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PARLIAMENTARY OPENNESS IN THE REGION AND IN ALBANIA

RECOMMENDATIONS FOR THE IMPROVEMENT OF THE STATUS

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PARLIAMENTARY OPENNESS IN THE REGION AND IN ALBANIA
INTRODUCTION

In cooperation with partners from the regional network “ActionSEE”, MJAF! The movement has prepared a proposal of practical policies in which levels of transparency, openness, and accountability of the legislative power in the West Balkans region were analyzed.

The proposal is a result of a comprehensive research, based on methodology, undertaken by the members of the network ActionSEE in previous months in all West Balkans countries. The aim of the research is to provide an in-depth overview of the situation in the stated areas, to contribute to the quality of reforms in the state administration work, to influence the enhancement of good governance and to help the institutions to effectively implement them in their work. We are of the opinion that these are the objectives that we share with the very institutions comprised in this research.

The proposal for practical policies, with concomitant analyses, is the second document of this type. Last year, too, following the research conducted, members of the network made recommendations for improving the openness of institutions.

On the basis of the results of the research conducted in 2016, policies were developed providing an overview of the situation in the institutions of Albania and the region, including the identified shortcomings and good practices in this area. On the basis of these analyses, last year’s recommendations were made as well as “roadmaps” for the improvement of specific areas covered by the research.

After that, drawing on their work on the findings and results of last year’s research, ActionSEE members have started to improve and adapt research methodology and its indicators, hoping that the new information collected shall contribute to better quality results of the project. The aim of using new and improved indicators is to add new dimensions to the research and a more efficient contribution to strengthen the openness of the institutions in the region.

Backed up by our knowledge, concrete results and analyses of regional openness, believing that the institutions of the parliament led by simply presented and achievable steps aiming to improve the situation in these areas, guided by our work on its improvement, we decided to advocate a higher level of openness on parliaments in the region. Thus, this year’s research has been enriched with indicators advocating a higher standard of proactive transparency.
The openness policy must be the policy of all parliaments in the region; it must be defined as all other important policies and should not be the result of a current decision or current mood of the authorities. Each country in the region has its own specific, political conditions in which it develops its openness, but there can be noticeable room for joint regional action to improve the situation.

PARLIAMENTARY OPENNESS IN THE REGION

Having analyzed a large number of methodically rounded data, we noticed similarities and differences in the situation in this area in the countries of the region.

The results of the conducted research showing that the openness of parliaments at the regional level is not satisfactory. As with executive authorities, it was noted that the overall result of parliamentary openness at the regional level was lower than in the previous observation and measurement cycle. Instead of the expected progress in the sphere of openness, parliaments in the region achieved a worse result comparing to the previous research period. On average 61% of indicators were fulfilled in 2017 in the area of openness. This score is 2% lower compared to the openness recorded in 2016 when it reached 63%.

We would like to point out that this year’s research comprised and advocated a higher degree of openness of institutions in relation to last year, adding new indicators by which this openness is measured, and thus tightening the measurement criteria themselves. We believe that such a tightened approach to the research added up to the fact that the results show a decrease in the openness of the legislative power. On the other hand, the results and analyzed data show that the legislative power has not made any effort to develop openness since the publishing of the previous results, so new indicators are not of the crucial importance for a general decline in the openness.

The highest legislative bodies of the region do not have a strategic approach to openness policy as it was discernible and indicated in the analysis of the parliament openness in 2016, and as well remained unchanged in the results of the monitoring conducted in 2017. Requests for openness can only be indirectly derived from the Constitution, Rules of Procedure and other acts, and as such are subject to different interpretations and moods of the parliamentary majority.
The decline in the level of openness of all parliaments at the regional level, with the exception of the Albanian Parliament that achieved a better result in 2017 (75%), compared to 2016 (60%), shows that for a year parliaments had not strived either to maintain the achieved degree of openness, nor invest in its development.

Information on the parliament`s work belongs to citizens, and it is necessary to constantly improve the existing level of parliamentary openness` culture. Openness policy should develop as the pace of the new technologies pick up. New technologies should be used fully, as it would, inter alia, support and facilitate the data publishing in a machine-readable form. In support of this, there is a datum showing that parliaments in the region are not committed to publishing data in an open format, thereby refuting and minimizing the usable value of the published information.

The lack of desire to work on improving the openness and transparency of the parliaments is genuine. It is confirmed by the fact that in 2017 half of the number of parliaments that were subjected to research did not submit answers to the questionnaires, which are a key part of the entire research. The reluctance to answer the questionnaire is in itself an indicator of insufficient openness and of lack of interest in promoting openness.

Our monitoring has shown several “critical points”; i.e., key obstacles to the development of parliamentary openness in the region.

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**Transparency, accessibility, and communication with citizens**

The observed decline in the transparency and accessibility of parliaments in the region has to be stopped and significantly improved so that these institutions, selected by citizens and for citizens, could act fully as the pillars of democracy in these societies.

Although the existence of the Law on Free Access to Information of Public Importance in the region greatly contributes to the larger transparency of parliaments, it is necessary to further strengthen its application, and it is imperative that parliaments make an effort to improve their own proactiveness in publishing information on their work.
Although among the parliaments in the region there are champions and examples of good practice when it comes to publishing data on the work of parliament and of deputies, we conclude that the legislative framework and the declarative commitment to respecting the principles of openness and international standards are often kept only on paper. This year’s research also shows that information on the activities of deputies by committees, documents emanating from the work of the committee or submitted amendments have not yet been published by most of the parliaments in the region. Furthermore, publishing of information on the work of parliaments and of deputies is rarely accompanied by their accountability for the achieved results and the quality of work of this institution. The average result achieved by parliaments in the region in the area of communication with citizens, which amounts to 35% of fulfilled indicators, is yet another reason for concern.

Parliaments in the region continue to be inert and do not strive to invest in new channels of communication that can help bridge the gap between citizens and their representative body. Another regional problem is the respect for the principle that the data should be published in open data formats, which would increase accessibility and make it easier for citizens to collect information.

What certainly raises concern is the fact that transparency and communication with citizens are at the lowest level when it comes to preparing, discussing, adopting and presenting (in open data format) the most important annual legislative act in every country – the state budget. The average result for every country in 2017, in the area of the state budget, is 41%, whereas in all countries, with the exception of Albania (86%) and Montenegro (58%), these percentages range from 19% (Serbia) and 32% (Kosovo).

It is essential that parliaments in the region make an effort to fully appreciate the significance, role, and opinion of civil society in democracy and to improve the mechanisms of cooperation with it. It has been noted that despite the existing mechanisms and declarative determination of the holders of legislative power, parliamentary cooperation with civil society in the region has been generally violated. The Republic of Serbia ceased the cooperation with the Open Parliament following the protest that this initiative lodged to the way that the Budget Law for 2018 had been debated and adopted.
Parliamentary oversight – good basis and poor implementation

Parliaments in the Western Balkans region have established good bases for conducting parliamentary oversight - except in the case of Kosovo that meets only 19% of the indicators set. However, it is necessary that this function of the legislative power be significantly strengthened at the level of the entire region, with an emphasis on ensuring its full implementation in practice. A good legislative basis for the exercise of parliamentary oversight does not imply that it shall actually be implemented in practice. Parliaments in the region continued to formally apply this function in 2017, which led to the fact that the results of the parliamentary oversight actually lack. The need to strengthen the control and oversight function of the parliament in terms of its effective implementation was emphasized by the European Commission in the individual reports for each country, published in April 2018.

This situation brings us back to the last year's conclusion. It is extremely important that parliaments be not a place of uncritical adoption of the executive power proposals but rather of their review and of an efficient control of everything that has been done. Legislative duties of deputies must not be a reason for neglecting the controlling function, which is one of the most important guarantees of democracy. All parliaments in the region must make efforts to fully implement the existing mechanisms, thereby contributing to raising the level of political accountability.

Weak evaluation and control of the work of parliaments and of deputies’ behavior – effects, integrity, and ethics

Even in 2017, the work of parliaments in the region was not based on the establishment of a uniform methodology and appropriate indicators for measuring the results and the quality of their work and the work of the deputies. Strategic planning of parliaments at the level of the entire region meets only 25% of the set indicators, with parliaments of Serbia and Kosovo that scored zero points in this dimension. This situation, which keeps repeating from year to year, continues to have an impact on the quality of parliamentary work and on informing citizens about the effects and outcomes of the work of the legislative power.
In most of the parliaments in the region, the Law on Lobbying has not yet been adopted. Additionally, the integrity of the parliaments remains low due to the fact that the Codes of Ethics of parliaments in some countries of the region have not yet been adopted, or their implementation is extremely weak. As in 2016, even in this measurement cycle, low ethics in the work of parliament and of deputies was recorded, and last year’s recommendations in this area were not applied. It is essential that parliaments that have not yet adopted the Code of Ethics set this as a priority for their agenda. Moreover, it is necessary that all the parliaments of the countries of the region establish clear mechanisms for monitoring the implementation of the Code of Ethics of the deputies and sanction each violation of the prescribed ethical standards. Practice from the region shows that violation of the Codes of Ethics does not generally result in the sanctioning of misconduct, and often represents the subject of political agreements. A consistent application of the Codes of Ethics is crucial for raising the level of political accountability and public confidence in the work of parliaments.

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**Parliamentary openness in Albania**

Based on the conducted measurements, the Parliament of Albania reaches 75% of openness. For the region aspect, this score is a satisfactory result, but also it represents the highest performance compared with other power in Albania. Although this institution acts like the best practice for other public institutions in respecting the principles of accessibility, transparency, accountability, and integrity, there is still work to be done, to improve the Parliament’s openness.

The performance of the four pillars of good governance for the Parliament is 88% of fulfilled indicators, 84% efficiency indicators, 71% transparency and 60% integrity indicators.

The official website of the Parliament of the Republic of Albania is frequently updated with the daily administrative activity of the institution. The list of draft laws, approved legal acts, minutes of committee meetings and plenary sessions, working calendars and daily agenda of the activity of parliamentary committees, the presence of MPs and how they vote the draft laws can be easily found on the website. However, there are still issues which are not in compliance with the recommended international standards for openness.
Enforcement of the MPs Code of Conduct and improvements in the conflict of interest prevention.

During the period of research, the MPs Code of Conduct was being discussed in parliamentary committees. A long period of discussion has been required for the code to be designed. The law is adopted in April of this year, but its implementation has not yet begun due to the pending normative acts.

Also, lobbyists and their activities still remain unregulated by law in Albania; moreover, there is not a medium for drafting such law, yet.

Although the asset cards of MPs include information on the income sources and paid outside position work, as well as information on gifts, although late filing is followed by administrative sanctions, this information can be accessed only upon a public request to the High Inspectorate of Declaration and Audit of Assets. The procedure for storing the content of asset cards electronically has not been implemented yet.

Improvement of institutional transparency. More information on public procurement and organizational structure.

Annual work programs are not published on the Albanian Parliament’s website, although reports on the annual work can be accessed. Referring to the voluminous activity that the institution conducts throughout the year and the importance of continuous accountability to the public as the highest lawmaking institution, mid-year report of the achieved results appear to be a necessity to observe the performance of administrative and legal activity of the Parliament. These mid-year reports are not published on the site, too. It is difficult for the general public or NGO to monitor the Parliament’s performance as the lack of annual working plans leaves no room for measuring the level of the feasibility of the plans throughout the year.

Regarding human resources of the Parliament administration, with the exception of the organogram published on the website by departments and hierarchical levels, there is no information on names, positions, contacts, and salaries of the civil servants of this institution.
Nevertheless, the voting records of the MPs in the plenary sessions are published in the website. Also, the live transmission of all the plenary sessions by the National Television is considered a good practice of parliamentary transparency. But this practice is not followed even in the meetings of the committees. Main discussions of the meetings are transmitted by the private media, but the voting records of the MPs on the draft laws are not published.

Minutes of the meetings can be accessed on the website, but these documents are published weeks after the committees are held.

Transparency requires institutions to make their data and information publicly available in a detailed and understandable way. When the data on the daily administrative activity is missing, there is a correlation between corrupt practices at the institutional level and the avoidance of public opinion.

Governments that operate more effectively have more positive trends in institutional transparency levels. Transparency allows citizens to evaluate and impose public policies (Kopits G. & Craig J., 1998).

Budget transparency is an issue to be addressed for this institution. The plans, calls, decisions, contracts, and appendixes of the public procurement procedures performed by the Parliament of Albania are not transparent on the official website. Also, the budget of citizens is not a practice pursued by the highest lawmaking body in Albania. Citizens-oriented administrations that intend to maximize the satisfaction and increase focus on their communities by offering more quality, clarity and transparent services are inclined to develop civic budgeting and civic budget system, including citizens at different stages of budgeting. The purpose of this budgeting is to simplify the way of public budget publishing and make it more understandable by citizens (Bilge S., 2015).
Reasearch methodology

Openness is a key requirement of democracy because it enables citizens to obtain the information and knowledge needed for equal participation in political life, efficient decision-making and holding institutions accountable for policies they implement.

Institutions around the world are undertaking concrete actions in order to increase their transparency and accountability towards citizens. With a view to determining the extent to which the citizens of the Western Balkans receive timely and understandable information from their institutions, the Regional Openness Index has been developed.

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Improvements of citizens’ accessibility of the Parliament of Albania. More efforts in designing guidelines and developing training to provide open data.

Even though the law No. 119/2014 “On Freedom of Information” is considered one of the best laws in Europe in the field of accessing the public information, the public administration is yet not performing in satisfactory levels in implementing the articles of this law. The law does not provide for the obligation to develop training to increase and strengthen the human resources capacities that deal with access to the public information. Training on the right of information is conducted at the will of the independent institution of the Office of the Commissioner for the Right to Information and Protection of Personal Data. The low performance of open data format documents published (33%) emphasizes the need for more training in this area. Specifically, the parliamentary administration stated that it participated in a training on open data format but did not provide information on the date this training was held.

Lack of guidance is an obstacle to securing civic interaction with the government as a whole. Although the law on access to information provides for the right to complain in cases when the institution does not receive responses to requests submitted for official information, there is no legal regulation or any guidance that clarifies citizens on how to raise concerns, appeal or to develop online petitions on legal initiatives affecting the general public interest.

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The Regional Openness Index measures the degree to which the institutions of the Western Balkan countries are open to citizens and society, based on four principles: (1) transparency (2) accessibility (3) integrity and (4) efficiency.

The principle of transparency implies that organizational information, budget, and public procurement procedures be publicly available and published. Accessibility refers to the provision of an abiding by procedures for free access to information and to the enhancement of the information accessibility through the mechanism of public hearings and strengthening of interaction with citizens. Integrity includes mechanisms for the prevention of corruption, the implementation of the Codes of Ethics and the regulation of lobbying.

The last principle, efficiency, concerns the monitoring and evaluation of policies implemented by institutions. Following international standards, recommendations and examples of good practice, these principles are further elaborated through specific quantitative and qualitative indicators that are assessed on the basis of availability of information on official internet sites of institutions, the quality of the legal framework for individual issues, other sources of public information and questionnaires forwarded to institutions.

Through more than 110 indicators per institution, we measured and analyzed the openness of all parliaments in the region and collected over 1000 data. The data collection was followed with data verification process which resulted in the standard error of +/−3%.

The measurement was conducted in the period from December 2017 to the end of February 2018. A set of recommendations and guidelines directed towards institutions was developed on the basis of research results.