



THE OPENNESS OF EXECUTIVE POWER

Recommendations for improvement of the current situation



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1. Introduction

Based on the methodology for measuring institutional openness, MJAF! Movement has prepared this paper on policies, in which the levels of transparency and accountability of the executive power in the Republic of Albania are analyzed. The paper presents the results of a comprehensive research, based on scientific methodology, created by members of the ActionSEE network[1]. The purpose of this research is to present a general view of the current state of the executive power, as well as to contribute to the implementation of the reforms undertaken for public administration, to influence the reinforcement of the principles of good governance and to help institutions in the more efficient implementation of their duties. This document contains the results of the research carried out during the period March - August 2022, as well as recommendations for improving the institutional openness of the government. Taking into consideration the work done over the years, in partnership with regional organizations, some of the indicators that measure performance have been reviewed and changed depending on the measured results, which presented the state of the institutions of the Republic of Albania, including the good practices in this field.

In this study, the methodology for measuring the performance of public institutions has been improved and modified; its indicators are adapted on the basis of results and findings of monitoring, developed in the past years, aiming to generate information that will contribute to better project results. The purpose of using new and improved indicators is to add a new dimension to this research and a more efficient approach to improving institutional openness in the country. Possessing knowledge, concrete results and analyzes of open institutional governance, as well as believing in the improvement of the work of the executive power institutions in this area, also influenced by the concrete steps presented in the prepared guides, we intend to advocate for a higher level of open government in Albania. For this reason, indicators have been added to this research, which advocate for higher standards of proactive transparency.

The policy of open government should be a policy implemented in all governments and should be defined like other important policies, and not come as a result of an actual decision or the state of the current party in power. Our proposal is addressed to decision-makers of the executive power in the Republic of Albania, at all levels: the council of ministers, line ministries and executive agencies. This paper may be useful for representatives of international institutions and for colleagues from civil society organizations who work on such issues. In order to achieve a high-quality public dialogue on these issues, as well as to ensure the achievement of the principles of research transparency, public institutions will be informed about all the details of the performance and the conclusions drawn. The database with the open data collected within this program will be accessible to all those interested[2]. We are at your disposal for all suggestions, constructive criticism and discussions related to this paper!

2. Institutional Openness of Executive Power in the Republic of Albania

Executive Power in Albania has recently been marked by several events, which have affected the performance of the government, as well as its relationship with the large public. In April 2021, the general elections were held in the Republic of Albania, the result of which decided, for the first time during the transition period, that a political party would alone govern the third consecutive mandate. Consequently, the year 2022 found the Albanian executive in an almost post-pandemic situation and in recovery of the country's economy. The pandemic emergency situation, of course, affected the performance of state institutions, as well as the economic performance of Albania.

So, this year, the Albanian government announced the decision to become the first country in the Western Balkan region, which would close the physical counters of all state services to the public and business. Since 1st of May 2022, public services are offered through the e-Albania government portal[3]. The digitalization reform of state services represents a step towards improving the level of service to the citizen and business, but at the same time it brought about the rise of many concerns for that part of the citizens, who for socio-economic reasons, or other skills/literacies, cannot access these services[4].

Throughout this year, in parallel with the national factors, the international situation with the war in Ukraine, as a result of the Russian aggression, affected the domestic activity. The increase in living costs, as a result of this war, represented an emergency situation, forcing the executive power to review and reallocate the state budget, in order to adapt to the created reality.

Finally, the ability and performance of public institutions to be transparent to the citizens was also shaken by the cyber attack of July this year[5]. An attack directed at some of the most important institutions in Albania, such as the National Agency of the Information Society, the Ministry of Interior, including the TIMS system, the State Police database, as well as institutions that are not yet known if they were affected by the scope of this attack. This attack has been proven to be directed by the state of Iran. As a result of this attack, for a period of two weeks, the websites of the public institutions of the Republic of Albania were paralyzed, due to the collapse of the state's server system. Shutting down the servers was done as a preventative measure against the attack. The result of this attack has made it possible for some of the sensitive personal data of Albanian citizens to be accessible by anyone.

2.1. Core executive

The Council of Ministers has scored 67.7% of openness in this research, as the performance results of the measured indicators. In contributing to the creation of a performance trend, in the last measurement carried out according to the ActionSEE methodology to measure the index of institutional openness, the Albanian government has managed to meet 68.42% of the indicators[6]. It is noticed that the performance of this institution, comparing the two measurements (2018 vs. 2021), has a negative difference of 0.72 percentage points.

Referring to the situation of the countries of the Western Balkans region, Bosnia & Herzegovina scored 49.85% of the openness, Serbia 37.96%, Montenegro 58.16%, while North Macedonia 82.71%[7]. The performance achieved in this research by the Council of Ministers of the Republic of Albania ranks the country as the second in the region in terms of meeting international standards of institutional openness.

The performance of the pillars that the research measures has marked 51.51% transparency, 79.38% accessibility, 39.9% effectiveness and 50.59% integrity. Compared to the last measurement of 2018, the transparency component has increased by 4.19 percentage points, while the effectiveness has recorded a negative 41.92 percentage points, also the integrity has recorded a decrease in performance by 36.78 percentage points. Regarding the publication of information in an open data format, this year the government scored 33.79%, while in the last results in 2018 it was 34.89%.

Transparency

Some of the documents that are missing from the official website of the Prime Minister's Office are the reports that contain information on the implementation of the annual work plans. Although the government's program is published on the site, it is impossible for the general public to access documents that contain information that this program has achieved within 2021 by the government.

Although the list of public officials and civil servants of the prime minister, together with their biographies, are found in the organic section of this institution, their official contact details are missing.

Regarding the meetings of the Council of Ministers, no document for this session is published on the site. The calendar of upcoming meetings, agendas, materials necessary for the conduct of the council meeting, meeting minutes, as well as their real-time transmission are completely missing from the government's website.

Regarding public procurement procedures, the transparency program of the institution guides the user to go to the official website of the Public Procurement Agency (APP), as the responsible institution for maintaining these procedures. Therefore, calls for procurements, decisions, signed contracts and reports on the feasibility of these contracts cannot be found on the Prime Minister's website.

Also, budget information is missing. Apart from the state budget law that is accessed on the site, the documents related to financial reporting and the actual expenses of the year are missing. The budget published in a document that contains understandable information for citizens represents another indicator not reached by this institution.

Accessibility

Through the indicators that measure the exercise of the right to information in the Republic of Albania, this component has also resulted in the highest value of completeness of the institution of the prime minister. Since the law no. 119/2014 "On the right to information" represents one of the best laws in the region and Europe for guaranteeing the right to information, most of the international standards of accessibility are achieved by the government of our country, as well as the indicators of our methodology measure the legal framework of this aspect. Also, having a government portal for open data[8] and a government portal for public service, such as e-Albania, increases the institution's performance.

The indicators that have influenced the result of this component have been the lack of response to the request for information sent, the lack of legal obligation to train civil servants in the field of the right to information and the lack of participation of the institution in trainings on the publication of information in open data format.

Integrity

Albania still lacks having a law that regulates the activity of lobbyists, despite the fact that the legal framework for having codes of ethics and the law for whistleblowers have been adjusted. Also, the government performs negatively in lacking publication of public officials' asset cards; this information is accessible to the public only upon request.

Effectiveness

In terms of effectiveness, the Albanian government scores negatively in the use of indicators for measuring annual work and financial performance. Of course, referring to Albanian legislation and audit procedures, these indicators are developed by each institution, but due to the lack of response from this institution, the result of these indicators is 0. Other missing documents are related to the mid-term and long-term planning of the institution.

2.2. Line ministries

The line ministries of the Republic of Albania are 38.91% transparent, 53.08% accessible, 44% ethical, 40% effective. The total result of the National Index of Institutional Openness of Ministries is 54.05%. Compared to the last measurements of 2018, the ministries have a slight decrease in performance, by 0.45 percentage points. The Ministry of Agriculture and Rural Development remains the institution with the highest achievement of institutional openness standards with 63.65%, while the ministry with the lowest result remains the Ministry of Tourism and Environment, meeting only 38.83% of the indicators. It is noted that the results of the institutions have no significant difference between the two measurements (2018 vs. 2021), leading to the conclusion that not much has been done in terms of transparency to improve the situation.

Referring to the situation of the countries of the Western Balkans region, Bosnia & Herzegovina scored 38.5% of openness, Serbia 46.82%, Montenegro 48.17%, while North Macedonia 58.56%[9]. Consequently, Albania ranks second in the region for the performance of ministries.

The ministry with the highest percentage of documents published in open data format is the Ministry of Education and Sports, with 44% of the total result, while the lowest result is the Ministry of Tourism and Environment with 18.21%. Ranking of line Ministries according to performance based on measurements for 2021, as follows:

1. Ministry of Agriculture and Rural Development 63.65%,
2. Ministry of Education and Sports 60.77%,
3. Ministry of Health and Social Protection 60.77%,
4. Ministry of Defense 56.27%,
5. Ministry of Justice 55.55%,
6. Ministry of Infrastructure and Energy 55.37%,
7. Ministry of Finance and Economy 55.19%,
8. Ministry of Internal Affairs 52.14%,
9. Ministry of Culture 48%,
10. Ministry for Europe and Foreign Affairs 48%,
11. Ministry of Tourism and Environment 38.83%.

Regarding the transparency component, the most missing documents, the most encountered issues, are the documents related to institutional budgets and public procurement procedures. The ministries address the Ministry of Economy and Finance as the institution responsible for the state budget and treasury transactions for institutional payments. The same happens with public procurement procedures, where the ministries direct the user to the APP website, as the institution responsible for the conduction of calls and contracts. While all ministries have implemented the legal obligation to send their annual financial reports to the Ministry of Finance and Economy on time, the ministry with the most budget information published on its official website is the Ministry of Health and Social Protection. As for public procurement procedures, the Ministry of Defense publishes more information on plans, calls and decisions, followed by the Ministry of Education and Sports, the Ministry of Infrastructure and Energy, the Ministry of Health and Social Protection and the Ministry for Europe and Foreign Affairs, which aside to the calls on the APP website, publish the annual procurement plans, as well.

Regarding the accessibility component, an increase in performance is noticed for these institutions. The number of publication of draft laws for public consultation and supporting materials for the implementation of these processes has increased. Like the budget and procurements, public consultations are also "centralized" to take place on a single government platform[10]. The indicators that have scored positively in this research have been those that have measured the publication of reports of consultative processes with interest groups and the decision to integrate the comments of these groups in the final acts, along with the reasoning. As well as, the increase in the publication of Regulatory Impact Assessment Reports (RIA), which has been negatively marked in previous research.

What is most noticeable in the publications of the institutions' public pages is the lack of documents or reports of their daily administrative activity. Although public information is now more structured, the first perception that is received from the institutions' pages is the promotion of the activities of the ministers, more than institutional transparency.

2.3. Executive Agencies

Compared to the previous measurements, where the research included only a sample of executive agencies in the Republic of Albania, in this research the 39 executive agencies that are currently in operation, have been monitored. In this monitoring, the executive agencies have achieved the total result of 25.08% of completing the institutional openness indicators. This result is almost 36% less than the achievement of 2018, marking a very significant decrease in the transparency levels of these institutions. Referring to the situation of the countries of the Western Balkans region, Bosnia & Herzegovina scored 40.49% of openness, Serbia 31.2%, Montenegro 40.82%, while North Macedonia 41.54%[11]. So, executive agencies in Albania perform lower than their counterparts in the Western Balkan region.

More specifically, transparency is at the levels of 20.66%, accessibility 30.88%, integrity 11.18% and effectiveness 20.53%. In this result have influenced the institutions that do not have an official website, but also the number of institutions that have not responded to the request sent for official information. Once again, the rigidity of these institutions is looked at to be accessible and transparent to the interested parties, addressing the issues of transparency to the institutions from which they depend.

The highest performance for the executive agencies is represented by the Agency for Civil Society Support, with 46.94% of indicators completed. The National Agency for Territorial Planning, the Agency for Water Resources Management, the Albanian Investment Development Agency, as well as the Deposit Insurance Agency are presented in almost the same performance. 18.42% of agencies do not have an official website, an indicator which is positive compared to the last measurements (in 2018, about 29% of institutions did not have a website). The ranking of the performance of the executive agencies, according to the result achieved by them, is as follows:

1. Agency for Civil Society Support 46.94%
2. National Agency for Territorial Planning 41.75%
3. Water Resources Management Agency 40.88%
4. Albanian Investment Development Agency 40.23%
5. Public Procurement Agency 40.23%

6. Credit Management Agency 38.5%
7. National Agency of Natural Resources 38.5%
8. Deposit Insurance Agency 38.07%
9. National Employment and Skills Agency 36.34%
10. Agency for Agricultural and Rural Development 36.34%
11. National Employment and Skills Agency 36.34%
12. National Environment Agency 35.26%
13. Agency for the Provision of Integrated Public Services 34.17%
14. State Agency for Children's Rights and Protection 34.17%
15. National Agency of Diaspora 32.87%
16. EU Assistance Programs Audit Agency 32.47%
17. National Agency of Information Society 31.58%
18. Albanian Telegraph Agency 31.58%
19. National Tourism Agency 30.28%
20. National Agency of Scientific Research and Innovation 29.84%
21. National Coastal Agency 29%
22. Agency for Quality Assurance in Higher Education 28.76%
23. Concessions Management Agency 27.25%
24. Agency for the Support of Local Self-Government 27.25%
25. National Agency of Medicines and Medical Devices 26.82%
26. State Cadastral Agency 26.81%
27. National Agency of Water Supply, Sewerage and Waste Infrastructure 26.82%
28. Energy Efficiency Agency 25.3%
29. Property Handling Agency 24.22%
30. Central Purchasing Agency 16.86%
31. Agency for Dialogue and Co-governance 11.26%
32. Seized and Confiscated Assets Administration Agency 10.37%
33. National Agency of Protected Areas 5.63%
34. Sports Service Agency 1.73%
35. Territorial Development Agency 0%
36. National Nuclear Agency 0%
37. National Bankruptcy Agency 0%
38. National Agency of Education, Vocational Training and Qualifications 0%
39. Central Agency of Agricultural Extension and Veterinary Service 0%

Even in the case of executive agencies, documents related to budget transparency and public procurement procedures are those that are repeatedly missing. The reports related to the administrative activity, as well as the participation in trainings that increase the capacities of the institution in the field of the right to information, protection of personal data, protection of whistleblowers and prevention of corruption, are some of the documents that negatively mark the performance of these institutions.

3. Methodology of the research

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. The National Index of Institutional Openness of the executive power was built in order to determine the degree to which citizens receive and understand information from their institutions. The National Index of Institutional Openness measures the degree to which public institutions are open to citizens and society, based on four basic principles, which are: (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 based on 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 about 200 indicators, Mjaft has measured and analyzed the institutional openness of the executive power institutions and more than 1748 data have been collected (council of ministers, 11 line ministries and 38 executive agencies). The measurements were carried out during the period March - August 2022.

4. Recommendation for improvement of the current situation

Referring to the international standards of institutional openness, executive institutions should improve their performance mainly in the components of accessibility and transparency, in compliance with the law in force no. 119/2014, dated 18.09.2014 "On the right to information". More specifically, public institutions should engage in strengthening the capacities of the Coordinators for the Freedom to Information, with relevant training and their sustainability in the assigned responsibility, as important actors for the smooth running of the transparency process. Responsiveness to requests from actors interested in public information should be increased by public institutions, implementing the legal deadlines, as well as the regulatory articles of the Law on the Right to Information; reduction of bureaucracies and increased proactivity.

The Government of the Republic of Albania should mainly engage in increasing the transparency of the activities of the Council of Ministers, through the publication of the agendas and minutes of the meetings. An essential and ongoing recommendation remains the creation of a law on lobbying, as an integral form of modern participation in government and as such, should be legally regulated.

Line ministries in the Republic of Albania should focus more on the publication of documents that contain information about their administrative activity, in accordance with their field of action, avoiding the predominance of publications that are mostly related only to figures and the activities of the leaders of these institutions. The publication of budget documents and those of public publication procedures should be considered a priority to be published on their official websites and not on centralized platforms.

The Executive Agencies of the Republic of Albania still remain rigid to be open to interested parties. One of the most important recommendations is the increase in training for personnel responsible for the implementation of the right to information on the relevance of the law and administrative penalties which also include these agencies, as public entities, regardless of which public institution they are under; creating a general culture where every public budget institution is responsible for being proactive and transparent.

5. References

- [1] ActionSEE “Accountability, Technology and Institutional Openness in the South Eastern Europe” is a regional network of organizations from the countries of the Western Balkans that have built the Regional Openness Index. In order to generate the National Index of Openness for Albania, the same methodology was followed, as MJAF! Movement is part of this network since 2016.
- [2] ActionALBANIA “Accountability, Technology and Institutional Openness in Albania”: <https://actionalbania.org/en>
- [3] Governmental portal: <https://e-albania.al/>
- [4] National Cross-Cutting Strategy on Digital Agenda 2022-2026: <https://cutt.ly/6MtVAUn>
- [5] Cyber-attack, July 2022: <https://cutt.ly/GMtMiVP>
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