Road Map for Good Governance for the state institutions in Montenegro

Based on the Regional Index of Openness

**For Year: 2017**

**GENERAL INFORMATION**

Openness represents a key precondition for 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.

Open government is based on four organizational principles: transparency, accessibility, integrity and awareness. These principles apply to all branches and levels of government, from the central executive to local self-government, parliament and the judicial system.

The Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society and is designed in order to define to which degree citizens of the Western Balkans receive opportune and understandable information from their institutions.

In order to measure the degree of institutional openness, ACTION SEE partners following international standards, recommendations as well as examples of good practice, assessed institutions through special quantitative and qualitative indicators, which evaluate institutions 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.

The responsiveness of institutions to the questionnaires was an additional indicator for their openness. A lot of institutions got negative scores on indicators due to their non-responsiveness, which is also important to mention for two reasons: first, that institutional responsiveness is an indicator for openness itself, and second that institution’s non responsiveness has affected their index scores negatively, because they were automatically graded as 0. Additionally, some of the indicators could’ve been graded positively if only the existing laws were implemented.

The research was conducted in the period from December 2017 to the end of March 2018. Based on monitoring data and findings, a set of recommendations and guidelines directed towards institutions was developed on the basis of research results. Recommended steps for each category of institutions are done on the basis of indicators that were not entirely fulfilled. Additionally, since some of the categories of institutions were sampled, i.e. executive agencies, local self-governments, courts and prosecutions, for these institutions the recommendations and action steps are general for the whole group of institutions.

Readers can find methodology and general project information at the end of this document.

1. **STATE INSTITUTIONS**
	1. **CORE EXECUTIVE**
		1. GENERAL CONCLUSIONS

According to this year's research, Montenegro's executive power is the most open in the region with a total of 55% of the indicators met. Nevertheless, Montenegro fits in with the negative regional trend, and the executive power institutions seem to stagnate in total when openness is in question, and in some cases, backward steps are also noted.

The relationship to the very concept of openness is also reflected in the ignorance of the executive power to define the policy of openness through official documents and strategies. In the previous research, the CDT also pointed out that due to the lack of umbrella openness policy there are significant differences in the openness of the government, ministries and other state administration bodies, and that in Montenegro the issue of openness is still a matter of personal position of the first institution manager or his team and not a clear policy of the state. Even the new research has shown that there are bodies that, without any consequences, fail to comply with legal obligations in this field, as well as the principles and practices of good governance.

* + 1. ACTION STEPS

**The Government of Montenegro**

The Government of Montenegro has a degree of openness of 69% of the indicators met. This is a weaker outcome than in the previous measurement, and there were three reasons for this. Firstly, we introduced new and more demanding indicators in this year's index, based on good practices and recommendations we sent to the institutions after the previous measurement.[[1]](#footnote-1) The results show that the Government of Montenegro does not progress and does not develop practices and policies of openness. Secondly, this year we did not get answers to the questionnaire we sent to the General Secretariat of the Government, which resulted in some indicators being negatively evaluated. Finally, with regard to the indicators, there are clear negative trends and a decrease in openness. These conclusions correspond to the regional negative trend, from which only the Government of Macedonia has stood out, as it has achieved 76% of the indicators met, which makes it the most open government in the region.

The Government of Montenegro largely meets the indicators in the area of ​​administrative transparency, as it publishes most of the necessary information on public officials and civil servants, including detailed information on salaries public officials in the Government.

In the analyzed period, the Government of Montenegro has improved its communication with citizens through social media. In addition to the existing Twitter profiles, the Government also launched a Facebook page that is regularly updated with new and current content. Moreover, a better coordination of communication activities of the ministries and the Government on social media was noted. However, as stated in many areas there has been stagnation and regression.

In order to improve and reach international standards of openness, we recommend to the Government the following steps[[2]](#footnote-2):

* Adopt a legal act that will regulate policies and rules for achieving openness of the Government, ministries and other state administration bodies. In order to improve the described situation regarding the openness of the executive, formalization of the rules in this field and the introduction of "sanctions", i.e. a measures to determine the responsibility of institutions that do not comply with these rules, is necessary. The basis for the proposed legal act exists in the Rules of Procedure of the Government, the Law on State Administration, the Strategy of Public Administration Reform and other acts. In addition, the basis exists in a number of international standards and recommendations when it comes to the openness of institutions. The legal act would address the issues of transparency (organizational, administrative, financial), accessibility (proactive access to information, communication and interaction with citizens, use of new technologies), integrity of institutions, along with prescribed mechanisms for enforcement, controls and sanctions in case of non-compliance;
* Publish the agenda of the Government session with all points to be discussed, including the names of the protected acts (marked as confidential). This will enable citizens and the interested public to know what the Government has been discussing and what it has adopted, question the unjustified classification of documents, monitor deadlines for termination of data confidentiality to get to know the content of the document when possible;
* Publish the minutes of the Government sessions, so that citizens can have a more complete picture of the dynamics of the sessions and the manner they consider the policies;
* Establish a live stream for transmission of at least part of the Government sessions, so that the public may have an insight into the dynamics or at least the key moments of the discussion at the sessions;
* Reconstruct the website of the Government and subordinate websites of other bodies. The website of the Government of Montenegro and the subordinate websites of other bodies were established in early 2010 and their urgent reconstruction in accordance with new technologies is needed.
* Develop rules on compulsory, regular and uniform updating of the websites of state authorities. Besides the reconstruction of the websites, it is necessary to define or revise the rules of organization and administration of information and data, the minimum content on the websites of the ministries, in accordance with the rules of proactive access and publication of data in open data format;
* Publish data in open data format;
* Make a Legal Analysis of the Law on Free Access to Information, with the aim of amending the Law and harmonizing it with international standards in this field. We also recommend building the capacities of the Agency for the Protection of Personal Data and Free Access to Information for monitoring the implementation of the Law, and reviewing the mechanisms for increasing the responsibility of the Agency's work. In addition, it is necessary to improve the implementation of the inspection supervision according to a previously clearly defined working methodology and more efficient implementation of the misdemeanor policy in case of violation of the Law;
* Create and publish a "Budget for Citizens" in order to bring the budget closer to the citizens, through narrative and graphic explanations;
* Publish public procurement plans. There are no public procurement plans for 2015, 2016 and 2017 on the Government’s website, while there are plans for 2013 and 2014;
* Publish work reports on a regular basis (often omitting to publish the last quarterly reports). It should be noted that these reports are most often a statistical indicator of the fulfillment of obligations from the normative activities of the Government and do not include an analysis of the Government's effectiveness in policy-making. We see the opportunity for improvement in this area in adoption of the Medium-term Work Program of the Government 2018-2020, which focuses on measuring the results that the Government is achieving;
* The crown of the entire process would be the preparation and adoption of the Law on Executive Power.
* The crown of the entire process would be the preparation and adoption of the Law on Executive Power. In Montenegro, the functioning of the judiciary is regulated by the Law on Courts, the Law on the State Prosecutor's Office and others. The functioning of local self-government is also regulated by a special law. Recently, the Law on the President of Montenegro has been adopted. However, there are no laws governing the work of the Government of Montenegro. The functioning of the executive power is regulated by a series of acts, from the Rules of Procedure of the Government, through the Decree on the Organization and Work of the State Administration, etc. This issue needs to be regulated normatively through the codification of the areas in the Law on the Executive power or Law on Government. Umbrella act is needed, i.e. the law that will regulate the competencies and powers of the executive branch with the relevant by-law. The legal basis for the adoption of such a regulation exists in the Constitution of Montenegro.

**Ministries**

On average, the ministries in Montenegro meet 60% of the openness criteria. This result is the best in the region. However, there are not many reasons to be satisfied, as this result says more about the poor state in the region than about the good in Montenegro.

There are large differences in results between the best and the worst ranked ministry, which are an evidence of unequal access to openness policies, and the need for strategic planning and development of openness at the level of all ministries.

The ministries should be more dedicated to informing citizens about activities within their scope of action, with an emphasis on what they plan to do and what they have achieved with their work.

Below we present key recommendations and guidelines for improvement:

* Improve the quality of websites of the ministries by reconstructing the existing websites and revising the rules on development and management of websites.
* Timely publish organizational information and and financial data on the work of ministries:

a. Publish work plans and programs;

b. Publish work reports;

c. Publish information on the use of budget funds (budgets, final accounts, reports). Also, ministries should provide full information on plans, calls, decisions and public procurement contracts on their websites;

* Provide citizens with unhindered access to information of public importance, through the publication of the Guide to Free Access to Information, contact person responsible for handling the requests for free access to information and information that was granted access on request. Continue to conduct and participate in training courses in the field of free access to information;
* Improve communication and interaction with citizens, by opening accounts on social networks and establishing a direct channel for communicating with citizens that would serve for submitting individual issues and requests by citizens. In this way, citizens would be able to contact the ministry representatives in a quick and easy way. In this respect, a good practice would also be the creation of a ministry's communication strategy;
* Publish documents collected during public consultations (calls, programs, reports from public consultations).

**Administration bodies**

On average, the administration bodies meet 36% of the openness indicators.

A large number of administration bodies are not committed to meeting the highest standards of openness, and not even to meeting the legal minimum of proactive disclosure of information. Such practice is unacceptable and needs to be changed urgently.

Having in mind the alarmingly bad result in this area, we believe that the administration bodies must urgently start with the following activities:

* Regularly update the websites;
* Publish data in open data format;
* Publish information on the work of the authorities, in accordance with the Law on Free Access to Information:
1. work plans and programs;
2. work reports;
3. list of civil servants and employees with their official titles;
4. information on salaries of public officials;
5. financial information (budgets, final accounts, public procurement plans, call for public procurement procedure, decision on public procurement procedure, contracts and annexes);
6. updated Guide for Free Access to Information;
7. contact details of the officer responsible for handling the requests;
8. database with information to which access is granted upon request;
* Improve communication and interaction with citizens by opening accounts on social networks.
	1. **PARLIAMENT**
		1. GENERAL CONCLUSIONS

The Parliament of Montenegro, for the fourth consecutive year, is the most open in the region[[3]](#footnote-3). It currently complies with 81% of the openness indicators. This is a result worthy of attention and praise. However, the Parliament did not utilize the potential for further development of openness policy in previous years. Almost no recommendation we have made in the last year's document for the development of openness has been fulfilled.

Therefore, the Parliament can get a good rating by publishing basic data on its work, which is not the case when we talk about the development of openness policy. If this trend continues, there is a possibility that the Parliament of Montenegro will lose the regional primacy in this field in the forthcoming period. We hope that the return of the majority of opposition MPs in the work of parliamentary bodies and plenum will also have the positive impact on the necessary development.

* + 1. ACTION STEPS

The following steps represent key recommendations for continuing the development and implementation of international standards of openness and accountability:

* In 2017, there was no strategic approach to the policy of openness and prerequisites for further training were not created. Therefore, there remains a recommendation of strategic planning of the development of the openness and responsibility of the Parliament of Montenegro through the identification of key problems and ways of resolving them;
* Prepare the Law on the Parliament of Montenegro, which would solve many issues of openness, but also other important issues related to the procedures and ways of functioning of the Parliament (in particular the real outcomes of parliamentary investigations);
* Revise the Rules of Procedure of the Parliament, in order to review the procedures that in practice create confusion and problems, but also often obscure and controversial way of functioning of the Collegium of the President of the Parliament;
* Increase transparency of the work of parliamentary bodies’ through introduction of direct transmissions of their meetings and lists of votes of individual MPs at working bodies' sessions;
* Improve communications of the Parliament of Montenegro with citizens through introduction of channels for a “fast “communication on at least two social networks;
* Enable citizens to submit initiatives;
* Increase the capacity to assess the possible impact of legal solutions during their preparation (RIA analysis);
* Improve financial transparency of the Parliament. promote the publication of the budget and the final account on the website (proposals are available, but not all final versions (adopted version – decree on promulgation of the law));
* Prepare and publish “Budget for citizens“, in order to bring the budget closer to citizens, through narrative and graphic explanations;
* Publish biographies of all MPs of the current convocation;
* Regularly publish the Legislative Work plan;
* Publish mid-year reports on the funds spent;
* Publish data in open data format.
	1. **LOCAL SELF-GOVERNMENTS**
		1. GENERAL CONCLUSIONS

Openness of local self-governments in Montenegro is still at a very low level. On average, they meet only 48% of the openness criteria, which is a weaker performance compared to the last year.[[4]](#footnote-4) While some of the reasons for this arise from the fact that the indicators of openness are stricter and that lesser municipalities have provided answers to the questionnaires, the second part is evidence of insufficient dedication and lack of interest in openness policies.

Great differences in results once again show that the issue of openness cannot be tackled without clear policy of openness based on strategic documents and serious approach of public authorities at local level.

Municipalities not only do not meet some basic postulates of openness, but they violate the legal obligation of proactive access to information without consequence.

* + 1. ACTION STEPS

Last year's findings remain unchanged this year – closedness of local self-governments is recorded in several fields: from the implementation of the Law on Free Access to Information, through displaying how the institutions spend citizens’ money, to the use of obsolete means of communication. It is necessary for local self-governments to urgently change this practice and to start informing citizens more actively about all the actions and results of their work and manners of functioning, but also to take advantage of all the opportunities for greater involvement of citizens in the decision-making process. Below we present a set of recommendations for improvement:

* Improve arrangement and organization of local self-government websites.Local self-government websites are often not transparent and searchable and it is necessary to work on their improvement. Unsorted information and outdated sections are not a rare case, and combined with limited search possibilities it gets more difficult for the users to obtain the desired information with as few clicks as possible;
* Publish data in open data format;
* Proactively publish organizational and financial information about the work of municipalities
1. Although it is not a legal obligation, municipalities can prepare work plans of the president and the services, as well as work reports of local assemblies, because there are no legal obstacles for doing so. However, the results of our research show that municipalities are generally not sufficiently committed to informing citizens about their work and manner of functioning, given the fact that they do not even publish legally prescribed documents. It is necessary to publish work programmes and plans of local assemblies and work reports of of the president;
2. Publish a list of civil servants and employees with their titles. Publish information on earnings of public officials;
3. Publish budgets and final statements of accounts;
4. Publish „Budget for Citizens“, with the help of which citizens, as the main actors in budget creation, would gain insight into spending money in a simple and understandable way;
5. Publish complete information on public procurements (plans, calls, decisions, contracts, annexes);
6. Publish Integrity plans;
* Ensure publicity of the decision-making process in municipalities, by introducing audio or video transmission of the sessions of the assembly through their websites. Publish the minutes of the sessions and press releases after the held sessions, in order to inform citizens more closely about the decisions they have made;
* Provide unrestricted access to information of public importance:
1. Publish the updated Guidelines for free access to information;
2. Publish contact persons responsible for handling the requests for free access to information;
3. Publishing information that has already been granted access upon request
* Enhance communication with citizens and ensure efficient functioning of the service for citizens
1. Establish bureau for citizens, which would facilitate communication of citizens with the municipality and shorten the time for solving problems reported;
2. Determine permanent term for consultations with the municipal president;
3. Develop and publish monthly bulletin about municipal work that would present all the current events of importance;
4. Establish local self-governments as a service provider through the e-government portal;
5. Publish names and contact details of the presidents of local communities;
6. Create accounts on social networks.

**1.4 JUDICIAL BODIES**

1.4.1. GENERAL CONCULSIONS

The Strategy for the Reform of the Judiciary 2014-2018 recognizes the need to strengthen citizens' trust in the judiciary through access to information held by judicial institutions, but our research has confirmed that there is still a significant space for enhancing the openness of judicial institutions.[[5]](#footnote-5)

The courts in Montenegro meet on average 56.5%, while prosecutor’s offices meet 65% of the openness indicators.[[6]](#footnote-6) These are the best results in the region, evidencing the low level of openness of the courts and prosecutor’s offices in the region.

1.4.2. ACTION STEPS

Below we present key findings and recommendations for improvement of openness:

**Courts**

* Improve availability of information on the work of courts
1. Regularly update websites with news, press releases or current events;
2. Publish contact information of judges and information on their earnings on the court websites;
3. Regularly publish work programmes and plans, and work reports;
4. Improve the quality of annual work reports, present information on work problems and their causes, with conclusions and recommendations for their resolution;
* Improve publicity of the trial
1. Improve the spatial capacities of courtrooms and accessibility of courts to wheelchair users;
2. Publish court records;
3. Publish separate opinions of council members;
* Improve capacities for the implementation of the Law on Free Access to Information. Publish the updated Guidelines for free access to information and a database with information that is granted access upon request;
* Improve the mechanisms for communicating with the public;
* Promote Codes of Ethics for judges;
* Create and publish information about mechanisms (such as leaflets, publications, telephone lines...) intended to inform vulnerable groups about their rights and adequate legal remedies.

**Prosecution offices**

* Improve official website of prosecution officies, according to the number of institutions and the amount of information. Provide with functional search engine on the website.
* Publish the news, press releases and current events on the websites;
* Make available work programs and plans, and work reports for many years back, not just actual or those for the previous year;
* Improve the quality of work reports with work-related analysis and recommendations for improvement;
* Publish contact information of prosecutors and employees, as well as biographies of prosecutors;
* Publish a database with information that is granted access upon request.

**Judicial and Prosecutorial council**

* The Judicial and Prosecutorial Council should strategically plan annual activities within a specific work program and plan;
* The councils should improve financial transparency::
1. The Judicial Council should make available all relevant public procurement information - plans, calls, decisions and contracts with annexes;
2. The Judicial Council should regularly publish the annual budget on its website, which is currently only available as an integral part of the annual work report;
3. The Prosecutorial Council should publish on its website the calls and decisions on public procurement procedures;
4. The Prosecutorial Council should make accessible budgets and final accounts on its website;
* Judicial Council should publish a database with information that has been granted access.
1. **METHODLOGY**

The Regional Index of Openness is a composite indicator that measures the degree to which governments in the Western Balkan countries are open to citizens and society. Openness is a key condition for democracy because it enables citizens to obtain the information and knowledge they need to participate as equals in public debates, to take enlightened decisions and to hold governments accountable. Openness also supports good government because it allows governing elites to consider and draw on ideas and expertise dispersed in society.

The Regional index of openness measures the extent of institutions’ openness to citizens and society based on the following four principles: 1. transparency, 2. accessibility 3. integrity and 4. awareness.

The principle of **transparency** means that a government provides clear and relevant public information about what it is doing. This information relates to the organization and work of government institutions and in particular to budgeting and public procurement procedures.

**Accessibility** is related to ensuring and respecting procedures for free access to information and strengthening interaction with citizens as well.

**Integrity** includes mechanisms for prevention of corruption, implementing codes of conduct and regulation of lobbying.

The last principle, **awareness**, is related to monitoring and evaluation of policies which are conducted. Awareness denotes the availability and provision of information and knowledge within government.

The four principles are further disaggregated into individual questions that are assessed on the basis of websites, other public information sources and questionnaires. The Openness Index assesses how these four principles are realized in the following institutions or sets of institutions: core executive; line ministries; executive agencies; parliament; local self-government; courts; public prosecution. Since these institutions perform different functions in the process of governing or policy-making, individual questions are adapted to match the profiles of the respective institutions.

Following the international standards, recommendations 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.

Based on the results of the research carried out in 2016, analyzes have been carried out to provide an overview of the situation in the institutions of Montenegro and the region, including the observed shortcomings and good practices in this area. Based on these analyzes, last year, recommendations and roadmaps were made to improve the specific areas covered by the research.

The members of the Action SEE network, after basing their work on the findings and results of last year's monitoring, started to improve and adapt the research methodology and its indicators.

The aim of using new and improved indicators is to add new value to research and to make a more effective contribution to enhancing the openness of the institutions of the region.

We believe that the institutions, led by simply presented steps for improvement of the situation in these areas, will work on its improvement. That is why we want to advocate a higher level of openness of the institutions in the region. This year's research has been enriched with indicators advocating a higher standard of proactive transparency, which is also an international standard, and this represents the core of our project.

**Methodological constrains**

Research methodology provides a formal insight into the achieved level of institutional openness in the region. However, in certain cases, its conclusions on how the institutional openness functions on the ground are limited. The very existence of legal framework for institutional openness is not a guarantee that good governance principles are implemented in practice. This research provides a space for further in-depth policy analyses of particular segments of openness and good governance principles implementation, which would be valuable for obtaining a comprehensive and clear picture of the openness of public institutions in the region.

Moreover, differences in governance structure and territorial organization between Western Balkans countries limit, to a certain extent, comparative assessment of the achieved levels of institutional openness. In that sense, results of executive, legislative and judicial openness sometimes do not reflect actual relations between different institutions at both, national and regional levels.

1. **PROJECT**

Good governance is key to rule of law. And while issues of corruption, transparency, rule of law and good governance are always in the spotlight, there remains a lack of understanding and systemic problems that hardly receive sufficient coverage. The “Accountability, Technology and Institutional Openness Network in South East Europe - ACTION SEE” project aims to raise awareness of such challenges by facilitating cooperation among civic organizations and consolidated strategic efforts for representation.

ACTION SEE provides a platform for dialogue and a concrete tool to measure the degree to which state institutions uphold principles and standards of open governance (Openness index).

The project aims to increase the inclusion of civic society and media organizations in decision making processes and the creation of public opinion and policies, as well as to raise the capacity of civic societies to address sensitive issues.

Specific project goals:

* Promote a dynamic civic society which effectively mobilises citizens for active participation in issues related to the rule of law and good governance and affects policies and decision making processes at a national and regional level.
* Strengthen mechanisms for dialogue between civic organisations and government institutions and influence good governance and public administration reforms.
* Stimulate civic and media organisation networking at local and EU level, allowing the exchange of know-how, skills and connections, as well as increase the influence of their representation efforts.

ActionSEE 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.

ACTION SEE project, funded by the European Union, is implemented by Metamorphosis Foundation, Westminster Foundation for Democracy, CRTA – Center for Research, Transparency and Accountability, Citizens Association Why not?, Center for Democratic Transition, Open Data Kosovo (ODK) and Levizja Mjaft!.

1. **READ MORE**

Otvorenost institucija izvršne vlasti u regionu i Crnoj Gori

<https://www.cdtmn.org/dobroupravljanje/du-analize/otvorenost-izvrsnih-vlasti-u-cg-i-regionu-2018-predlog-prakticne-politike/>

Otvorenost parlamenata u reigonu i Crnoj Gori

<https://www.cdtmn.org/dobroupravljanje/du-analize/otvorenost-parlamenata-u-crnoj-gori/>

Analiza otvorenosti lokalnih samouprava u regionu i Crnoj Gori

Otvorenost pravosudnih organa u regionu i Crnoj Gori

<https://www.cdtmn.org/dobroupravljanje/du-analize/otvorenost-pravosuda-u-regionu-i-cg/>

1. More information is available in the section „Methodology“. [↑](#footnote-ref-1)
2. CDT submitted some of these proposals to Montenegro’s Open Government Partnership (OGP) team. [↑](#footnote-ref-2)
3. Parliamentary Openness Index conducted by the Center for Research, Transparency and Accountability (CRTA), shows that the Parliament of Montenegro was the most open in the region in 2014, 2015 and 2016. Details available at: <http://www.otvoreniparlament.rs/istrazivanje>. Last year's results of measuring of the ACTION SEE network show that the Parliament of Montenegro was the most open in 2017. [↑](#footnote-ref-3)
4. 50% of the municipalities in Montenegro were covered by the sample (Bar, Bijelo Polje, Herceg Novi, Kolašin, Mojkovac, Plužine, Pljevlja, Podgorica, Rožaje, Šavnik, Tivat). [↑](#footnote-ref-4)
5. Strategy for the Reform of the Judiciary 2014-2018, <http://sudovi.me/podaci/sscg/dokumenta/5548.pdf>. [↑](#footnote-ref-5)
6. The sample covered 50% of courts and prosecutor’s offices. [↑](#footnote-ref-6)