

OPENNESS OF LOCAL SELF-GOVERNMENT UNITS IN SERBIA AND IN THE REGION

Proposals for the improvement of a current state



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Regional Index of Openness is a part of the project funded by NED - National Endowment for Democracy



This project is funded by the European Union. This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of ACTION SEE project partners and can in no way be taken to reflect the views of the European Union

The openness of local self-government units in Serbia has been assessed on the basis of a sample constituted of 42 local self-government units. The sample comprised municipalities, cities and city municipalities. The openness of local self-government has been assessed in four areas: accessibility, efficiency, integrity and transparency. The total openness index of local self-government units in Serbia is at a very low level and self-governments units in Serbia fulfil 39% of indicators.

Local self-government units in Serbia fulfil 44% of measured indicators in the area of transparency, which suggests a very low transparency level of the local government. Local self-government units score the lowest in the area of budgetary transparency (36%), whereas the transparency is somewhat higher in the area of organisational information (46%) and public procurements (47%). Local self-government units show the same pattern observed with public authorities at the central level, i.e. the insufficient use of information technologies and the lack of proactive transparency. The budgetary transparency of the local government is at the similar level as the executive power at the central level; however, the local government is at a significantly lower level when it comes to public procurement transparency.

The budgetary transparency has been measured on the basis of the accessibility to information regarding local self-government units' budgets available on their websites and of the public participation in the budget adoption process. Local self-government units reached the highest transparency level by publishing their budgets and the information about the budget on their websites. The citizens' participation is the lowest-ranking indicator of the budgetary transparency. In the last three years, one half of local self-government units have published decisions on the budget on their website, whereas 19% of the sample still does not publish the budget on their websites. 93% of local self-government units do not publish the civil budget, which means that this type of communication with citizens did not come to reality at the local level. Although in the case of the budget publishing, the largest number of local self-government units provide the public with an overview of the budget decision through the website. However, one-fifth of local self-government units does not do so, which indicates the resistance of local authorities against proactive transparency.

A small number of local self-government units have published decisions on the annual financial statement in the last three years, whereby the largest number of them have published decisions on the annual financial statement only for the last year or do not publish at all this kind of information. When it comes to semi-annual reports on the budget execution, 81% of self-government authorities do not publish such information on their websites.

The biggest problem of the local government in the area of budgetary transparency is the lack of consultations with the citizens. Only in two self-government authorities from the sample, there are consultations with citizens about the draft budget and calls for consultations are published on the website. In one self-government unit, consultations do take place, but calls are not published, whereby more than 90% of local self-government units do not organise consultations about the local budget with citizens nor inform the public via their website. This is one of the key indicators of insufficient openness of the local government towards citizens and of the lack of the participative practices in decision-making, as the budget is the key instrument for the implementation of local policies, and the citizens have the full right to be informed about public finances disposal in their local community. The Budget System Law stipulates that the principle of publicity has to be observed when preparing and executing the budget. The Law also predicts that services in charge of finances submit draft decisions on the local government budget to the municipal or the city council and that at the same time they acquaint the public about the draft decisions on the budget. Nonetheless, the Law does not define the ways in which the local government informs the citizens about draft decisions on the budget, which is one of the reasons of a low score in the budget transparency. One of the easiest and the most efficient ways to inform the public about the draft decisions on the budget is their publishing on the website. However, this research showed that local self-government units did not do so.

Respecting of deadlines and timely submission of the draft decisions on the budget to the local assembly for adoption is a significant problem for local governments. The OECD¹ Best Practices for Budget Transparency suggest that the executive power should submit the proposed budget decision to the legislative authority

1 OECD Best Practices for Budget Transparency, 2002. <http://bit.ly/2t5Kg4i>

at least three months prior to the start of the fiscal year. Only in three Serbian municipalities from our sample, the proposed budget decision was submitted to the local assembly three months before the end of the fiscal year, whereas 92% of municipalities did not do so. Such a low score in the area of timely submission of the proposed budget decision to the local assembly is partially due to the fact that the legal framework in Serbia is not encouraging to achieve the level of budget transparency recommended by the OECD. As a matter of fact, the budget planning calendar of the Budget System Law provides that the local government's municipal council submits to the assembly the proposed budget decision on November 1st. This means that the local assembly has two months to examine and adopt the proposed budget. It convenes to mention that the public's influence on the process of budget adoption is drastically restricted in this phase of decision-making. Furthermore, when it comes to deadlines, the council should be able to submit the proposed budget decision event before November 1st. There are no formal obstacles in this case, but the practice is different so that the proposed budget decision is often submitted to the assembly after the expiration of the deadline. The Ministry of Finance also influences the budget planning calendar of the local self-government units, as it prepares the instructions for local budgets preparations. Moreover, direct budgetary beneficiaries have an impact too, as they have to submit proposals of their financial plans to the municipal finance services until September 1st. Delays in previous steps defined by the budget planning calendar cause delays in submission of the proposed budget decisions to the local assembly. This research did not comprise the question regarding the extent to which local self-government units respected the legal deadlines foreseen by the budget planning calendar. The absence of participative practices in the process of preparation and adoption of the budget creates an environment in which the process of the local budget adoption is entirely ceded to the influential political stakeholders.

Although the local self-government units' transparency scored better in the area of organisational information publishing compared to the budgetary transparency, the transparency cannot be assessed as satisfactory either in this field. Local assemblies' decisions have been published on the website in 57% of the local self-government units, whereby in 36% of cases, such decisions have not been published. 55% of the local self-government units publish the decisions passed by the president of the municipality, the mayor or the council, while 45% do not do so. The municipal and council decisions are published in public media, whilst a lesser number of local authorities publish such information separately, on their website. The information about selling and renting of the property owned by a local authority are generally being published on websites, however, 26% of the local self-government units do not publish these data on their web pages.

Public procurement is an area that particularly interests the public, and the publishing of public procurement documents is a very effective mechanism for reducing corruption. The publishing of public procurement documents should not be a demanding task for the local self-government units, because, as contracting authorities they are obliged to keep records of all data pertaining to public procurement during the planning, conducting and implementing of a public procurement. Contracting authorities are held to publish on the Public Procurement Portal all public procurement plans, concluded agreements and annexes to the agreements. The respect of the transparency principle in the area of public procurements reflects in the fact that a contracting authority makes available all data not only in line with the provisions of the Public Procurement Law, but also by enabling the public to access the information about public procurements in a simple manner and by enabling the electronic communication whenever it is possible. The public procurement plans are not available on websites in 54% of local self-government units, whereas 93% of local self-government units publish public bids and decisions on public procurements. The lowest transparency score has been recorded in the area of publishing of public procurement agreements and annexes to the agreements, as 98% local self-government units do not publish these documents on their websites.

The **accessibility** of local self-government units is at a very low level with only 32% of fulfilled indicators. When it comes to enabling and respecting of procedures for free access to information, the total score is 43%, whereas local self-government units score even lower in the area of information availability through public discussion mechanisms (23%) and reinforcing of interaction with citizens (38%).

The publicity of the work and of the basic data regarding the functioning of local self-government institutions are just basic steps in fulfilment of citizens' rights to local self-government. Citizens must be able to have ac-

cess to the information in possession of these authorities in order to participate in the democratic process and to be an active subject in control of the governing authorities. Nevertheless, more than a half of local self-government units do not publish the list of documents they possess, either on their website or in the Information booklet on the work. Also, the information centre/bureau/office for citizens (for the issuing of documents, data base) that is supposed to facilitate the communication between citizens and the local authorities and reduce the issue solving time has been established in quite a few local self-government units. The majority of local self-government units publish the list of public officials and employees with their titles, as well as contacts of responsible persons in every municipal body, but not the contact person in charge of acting according to demands for free access to information. Only a few municipalities undertake the training programme for their employees and inform them about their obligations regarding the rights stipulated by the Law on Free Access to the Information of Public Importance.

The legislative framework that determines the participation of citizens in the decision-making process at the local level is based on the Constitution of the Republic of Serbia and important legal acts: the Law on Local Self-Government and the Law on Referendum and Civil Initiative. The object of the constitutional regulation in this area is important because of the direct citizens' involvement and because of reference to referenda and initiatives as mechanisms for exercising authority and citizens' sovereignty. The Law on Local Self-Government defines three methods of the direct citizens' participation: civil initiative (as a form of proposing decisions within the competence of the municipal assembly), referendum (as a form of decision-making) and citizens' assembly (as a manner to determine proposals and demands addressed to the local self-government units). The Law foresees a detailed regulation of all forms of the direct citizens' participation through municipalities' and cities' articles of incorporation. The Government of the Republic of Serbia adopted in 2014 the Guidelines for inclusion of civil society organisations in the process of regulations adoption where all models of cooperation with civil society organisations were presented in details. In the Guidelines, the Government recommends that both the public administration bodies and the bodies of the local self-government units abide by the principles defined in the said document in the regulations adoption process.

One of the indicators important for understanding the openness of local self-government for citizen participation in the decision-making process is the existence of an organisational unit or a systematised working position in a local self-government system that is in charge of cooperation with civil society. Given that there is no authority in local self-government units that is competent for the implementation of regulations governing citizens' participation in the creation of strategic documents and plans, the Action Plan for the Open Government Partnership for 2016-2017 envisages the development of a model job descriptions or of a part of the job of employees in charge of cooperation with civil society in the local self-government.

More than one half of cities and municipalities do not have a permanent appointment term (open door) for consultations with the president of the municipality.

The large majority of self-government units do not have a monthly bulletin about their work that would enable the citizens to obtain the information about current events regarding the work of the local self-government. However, social networks have been recognised as a possibility to reinforce the interaction with citizens, so that the majority of local self-government units have Facebook and Twitter accounts created.

The Law on Associations is clear when it stipulates that funds for financing association's activities are awarded through competition. However, less than a half of local self-governments undertook at least one competition for citizen association last year. The majority of local self-governments that had carried out the competition for association published decisions on awarded funds and project results on their websites.

The **integrity** of local self-government units in Serbia measured by the existence and the level of functioning of prevention of conflict of interest mechanisms is at a very low level. Namely, local self-government units fulfil only 24% of indicators that refer to: publishing of the information about the property and income of local officials; existence and availability of strategies for the fight against corruption and instruments of their implementation and oversight by the local assembly or other relevant local institutions, and possibility that citizens report corruption and abuse of office.

The highest score has been realised in the first indicator fulfilment regarding the accessibility of the information about the property and income of local officials, as they were published on the internet portal of the Anti-Corruption Agency. When it comes to other indicators' fulfilment, the results are worrisome. At the observed sample, in most cases, local self-governments do not develop local strategies and plans for the fight against corruption, thus missing the appropriate institutional mechanisms for their implementation and oversight. According to past data, the year 2016 ended with a total of 12 local anti-corruption strategies on the national level out of 593 adopted local strategic documents since the beginning of strategic planning at the local level.² The preparation and adoption of action plans for the fight against corruption is one of the crucial steps for improving the rule of law and as such is linked to the process of accession to the European Union. The chapter 23 that refers to the judiciary and basic rights contains this measure, while the responsibility for its execution is borne by the Anti-Corruption Agency. The Agency has an obligation to prepare a model for local action plans for the fight against corruption. Although the Action Plan for Chapter 23 envisages that the model be done by the end of 2016, it did not happen and this obligation was postponed to the first trimester 2017.³ Therefore, it is necessary to put a focus on monitoring the fulfilment of this measure in the upcoming period.

In the area of **efficiency** of the work, local self-governments in Serbia do not achieve an enviable score and the fulfilment of indicators varies significantly in relation to the observed sub-area. Sub-areas on the basis of which the efficiency is measured relate to the implementation of monitoring over the work of local self-government units, then to reporting, as well as to strategic planning. The percentage of indicators fulfilled in all sub-areas together amounts to 48%, while the worst condition has been recorded in the field of monitoring (10%), strategic planning (55%), whereas the procedure on reporting about the work is entirely present in the observed sample and fulfils 100% of indicators.

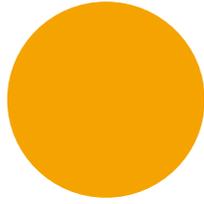
Through indicators related to **monitoring**, the existence of a framework, in which the oversight of the efficiency of local self-government work was carried out, was checked, and in relation to the set goals, available services and the role of local self-government. Moreover, it was checked whether there were indicators that measured the degree of influence and the efficiency of programmes and plans prepared and implemented by the local self-government. In the observed sample of 42 local self-government units and on the basis of a questionnaire, only four of them develop some form of a framework that ensures the implementation of oversight over the work, while only three self-government units stated that they developed also the indicators for measuring of policies efficiency.

In the area of strategic planning, the situation is somewhat better. More than one half of local self-government units developed a strategic plan with clearly set development goals that was approved by the mayor or the president of the municipality and the ruling majority.

As far as the reporting procedure is concerned, 100% of indicators have been fulfilled as they are linked to the existing legal framework. The Law on Local Self-Government obligates the president of the municipality to regularly report to the municipal assembly, at his own initiative or following a demand, about the execution of decisions and other municipal assembly acts. Also, the Law on Public Companies stipulates that public companies whose founder is the local self-government are held to submit reports on realisation of the annual and triennial business plan to the competent bodies of the local self-government units, i.e. to the assembly, that enjoys the rights of a company founder.

2 CenTriR, Local action planning in the area of fight against corruption, 2016, <http://www.ocdoskop.rs/sr/organizacije/resource/127/analiza-lokalno-akciono-planiranje-u-oblasti-borbe-protiv-korupcije.html>,

3 Action Plan for Chapter 23 with the status of activities implementation, <http://www.mpravde.gov.rs/files/Akcioni%20plan%20PG%2023%20sa%20statusom%20sprovedjenja.pdf>



ACTION SEE (Accountability, Technology and Institutional Openness Network in the South East Europe region) is a network of civil society organizations that jointly work on promoting and ensuring government accountability and transparency in the region of South-East Europe, raising the potential for civic activism and civic participation, promoting and protecting human rights and freedoms on the internet and building capacities and interest within civil society organizations and individuals in the region in using technology in democracy promotion work.

CRTA is an independent, non-partisan civil society organizations that advocates for accountability and transparency and improves the skills of citizens and the media to actively participate in the decision making process monitoring. In order to empower citizens, other NGOs and the media to hold public officials to account, CRTA use information and communication technology for exchanging data obtained by monitoring the work of public institutions, investigative and “data” journalism, researches and surveys.

CRTA, also, develops ICT tools that enable citizens to do their own research and publish information as well as developing publicly available mechanisms for holding politicians and institutions to account. CRTA and its partners use the information, tools and mechanisms to encourage the public reaction to the abuse of public office and to exert pressure on institutions to improve existing procedures with regard to the concept of accountable behavior.

WWW.CRTA.RS