament of Albania. There have been some cases that disciplinary actions are taken on MPs, but these actions are taken only on serious cases of code breakings. The Code of Conduct should be revised in order to prevent or to punish MPs or public officials, not only regarding physical violence, but also offences during sessions.

Taking into account all stated items, it is obvious that the Parliament of Albania must actively deal with this and other issues. It is necessary to establish a working group which will make the analysis of the problem and a plan of changing documents and practices, which do not function in a proper way.

The Parliament of Albania has live transmission of parliamentary sessions on national television making this institution more transparent to the citizens on the laws discussed. Also, the results of laws' voting are published on the website.

Toward a completely transparent system of decision making in the Parliament it is necessary to increase transparency of working bodies' work. Additionally, it is necessary to regularly publish information regarding attendance of MPs on plenary sessions⁵ and in that way citizens would have a direct introduction into the accountability of work of persons they have voted in elections.

It is also important to mention that the Parliament of the Republic of Albania should start working on a law that regulates lobbyist and lobbying activities. Lobbyists are responsible for making lawmakers aware of how a bill will impact the retail industry; they take campaigns to pressure governments into public policy actions. For this role they have on the legislative process, it is necessary to regulate their activity.

TO IMPROVE COMMUNICATIONS OF THE PARLIAMENT OF ALBANIA WITH CITIZENS THROUGH OPENING A CHANNEL FOR A "FAST" COMMUNICATION ON EVEN TWO SOCIAL NETWORKS. TO ENABLE CITIZENS TO SUBMIT E-PETITIONS.

The Parliament of Albania has good online practices of communication for citizens and CSOs, but is necessary for other practices to enable citizens to submit e-petitions online. The Parliament of Albania should open direct channels of communication with citizens through social networks as soon as possible. The Parliament currently does not have an active role and thus citizens are deprived of receiving information through them.

5) There are noted cases when on the sessions' records are found names of MPs (fictitious presence) who have not been part of. This happens because of not having the number of present MPs, necessary for the initiation of the sessions.

Citizens must have a fast channel, through which they may deliver initiatives to MPs who must be obliged to consider it thoroughly and put it into the parliamentary procedure. This means that submitting petitions and initiatives electronically in order to exercise their political right in a more direct and accessible way. The Parliament does not provide such opportunity to citizens. Along with prescribing an opportunity for e-petition, it is necessary to adopt communication plan for promoting these types of petitions and thus a greater number of citizens will be informed about this opportunity.

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TO ADOPT A UNIQUE METHODOLOGY FOR EVALUATION OF LEGAL SOLUTION (RIA ANALYSIS) AND SIGNIFICANTLY STRENGTHEN THE PARLIAMENT'S CAPACITIES FOR CREATION OF THESE STUDIES.

Legislative activity of the Parliament must be improved in a way that it will work on evaluating possible influences of legal solutions during its preparation (RIA analysis). Laws proposed by the Parliament must pass a procedure, which will show an influence of its conducting on citizens' lives. In this process all parties must be involved through consultations while analysis results must be transparently conveyed to citizens. Analysis results must be evaluated by experts in order to increase quality. Now we have a situation when most of the laws discussed in the parliamentary session do not pass on a procedure of influences and feasibility studies are only written in the paper, but not proved by facts.

TO IMPROVE BUDGETARY TRANSPARENCY OF THE PARLIAMENT AND APPROACH IT TO CITIZENS. TO INCREASE TRANSPARENCY OF THE PROCESS OF ADOPTING THE BUDGET OF ALBANIA. TO INCREASE TRANSPARENCY OF PUBLIC PROCUREMENT.

It is necessary to enhance publishing of the budget and final account on the website. The Parliament contains draft laws on budget and final versions for the last three years, but there is still space for better improvement. It is not possible for the citizens to find on these final accounts the budget that is dedicated to them. The Parliament should present to citizens budgetary plans in a simple and understandable way through adopting Citizens' budget. Also, the parliament bodies of Albania should possess documentation that review or approve the budget/public financing activities. Regarding public procurement, there is a lot of work to be done in Albania. The Parliament scores 43% of transparency on public procurements, as it is not possible for the citizens to access the results of major public procurement bids.

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.

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

Through more than 100 indicators we have measured and analyzed openness of the regional parliaments and collected more than 1000 pieces of data.

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