

This project is co-financed by the European Union. This policy paper has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the ActionSEE network and can in no way be taken to reflect the views of the European Union.



This policy paper is part of the project financed by NED – National Endowment for Democracy

The content does not reflect the views of the donors.

**PARLIAMENTARY OPENNESS IN THE REGION AND MONTENEGRO**

**Recommendations for improvement based on the Regional Openness Index**

**Authors:** Dragan Koprivica, Milena Gvozdenović i Milica Kovačević



**Parliamentary Openness in the Region and Montenegro**

**Recommendations for improvement based on the Regional Openness Index**

**Authors:** Dragan Koprivica, Milena Gvozdenović and Milica Kovačević

The views expressed in the document represent the views of the author and do not necessarily reflect the opinion of the donors.



Podgorica, June 2018

**Introduction**

In cooperation with partners from a regional network of NGOs “Action SEE“, the Center for Democratic Transition (CDT) prepared the policy paper in which we analyze a level of transparency, openness and accountability of parliaments in the Western Balkans region.

The policy paper is a result of research, based on scientific methodology, developed by the Action SEE members during the previous years. In preparing this document and measuring the openness that was the basis for its preparation, we have used innovative and improved success indicators.

The aim of our activities is to determine the current state in this area through an objective measurement of parliamentary openness in the region and to make recommendations for improvement. Also, the aim is to improve compliance with good governance principles, in which the openness has a significant place.

All parliaments in the region must ensure a full openness of their work and thereby demonstrate a political accountability and respect of basic principles of democracy. Through ensuring all relevant information parliaments must provide unimpeded insight into their work. Only open and accountable institutions can work towards the creation of a democratic society that all countries of the region are trying to reach.

The situation did not change much in comparison to the last year's survey of parliamentary openness.

Parliaments need to, viewed regionally, intensify implementation of openness policy and increase the quality of communication with citizens. They also need to significantly change the access to control of executive authorities and come from formal to substantial control that requires accountability of the ones that are not acting accountably.

The Parliament of Montenegro is still the most open in the region. It publishes most of the important data and documents. However, in relation to the previous period there is stagnation with regard to implementation of additional instruments and openness policy in its work. A good regional result should not deceive us, because the Parliament of Montenegro has still plenty of work to do regarding adoption of all standards of openness.

Our policy paper is addressed to decision-makers in the Parliament of Montenegro and the parliaments of the regional countries. It may also be of benefit to representatives of international organizations, as well as to colleagues from the NGO sector dealing with these issues.

We remain open to all suggestions, well-meaning criticisms and discussions regarding the policy paper.

CDT TEAM

**Openness of legislative power in the region**

After analyzing a large number of methodologically rounded data, we observed similarities and differences in the state of affairs in this area in the countries of the region.

The results of the conducted research show that parliamentary openness at the regional level is not satisfactory. As in the case of executive power institutions, it is noted that the overall result of the parliamentary openness at the regional level is lower than in the previous observation and measurement cycle. Instead of the anticipated progress in the sphere of openness, parliaments in the region have achieved a weaker performance compared to the previous period of the research. Thus, openness in 2017, on average, is 61% of the indicators met. This result is less than 2% in relation to the openness in 2016, when it was 63%.

Please note that this year's research was set in a way to measure the higher degree of openness of institutions compared to last year, adding new and stricter indicators that measure this openness. We believe that a stricter approach to the research has further influenced the results of decrease in legislative power openness. On the other hand, the results and the analyzed data show that the legislative power since the publication of the previous results has not made an effort to work on the development of openness, so the new indicators do not play a crucial role in the overall decline in openness.

As it was visible and indicated in the 2016 parliamentary openness analysis, and remained unchanged in the results of the monitoring carried out in 2017, the highest legislative bodies in the region have no strategic approach to the policy of openness. Openness requirements can only be indirectly derived from the Constitution, Rules of Procedure and other acts, and as such are subject of different interpretations and moods of the parliamentary majority.

The drop in the level of openness of all parliaments at the regional level, with the exception of Albania's Parliament, which has achieved a better result in comparison with the previous year, shows that parliaments have not invested effort for a period of one year to maintain the achieved level of openness or to invest in its development.

Information on the work of parliament belongs to the citizens, and it is necessary to constantly improve the existing level of parliamentary openness culture. The policy of openness should be developed by following the development of new technologies and their full use, which would, among other things, support and facilitate the publication of data in machine-readable form. This is corroborated by the fact that the parliaments in the region are not dedicated to publishing open-source data, which reduces the usefulness of the information they publish.

The absence of a desire to improve the openness and transparency of parliaments is also confirmed by the fact that the number of parliaments who have actively participated in the conducted research and provided answers to the questionnaires that are a key part of the overall research, was lower compared to last year. The unwillingness to respond to the questionnaire itself is an indicator of insufficient openness and 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.

**Transparency, accessibility and communication with citizens**

The noted decline in transparency and accessibility of parliament must be stopped and significantly improved in order for these institutions elected by citizens and for the citizens, to be the actual holders of democracy in these societies.

Although the existence of the Law on Free Access to Information in the region has largely contributed to the greater transparency of parliaments, it is essential that its implementation is further strengthened and additional efforts are made to enhance proactivity in publishing key information on the work of the institutions.

Although there are examples of good practices among parliaments in the region when it comes to publishing information on the work of Parliament and MPs, we conclude that the legislative framework and declarative commitment to respect the principles of openness and international standards often remain only on paper.

This year’s research also shows that information on activities of MPs in committees, documents generated by committee work or submitted to amendments is still not published by most parliaments in the region.

The average score achieved by parliaments in the region, concerning the segment of communication with citizens, amounts to 35% of the indicators being filled, which represents another reason for concern.

Parliaments in the region continue to be inert and do not try to invest in new communication channels that can help bridge the gap between citizens and their representative body. As a regional issue, there is also the principle of the publication of open data[[1]](#footnote-1), which would increase the availability and make it easier for citizens to collect information.

What is certainly worrying is that transparency and communication with citizens are at the lowest level when it comes to preparing, discussing, adopting and presenting (in an open format) the most important annual legislative bill in each state - the state budget. The average regional score in this area in 2017 is 41%, while for all countries, except Albania (86%) and Montenegro (58%), this percentage ranges between 19% (Serbia) and 32% (Kosovo).

It is necessary for parliaments in the region to make the effort to fully respect the importance, role and opinion of civil society in democratic arrangements and to improve the mechanisms of cooperation with it. It was noted that, in addition to the existing mechanisms and declarative commitments of the legislators, on average, parliamentary cooperation with civil society in the region was violated. The most frustrating example happened in Serbia when the National Parliament of the Republic of Serbia abolished cooperation with the Open Parliament because of the protest of this initiative regarding the way in which the 2018 budget was debated and adopted.

**Parliamentary oversight - a good basis and poor application**

In parliaments in the Western Balkans region, good ground for parliamentary oversight has been established - except in the case of Kosovo, which accounts for only 19% of the indicators set. However, it is essential that this function of legislative power institutions is significantly strengthened at the level of the entire region, with the emphasis on ensuring its full implementation in practice.

A good legislative basis for performing parliamentary oversight does not imply that it will be effectively applied in practice. The parliaments in the region continued, during 2017, to formally apply this function, leading to lack of results of parliamentary oversight.

This situation leads us to the last year's conclusion. It is extremely important that parliaments do not represent places for uncritical adoption of proposals of executive power institutions, but for their re-examination and effective control. Legislative obligations of MPs should not be grounds for neglecting the control function, which is one of the most important guarantees of democracy. All parliaments in the region must make efforts to fully apply the existing mechanisms and thus contribute to raising the level of political responsibility.

The need for strengthening control and oversight function of the parliament with regard to its effective implementation was also emphasized by the European Commission in individual reports for each country, published in April 2018.

**Poor evaluation and control of parliamentary work and behavior of MPs - effect, integrity and ethics**

Not even during 2017, parliament's work in the region was not based on the setting of a unique methodology and appropriate indicators for measuring the results and the quality of its work and the work of its delegates. Obligations of parliaments for strategic planning at the level of the entire region are realized at a level of only 25% of the set indicators. This situation, which is repeated from year to year, continues to reflect on informing citizens about the performance and effects of the legislative power work.

In most parliaments in the region, the Law on Lobbying has not yet been adopted.

In addition, the integrity of parliaments is still low because the ethical codes of parliaments in some countries of the region are still not adopted or their application is extremely weak.

As in the results for 2016, low ethics in the work of the parliament and MPs was underlined also in this measurement cycle, and the last year's recommendations in this area have not been applied.

It is necessary for the parliaments that have not yet adopted the code of ethics to put this as a priority in their agenda. Then, it is essential for all the parliaments of the region to establish clear mechanisms to monitor the implementation of the Code of Ethics and sanction any violation of prescribed ethical standards.

Practice from the region shows that violation of ethical codes does not generally result in sanctioning of misconduct, and is often the subject of political agreement. Consistent application of the Code of Ethics is of crucial importance for raising the level of political accountability and public confidence in the work of parliaments.

**Openness of the Parliament of Montenegro**

The Parliament of Montenegro, for the fourth consecutive year, is the most open in the region[[2]](#footnote-2). 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.

In 2017, there was no strategic approach to the policy of openness and prerequisites for further training were not created. There was no word about preparation of 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[[3]](#footnote-3) of the Parliament (in particular the real outcomes of parliamentary investigations). No Strategy for Development of the Parliament of Montenegro has been adopted. There was no word about the need to change and improve the Rules of Procedure of the Parliament, which would 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. The only change in this part of the work is the revision of the Rules of Procedure of the Parliament, in the part regarding the maintenance of order at the sessions. Furthermore, transparency of the work of the working bodies has not increased, as it is not possible to have their direct transmission or lists of votes of individual MPs at working bodies' sessions.[[4]](#footnote-4)

There has been no progress either in direct communication with citizens[[5]](#footnote-5). Facebook and Twitter accounts of the Parliament still do not exist, there are no possibilities for citizens to directly draw attention of their elected representatives to the negative phenomena in society and demand a quick response from them. MPs must have intensive contact with the citizens and listen to their needs, rather than point them to slow and complicated procedures. The only thing left are quite backward procedures for the citizens having to raise 6000 signatures if they want to draw the attention of the people they have chosen. The legislative activity of the Parliament[[6]](#footnote-6) has not been improved by increasing the capacity to assess the possible impact of legal solutions during their preparation (RIA analysis). We still have the situation that the Parliament is conducting this analysis only in certain cases[[7]](#footnote-7) and that there is no uniform methodology by which this analysis is performed.

Budgetary transparency of the Parliament has not been improved.**[[8]](#footnote-8)** It is also necessary to promote the publication of the budget and the final account on the website.[[9]](#footnote-9) Moreover, the budget documents were not published in open data format. The Parliament did not prepare the so-called Citizens’ budget, which aims to present the citizens with its revenues and expenditures in a simple and understandable way.

Leaving aside stagnation in the development of openness, we can conclude that in 2017 most of the information of the Parliament in the previous period was published:

**• All relevant information on public procurement including public procurement plans, calls and decision and public procurement contracts has been published;**

**• The texts of draft laws, adopted laws and submitted amendments are regularly published;**

**• All relevant information regarding free access to information has been published - an updated Guide, a contact of an officer responsible for handling the requests and information that was granted access on request.**

On the Parliament's website you can find a list of MPs and information about their incomes but not all biographies of MPs of the current convocation are available.

No Legislative Work Plan for 2017 was found on the Parliament's website, while work reports for the past three years were available.

By 2015, the Parliament had the practice of publishing semi-annual work reports when this good practice was abandoned[[10]](#footnote-10), and these reports were unavailable for the previous three years.

There is no full budget information available for the previous three years on the website[[11]](#footnote-11). Furthermore, by 2017, the Parliament published mid-year reports on the funds spent and then left this good practice.

**Research methodology**

Openness is a key requirement for democracy as it enables citizens to obtain the information and knowledge necessary for equal participation in political life, effective decision-making and holding of institutions responsible for the policies they are implementing.

A large number of countries undertake specific actions towards increasing their own transparency and accountability to citizens. The Regional Index of Parliamentary Openness (RIPO) was developed in order to establish to what extent citizens of the Western Balkans receive timely and understandable information from their institutions.

The Regional Openness Index measures the degree to which parliaments are open to citizens and society, based on the following four principles: (1) transparency, (2) accessibility, (3) integrity and (4) effectiveness.

The principle of transparency implies that organizational information, budget and public procurement procedures are publicly available and published. Accessibility refers to providing and respecting the procedures for a free access to information, and strengthening interaction with citizens. Integrity includes mechanisms for the prevention of corruption, conducting codes of ethics and regulation of lobbying. The last principle, effectiveness, concerns the monitoring and evaluation of policies being implemented.

Following the international standards, recommendations[[12]](#footnote-12) and examples of good practice, these principles are further elaborated through specific quantitative and qualitative indicators, which are estimated on the basis of availability of information on official websites, the quality of legal framework for individual issues, other sources of public informing and questionnaires delivered to institutions.

In accordance with the RIPO Development Plan, after the measurements and analyzes and recommendations given to the institutions, each year we introduce new indicators i.e. standards of transparency. In this way we effectively measure how institutions meet our recommendations and how much they deal with the policy of openness. Thus, the 2017 index is richer for several new indicators. The latest research was conducted through more than 117 s indicators of parliamentary openness in the region, and we have collected more than 1000 pieces of data.

Weighting was made on the basis of the importance of some indicators for institution openness. The standard error of the RIPO is +/- 3%. Detailed information on the Regional Index of Parliamentary Openness can be seen on a web portal that we will soon be introducing to the public. The measurement was conducted in the period from December 2017 to March 2018.

Based on the research results, this set of recommendations and guidelines, addressed to institutions, was developed.

Parliamentary Openness in the Region and Montenegro

Recommendations for improvement based on the Regional Openness Index

Authors: Dragan Koprivica, Milena Gvozdenović and Milica Kovačević

**CENTER FOR DEMOCRATIC TRANSITION**

Moskovska 153, 81 000 Podgorica, Montenegro

+382 20 331 227

[cdtmn@t-com.me](mailto:cdtmn@t-com.me)

[www.cdtmn.org](http://www.cdtmn.org)

1. Open data is data structured in computer understandable format, which gives the possibility of free use and re-use. [↑](#footnote-ref-1)
2. 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-2)
3. Recommendation from 2017: *To strategically plan the development of openness and accountability of the Parliament of Montenegro through identification of key problems and proposals for their solution. Review Rules of Procedure, MPs Code of Ethics and consider the need for adopting the Law on the Parliament of Montenegro.* More details available on:

   <http://www.otvoreneinstitucije.cdtmn.org/assets/docs/analiza_cg.pdf> [↑](#footnote-ref-3)
4. Recommendation from 2017: *To increase transparency of the work of parliamentary bodies’ through introduction of direct transmissions of their meetings. To enable more simple access to voting records for all agenda items from working bodies’ sessions* [↑](#footnote-ref-4)
5. Recommendation from 2017: *To improve communications of the Parliament of Montenegro with citizens through introduction of channels for a “fast “communication on at least two social networks. To enable citizens to submit initiatives* [↑](#footnote-ref-5)
6. Recommendation from 2017: *To adopt a unique methodology for evaluation of legal solutions (RIA analysis) and significantly strengthen the Parliament’s capacities for creation of these studies* [↑](#footnote-ref-6)
7. Amendments to the Law on Social and Child Protection, in the part relating to benefits for mothers with three or more children, where the significant impact on the state budget was not taken into account are an example showing that the analyzes are not being conducted or their quality is poor. As a result, we have the situation that benefits under these rights are a major burden on the budget and contribute to the unsustainability of public finances. [↑](#footnote-ref-7)
8. Recommendation from 2017: *To improve budgetary transparency of the Parliament and to make it approachable to citizens. To increase transparency of the process of adopting the state budget* [↑](#footnote-ref-8)
9. Proposals are available, but not all final versions (adopted version – decree on promulgation of the law). [↑](#footnote-ref-9)
10. Semi-annual reports for 2014, 2013, 2012 and 2011 have been found on the website [↑](#footnote-ref-10)
11. No Decree on promulgation of the 2015 Law has been found. [↑](#footnote-ref-11)
12. The standards and recommendations of a number of international institutions have been analyzed, such as: Access Info Europe, EU, IPU, OECD, OGP, SIGMA, World Bank etc. [↑](#footnote-ref-12)