



Accountability, Technology and Institutional Openness Network in SEE

Roadmap on good governance for state institutions in the Republic of Serbia

On the basis of the Regional Index of Openness of state institutions

Based on the measuring for 2016



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Address: Topolska 22, 11000 Belgrade, Serbia

Tel: +381 11 24 000 62

Web: crt.rs

E-mail: office@crt.rs

Editor:

Pavle Dimitrijević

Research team:

Aleksandra Ivanović

Ivan Radojević

Ivana Savić

Translated by:

Sandra Vojvodić



ACTION SEE – Accountability, Technology and Institutional Openness Network in SEE project aims to increase the inclusion of civic society and media organisations 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.

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PROJECT COORDINATOR:

Metamorphosis Foundation

Macedonia

Web page: www.metamorphosis.org.mk

PARTNER ORGANISATIONS:

Westminster Foundation for Democracy

Great Britain

Web page: www.wfd.org

CRTA - Center for Research, Transparency and Accountability

Serbia

Web page: www.crt.rs

Citizens Association Why not?

Bosnia and Herzegovina

Web page: www.zastone.ba

Center for Democratic Transition

Montenegro

Web page: www.cdtmn.org

Open Data Kosovo (ODK)

Kosovo

Web page: www.opendatakosovo.org

Levizja Mjaft!

Albania

Web page: www.mjaft.org

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1. GENERAL INFORMATION

Openness represents a key condition for democracy - since it allows citizens to receive information and knowledge necessary for equal participation in political life, effective decision-making and holding institutions accountable for policies which they conduct. Institutions worldwide undertake specific activities with the aim to enhance their transparency and accountability before the citizens.

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

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, the ACTION SEE partners, adhering to international standards, recommendations as well as examples of good practice, assessed institutions through special quantitative and qualitative indicators, which assess institutions on the basis of: access to information on official websites of institutions, quality of a legal framework for individual cases, other sources of public informing and questionnaires delivered to institutions.

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

The assessment was conducted in the period from October to the end of December 2016. On the basis of the monitoring of data and the findings, a set of recommendations and guidelines dedicated to institutions was developed based on the research results. The recommended steps for each category of institutions are made on the grounds of indicators that were not entirely fulfilled. Additionally, since some of the categories of institutions were assessed, i.e. executive agencies, local self-governments, courts and public prosecution offices, the recommendations and action steps for these institutions are general for the whole group of institutions.

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



2. STATE INSTITUTIONS

2.1 GOVERNMENT OF THE REPUBLIC OF SERBIA AND GOVERNMENT OF THE AUTONOMOUS PROVINCE OF VOJVODINA

MAIN FINDINGS AND RECOMMENDATIONS

The Government of the Republic of Serbia fulfils 58% of openness indicators whereas the Government of the Autonomous Province of Vojvodina (Provincial Parliament) has a somewhat better result realising 60% of openness indicators. In most cases, the existence of legal framework, that is often deficient, has been assessed through openness indicators, while the analysis of the practice has been less represented. As far as the preparation of budget is concerned, the transparency has only been partially established, which has a weak effect on the openness as mechanisms that are supposed to insure the rule of law have not been set up in the budgetary process (the budget route from the Government to the National Parliament), nor the mechanisms for proactive transparency and the public's participation. An unequal practice has also been noted in relation to the citizens' participation in the process of decision making, emanating from flaws and deficiencies in the existing legal framework, i.e. from the lack of legal framework stipulating the citizens' participation at the provincial level. The most alarming situation for both institutions is in the field of efficiency, i.e. public policy management, where the Government of the Republic of Serbia fulfils 23% of indicators and the Provincial Parliament not a single one.

Transparency

It is necessary to assure and improve financial and budgetary transparency of the Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina. The Government of the Republic of Serbia fulfils 57% of indicators when it comes to budgetary transparency and the same percentage of transparency indicators in the area of public procurements procedures. However, in both cases the indicators refer to fulfilment of minimal standards stipulated by the law.

The Government of the Republic of Serbia fulfils indicators relating to budget publishing, its tabular display and annual statements pub-

lishing. There is a legal deadline up until which the Government of Serbia is obliged to present the draft budget for the upcoming year to the National Parliament (November 1st), but it is not respected in practice. Therefore, the National Parliament adopts the budget by urgent procedure, with insufficient time for preparation and discussion. The participation of the public in the budget preparation process is not provided. The budget is not published in an open format, however, since 2017 a citizen's guide through the budget of the Republic of Serbia has been available on the Ministry of Finance website.

The Provincial government fulfils only 25% of budgetary transparency indicators. The budgets of the AP of Vojvodina are available for 2016 and 2017 on the Internet page "Transparency of the budget of the AP Vojvodina", as well as annual statements from 2004 to 2015. Nevertheless, there are no information about the budget, nor links to the published budgets on the website of the Parliament of AP Vojvodina. The annual statement is available in the Information Booklet on the Work of the provincial government only for the year 2016. The government of the AP Vojvodina does not prepare the civil budget.

In the area of *public procurements* there is a legal framework for a transparent managing of public procurements, but the bare existence of the legal framework does not guarantee its application in practice. The Public Procurement Portal is an online tool for informing the citizens about public procurement procedures. However, in the observed period, it was impossible to find on this Portal agreements concluded between the Government and the suppliers. The Government of the Republic of Serbia does not publish the public procurement plan on its website, nor calls for bids, decisions on implemented public procurements and awarded agreements. In the area of public procurements procedures, the Provincial Government is far ahead of the Republic Government, with a total of 80% of fulfilled indicators.

It is necessary to improve the transparency in everyday work of the Government of the Republic of Serbia. The annual work plan and the annual report on the work are not available on the website. The work plan of the Government has been published on the Internet page of the General Secretariat of the Government, but this website is not linked to the website of the Government, which makes it difficult to find information. Only the on-going work plan is available which impedes the long-term follow-up of the activities (particularly those that are carried out year after year), analysis and

efficiency evaluation per year. It is crucial to bear this in mind as the Government largely disrespects its work plan, which is a practice that is being constantly repeated.¹ The Government of Serbia is the largest law proponent. In the Government convocation from 2014 and 2016, 90% of draft laws that came into the parliament procedure emanated from the Government. At the same time, there was a delay in completing the National Plan for the Adoption of the *acquis communautaire*, which is alongside the Government Work Plan a key document for monitoring of the legislative process in Serbia.² As far as reporting is concerned, the situation is worrisome, as the last report on the work of the Government was drafted in 2013. At the moment of collecting the information, the calendar of the Government sessions was unavailable, as well as materials and minutes from the sessions.

ACTION STEPS

Recommendations for the improvement of the transparency of the Government of the Republic of Serbia and of the Government of the AP Vojvodina

- **The Government of the Republic of Serbia and the Government of the AP Vojvodina should publish their budgets in an open format. The Government of the AP Vojvodina should publish the civil budget.**
- It is necessary **to assure an adequate legal framework for the introduction of the open data into an everyday work of the Serbian public administration by modifying and supplementing the existing regulations that provide the openness in the work of the administration** (The Law on Free Access to Information of Public Importance, the Law on Electronic Administration). The access to the open data might be regulated by modifying the existing Law on Free Access to Information of Public Importance, or by adopting a separate law.
- On its internet presentation, the Government of the Republic of Serbia should **publish public procurement plans, calls for bids and concluded agreements**. Moreover, **the annual plan,**

¹ Open Parliament, Towards Better Laws – The improvement of the legislative procedure through a better definition of emergency procedures, 2015. [http://otvoreniparlament.rs/uploads/istrazivanje/Ka%20boljim%20zakonima%20-%20Unapređenje%20zakonodavne%20procedure%20kroz%20bolje%20definisanje%20procedure%20za%20hitni%20postupak".pdf](http://otvoreniparlament.rs/uploads/istrazivanje/Ka%20boljim%20zakonima%20-%20Unapređenje%20zakonodavne%20procedure%20kroz%20bolje%20definisanje%20procedure%20za%20hitni%20postupak)

² Belgrade Open School, Res Publica – Laws are a public thing, 2016. <http://otvoreniparlament.rs/uploads/istrazivanje/BOS%20-%206%20meseci%20rada%20Vlade%20RS%20-%20Res%20Publika%20Zakoni%20su%20javna%20stvar.pdf>

the report on the annual work plan, an archive of plans and reports should be published on the Government's website.

- The websites of the Government and of the General Secretariat of the Government should be linked in order to avoid the duplication of the information. It convenes to determine beforehand which type of information should be displayed on the website of the Government of the Republic of Serbia and on the website of the General Secretariat of the Government, in order to efficiently and usefully integrate these two websites and avoid the information duplication.
- The Government of the Autonomous Province of Vojvodina should **gather all information about public procurements** in one place on the website in order to make the research easier and to facilitate the public insight and the analysis of the implemented public procurements. Furthermore, there should be a visible link on the website of the Government of the Autonomous Province of Vojvodina to the site where budgets and final reports are published.
- It is indispensable that the Government of the Republic of Serbia publishes **sessions calendar, materials and minutes from the sessions on its website**.

Accessibility

It is necessary to provide an unimpeded public access to information of public importance, in accordance with the law. Although the Republic of Serbia fulfils approximately 78% of indicators referring to the access to information, it is still necessary to additionally improve the Government openness in this segment. The Provincial Government fulfils 86% of indicators in this area.

On the basis of the analysis of the Information Booklet about the Work undertaken by the Office of the Commissioner for Information of Public Importance and Personal Data Protection, the Government of the Republic of Serbia prepared in 2015 an Information Booklet about the Work that was not in compliance with the Instructions, in its essential elements. Such conclusion of the analysis was not repeated in 2016, which means that the Government acted according to the Commissioner's recommendations. The Government of the Republic of Serbia does not have a person in charge of information of public importance, whereby neither Republic nor Provincial Government have an established training programmes

for civil servants to duly note, stock, keep and submit the Information of Public Importance.

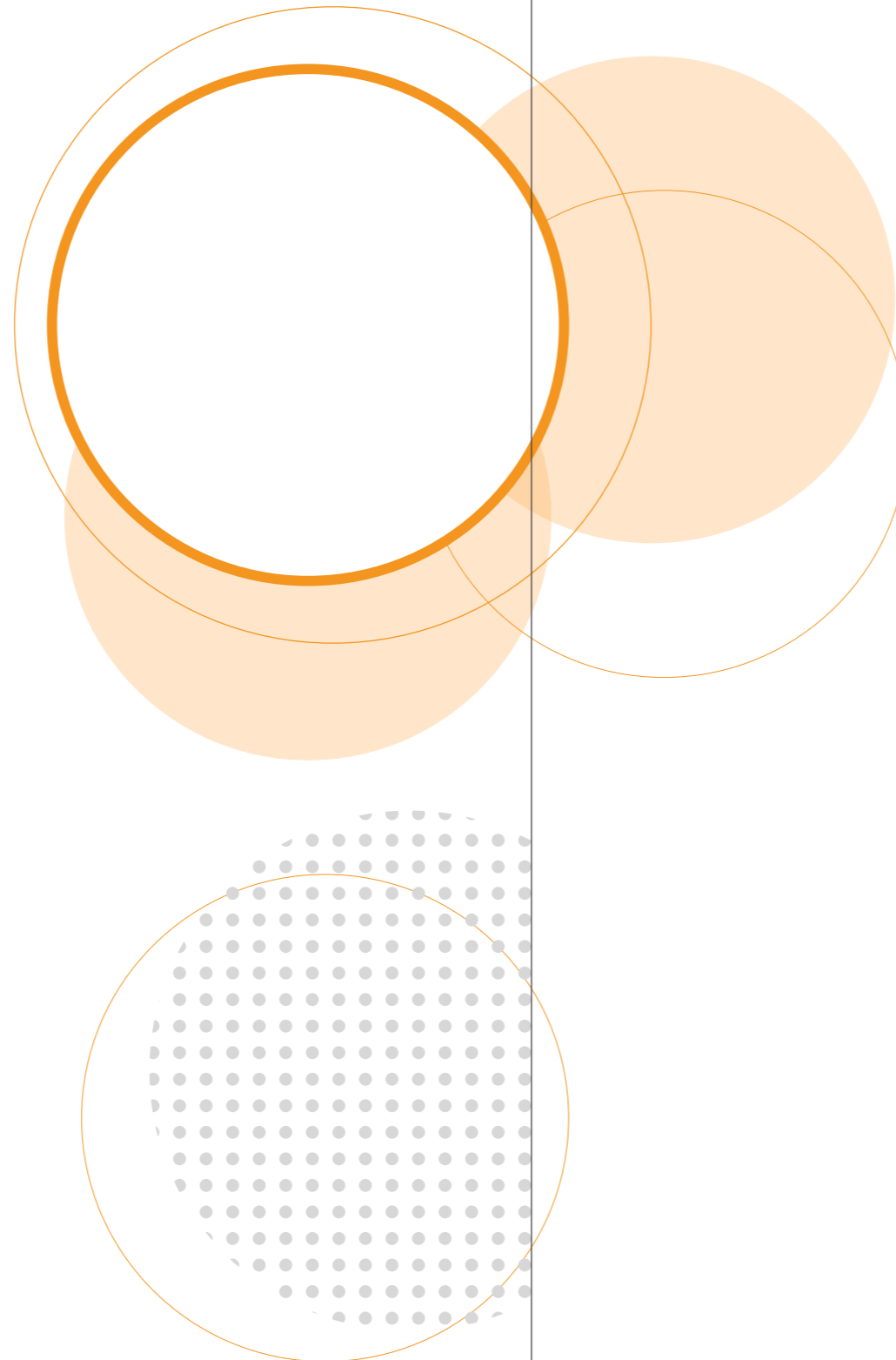
It is indispensable to improve the legal framework that regulates the participation of the public in the decision-making process.

The participation of the public in the process of decision-making through public hearings has been determined by the Law on Public Administration and regulated in details by the Rule Book of the Government. Nonetheless, when one looks at the practice of conducting public hearings, one can conclude that the existence of the legal framework does not provide per se public participation. Competent authorities often respect minimal deadlines for conduction of public hearings, but the documentation that is made available to the public is often insufficient, the reports about public hearings are not published within the determined deadlines and their contents do not provide for a complete insight in the course and the quality of the public hearing. After the public hearing, regulations enter the Parliament procedure with a large delay so that the public hearing loses its sense. In the area of public hearings, public authorities in Serbia rather fulfil a formal obligation than recognise and understand that the public participation is essential for the document quality and its successful application in practice. This problem has been recognised in the last European Commission report for Serbia.

ACTION STEPS

Recommendations for the improvement of the accessibility of the Government of the Republic of Serbia and the Government of the AP Vojvodina

- The Government of the Republic of Serbia **should create and regularly update its web presentation and contents** in the format that supports and facilitates the functioning of a modern electronic administration which is in compliance with Guidelines for making web presentations of state administration bodies, territorial autonomy bodies and local self-government units v. 5.0.
- The Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina **should develop an adequate plan**, i.e. strategy for **communication via social networks**, which would envisage strengthening the capacities of civil servants for the use of social networks.
- It is indispensable that the Government of the Republic of Serbia harmonises its Rule Book about the Work with the Law on



Public Administration in the area of defining and implementing public hearings when preparing, modifying and supplementing regulations. This recommendation would have its significance from the moment of the Law on Public Administration modification. The Institute of public hearings has not been adequately defined in the Republic of Serbia legal system as public hearings are regulated by the Rule Book of the Government of Serbia, as an internal act that defines more closely the work of the Government. **It is necessary to define the citizens' participation at the provincial level** by modifying and supplementing the Law on Public Administration and by modifying and supplementing the Law on Establishing the Competencies of the Autonomous Province of Vojvodina.

- It is necessary to modify and supplement the Law on Free Access to Information of Public Importance in order to define the obligation to publish the Information Booklet in a unique, electronically readable format and to foresee shorter deadlines for updating the information comprised in the Information Booklet.
- It is necessary to make sure that the Information Booklet about the Work of the Government of the Republic of Serbia is **in all aspects harmonised with the Instructions for drafting and publishing of the Information Booklet**. In order to make preventive action against any deviation in the content of the Information Booklet from the prescribed instructions, an oversight over the implementation of the Instructions for the creation and publishing of the Information Booklet should be regulated, such as the oversight over the implementation of the Law on Personal Data Protection, which establishes the Commissioner's oversight over the execution and implementation of the Law on Personal Data Protection.
- The Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina should conceive a training programme and **enable trainings and capacities enhancement of employees for an efficient implementation of the Law on Free Access to Information of Public Importance**.

Integrity

It is necessary to improve the integrity of the work of the Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina. Lobbying has not yet been legally regulated in Serbia which lessens the transparency of the

decision-making process and makes room for corruption. The draft Lobbying Act, as one of the priority regulations in the field of corruption prevention was prepared five years ago, but is not known whether and when it shall enter the parliamentary procedure. **Such situation minimises the integrity of both observed institutions.**

ACTION STEPS

Recommendations for the improvement of the integrity

It is necessary that the draft **Lobbying Act** be forwarded to the National Parliament. A step that should precede the adoption of the act are a **revision of the existing draft in its entirety** and a public hearing in order to adapt the act to the new circumstances and needs that have developed since the first draft was prepared.

Efficiency

Establishing a functional planning system for the public policy management would improve the efficiency of the Government of the Republic of Serbia and the Government of the AP Vojvodina. The adoption of the Law on Planning System would make a planning, monitoring and evaluation process, as well as public policies, programmes and projects impact measuring an obligation in creation and implementation of public policies. In the area of efficiency, the Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina fulfil only 11% of indicators, **whereby the Provincial Government does not fulfil any of the given indicators.** The draft Law on Planning System of the Republic of Serbia was at the public hearing in January 2017 together with two by-laws aiming to establish methodology for policy management and regulation impact analysis³, as well as methodology of mid-term planning.⁴ However, the public did not receive any information about the results of the public hearing, whereas the Draft Law has not appeared in the parliamentary procedure.

It is indispensable to establish a planning system in order to adequately regulate procedures for monitoring and evaluation, and indicators that enable measuring of public policies effects. It is very important that in the process of establishing of the planning system, continuity, transparency and participativeness prevail at the

³ Draft regulation on the methodology of public policy management, analysis of the effects of public policies and regulations and the content of individual public policy documents..

⁴ Draft regulation on the methodology of mid-term plans creation.

speed in creating and adopting of the crucial documents, given the complexity of the regulated field, the number of stakeholders and the participation of different levels of power in the future planning system.

ACTION STEPS

Recommendations for the improvement of the efficiency

It is necessary that the Government in its capacity of a proponent addresses to the National Parliament in the shortest possible deadline the draft **Law on Planning System. In order that the establishing of the planning system in public policies governing responds to the needs and fulfils the standards of good governance**, it is necessary that the Ministry of Public Administration and Local Self-Government first enables the public insight to the contents and the results of a public hearing on the Draft Law that was held in January 2017.

On the basis of the adopted Law on Planning System, the Government of the Republic of Serbia should **adopt and make available in an electronic format the corresponding intern document** that shall define monitoring and evaluation of conducting of projects and programmes carried out by the Government of the Republic of Serbia, as well as indicators that enable the analysis and measuring of effects of public policies proposed by the Government of the Republic of Serbia. Intern documents of the Government of the Republic of Serbia should be harmonised with the legal framework establishing the planning system of public policies governance in Serbia.

2.1.1 MINISTRIES

MAIN FINDINGS AND RECOMMENDATIONS

The total openness index of ministries in Serbia is 62%. An unequal practice has been observed when it comes to conduct and respect of regulations defining transparency, accessibility, integrity and efficiency, as well as significant differences in indicators fulfilment (the best-ranked ministry fulfils 81% of openness criteria, whereby the worst-ranked one fulfils nearly half as much 47%). It is necessary to work on the improvement of regulations and on the compliance with regulations that stipulate the policy of openness in order to influence the unification of the openness practice of all

executive power institutions.

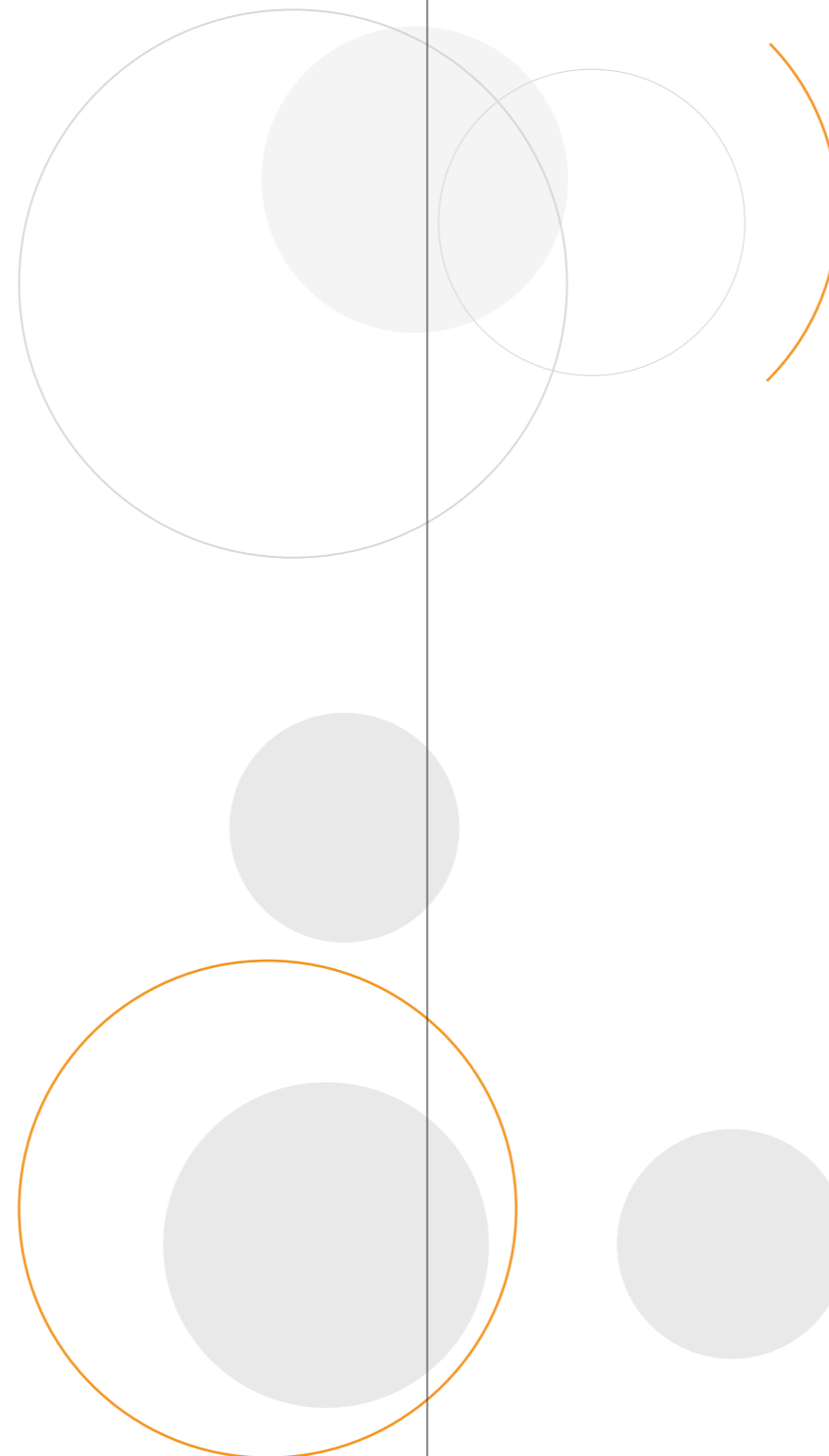
Transparency

In the area of **transparency**, Ministries in Serbia score 64%. The majority of ministries publish the information about names, wages and contacts of public officials in the Information Booklet about the Work. However, the Information Booklets are rarely in compliance with the Instructions for drafting and publishing the Information Booklet, hence some information still remain unavailable to the public. Moreover, the current format of the Information Booklet publishing (word and/or pdf), and the updating system cause difficulties in overseeing the application and restricted possibilities of research and information comparison. The mere fact that ministries have the Information Booklet about the Work and that they make it publicly available does not imply the fulfilment of the proactive transparency principle, as there are Information Booklets that are not up-to-date and that do not contain all information prescribed by the law.

It is necessary to further enhance the financial transparency, as the ministries do not have a well-defined practice in publishing of financial information and documents.

The availability of information regarding the budget and public procurement procedures is at a somewhat lower level comparing to the transparency in publishing of the organisational information. The majority of ministries abide by the Budget System Law that regulates planning, preparation, passing and execution of the budget of the Republic of Serbia. As beneficiaries of public resources, Ministries are held to publish on their websites financial plans and financial reports (reports on budget execution). Nonetheless, the information about financial plans and reports on budget execution are impossible to find on websites of any ministry for the period of last three years.

Documents and data about public procurements are available on official websites of all ministries, however, agreements and annexes to the agreements on public procurements are not published by any of ministries. Furthermore, it is impossible to find the public procurement plan on any of ministries websites.



ACTION STEPS

Recommendations for the improvement of the transparency of Ministries

- In accordance with the Action Plan on Implementation of the Open Government Partnership, it is necessary to determine the obligation to create an information system for filling, processing and presenting of data from the Information Booklet, by amending the Law on Free Access to Information of Public Importance. It is also necessary to carry out trainings for all employees for the use of the information system.
- Documents and data about public procurements, including agreements and annexes to the agreements on public procurements, as well as the plan of public procurements conducted by ministries should be published on their websites.
- It is indispensable that Ministries publish their financial plans as well as annual statements and financial reports for the current and three previous years on their websites.
- **It is necessary that ministries publish all documents on their websites in a machine-readable format in order to maximise available data usability.** The largest part of data published by ministries is not in open data format, i.e. the data are not structured for machine-readability and that is why it is impossible to freely reuse such data.

Accessibility

In the area of accessibility, ministries in Serbia score a total of 58%, and the compliance with procedures for free access to information of public importance scored best in this field. All ministries have on their website a register of documents they behold shown in the Information Booklet about the Work. However, only eight ministries have a contact person designated for information of public importance.

The interaction with citizens and public hearing mechanisms are worse evaluated accessibility aspects. Calls to civil society organisations to participate in work groups for creation of laws and other legal acts as well as information about organising and conducting of public hearings are published by more than one half of ministries on their websites. Nevertheless, there is no special section for this type of information on websites. Certain websites contain a separate

section dedicated to public hearings while the others publish the same information under different sections. The majority of ministries do not publish different reports about the conducted public hearings whereas the contents of the published reports vary considerably.

The ministries do not recognise and do not use sufficiently the portal “e-Administration”, that aims to be the key point in communication between the state bodies and the public administration and the citizens, as well as a platform that provides the citizens’ participation in the process of public policies creation. **It is necessary to improve the portal “e-Administration” for conducting of the electronic public hearings and informing of the citizens.**

Only five ministries communicate with citizens directly via their websites. **In addition to classical communication methods, ministries should use social networks for communication with citizens to a larger extent.**

ACTION STEPS

Recommendations for the improvement of the accessibility of Ministries

- It is necessary to adequately regulate the notion and the application of the public hearings through modifications and supplements of the Law on Public Administration. The definition of public hearing should be entered in the Serbian legal system. The draft Law on Public Administration that was put on a public hearing in December 2016, comprises also the expansion of conditions for timely public insight into the content of the draft law and the possibility to enhance the participativeness, particularly of the civil society. It is particularly important to define the following issues by modifying and supplementing the Law:
 1. by defining more closely all notions, limit the discretionary right of the Government to decide in which situations a public hearing shall be conducted on the basis of its own assessment of the extent to which a particular “law substantially changes the regulation of a particular issue or regulates an issue of particular interest of the public”, as currently defined;
 2. precisely define all steps in conducting of public hearings that relate to deadlines, calls and communication with citizens, reporting and informing of the participants to the public hearing about its results;

prescribe a minimal scope of data that should be published together with the regulation that is put to a public hearing;

3. determine the obligation of bodies that prepare regulations to publish on the internet all proposals given during the hearing, and prescribe minimal contents of the information about the course and the outcome of the public hearing;
4. following modifications and supplements of the Law on Public Administration, it is necessary to harmonise the Rule Book on the Work of the Government with the new law.

→ It is necessary to appoint in each ministry a person in charge of access to information of public importance. Name and contact of that person should be easy to spot on the ministry’s website.

→ It is necessary to unify Internet presentations of all ministries, not only design-wise, but also in quality of information they provide to citizens, their transparency, timeliness, accuracy and usefulness. Also it should be possible to display these Internet presentations on mobile devices, tablets and monitors of wide resolution.

→ Define a special part/section of the Internet presentation of ministries for all information about organising and conducting public hearings for creation of laws and other legal acts.

→ Upgrade the „e-Administration” Portal for conducting online public hearings and improve the way public bodies use it.

→ It is necessary that ministries regularly update information on social networks open profiles (Facebook and/or Twitter).

Integrity

All ministries abide by the Law on Prevention of Conflict of Interests in Exercising Public Functions and they file reports on property thus realising the maximum score of 100% in the area of integrity.

Efficiency

The efficiency of ministries in Serbia is 53%. The best assessed efficiency aspect is reporting whereas monitoring and strategic planning score way lower. More than one half of ministries file reports on their work to the Government and have filed reports for last year. However, reports on the work of the majority of ministries remain unavailable to the public. A small number of ministries fully carry out the policy and public policies programmes monitoring by

regularly measuring the effects of the application of defines measures and actions. Such score can be connected to the lack of a well-organised and regulated strategic planning and the existence of a large number of strategies that are mutually inconsistent. The adoption of the Law on Planning System would add up to a higher efficiency of ministries.

ACTION STEPS

Recommendations for the improvement of efficiency of Ministries

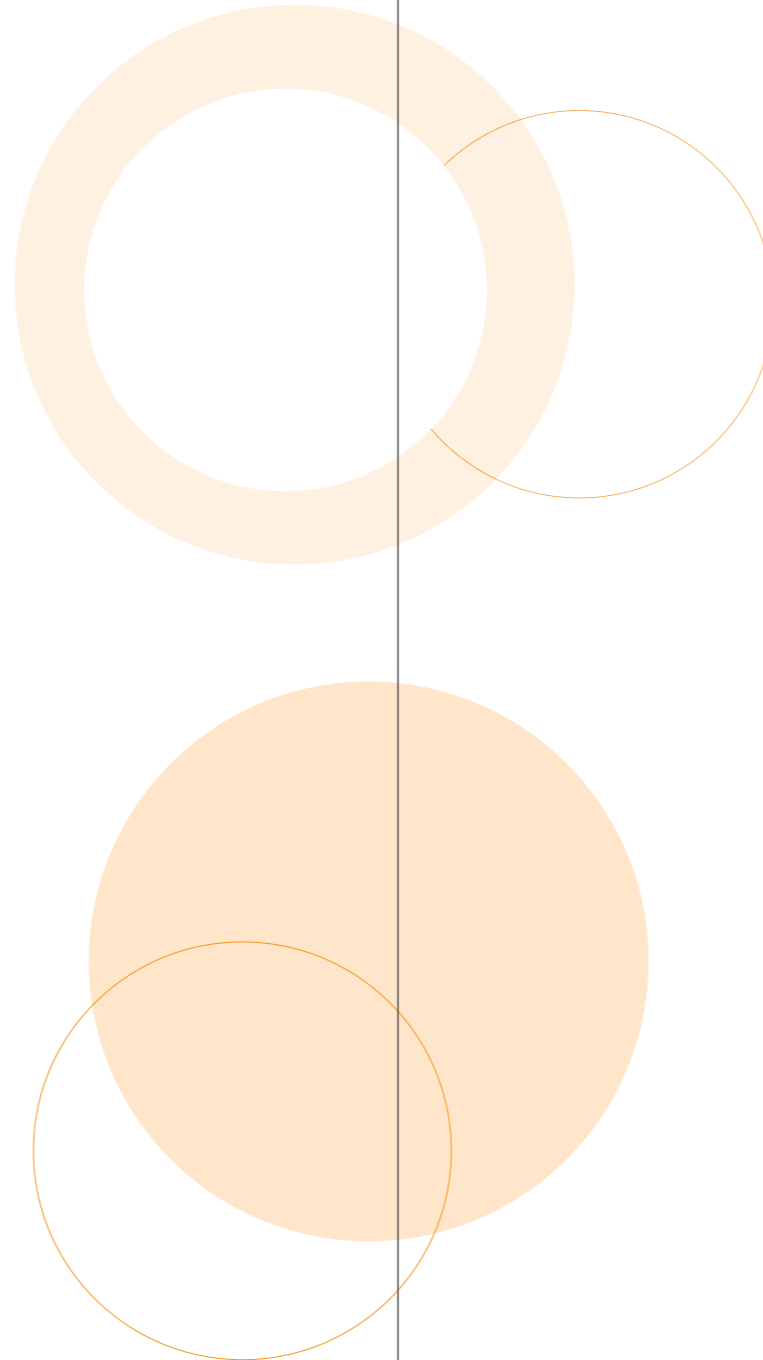
- The annual report on the work that a ministry files to the Government no later than March 1st of the current year for the previous one, should be published on the website of every ministry.
- Provide mechanisms for an independent exterior evaluation of programmes and policies, as well as include educational and other professional institutions of the civil society and relevant international organisations in the process of evaluation of programmes and policies.

2.1.2 OTHER EXECUTIVE BODIES

MAIN FINDINGS AND RECOMMENDATIONS

The analysis of executive power openness in Serbia comprised bodies and organisations founded by the Government or acting within different ministries, as well as public agencies incorporated for performing development, expert and regulatory activities of general interest. The analysis included 19 bodies (agencies, funds, offices and administrations that act within ministries) and one body in the AP Vojvodina. The fact that the bodies comprised in the analysis sample are different according to the method of establishment, competencies and sources of income, points to the need for a deeper and more comprehensive analysis of the openness of other executive bodies and agencies, and that is why all recommendations advanced in this document should be taken as guidelines for the improvement of the openness, as it is rather difficult to set forth specific unified recommendations for such a heterogeneous group of authorities without a comprehensive analysis of the legal framework and their individual competences.⁵ Furthermore, the majority

⁵ While, for example, the Tax Administration is a body within the Ministry of Finance and is financed from the budget, the Road Traffic Safety Agency is a body estab-



of recommendations that refer to the Government and ministries can be applied to other executive bodies, particularly to those that work within ministries.

Openness of executive bodies is at a lower level in comparison to ministries and obviously, there is room for improvement. The integrity of other executive bodies is best evaluated as the score is based on only one indicator – published data about income and property of public officials. The publishing of these data, i.e. property cards, is an obligation for all public officials in the Republic of Serbia. When it comes to fulfilment of this obligation, other executive bodies do not deviate significantly compared to other analysed institutions.

Accessibility and transparency

The information about financing and disposing of funds are unavailable to the public. When it comes to reporting on public funds expenditure, a bad practice has been observed with these bodies. Less than one half of other executive bodies regularly update their websites, whereby only one third have active accounts on social networks. In the area of public procurements, other executive bodies show the same problems as other institutions the openness of which was the subject of the analysis. While public procurement plans and calls for bids are mostly published on the website of those bodies, agreements and annexes to the agreements remain unavailable to the public.

ACTION STEPS

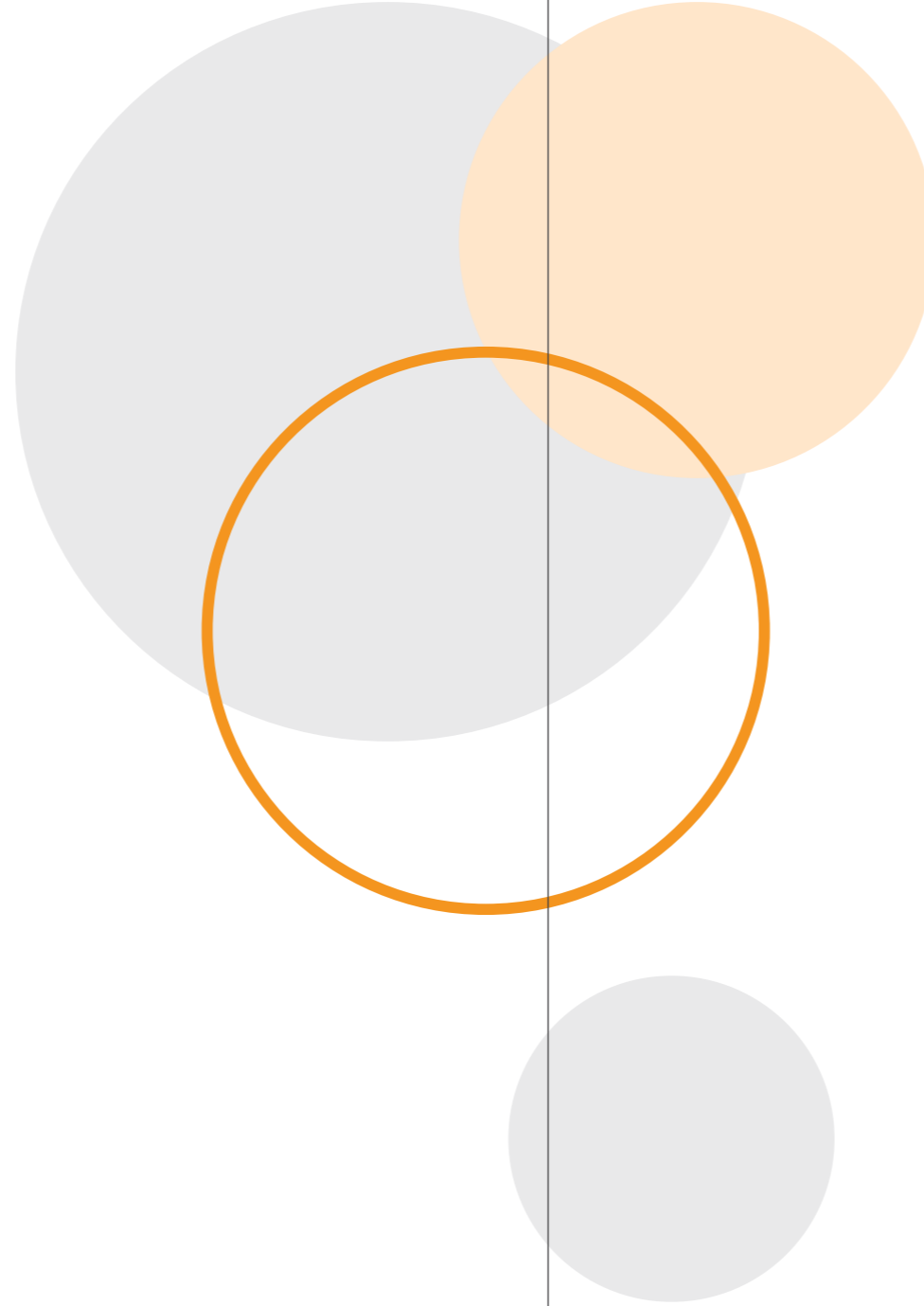
Recommendations for the improvement of the accessibility and the transparency of other executive bodies

- **The information about the name and contacts of a person in charge of free access to information of public importance should be published on the website in a visible place**, regardless of the fact that this information is available in the Information Booklet about the Work. The annual plan of work of other executive bodies should also contain the plan of trainings for the employees for the application of the Law on Free Access

lished by the Government and has its own sources of financing. Some authorities involved in this survey are independent bodies established by the National Parliament, have regulatory powers and independent sources of income. Such an authority is the Energy Agency, so the question is whether this authority falls into the executive power at all. Some of the analysed bodies have not been established by the law, but by a regulation, and perform professional, administrative and operational tasks, such as the European Integration Office.

to Information of Public Importance. The report on the work of other executive bodies should contain the data about realised trainings and an assessment of the employees' progress. In this way, accessibility of other executive bodies would be enhanced and this measure would also contribute to the advancement of employees' efficiency measuring.

- **Other executive bodies, the area of responsibility of which consists of providing services to citizens, should put on their websites clear information for citizens as to how they can realise their right to a service and how they can file a complaint if they are not satisfied with the work of a body.** Only 34% of bodies have on their web pages the information about complaint or objection procedures. This recommendation is of a special importance for other executive bodies that provide services for citizens (Road Traffic Safety Agency, Business Registers Agency).
- **It is necessary to improve the communication with the citizens via social networks.** Informing of citizens about current activities and services should be performed via social networks, too, in accordance with recommendations set forth in the Guidelines for making web presentations of state administration bodies. It is therefore necessary that other executive bodies have active accounts on social networks and that they keep them regularly updated.
- **It is necessary to create a unified structure of executive bodies Internet presentations and legally oblige those bodies to abide by such structures.** The Guidelines for making web presentations of state administration bodies do offer good solutions, but their destiny is similar to all other documents that have a non-binding character – they are not being applied. The Internet presentation structure, minimal contents and competence of bodies in charge of control of websites contents are to be regulated by a by-law.
- As with other public administration bodies, it is necessary to achieve transparency in public procurement procedures by making the complete public procurement documentation available on the bodies' website, especially agreements and annexes to the agreements on public procurement.



Efficiency

Efficiency, i.e. monitoring and reporting of other executive bodies scored lowest of all areas. When it comes to reporting, other executive bodies score 25% as the research showed that the majority of bodies did not file financial reports on regular basis, while 60% of analysed bodies filed regularly their reports on the work. One third of bodies have indicators for measuring the impact and the effects of their work and of the implementation of plans and programmes.

ACTION STEPS

Recommendations for the improvement of the efficiency of other executive bodies

- A systematic measuring of the impact and the effects of the executive bodies work and the evaluation of success in realising the public policies goals is impossible to establish at the level of agencies and other services unless such mechanism is foreseen by an adequate law. **It is therefore necessary to adopt the Law on Planning System** as a crucial step in the improvement of executive bodies' efficiency.
- Having in mind a very low score of executive bodies in the area of reporting on the realisation of the financial plan, it is necessary to **clearly define the competence of the budgetary inspection in controlling of other executive bodies financial reports.**
- **It is necessary to determine the obligation of publishing of the annual report on the work the of public administration,** through amendments of the Rule Book on the Work of the Government. The appalling fact that the Report on the Government's work has not been published since 2013 makes the public insight to the executive body work impossible. Publishing of reports on the executive bodies' work that provide specific services to citizens would provide insight into the efficiency of these bodies and contribute to the increase of their accountability.

LEGISLATIVE POWER IN THE REPUBLIC OF SERBIA

2.2. NATIONAL PARLIAMENT OF THE REPUBLIC OF SERBIA AND PARLIAMENT OF THE AUTONOMOUS PROVINCE OF VOJVODINA

MAIN FINDINGS AND RECOMMENDATIONS

The legislative power of the Republic of Serbia fulfils 59% indicators of openness, which indicates the possibility to considerably improve the openness of this branch of power towards the citizens. This analysis included the National Parliament of the Republic of Serbia, as the highest representative body and the bearer of the constitutional and legislative power, and the Parliament of the Autonomous Province of Vojvodina (hereinafter: the Parliament of AP Vojvodina) as the body performing normative and other functions in the Autonomous Province of Vojvodina.⁶

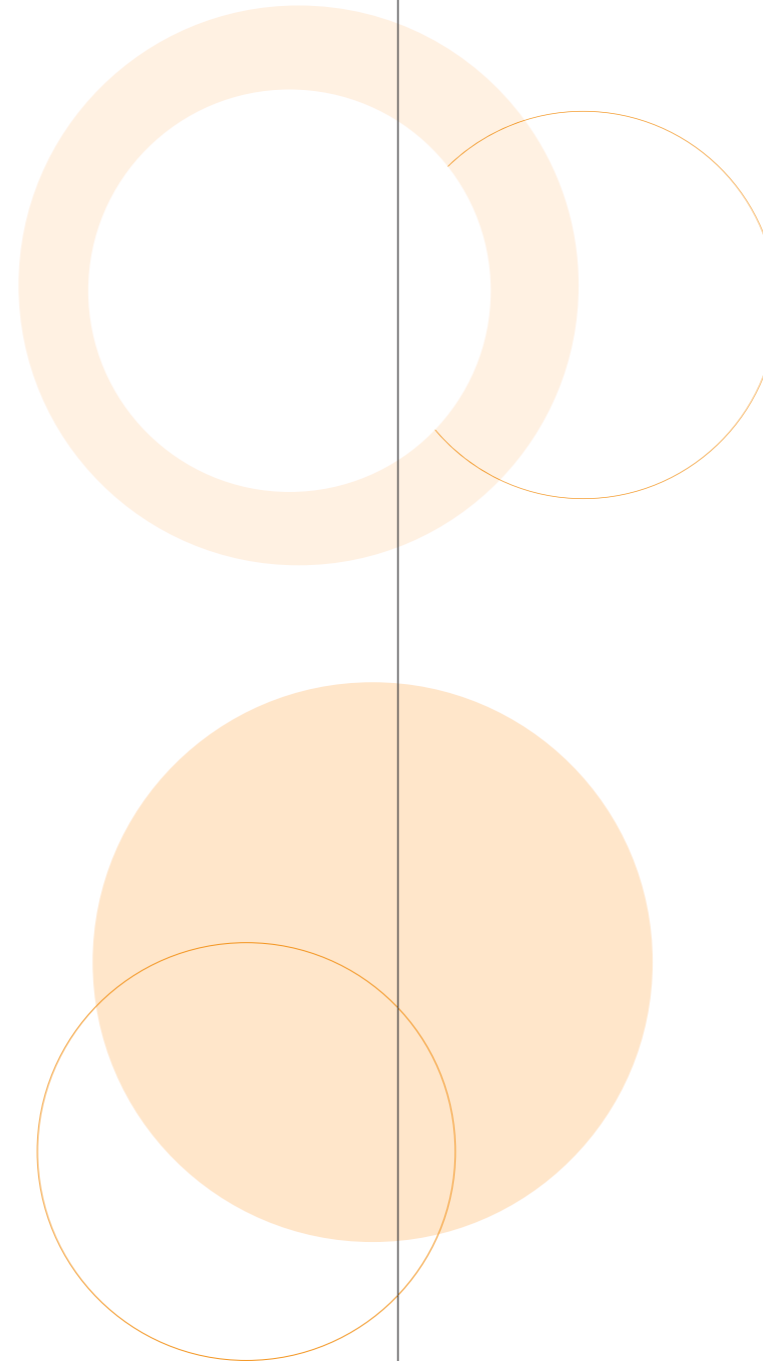
Transparency

The publicity of the work of the National Parliament is insured via TV broadcasts and the Internet. The sessions of the committees and of other work bodies of the National Parliament are broadcast live on the Internet, with a possibility to view the course of the session later in the broadcast archives. Moreover, on the National Parliament website, there are draft laws and other deeds submitted to the National Parliament, adopted laws, results of vote of plenary sessions, as well as stenographic notes of the sessions. The same principle has been noted at the Parliament of AP Vojvodina, although live streaming of plenary and committees' sessions on the internet is not possible, and stenographic notes remain unavailable.

However, on the National Parliament website, it is not possible to find texts of the submitted amendments, unlike the site of the Parliament of Vojvodina where there are amendments of the deeds analysed in the last six months. Although both the National Parliament and the Parliament of AP Vojvodina publish the agenda of the upcoming sessions, as well as annual reports on the work, this is not the case when it comes to the annual work plan of the legislative authorities.

In the area of the public procurement process, the National Par-

⁶ The analyses has not included the AP Kosovo and Metohija



liament and the Parliament of AP Vojvodina fulfil the majority of indicators. The public procurement plan of the National Parliament is explicated in the Information Booklet about the Work, whereas the Parliament of AP Vojvodina has not made this plan available to public. Calls for submission of tender documents and decisions on attribution of agreements are published on both authorities' websites. However, agreements and annexes to the agreements on public procurements are not published.

ACTION STEPS

Recommendation for the improvement of the transparency of the legislative power

- **In order to make the decision-making system completely transparent, it is necessary to publish proposals for amendments to the law that are in process of adoption on the National Parliament website. It is also necessary to publish all documents and materials considered at sessions of the National Parliament and the Parliament of AP Vojvodina committees, as well as the information about the deputies' activities and the results of voting in committees.**
- Provide Internet broadcast of plenary sessions of the Parliament of AP Vojvodina committees and make stenographic notes available on the website.
- Documents that the National Parliament and the Parliament of AP Vojvodina publish on their websites should be in a machine-readable format.
- Respect legal deadlines for submission of proposals of the Budget Law to the National Parliament.

Accessibility

There is much room for improvement of the legislative authorities' accessibility especially in the field of proactive transparency. Legislative institutions abide by the Law on the Free Access to Information but they do not undertake sufficient effort to improve the accessibility in the area of information accessibility. Legislative authorities appointed persons in charge of free access to information of public importance, but their names are unavailable on the website.

Launching of citizens' initiative and filing of petitions to the National Parliament should be easier. The Law on Referendum and Civil Initiative imposes too restrictive conditions for the direct citizens' participation, whereby mechanisms for submission of electronic petitions to the National Parliament have not been developed. The National Parliament of the Republic of Serbia adopted a multi-year plan for communication development of the National Parliament for the period 2011-2015, but the period of validity of this document expired. **It is necessary to adopt a multi-year plan for communication of the National Parliament of the Republic of Serbia.**

The communication via social networks enables a simple and very efficient interaction with citizens, but this way of communication is insufficiently used. **The National Parliament and the Parliament of the AP Vojvodina should use more actively the existing mechanisms for direct communication through social networks.** Legislative bodies do not have an active role on these networks so that the citizens are deprived of information through them.

The policy of openness of legislative bodies should be developed through information and communication trends follow-up by using new technologies and publishing of data in a machine-readable format, which would increase the usable value of published information. **Documents that National Parliament and the Parliament of the AP Vojvodina publish on their websites should be in a machine-readable format.**

ACTION STEPS

Recommendations for the improvement of the efficiency of the legislative power

- Develop mechanisms for gathering public opinion on proposals of the laws that are in parliamentary procedure.
- Develop mechanisms for direct submission of initiatives and petitions to the National Parliament. Moreover, it is necessary to consider the possibility of their electronic submission.
- It is necessary to adopt a new multi-year communication plan of the National Parliament of the Republic of Serbia.
- The National Parliament and the Parliament of AP Vojvodina should use social networks more actively in order to directly communicate with citizens.
- Adopt the Declaration on Parliamentary Openness, prepare an action plan for the improvement of openness of the National

Parliament and work on its implementation.

- Modify and supplement the Rule Book of the National Parliament in order to clearly define the obligation of parliamentary committees to enable the civil society representatives and professional public to participate in the work of committees.

Integrity

It is necessary to improve the legislative bodies' openness in the field of integrity. The National and the Provincial parliaments do not have the Code of Ethics, defining integrity standards and standards of conduct for deputies, a document crucial to raise the level of political accountability and public confidence in the work of the institutions. In the area of prevention of conflicts of interest, legislative authorities fulfil the majority of indicators. What contributes to this result is the fact that deputies' property cards are electronically available on the Anti-Corruption Agency's website in an organised form.

ACTION STEPS

Recommendation for the improvement of the integrity of the legislative power

- Adopt the Code of Ethics defining integrity standards and standards of conduct for deputies, a document crucial to raise the level of political accountability and public confidence in the work of legislative bodies.

Efficiency

The Law on the National Parliament regulates the oversight function of the National Parliament over the work of the Government. Although legal framework for undertaking of the surveillance and oversight functions of legislative authorities has been constituted, obvious problems still persist regarding the implementation and the use of surveillance and oversight mechanisms over the executive government. **The use of mechanisms for the parliamentary control over the executive power should be enhanced.**

There are substantial problems regarding the cooperation between the National Parliament and the independent bodies. In the last two years, independent bodies' reports were not at all considered at the National Parliament sessions. Such conduct influences the ef-

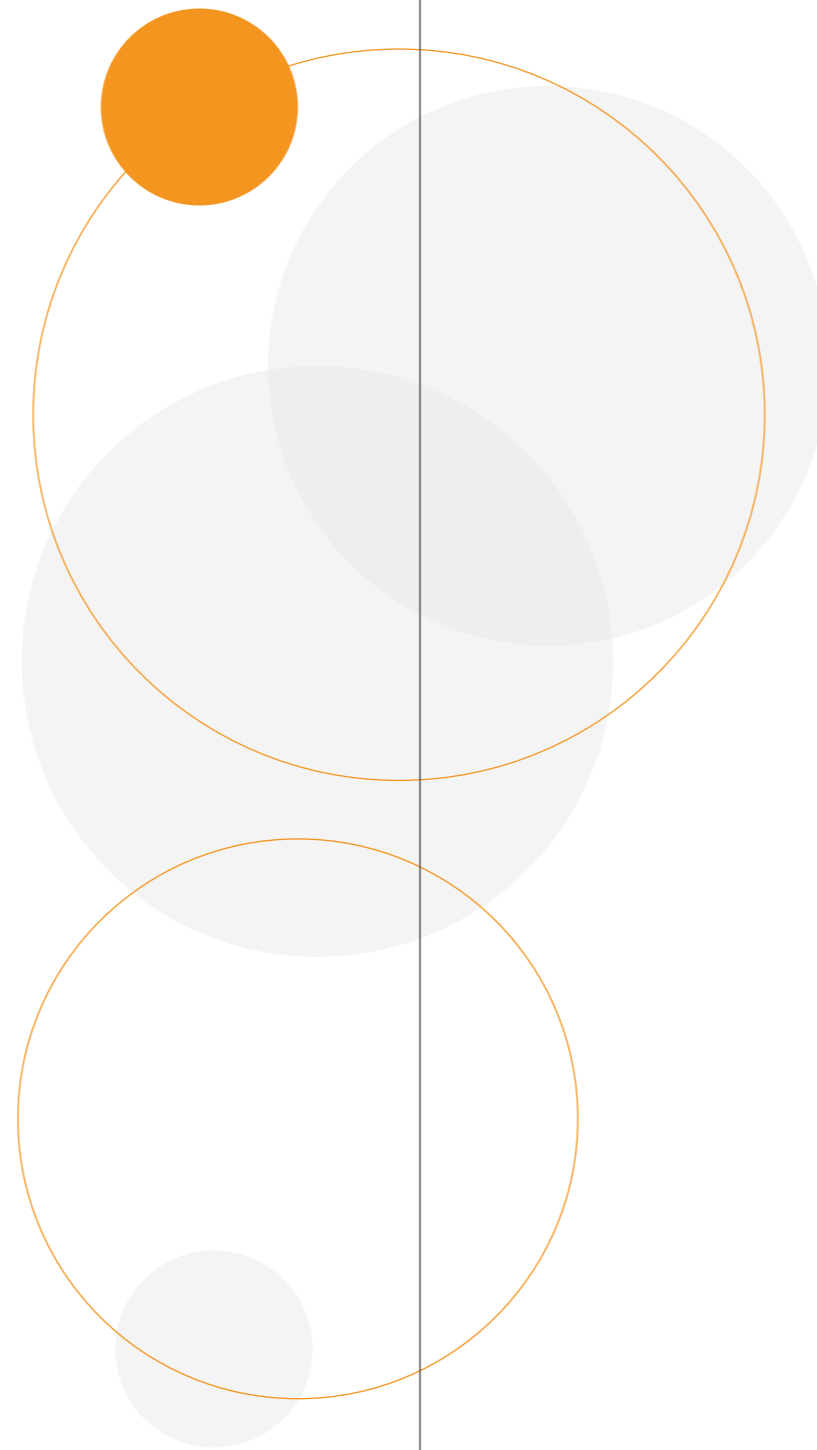
iciency of the work of the National Parliament, the reputation of the Parliament and of independent bodies in public, but also the improvement of democracy and the rule of law. **It is necessary that the National Parliament of the Republic of Serbia considers all independent bodies' annual reports in plenary sessions.**

In order to estimate strategic planning, it was measured to what extent the National Parliament and the Parliament of AP Vojvodina evaluated potential effects of the existing and future legal deeds (regulatory impact assessment), as well as whether regulatory assessments of the impact ensured participation, transparency and evaluation quality. It was determined that laws proposed by the Parliament did not undergo a procedure that would indicate the impact that their implementation would have on the lives of citizens. **The legislative activity of the Parliament must be improved through an assessment of the possible impact of legal solutions during their preparation.**

ACTION STEPS

Recommendation for the improvement of efficiency of the legislative power

- The National Parliament should consider in plenum reports prepared by the independent state bodies.
- Before the session of the National Parliament where the independent state bodies' reports are to be considered, public hearings about annual reports should be organised.
- Reports on the work of the Government and reports on the work of ministries and other bodies that are submitted to the National Parliament should be published on the website and made available to the public.
- Ensure the analysis of the effects of regulations for laws proposed by the National Parliament.



JUDICIAL POWER IN THE REPUBLIC OF SERBIA

2.3 COURTS OF GENERAL AND SPECIAL JURISDICTION

MAIN FINDINGS AND RECOMMENDATIONS

Courts of general and special jurisdiction in Serbia fulfil approximately 36% of openness indicators. A large number of courts did not have functioning websites at the time of this research, which is a huge obstacle to openness. It is necessary to improve the courts' accessibility in segments relating to the access to justice, especially of underprivileged categories of citizens, to communication with citizens and the media and to acting pursuant to the Law on Free Access to Information of Public Importance. Furthermore, the courts' integrity is extremely low, because the existing Code of Ethics adopted by the High Judicial Council has not been published on their websites. We have to emphasise once again that a large number of courts did not have their Internet page.

Transparency

It is necessary to improve the transparency in the everyday work of courts of general and special jurisdiction. In the area of transparency that was assessed in relation to the publishing of organisational information (website up-to-datedness and availability of the information displayed on the notice board on the website, too, publishing of the courts' strategy, organogram and data about judges and court employees, including their names, contacts and wages), courts fulfil a mere third of indicators. The results demonstrate heterogeneous practices in the publishing of organisational information, varying from the (non)existence of the Internet page of certain courts, regularity of keeping the site up-to-date (70% of courts from the sample, that do have a website, do not update the information for at least 15 days), to the level of competence of a separate court (courts that have jurisdiction over a larger territory achieved better results in the area of accessibility of the basic information about the work). Nonetheless, after the research, during 2017, the Ministry of Justice initiated a project "Central platforms for the development of internet pages of judicial bodies" and created web presentations for all courts in Serbia that had not had them. Those web pages were launched in July 2017. In the upcoming period, it is necessary to

follow-up the completeness and up-to-datedness of contents published on the courts' websites.

In the case of information that are updated once or several times a year, such as annual reports or annual work plans, uneven practice has been observed. In most cases, the courts either do not publish these documents, or they publish them only for the previous or the current year

ACTION STEPS

Recommendation for the improvement of the transparency of courts of general and special jurisdiction

- On the model of the Guidelines for making web presentations of state administration bodies, that recommend to all state administration bodies to have a web presentation, and following the Instructions for creation of Information Booklets on the work of state bodies, that order to state bodies to publish the Information Booklets in an electronic form, **it is necessary to prepare the instructions for creation of web presentations of legislative bodies.** The creation of this document would enable monitoring of the contents management on the courts' websites in order to make sure that courts publish all indispensable information in an adequate format. The Guidelines are not binding for state bodies, which was proven bad as state bodies still fail to publish a number of important information on their websites. **The Instructions for creation of web presentations of courts should be a binding document and should be adopted by the High Judicial Council in a form of a decision.** The Instructions should be harmonised with the Communication Strategies of the High Judicial Council that foresees its role in these activities (section 5.2. Communication Strategies).
- Courts of general and special jurisdiction in Serbia should ensure that their **annual work plans and reports be available in electronic form at all times** for the current year, i.e. be kept in permanently available electronic archives for previous years.

Accessibility

It is necessary to improve accessibility in the everyday work of courts of general and special jurisdiction. In relation to the approach to justice and the publicity of court proceedings, the courts in Serbia realise the score of 34% of the accessibility indicators, al-

though the enjoyment of equal access to justice and the prohibition of discrimination are fundamental constitutional principles.

In the majority of courts, there are no mechanisms that provide information to the members of vulnerable groups and minorities about their rights (SOS phone number, brochures), whereas people with disabilities and with reduced mobility cannot access the majority of courtrooms.

Although the court proceedings are public (with few exceptions), the large majority of the observed courts do not have an electronic data base of court cases and verdicts, which greatly restricts the citizens' ability to access their cases. The situation remains the same with minutes from trials.

Moreover, the majority of courts do not have a special office for public relations, or the department for media relations. The majority of courts do not have a person responsible for information of public importance.

ACTION STEPS

Recommendations for the improvement of accessibility of courts of general and special jurisdiction

- In Serbia, the **Law on Free Legal Aid** has not yet been adopted for the most vulnerable categories of citizens, which is a key prerequisite for the equal access to justice. It is necessary to legally regulate this area in the shortest possible time.
- It is necessary to invest in the infrastructure in order to build ramps that would **ensure that people with disabilities have the access to courts.** In order to make this possible, every court needs to prepare a feasibility study, cost estimate and project execution plan, as well as the documentation required by the High Judicial Council for planning and oversight over the courts' annual budget execution (article 83 of the Law on Organisation of Courts, i.e. required for applying to available funds in the country and abroad.
- It is necessary to enable **the access to electronic database of cases of courts of general and special jurisdiction** that have not yet done so also via separate courts' websites. The Portal of Serbian Courts, where this database is currently available, should be clearly and visibly integrated on the separate courts' websites
- It is necessary that courts of general and special jurisdiction

prepare a communication strategy and appoint one or several persons having adequate qualifications for public and media relations. Separate courts' communication strategies should be created on the model of the High Judicial Council Communication Strategy, and the entire process should be conducted in consultation with the Council.

- Pursuant to the Law on Free Access to Information of Public Importance, courts of general and special jurisdiction **should appoint one or several persons authorised to act following a request for free access to information of public importance.**
- It is indispensable that courts of general and special jurisdiction publish on their web pages first and last name and contacts of persons authorised to act following a request for free access to information of public importance. It is necessary to display this information in a visible spot in the court building. This obligation of courts of general and special jurisdiction and of all other public administration bodies should be **stipulated by modifications and supplement to the Law on Free Access to Information of Public Importance.**
- Courts of general and special jurisdiction **should provide trainings and capacities enhancement of employees for an efficient implementation of the Law on Free Access to Information of Public Importance.** Such trainings for the employees should be conceived and their dynamics planned in consultation with the High Judicial Council and the Ministry of Justice, in cooperation with the Commissioner for Information of Public Importance and Personal Data Protection.

Integrity

It is necessary to reinforce the integrity in the work of courts of general and special jurisdiction. The courts in Serbia do not have an obligation to adopt separate codes of ethics. The Code of Ethics issued by the High Judicial Council is abiding for all courts and judges. However, this document has not been published on the majority of courts' portals. Therefore, **the level of openness of the courts in Serbia in the area of their integrity is very low and fulfils only 5% of indicators.** This is also due to the fact that there is no code of ethics in Serbia that would regulate moral and professional principles in the work of the court employees.

Nonetheless, the Code of Ethics per se and the valid binding train-

ings do not guarantee the integrity. The integrity is fully guaranteed only with the existence of functioning mechanisms that guarantee the honour, reputation and independence of the court power.

ACTION STEPS

Recommendations for the improvement of the integrity of courts of general and special jurisdiction

- All courts of general and special jurisdiction should provide access to the Code of Ethics of Courts and Judges issued by the High Judicial Council through their web presentations. The High Judicial Council should adopt the Code of Ethics that would regulate moral and professional principles in the work of employees of courts of general and special jurisdiction in Serbia. Competent institutions, the Ministry of Justice, the High Judicial Council and the State Prosecutorial Council in cooperation with civil society organisations, international organisations and experts from the country and abroad should create and undertake **a compulsory training for judges in order to ensure the application of the Code of Ethics.** Public authorities should **support associations' of citizens' aiming to reinforce the integrity** in the work of courts of general and special jurisdiction.

Efficiency

It is necessary to improve the efficiency of the courts of general and special jurisdiction. The efficiency of courts assessed in relation to the functionality of oversight (monitoring) mechanisms over the work of courts, is 62%. Although there are the Instructions for reporting and there is a legal obligation on filing reports to the competent authority, only 69% of observed courts file reports within the legally stipulated deadline.

ACTION STEPS

Recommendation for the improvement of the efficiency of courts of general and special jurisdiction

- **It is necessary that the preparation of six-month plans and annual reports on the work and the regularity in reporting of courts** of general and special jurisdiction to the higher court, the Supreme Court of Cassation, the High Judicial Council and the Ministry be in compliance with the law and with the courts' Rule Book.

2.3.1 THE HIGH JUDICIAL COUNCIL

MAIN FINDINGS AND RECOMMENDATIONS

The High Judicial Council fulfils about 64% of openness indicators.

The openness of the High Judicial Council needs to be improved in the area of transparency and especially in the area of public procurement process transparency. It is indispensable to enhance capacities of the High Judicial Council for acting in accordance with the Law on Free Access to Information of Public Importance as well as to enable citizens to become knowledgeable about how to file complaints about the work of this institution. The integrity of the High Judicial Council remain however the area that need the most improvements, as the independence of this institution has been jeopardised by political influences, i.e. by the role that both the legislative and the constitutional powers have in the constitution and work of the Council.

Transparency

It is indispensable to improve the transparency in the area of public procurement process of the High Judicial Council. In the area of transparency that has been assessed through the published information about the budget and public procurement, the High Judicial Council fulfils approximately 63% of indicators. The biggest problem are data availability and publishing, as it was impossible to find the plan and programme of public procurements, nor the concluded agreements on public procurements in the observed period.

ACTION STEPS

Recommendations for the improvement of transparency of the High Judicial Council

- The High Judicial Council should publish **public procurement plans as well as call for bids and concluded agreements** on its website.

Accessibility

It is necessary to reinforce the access to justice in the work of the High Judicial Council in the area of enhancement of capacities of the employees for the access to information. When it comes to the

access to justice in the work of the High Judicial Council, 58% of indicators are fulfilled. The results of this institution are shattered by the lack of mechanisms that enable the public to file complaints about the work of judges and employees of the High Judicial Council, as well as by the lack of trainings for the employees who act in accordance with the Law on Free Access to Information of Public Importance. Moreover, even though the Council does not have a special department for communication, it does have a positive communication strategy defining the position and competence of the Counsellor for public relations.

ACTION STEPS

Recommendation for the improvement of the accessibility of the High Judicial Council

- The High Judicial Council should ensure unhampered work of persons authorised to act following the requests for free access to information, i.e. to **enable trainings and capacities enhancement of employees for an efficient implementation of the Law on Free Access to Information of Public Importance.** Such trainings for the employees should be conceived and their dynamics planned in consultation with the High Judicial Council and the Ministry of Justice, in cooperation with the Commissioner for Information of Public Importance and Personal Data Protection.
- The High Judicial Council should ensure to the public, through its website, a clear and thorough information about the right to complaints to the work of courts, as well as about the ways that citizens can do that (in accordance with article 8 of the Law on Court Organisation).
- It is necessary that public authorities **support associations' of citizens' projects aiming to encourage the implementation of the Law on Free Access to Information** about the work of justice.

Integrity

It is necessary to provide and protect the integrity of the High Judicial Council in the area of its independence. The conditions that ensure the independence of the High Judicial Council guaranteed by the Constitution and confirmed by the Law on the High Judicial Council have been affected by political influences on the work of

this institution. Such political influence is visible in the role that the National Parliament have in electing the members of the Council. The role of the National Parliament has been a subject of criticism and recommendations of the Council of Europe via the European Commission for Democracy through Law (Venice Commission) since the Constitution of Serbia was adopted in 2006, by which the Council was established.

Moreover, although the Council follows the established rules in the election of judges for permanent judicial functions and in the proposal of candidates for courts' presidents, the process is a matter of controversy and debate challenging the application of the criteria of dignity, qualification and competence in the election of judges since the beginning of the judicial reform in 2009. The manner of the election of judges is also the object of critique of the Council of Europe and the European Union.

Although the Council adopted the Code of Ethics for Members of the High Judicial Council, it has not been complemented with an adequate training aiming to preserve the integrity of judges. Nonetheless, the Code of Ethics per se and the valid binding trainings do not guarantee the integrity. The integrity is fully guaranteed only with the existence of functioning mechanisms that guarantee the honour, reputation and independence of the court power

ACTION STEPS

Recommendations for the improvement of the integrity of the High Judicial Council

- It is necessary to **redefine the role of the National Parliament in the election of members for the High Judicial Council** in order to free the Council from the political influence, in accordance with Venice Commission and OSCE recommendations. It is indispensable to minimise the influence of the Parliament in the election of members of the Council. The role of the Parliament should include a confirmation of the election of members that has previously been directly conducted in the High Judicial Council. Such modification should first be introduced in the Constitution of the Republic of Serbia, as a part of a compulsory constitutional reform in the process of EU integrations. This obligation is expected to be fulfilled by the end of 2017.
- It is necessary to **free the High Judicial Council form the executive authorities' influence**, i.e. to alter its composition so that the representative of the executive power, i.e. the Min-

ister of Justice is not a member of this body, which is, again, in accordance with international organisations' long-standing recommendations. This recommendation is yet again directed to modification of respective articles of the Constitution of the Republic of Serbia.

- The High Judicial Council should create and conduct **compulsory training programmes for judges in order to ensure the implementation of the Code of Ethics**.
- Public authorities should **support associations of citizens' projects aiming to enhance the integrity** in the work of the Justice.

Efficiency

It is necessary to improve the efficiency of the High Judicial Council. The High Judicial Council fulfils 74% indicators set in the area of its oversight function. However, the Council does not consider all reports on the courts' performance, which is a problem as courts have an obligation to file reports to this institution within a legally stipulated deadline.

ACTION STEPS

Recommendation for the improvement of the efficiency of the High Judicial Council

- It is necessary that **the preparation of six-month and annual reports on the work and the regularity in reporting** of courts of general and special jurisdiction to the higher court, the Supreme Court of Cassation, the High Judicial Council and the Ministry be in compliance with the law and with the courts' Rule Book. **The High Judicial Council should consider all filed reports with particular care to problems that arise in the work** of separate courts and of the Council when preparing its own report.

2.3.2. BASIC AND HIGH PROSECUTOR'S OFFICES

MAIN FINDINGS AND RECOMMENDATIONS

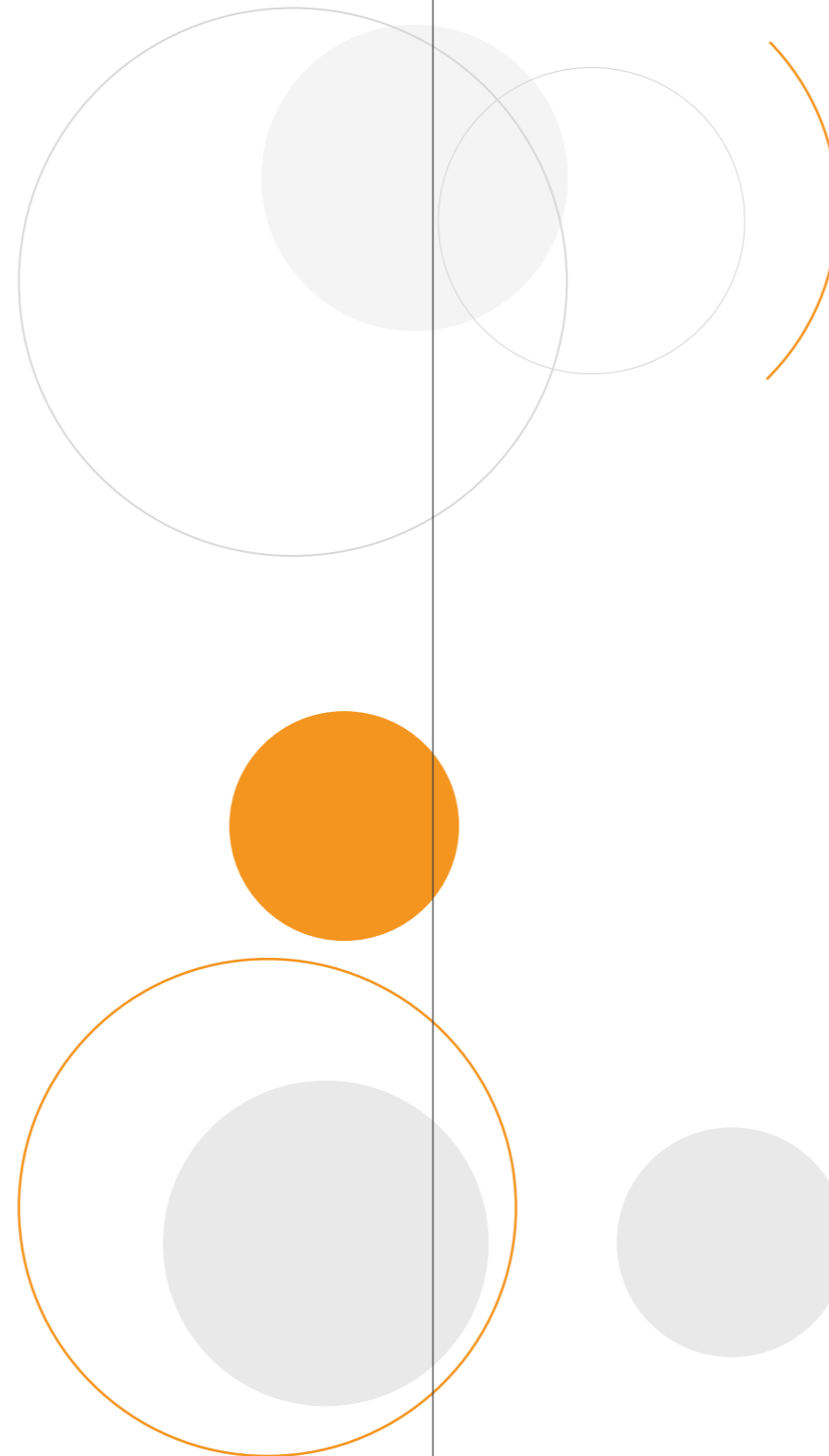
The openness of the basic and the high prosecutor's offices fulfils a mere 25% of indicators. One of the biggest obstacles for the openness of the basic and the high prosecutor's offices is the lack of websites or their irregular up-to-dating. This is why the access to the Information Booklets about the Work of the prosecution is restricted, although the Instructions for drafting of the Information Booklets provide that the body that does not have a website publishes the Information Booklet on another's body web presentation. Although some basic courts do publish the Information Booklets on another bodies' websites, the access to those information is not facilitated. It is necessary to bear in mind the degree of development of information technologies and the fact that the communication via internet has become an integral part of everyday life.

Transparency and accessibility

It is necessary to significantly improve the transparency in the work of basic and high prosecutor's offices in Serbia by creation of separate functional websites for all prosecutors' offices. The transparency of the work of the basic and high prosecutor's offices in Serbia has been evaluated in relation to organisational information publishing. Observed at the sample level, the transparency of the prosecutor's offices practically does not exist. The reason is that the basic and high prosecutor's offices in Serbia do not have or do not regularly update their websites through which such information would be available to the public.

It is necessary to improve the accessibility of the prosecution in the area of access to information. The accessibility of the work of state prosecutor's offices is at a somewhat better level compared to their transparency, but yet again it does not realise a satisfying result as it fulfils only 29% of indicators.

There is a certain advancement in the field of accessibility measured in relation to the access to information of public importance. In this case it is a consequence of the legal framework (the Law on Free Access to Information of Public Importance, the Law on Public Prosecution and the Regulation on Public Prosecution Administration) that provides to the citizens the insight in the work, acting and to the documents created during the work of the prosecution



provided that it does not interfere with the interests of parties in the process.

However, the fact that in the majority of cases public prosecutor's offices in Serbia do not have their websites, it is impossible to determine whether they do create Information Booklets in accordance with the law, as in most cases they are unavailable; whether they do have staff in charge of dealing with citizens' requests to access the information; and whether they have a communication strategy or protocol (that should be an obligation for each prosecutor's office in Serbia, in accordance with the Communication Strategy of the Prosecution).

ACTION STEPS

Recommendation for the improvement of the transparency and the accessibility of the basic and high prosecutor's offices.

- On the model of the *Guidelines for making web presentations of state administration bodies*, that recommend to all state administration bodies to have a web presentation, and following the Instructions for creation of *Information Booklets on the work of state bodies*, that order to state bodies to publish the Information Booklets in an electronic form, **it is necessary to prepare the instructions for creation of web presentations of legislative bodies.** Given that the Guidelines are not binding for state bodies, which was proven bad as state bodies still fail to publish a number of important information on their websites, the Instructions for creation of web presentations of courts should be a binding document and should be adopted by the State Prosecutorial Council in the form of a decision. The document that would define the compulsory contents of web presentations of the prosecutor's offices and their visual identity should be harmonised with the Communication Strategies of the State Prosecutorial Council and the Republic Public Prosecutor's Office.
- It is necessary that the State Prosecutorial Council provides harmonisation in the work of the basic and high prosecutor's offices with the Communication Strategy of the Prosecution and to appoint a person or found a department for public relations. It is indispensable that the State Prosecutorial Council supports the development of the individual communication strategies and protocols of the prosecutors' offices and proposes the scope and the structure of budgetary funds **necessary for the**

work of the public prosecutor's offices by including funds for these activities in the proposal.

- All basic and high prosecutor's offices should provide through their websites free access to information of public importance. Prosecutor's Offices should hence publish the drafted Information Booklets about the Work, as well as the data about persons appointed to deal with the data and following citizens' requests. Prosecutor's Offices should provide trainings and capacities enhancement of employees for an efficient implementation of the Law on Free Access to Information of Public Importance. Such trainings for the employees should be conceived and their dynamics planned in consultation with the High Judicial Council and the Ministry of Justice, in cooperation with the Commissioner for Information of Public Importance and Personal Data Protection.

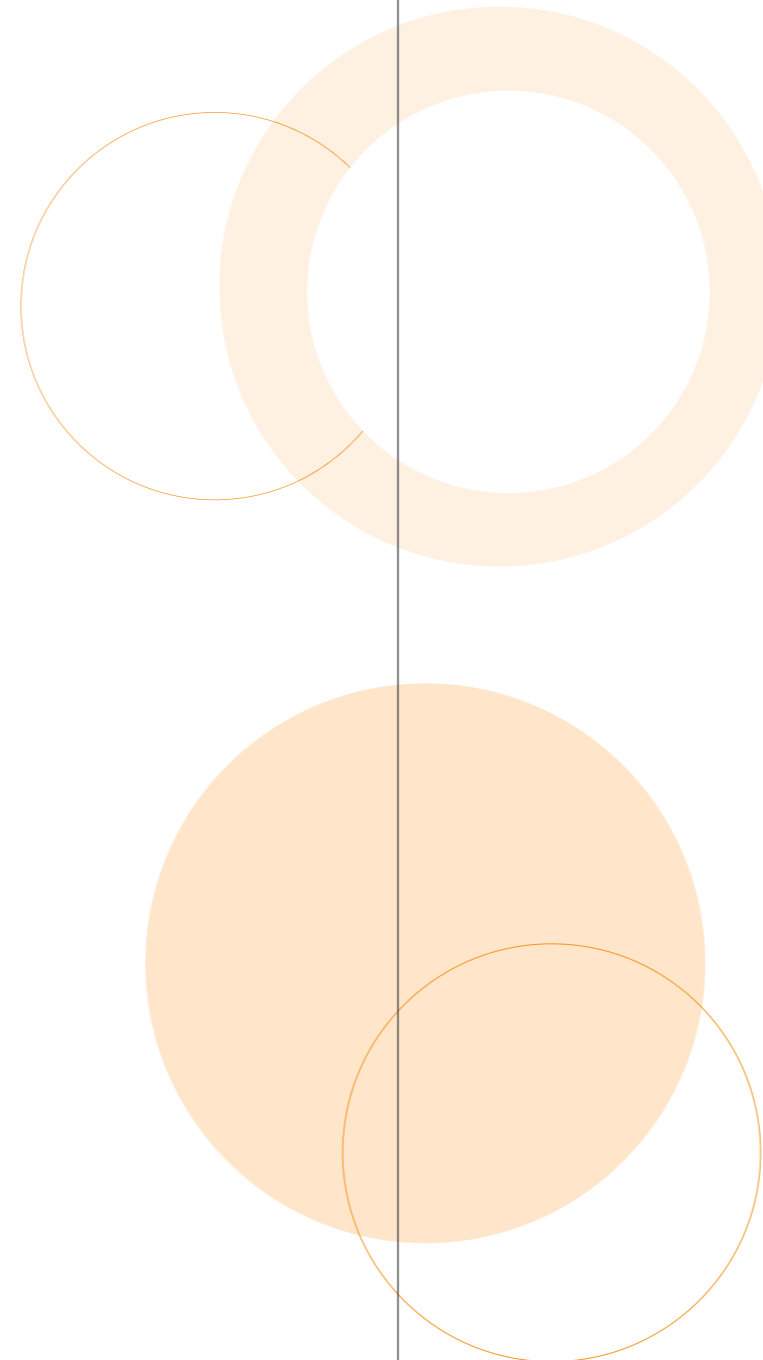
Integrity

The basic and high public prosecutor's offices in Serbia should improve their integrity by publishing the Code of Ethics. The integrity of the work of the public prosecutor's offices in Serbia has been assessed through the existence of the Code of Ethics. The basic and high public prosecutor's offices in Serbia are bind by the Code of Ethics of the public prosecutors and deputy public prosecutors, adopted by the State Prosecutorial Council. Nonetheless, as the websites of the public prosecutor's offices are a rarity and the Code of Ethics electronically unavailable, the public insight in the basic principles, on which the work is founded and the reputation and the integrity ensured, is restricted.

ACTION STEPS

Recommendations for the improvement of the integrity of the Prosecutor's Offices

- All basic and high prosecutor's offices should provide through their websites the access to the Code of Ethics of the public prosecutors and deputy public prosecutors, adopted by the State Prosecutorial Council. The State Prosecutorial Council should adopt the Code of Ethics that would regulate moral and professional principles in the work of the employees of the basic and high public prosecutor's offices. The competent institutions, the Ministry of Justice, the High Judicial Council and the State Prosecutorial Council, in cooperation with civil society



organisations, international organisations and experts from the country and abroad should create and undertake a compulsory training programme for judges in order to ensure the application of the Code of Ethics. The training in ethics should become a part of a compulsory programme of the Judicial Academy.

Efficiency

In the area of efficiency, the basic and the high prosecutor's offices fulfil 56% of indicators, which is the area in which these institutions score best. The obtained result is a consequence of the legal framework and of the legal obligation of the prosecution to file reports on the work to the Republic Public Prosecutor's Office that has an oversight role. However, there are shortcomings in the very process of reporting that have the effect on its comprehensiveness and quality. As we concluded in the case of the Republic Public Prosecutor's Office, these reports do not comprise the data about the disciplinary measures and complaints lodged against prosecutors.

ACTION STEPS

Recommendations for the improvement of the efficiency of the basic and the high prosecutor's offices

- **The Republic Public Prosecutor's Office should include in its form for reporting on the work of the public prosecutors indicators that relate to the efficiency of their work** and to request from the prosecutor's offices the information indicating fulfilment or non-fulfilment of the indicators. Furthermore, it is necessary to include in the reports all information about the initiated disciplinary procedures, imposed measures, as well as all information regarding the citizens' complaints about the work of the prosecution.

2.3.3. THE REPUBLIC PUBLIC PROSECUTOR'S OFFICE

MAIN FINDINGS AND RECOMMENDATIONS

The openness of the Republic Public Prosecutor's Office is approximately 65% of fulfilled indicators. The key shortcoming in the openness of the Republic Public Prosecutor's Office is perceived in the area of financing and public procurement process transparency. The Republic Public Prosecutor's Office does not publish on its

website financial plans and statements. Moreover, the information about the conducted public procurements and concluded agreements are unavailable on the website. The Republic Public Prosecutor's Office has an adopted communication strategy, a department for public relations and available guidelines for citizens instructing them how to address the Republic Public Prosecutor. However, the information as to how to complain about the work of prosecutors and employees of the public prosecutor's office are unavailable to the public via website although this procedure has been stipulated by the law.

Transparency

The transparency of the Republic Public Prosecutor's Office has been observed in relation to the published and available information about the budget, to organisational information and to information about the public procurement implementation. The Republic Public Prosecutor's Office fulfils a total of 66% of indicators in these three areas.

The information about income and expenditures of the Republic Public Prosecutor's Office are available in the Information Booklet about the work, but the financial plan is not, which makes the insight and comparison of planning and spending of funds per year rather difficult. Furthermore, financial statements are unavailable to the public via the website of the republic prosecution. Nevertheless, public procurements are the most problematic from the aspect of information publishing, which is a repetitive trend in other observed institutions' results. Although the plan and programme of their implementation is published in the Information Booklet about the Work, the information about calls for bids and the results of conducted public procurements are unavailable to the public.

ACTION STEPS

Recommendation for the improvement of the transparency of the Republic Public Prosecutor's Office

→ **The annual work plan and the financial statement of the Republic Public Prosecutor's Office should be published on the website.** The Budget System Law obliges all public funds beneficiaries to publish financial plans for the upcoming year on their websites, as well as the Information Booklet about the Work, annual statements and financial reports. The publishing of the overview of income and expenditures in the information

booklets about the work is a positive step towards the improvement of the proactive transparency, but there is still room for improvement through publishing of documents that the Republic Public Prosecutor's Office already prepares. This is why the publishing of annual work plans and financial reports would not be an additional obligation for the Republic prosecution.

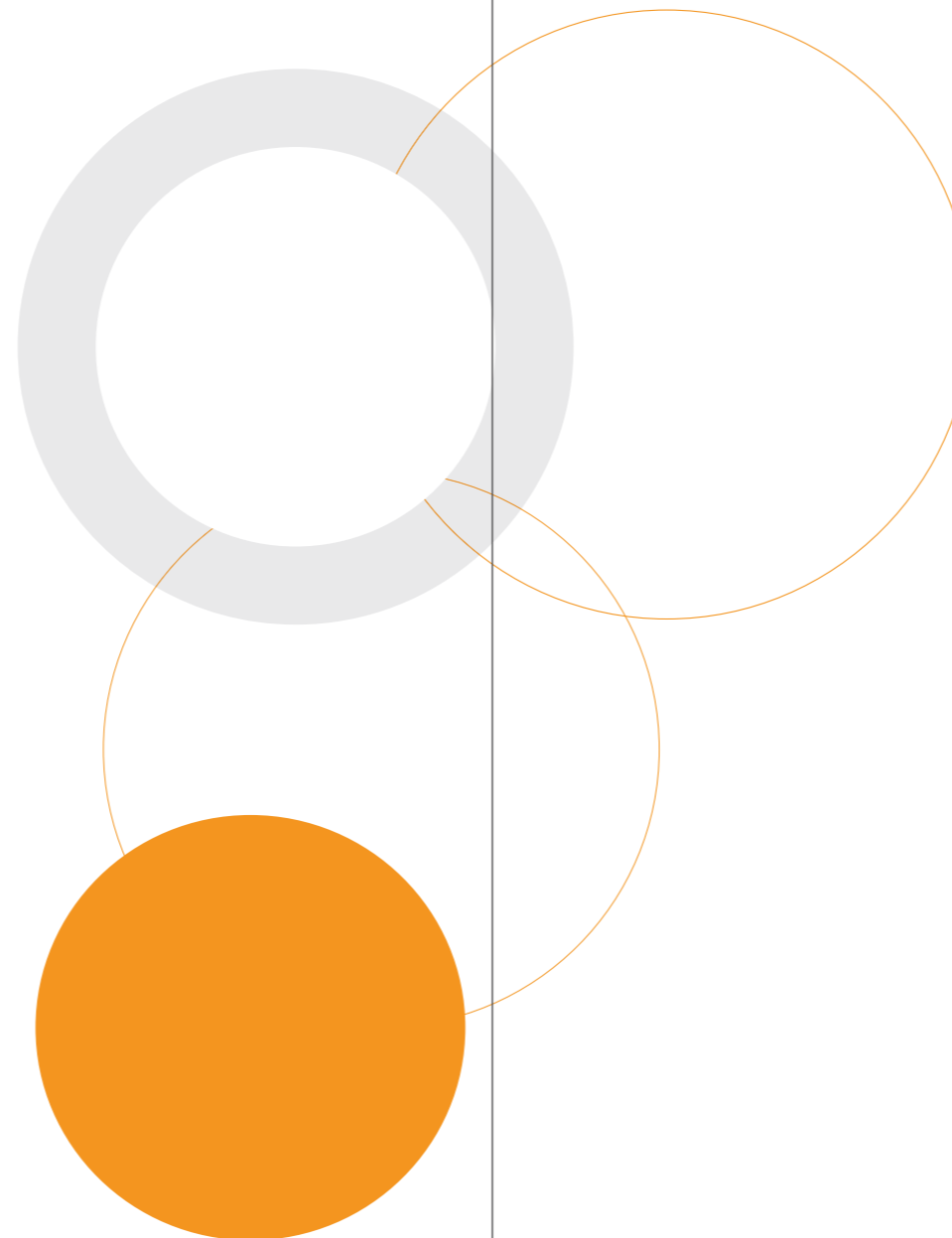
→ **The Republic Public Prosecutor's Office should open a special section on its website dedicated to publishing of the information about public procurements.** This section should comprise public procurement plans, decisions on public procurements, agreements and annexes to the agreements for the current year. The data about public procurement for previous years should be published in a subsection "public procurements archives".

Accessibility

It is necessary to improve the communication of the Republic Public Prosecutor's Office with citizens, primarily with minority groups and enable citizens to be better informed about procedures of filing complaints on the prosecutors' work and actions.

The accessibility of the Republic Public Prosecutor's Office has been assessed in relation to the access to information of public importance and this body fulfils 64% of indicators. This result has been achieved on the basis of the established legal framework, i.e. of the Law on Access to Information of Public Importance, which obliges the Republic Public Prosecutor's Office to draft the Information Booklet about the Work. What adds to the accessibility is the existence of the Department for Public Relations, of communication strategies and the information to the citizens as of how to address to the Public Prosecutor or to inquire about cases (listed in the Information Booklet about the Work and the Annual Work Plan and Programme), as well as how to approach and use the building of the Public Prosecutor's Office, which is particularly important for persons with disabilities.

However, the lack of accessibility to the work of the Republic Public Prosecutor's Office is reflected in the fact that there are no information that would enable the public to submit complaints about the work of prosecutors and employees of the Republic Public Prosecutor's Offices, although this procedure has been stipulated by the law.



ACTION STEPS

Recommendations for the improvement of the accessibility of the Republic Public Prosecutor's Office

- **The Republic Public Prosecutor's Office should ensure to the citizens through its website, a clear and thorough information about the right to complaints to the work of the prosecution.** The information about the right to file complaints should be easy to spot on the website of every prosecutor's office.

Integrity

The Publishing of the Code of Ethics on the Republic Public Prosecutor's Office web presentation would enhance the integrity and the independence of this institution.

The integrity of the Republic Public Prosecutor's Office has been observed through the Code of Ethics. The Code of Ethics is binding not only to the Republic Public Prosecutor and deputy public prosecutors, but also to all basic and high prosecutors' offices. The Code of Ethics of public prosecutors and deputy public prosecutors has been issued by the State Prosecutorial Council Nonetheless, it is impossible to find the information about this document on the Republic Public Prosecutor's Office web presentation.

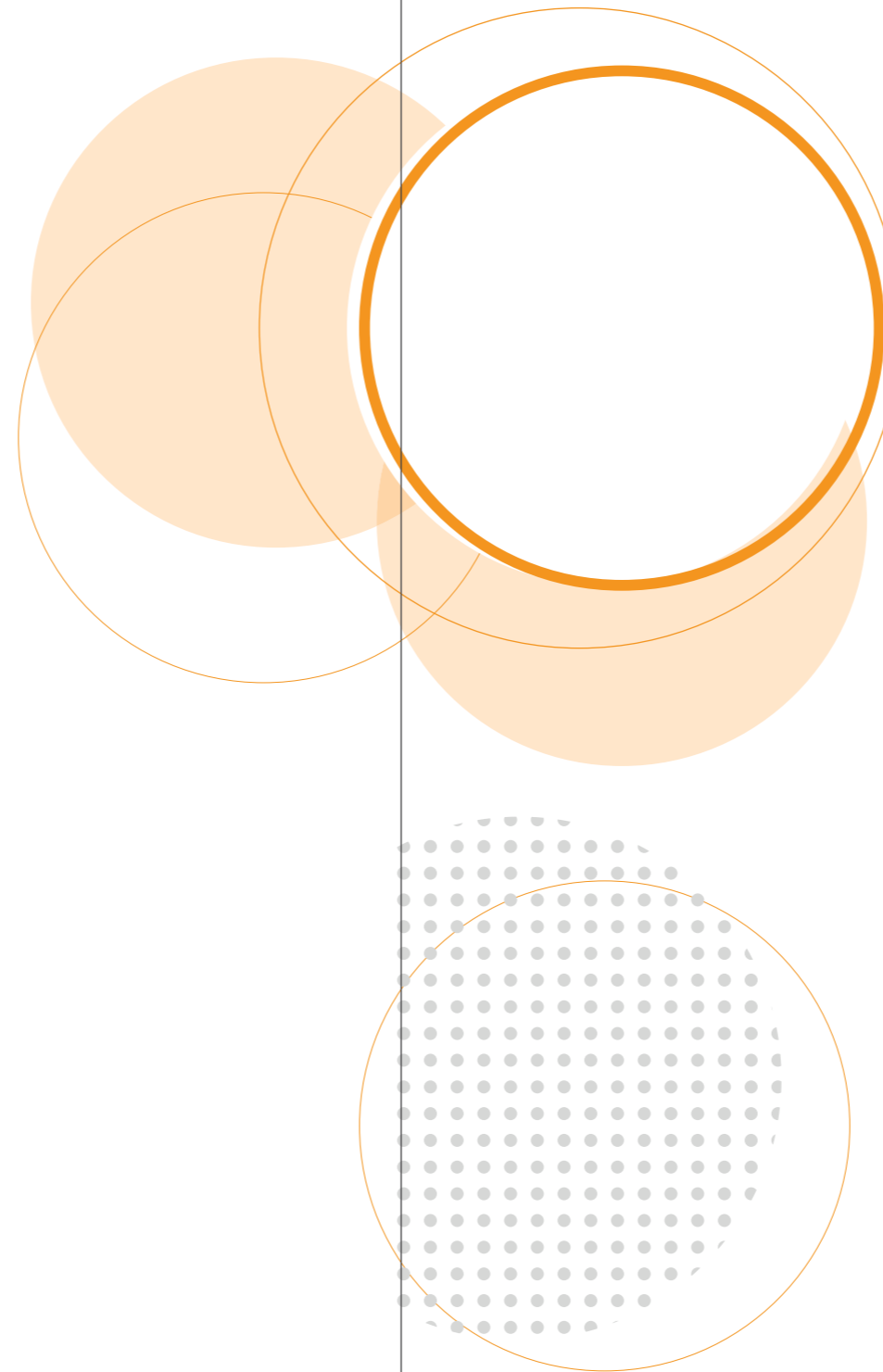
ACTION STEPS

Recommendations for the improvement of the integrity of the Republic Public Prosecutor's Office

- **The Code of Ethics of public prosecutors and deputy public prosecutors of Serbia should be published on the Republic Public Prosecutor's Office website, as well as on the website of all prosecution institutions,** as all prosecutors in Serbia must adhere to it. The Code of Ethics should be published on the front page of the website.

Efficiency

Although the Republic Public Prosecutor's Office fulfils a high percentage of indicators that refer to the efficiency – 84%, there is room for the additional enhancement of capacities and qualities of its activities in this area. The monitoring of the work of the Republic Public Prosecutor's Office has been assessed in this area. When it



comes to reporting, the annual report does not include data about disciplinary actions and complaints filed against prosecutors, nor the indicators that would measure the prosecution's efficiency.

ACTION STEPS

Recommendations for the improvement of the efficiency of the Republic Public Prosecutor's Office:

- **The annual report on the work of the Republic Public Prosecutor's Office should contain the data about disciplinary measures and complaints filed about the work and acting of prosecutors,** as the evaluation of the efficiency of the work of prosecution would be enhanced in that way. The report should also comprise the data about the number of decisions passed on following the complaints and the final result of filed complaints and objections.

2.3.4. STATE PROSECUTORIAL COUNCIL**MAIN FINDINGS AND RECOMMENDATIONS**

The openness of the State Prosecutorial Council scores a total of 56%. This institution faces problems identified with other state and judicial bodies. The public procurement plan is unavailable to the public, the State Prosecutorial Council's website is not regularly updated. It is necessary to improve the accessibility of this institution by making all information useful to citizens on the website, such as information regarding procedures for filing complaints and objections about the work of prosecutors. The State Prosecutorial Council does not conduct trainings for the employees about their obligation regarding the implementation of the Law on Free Access to Information of Public Importance, nor trainings for the application of the Code of Ethics.

The openness of this authority is additionally questioned by the influence of the executive power to the State Prosecutorial Council, as the Minister of Justice is one of members of the Council in accordance with the Law.

Transparency

It is necessary to improve the transparency of the public procurement process in the work of the State Prosecutorial Council, as

well as the transparency in the everyday work of this institution.

The State Prosecutorial Council fulfils 55% of indicators relating to the transparency, i.e. to the accessibility of organisational information, information about the budget and public procurements.

The budget of the prosecution does not include the annual budget destined to legal aid and the budget envisaged for prosecutors' training and education. There is a separate part of the internet presentation of the Council that includes the information about the conducted public procurements accompanied with concluded deals. However, the public procurements plan is unavailable to the public. The State Prosecutorial Council does not keep its website regularly updated. Besides, the annual work plan is unavailable on the website.

ACTION STEPS

Recommendations for the improvement of the transparency of the State Prosecutorial Council

- The State Prosecutorial Council should provide constant availability of its **annual plans and reports on the work in electronic form** for the current year, i.e. should keep them in permanently accessible electronic archives for all previous years on the State Prosecutorial Council's website.
- The State Prosecutorial Council should publish on its website the **public procurements plan**.
- In Serbia, the **Law on Free Legal Aid** has not yet been adopted for the most vulnerable categories of citizens, which is a key prerequisite for the equal access to justice. It is necessary to legally regulate this area in the shortest possible time.

Accessibility

It is necessary to improve the accessibility of the State Prosecutorial Council in the area of access to information. The accessibility of the State Prosecutorial Council in relation to the access to information of public importance is the lowest in comparison to all four observed areas. The State Prosecutorial Council fulfils 48% of accessibility indicators. The reason for this lies in the fact that key indicators relating to the mechanisms of the implementation of the Law on Free Access to Information of Public Importance are not fulfilled. The State Prosecutorial Council does not conduct trainings for

its employees to act in accordance with the Law on Free Access to Information of Public Importance. It is necessary to publish on the State Prosecutorial Council's website a clear and thorough instruction as to how to file complaints and objections about the work of the prosecution, so that citizens could efficiently realise their rights and ensure their protection.

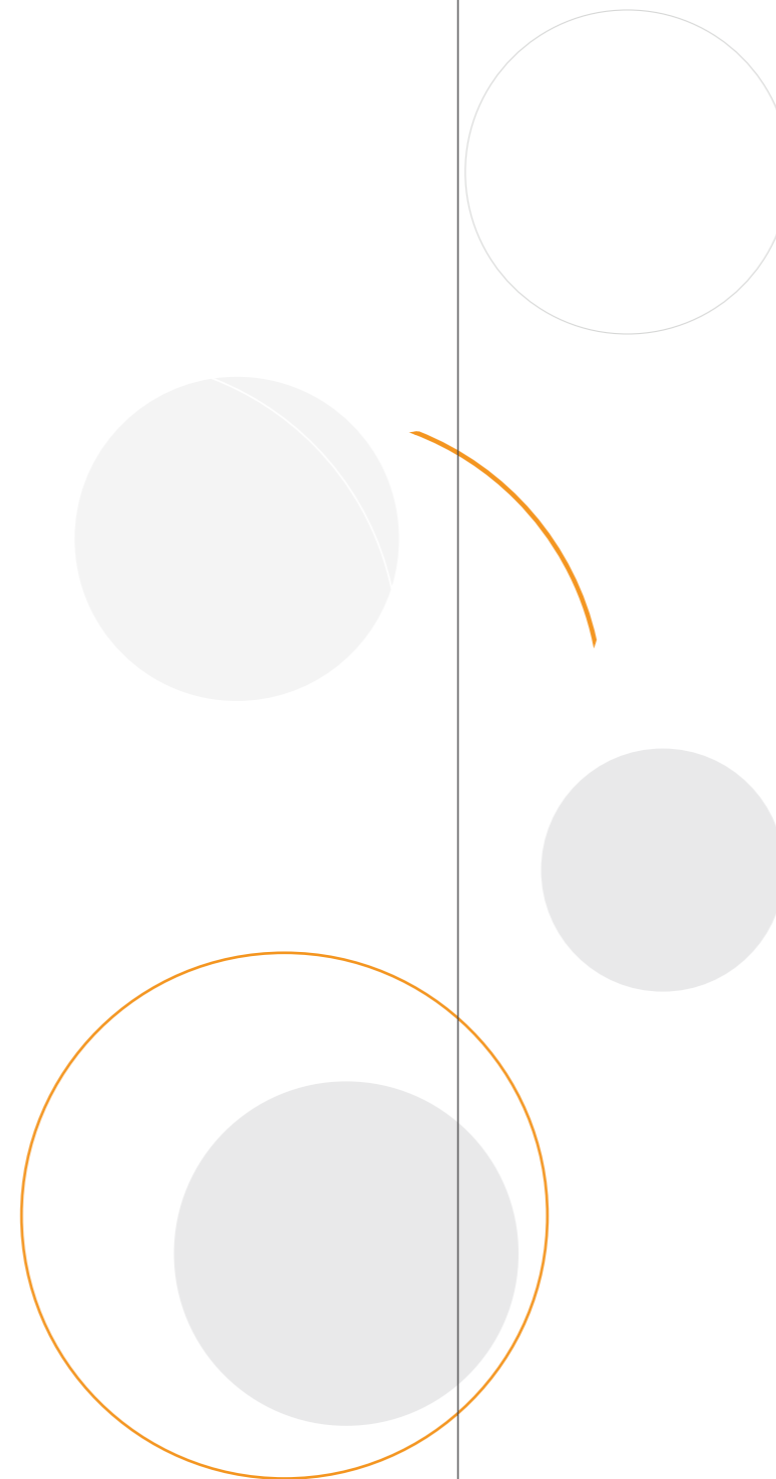
ACTION STEPS

Recommendation for the improvement of the accessibility of the State Prosecutorial Council

- The State Prosecutorial Council should ensure unhampered work of persons authorised to act following the requests for free access to information, i.e. to **enable trainings and capacities enhancement of employees for an efficient implementation of the Law on Free Access to Information of Public Importance**. Such trainings for the employees should be conceived and their dynamics planned in consultation with the High Judicial Council and the Ministry of Justice, in cooperation with the Commissioner for Information of Public Importance and Personal Data Protection.
- The State Prosecutorial Council should ensure to the public, through its website, **a clear and thorough information about the right to complaints about the work of prosecutors, as well as about the ways that citizens can do that**.

Integrity

It is necessary to ensure and to protect the integrity of the State Prosecutorial Council in view of its independence. The State Prosecutorial Council fulfils 60% of indicators in the area of its integrity and in relation to independence of its work and the existence of the Code of Ethics. The State Prosecutorial Council does not enjoy a position of an independent institution in the Constitution of the Republic of Serbia. Moreover, the independence of the State Prosecutorial Council is questionable as the minister in charge of justice is one of the members of the Council which indicates a potential influence of the executive power on the work of this institution. Additionally, the election of public prosecutors is not within the Council's authority, as it only proposes candidates to the Government, while the National Parliament elects public prosecutors. The bare existence of the Code of Ethics is not accompanied with adequate



compulsory trainings that would enhance the integrity of the members of the Council, which is the case with other institutions, too. Again, the existence of both elements is not a guarantee that the Council would act in order to preserve its independence. The State Prosecutorial Council does not conduct surveys on the citizens' confidence in the prosecution. Furthermore, data about researches whatsoever conducted by the State Prosecutorial Council regarding the work of the prosecution remain unavailable to the public.

ACTION STEPS

Recommendations for the improvement of the integrity of the State Prosecutorial Council

- It is indispensable to **free the State Prosecutorial Council from the influence of the executive power**, i.e. to alter its composition so that the representative of the executive power, i.e. the Minister of Justice is not a member of this body, which is, again, in accordance with international organisations' long-standing recommendations. This recommendation is yet again directed to modification of respective articles of the Constitution of the Republic of Serbia.
- It is indispensable to attribute to the State Prosecutorial Council **the role of an independent institution** by a modification of the Constitution of the Republic of Serbia. Besides, the modifications of the Constitution and of the Law on the State Prosecutorial Council, it is necessary to **ensure that the State Prosecutorial Council has the authority to elect and discharge public prosecutors**.
- The State Prosecutorial Council together with the Ministry of Justice and the High Judicial Council and in cooperation with civil society organisations, international organisations and experts from the country and abroad should create and undertake a **compulsory training for prosecutors in order to ensure the application of the Code of Ethics**. Public authorities should **support associations of citizens' projects aiming to reinforce the integrity** in the work of courts of general and special jurisdiction. As the final result, **the training in ethics should become a part of a compulsory programme of the Judicial Academy**.
- Public authorities should **support associations of citizens' projects aiming to reinforce the integrity** in the work of the prosecution.

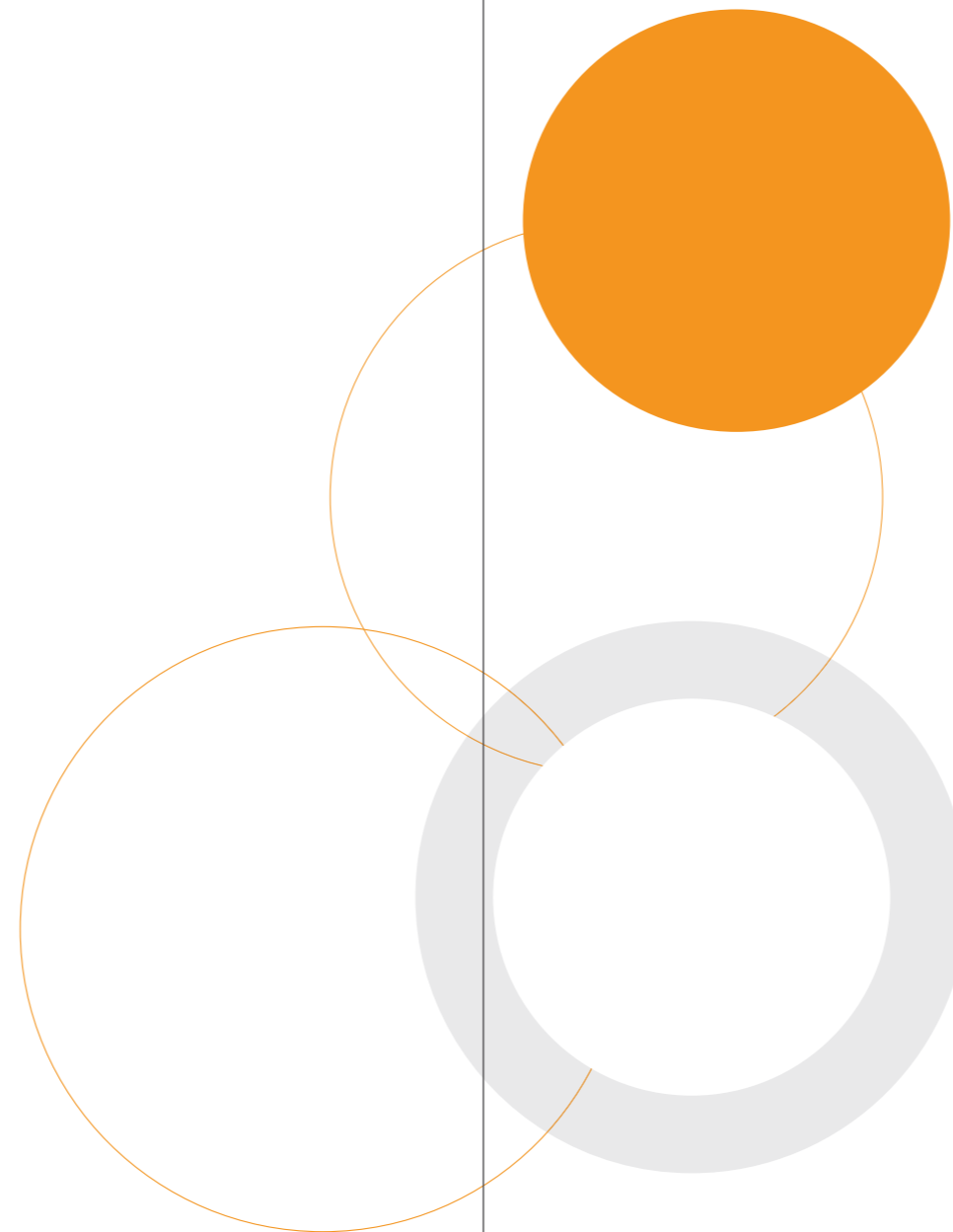
Efficiency

It is necessary to reinforce the efficiency of the State Prosecutorial Council. Although the State Prosecutorial Council files annual reports on its work to the Parliament, there are no regulations that determine the contents and the form of those reports. Thus, the reports of this institution do not include registered problems in the work of the very Council. An additional problem is that the Council does not publish the annual report on the work on its website, neither the annual work plan, which we have already pointed out.

ACTION STEPS

Recommendations for the improvement of the efficiency of the State Prosecutorial Council

- The State Prosecutorial Council should conduct research about the citizens' confidence in the prosecution, and inform the public about the results of researches conducted referring to the Council field of action.
- It is necessary to prescribe the contents and the form of reports that the State Prosecutorial Council files to the Parliament on the annual level for the previous year. In its report, **the State Prosecutorial Council should pay particular attention to potential problems that occur in their work**.



2.4. LOCAL SELF-GOVERNMENT

MAIN FINDINGS AND RECOMMENDATIONS

The citizens' right to local self-government is guaranteed by the Constitution and it implies that citizens directly or through their freely elected representatives sovereignly decide on the most important issues of the local community and public affairs management. The openness of the local self-government towards citizens, the access to documents and to information about the work of the public administration bodies are the key prerequisites for the realisation of the right to local self-government. This is why it is necessary that local self-governments function as the citizens' service and to constantly enhance openness standards in compliance with intentional principles and good practices, as well as by keeping pace with information society development.

When it comes to openness of local self-government units (LSGU) in Serbia, the score of 39% of fulfilled openness indicators suggests that the local self-governments in Serbia are not opened and therefore do not enable the citizens to realise their rights to local self-government to the full extent. The information technologies offer a wide range of possibilities to the public administration bodies for the improvement of openness, but local self-government units in Serbia do not use these possibilities. Beside the fact that local self-government units do not use the information technologies, the legal framework contributes as well to an unsatisfying level of openness of local self-government units, as it does not create an incentive environment for the promotion of openness, political culture, as well as the attitude of the government towards the local self-government.

However, the key obstacle on the way to improving the openness of local self-government is not the lack of regulations, but the deep-rooted resistance of public authorities towards the idea of openness. This is why the application of the law is made more difficult, and it is expected that public authorities show the political will to apply laws, which in essence is a denial of the rule of law if we understand the rule of law as a civilisation attainment and a public good that is protected by a legal norm. It is therefore important that all stakeholders in the society, from the citizens, through the media and civil society, to the public authorities, make an effort to ensure the preservation of the rule of law as a fundamental principle of the functioning of the state and society.

The legal framework and the laws that do not create an incentive environment for the improvement of the openness, such as the Budget System Law, partially contribute to the closed nature of the local self-government. Nevertheless, even when they do not set a normative framework for improving of the openness of institutions, laws do not constitute an obstacle to the application of innovative measures that will bring the administration closer to the citizens.

Local self-governments do not identify themselves as a service for citizens, but rather as a decentralised executive body. In such a subordinate relationship between the central and the local government, where the interaction with citizens in the decision-making process is a rarity, the work on the improvement of the local self-government openness is a burden to local authorities, as it provides to the citizens the insight into the work of administration and its efficiency. The openness of the institutions that encourages citizens to participate in the public life is a condition precedent for establishing a relationship of responsibility of public authorities towards the citizens, i.e., applying the principle of good governance, which is foreign to the political culture in Serbia and the region.

Transparency of the LSGU

The publishing of the decision on the budget of the LSGU on the official website is a practice that is respected by more than one half of local self-governments in Serbia. Although the publishing of the budget is a minimal openness standard, 19% of LSGU still do not publish the decision on the budget on their websites. The LSGU publish the decision on the budgetary execution whereas only 19% publish semi-annual reports. The publishing of the civil budget is not an obligation stipulated by the law and local self-governments do not prepare and do not publish civil budgets. Moreover, the consultations with the citizens in the process of drafting the budget are not a common practice used by the LSGU in Serbia and the citizens are not allowed to participate in public hearings organised about the budget. The Budget System Law obliges the local self-government to introduce the draft budget to the citizens, but it does not define the way that consultations with citizens should be conducted. The local self-government budget and the decision on the final statement are public documents, and the Law on Free Access to Information of Public Importance guarantees the access to these documents upon request. The LSGU have the obligation to draft the Information Booklets about the Work and to publish it on the web-

site, as well as to make available the information about the income and expenditures through the Information Booklet. However, the research on the contents of the Information Booklets shows that 69% of LSGU lack the information about the budget.⁷ The Directorate for the e-Government of the Republic of Serbia recommended in the Guidelines for making web presentations of state administration bodies⁸ that the LSGU open a special section on their official website where they shall regularly publish the budget and the data about the budget realisation and revision. The Action Plan on Implementation of the Open Government Partnership foresees the drafting of the Rule Book founded on the Guidelines that shall regulate publishing of the LSGU budget and civil budgets.

The local self-government units are held to publish the information about public procurements on the Public Procurement Portal but also to make and keep records on public procurements in the process of their planning, implementation and execution. With that in mind, the publishing of complete information about public procurements is not a particular problem for the LSGU, it would not require additional financial expenditures, while the engagement of administrative capacities would be minimal. One half of LSGU do not publish public procurement plans, whereas calls for bids and the decision on public procurements are available in 93% of LSGU websites. Nevertheless, the LSGU do not publish agreements and annexes to the agreements on public procurements.

ACTION STEPS

Recommendations for the improvement of the transparency of the local self-government units

- **Modify the Budget System Law and determine the obligation of the LSGU to organise public hearings during the drafting of the budget.** The Articles of Incorporation of the LSGU should define the obligation to organise public hearings about the budget and to publish the civil budget.
- **Adopt the Rule Book on the compulsory contents of web presentations of the LSGU** that would stipulate the compulsory publishing of the budget, annual statement and six-monthly re-

⁷ Action Plan on Implementation of the Open Government Partnership Initiative in the Republic of Serbia for 2016 and 2017, the Ministry of Public Administration and Local Self-Government of the Republic of Serbia, page 22.

⁸ Guidelines for making web presentations of state administration bodies, territorial autonomy bodies and local self-government units v. 5.0., October 2014.

ports on the budget execution. This Rule Book should prescribe the obligation of the LSGU to publish the complete data about public procurements on their websites. The LSGU should open special sections on their websites where all information about the budget and public procurements would be published.

- Determine the competence of the budgetary inspection in controlling the implementation of public hearings about the budget and publishing budget information on the official website. The data on the exercised control should be an integral part of the budget inspection report.
- Determine the responsibility of the LSGU bodies to respect deadlines for drafting the budget and publishing the information about the budget and public procurements on the website.
- The LSGU budget and the annual statement should be published in the machine-readable format.
- The body in charge of finances with the LSGU should organise trainings and consultations with members of civil society and citizens in order to inform the public about the right to access the information about the budget and the obligations of the LSGU bodies.
- The civil society should use all available legal instruments for protection of the right to access to information in order to encourage the proactive transparency of the LSGU bodies.

Accessibility of the local self-government units

Local self-governments in Serbia fulfil 32% of accessibility indicators, which suggests that the openness in this area is at a very low level.

The Law on Free Access to Information of Public Importance enables citizens to access the documents kept by the state bodies, but the bare existence of the legal framework per se does not guarantee the realisation of this elementary civil right. The LSGU are held to appoint a person in charge of dealing with requests to access the information of public importance, but most often, names and contacts of such persons are unavailable on the websites. The LSGU do not organise trainings for their employees in order to improve the implementation of the Law on Free Access to Information of Public Importance. Local employees who are not acquainted with the contents of the Law and their obligations cannot provide citizens

with support in realising their rights. Bearing in mind the lacking capacities of the LSGU, and above all, the importance of free access to information for the realisation of the civil rights, the civil society in the local communities should pay more attention to citizens and their familiarisation with the rights to information access and how to exercise them. The implementation with the Law is improved through increasing demand, and citizens and civil society organisations should take on the role of informal educators of the LSGU.

The preparation and the publishing of the Information Booklet about the Work that contain all important information and data regarding the work of state bodies encourage the proactive transparency and represent a legal obligation for the LSGU. Although the LSGU publish the Information Booklets the quality of their contents is at unsatisfactory level. However, given the overall situation, the very fact that the state bodies prepare Information Booklets is a big step forward in the area of accessibility. The problem is that Information Booklets are not regularly updated and that their contents do not correspond to provisions of the Instructions for creation of Information Booklets on the work of state bodies issued by the Commissioner for Information of Public Importance and Personal Data Protection.

The analysis of the Information Booklet about the Work undertaken in 2016 by the Commissioner for Information of Public Importance and Personal Data Protection confirms the findings from the openness analysis. The analysis carried out by the Commissioner comprised the information booklets about the work of city and municipal bodies in all local self-government units in the Autonomous Province of Vojvodina and the Information Booklets in 34 cities and municipalities of Serbia. Out of 34 analysed Information Booklets in the AP Vojvodina, there were observed shortcomings in 59.⁹ The Information Booklets were not regularly updated and the largest number of deficiencies was remarked in the field of publishing of the information about the budget and public procurements, which indicates that unless the regulations are amended, the information booklets cannot fully fulfil their purpose and make available to citizens the most important information about the work of the state bodies at the local level. The fact that the information booklets do not fulfil their purpose is also shown by the conclusion of the openness analysis that about one half of the LSGU do not publish the list of documents in their possession either on their official website or

⁹ Annual Report by the Commissioner for Information of Public Importance and Personal Data Protection for 2016, page 48: <http://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2016/izvestaj2016.pdf>

in the Information Booklet about the Work. In the opinion of the Commissioner, the lack of responsibility for the quality of content of the Information Booklets represents a key reason for the unsatisfactory quality of the Information Booklets.

The accessibility analysis of the LSGU also showed that in the majority of cities and municipalities there were no scheduled terms for consultations between the citizens and the presidents of municipalities or the mayors, i.e. that there was no instituted “open door” policies. Moreover, the LSGU do not publish monthly bulletins about their work. The interaction between the citizens and the LSGU can also be improved with social networks. The LSGU should have open Facebook and Twitter accounts through which the citizens could be informed about the on-going activities of the local government and could report communal problems. It was proven that the LSGU recognised this form of communication as an efficient one and that the majority of them had open accounts on social networks.

ACTION STEPS

Recommendations for the improvement of the accessibility of the of the local self-government units:

- **It is necessary that the LSGU publish on their web pages names and contacts of persons authorised to act following a request for free access to information of public importance.** It is necessary to display this information in a visible spot in the municipal administration building. This obligation of the LGSU should be stipulated by modifications and supplement to the Law on Free Access to Information of Public Importance.
- The LSGU should support projects of associations that encourage the implementation of the Law on Free Access to Information of Public Importance and organise trainings for employees of the local administration and other services within the LSGU. Having in mind the very low accessibility level of the LSGU, this measure should be a priority for financing the associations via bidding.
- It is necessary to enhance informing of citizens about their rights to free access to information of public importance. **In the municipal administration building, visually recognisable information about the contents of this right and ways of their exercising should be easy to spot.**
- **It is necessary to reinforce the mechanism of execution of**

Commissioner's decision by modifications and supplements of the Law on Free Access to Information of Public Importance. Mechanisms of execution of Commissioner's decisions should be enhanced following the solution form the Law on Protection of Personal Data regulating the Commissioner's oversight over the execution and the implementation of the Law on Personal Data Protection.

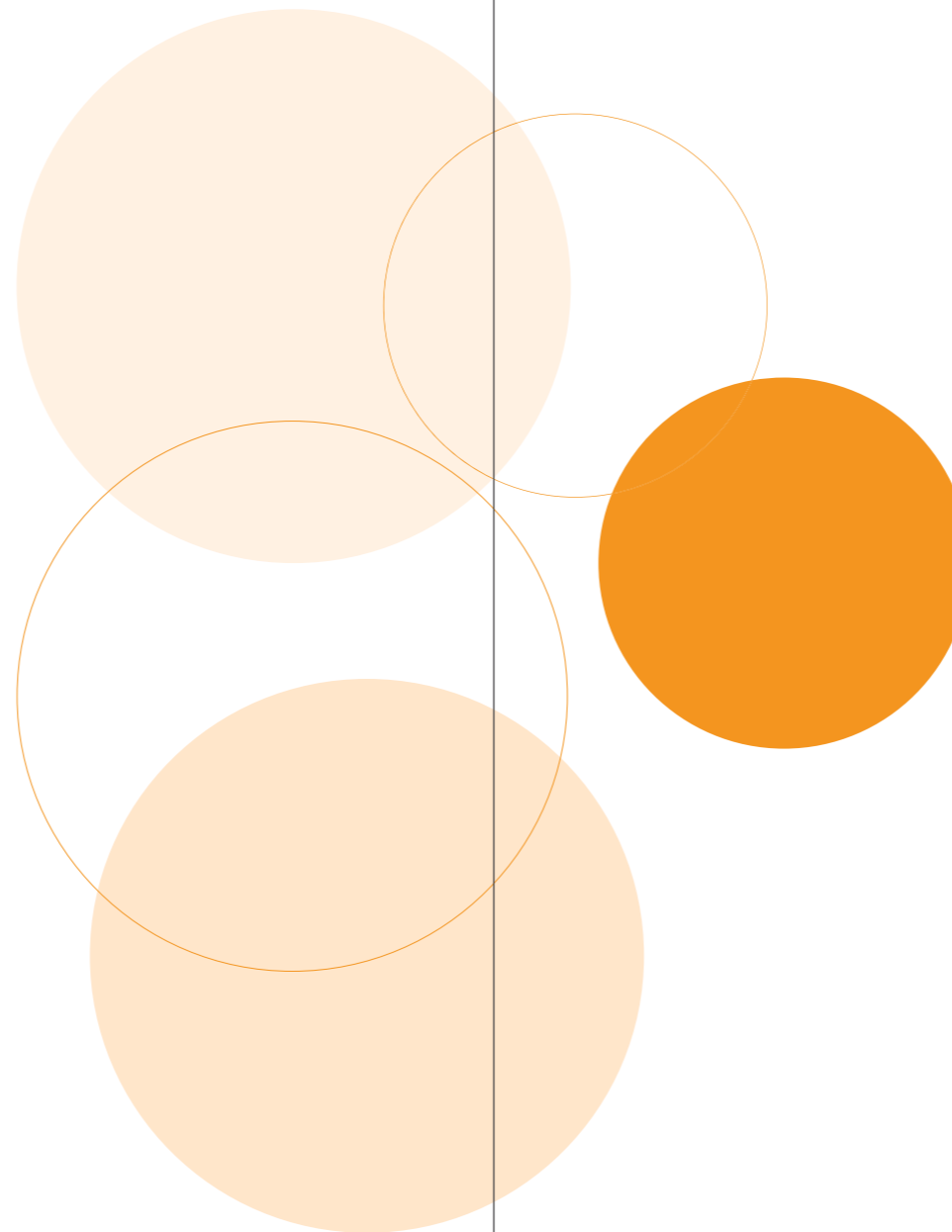
- **The LSGU should organise promotional activities during the International Right to Know Day.** On that day, the key local institutions (the president of the municipality, the assembly) should be opened for citizens. In cooperation with associations and public companies, the creation and distribution of the information about citizens' rights to access the information of public information should be organised, as well as distributing leaflets with utility bills, promotion on social networks and local media.

Integrity of the local self-government units

The integrity of the LSGU has been measured in relation to the existence of measuring aiming to prevent the conflict of interests and corruption. The results are very bad as the LSGU in Serbia fulfil only 24% of indicators. The LSGU fulfil their obligation to publish the information about the property and the income of local public officials on the website of the Anti-Corruption Agency. The obligation to publish these information for other employees of the LSGU is not stipulated by the Law. Nonetheless, when it comes to other indicators used for the assessment of the integrity, the results are very bad as the majority of the LSGU do not fulfil any other indicator.

The majority of the LSGU did not adopt anti-corruption action plans while the adoption of integrity plans, which is also an obligation for the LSGU, has not been analysed. Anti-corruption action plans represent a useful instrument for prevention of corruption, contribute to local self-government bodies' transparency and create room for civil society and media acting in the fight against the corruption.¹⁰ This is why "the adoption of provincial and local anti-corruption action plans, the implementation of which is overseen by permanent working bodies of provincial and/or local assemblies" is one of the objectives of the Anti-Corruption Strategy and the implementation

¹⁰ National Anti-Corruption Strategy for the period 2013 – 2018, Government of the Republic of Serbia, 2013: <http://www.mpravde.gov.rs/files/Nacionalna%20strategija%20za%20borbu%20protiv%20korupcije.pdf>



of this measure has been defined by the action plan for the strategy implementation and the Action Plan for Chapter 23.¹¹ The Anti-Corruption Agency Act does not explicitly prescribe the adoption of anti-corruption action plans, whereas the deadline for adoption of the integrity plans is set for June 30th 2017. Furthermore, the Action Plan for Chapter 23 does not foresee the modification of the legal framework as a step toward the realisation of a measure referring to anti-corruption plans. When adopting planning acts, the practice of the LSGU in Serbia is to adopt plans that are prescribed by law, when there is additional pressure from the central level. This is why it is not surprising that the LSGU have not yet adopted anti-corruption action plans. In 2016, only 12 LSGU had the adopted plans. The Anti-Corruption Agency created an anti-corruption action plan model in 2017 and all LSGU were held to adopt plans until June 30th 2017.

Since local anti-corruption plans were not adopted in the LSGU, the practice of reviewing reports on their implementation in local assemblies was not established, nor the responsible persons appointed to monitor the implementation of anti-corruption plans.

ACTION STEPS

Recommendation for the improvement of the integrity of the local self-government units

- The Anti-Corruption Agency should carry out an analysis of the status regarding the obligation to adopt the anti-corruption plans at the local level and the integrity plans, and publish the report on the LSGU achievements. On the basis of the conducted analysis, it is indispensable to identify the obstacles to realisation of this measure form the Action Plan for Chapter 23, to enhance the communication with local self-governments and to provide additional support for anti-corruption plans adoption, particularly in municipalities that do not have sufficient administrative capacities to fulfil the obligations arising in the EU accession process.
- The adoption of the European standards in the fight against corruption, and the development of local anti-corruption plans is precisely the adoption of these standards, cannot be implemented solely by administrative measures. **This is why it is indispensable to increase the inclusion of the LSGU and associa-**

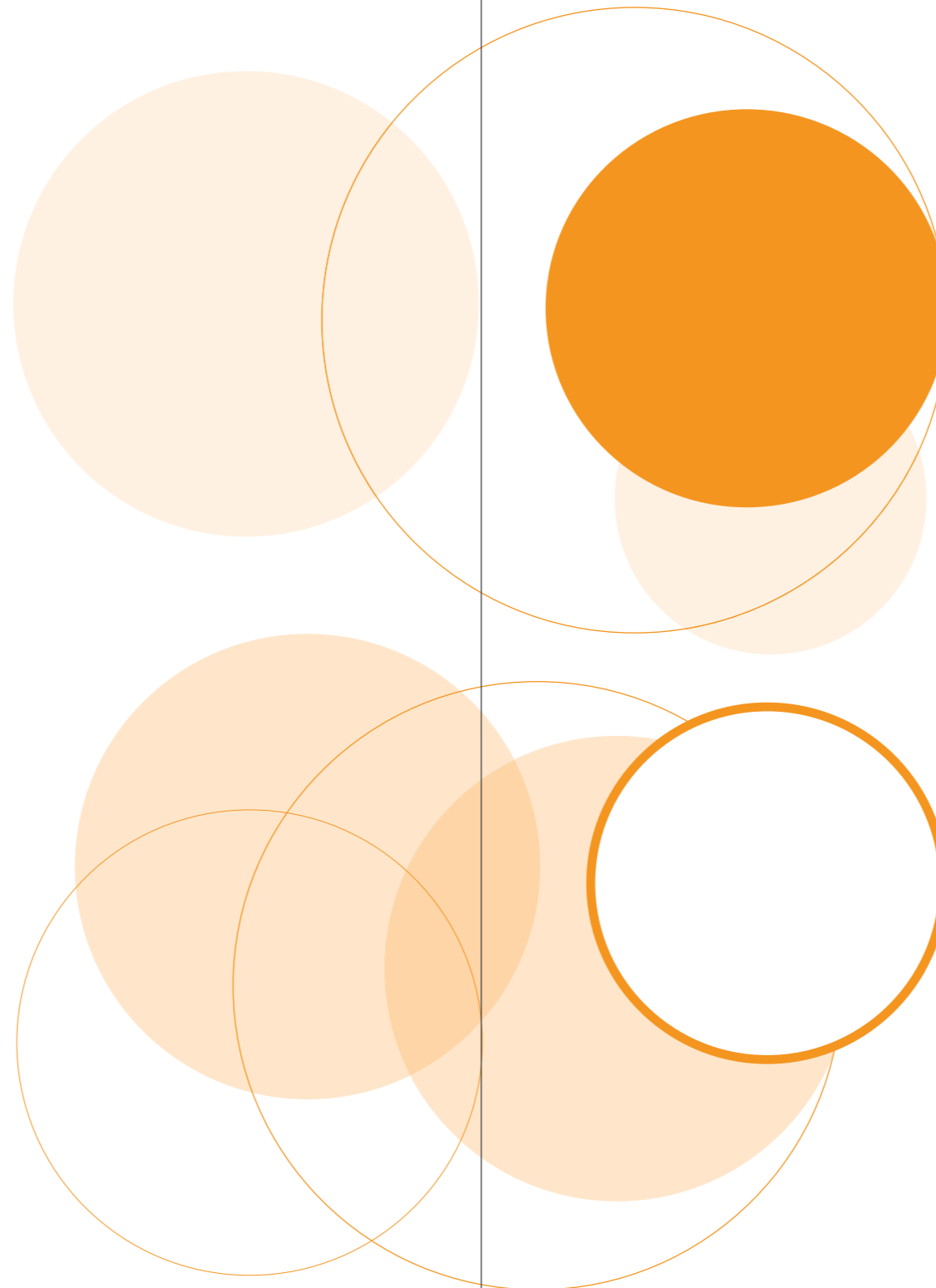
¹¹ Action Plan for Chapter 23, measure 2.2.10.37: <http://www.mpravde.gov.rs/files/Akcioni%20plan%20PG%2023%20Treci%20nacr-%20Konacna%20verzija1.pdf>

tions in the process of the implementation of the Action Plan for Chapter 23 and the reporting on realised activities.

- **The amendments of the Anti-Corruption Agency Act should provide legal grounds for adoption of the anti-corruption plans at the local level** and determine the responsibility of the LSGU in cities and municipalities that did not adopt the anti-corruption plans.
- **It is necessary to define criteria for performance monitoring and evaluation of the LSGU in the fight against corruption** with the evaluation scale ranging from 1 to 5, where the mark 1 would be the worst score. The LSGU that have a score less than 3, should be banned from participating in biddings for projects financed from the budget of the republic.
- **The Articles of Incorporation of the LSGU should determine the obligation of a local assembly to review the reports on the implementation of the anti-corruption plans and to adopt the report on the implementation of measures defined by the plan.**
- Funds for the preparation of reports on the implementation of the anti-corruption plans and for organising of public presentations of reports should be provided from the LSGU budget. The LSGU that do not have their own capacities for report drafting should ensure an external support.

Efficiency

The openness analysis showed great differences in the practice of monitoring and measuring of the performance in the work of the local self-governments and in the reporting on the work of the LSGU bodies. Having in mind that less than 10% of indicators were fulfilled in the area of monitoring it can be concluded that the LSGU did not develop the framework for measuring of realised results in relation to public policies goals and assessment of the quality of services offered to the citizens. When it comes to reporting on the work of local self-government bodies and public companies, 100% of indicators were fulfilled which is the result of the legal obligation for public companies and executive bodies in the LSGU (the president of the municipality and the municipal council to file annual reports to the local assembly. The methodology of the research did not comprise the analysis of the contents of the reports nor was it verified whether public companies and executive bodies actually



fulfilled their obligation to report to the local assembly. The Law on Public Companies foresees the obligation of quarterly reporting on the realisation of the annual, i.e. triennial company plan.

When it comes to strategic planning 55% of LSGU have defined strategic plans for development. However, the realisation of efficiency indicators makes room for a deeper analysis which seems indispensable in this case. As a matter of fact, local self-governments have strategic plans, but they do not assess the achieved results or the effects of activities that should contribute to the realisation of the strategic goals. On the other hand, public companies, which are mainly in charge of providing services to the citizens, regularly file reports on the realisation on annual and triennial plans. Executive bodies also file reports on their activities to the local assemblies. However, if we look at the overall picture, the reporting is not based on the employees' performance assessment, measuring of the realised results and the evaluation of long-term effects. In this way, reporting in a formal sense fulfils the principle of responsibility, but only the responsibility towards the norm, and not to the goal which the society seeks to achieve by determining a particular norm.

The establishment of criteria for measuring the performance and efficiency of the LSGU in the exercise of their competencies, as well as the criteria for measuring the quality of services provided by the LSGU to citizens is an essential step in the creation of a local government that is responsible to the citizens but also to the set goals that contribute to the development of the local community. The absence of criteria for measuring the performance of the employees and the quality of the work of the LSGU services incapacitates an adequate assessment of the LSGU needs in term of the number of employees and their capacities which prevents the local self-government from improving the quality of its services.

ACTION STEPS

Recommendations for the improvement of the efficiency of the local self-government units

- **The improvement of the monitoring system in the LSGU should be connected with the process of programmed budget creation as one of the objectives of the budgetary programming is the enhancement of the efficient provision of quality public administration services.** Programmed budgeting has been compulsory for all LSGU since 2015. Although the introduction of programmed budget is a long-lasting process

and it is necessary to considerably invest in the LSGU capacities reinforcement, this process opens up the possibility of introducing a system of measuring the performance of the local government in relation to predetermined goals and using the given indicators. The LSGU budget users' plans would, in line with this recommendation, contain defined objectives and indicators for performance measurement that should be aligned with the programmed budget structure. Given the fact that direct and indirect budget users have an obligation to create financial plans, this measure would, in the first place, enable the measuring of the local self-governments efficiency in the area of budgetary disposal, but it could also be the first step towards the establishing of an overall LSGU monitoring system.

- **The LSGU services that are responsible for providing services to citizens, as well as public companies, should introduce procedures for measuring satisfaction of service users**, through online surveys or opinion polls. This measure is especially important when introducing new services that local self-governments offer to citizens (for example: the introduction of a primary waste collection system or waste collection charging according to quantity).
- All local self-governments should have a strategic development plan adopted. When adopting a new plan or revising the existing one, it is necessary to include the public in the process of creation of the plan. Besides, a local strategic plan should comprise the defined expected results, a description of activities that would contribute to realisation of results, a description of the competent body, deadlines and available funds, as well as the defined indicators that would measure success in achieving the results.
- Human Resource management in the LSGU is still in its infancy. Previous efforts in this area have been focused on professional development of employees, and in the forthcoming period, we should work on the improvement of the system of employee selection, on the establishment of a system measuring their performance, i.e., on the improvement of the systematisation and job descriptions, in order to include the competencies of employees. In the second step, the LSGU should adopt a plan for measuring of the employees' performance and capacities development programme. The plan for measuring of the employees' performance should comprise the determined indicators for measuring performance in the work of public services

3. METHODOLOGY

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 equally participate in public debates, to take enlightened decisions and to hold governments accountable. Openness also supports good governance because it allows governing elites to reconsider 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 on its work. This information relates to the organization and work of government institutions, mostly to budgeting and public procurement procedures.

Accessibility is related to ensuring and adhering to procedures on free access to information and strengthening interaction with citizens as well.

Integrity includes mechanisms for preventing corruption, adopting codes of conduct and regulating lobbying activities.

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

The four principles are further disaggregated into individual questions that are assessed 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. 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.

METHODOLOGICAL CONSTRAINTS

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 the legal framework on 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, the comparative assessment of the achieved levels of institutional openness. In that regard, results of executive, legislative and judicial openness sometimes do not reflect actual relations between different institutions at both, national and regional levels.

4. PROJECT

Good governance is key to rule of law. While corruption, transparency, rule of law and good governance are always in the spotlight, the understanding of systemic problems, which hardly receive sufficient coverage, remains scant. The “ACCOUNTABILITY, TECHNOLOGY AND INSTITUTIONAL OPENNESS NETWORK IN SOUTHEASTERN 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 for measuring the degree to which state institutions uphold principles and standards of open governance (Index of Openness).

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 mobilizes 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 organizations and government institutions and influence good governance and public administration reforms.
- Stimulate civic and media organization 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.

Action SEE is a network of civil society organizations that jointly work on promoting and ensuring government accountability and transparency in the region of Southeastern 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.

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!.



5. READ MORE

Proposals for the improvement of a current state - Openness of institutions of executive power in the region and Serbia

<https://goo.gl/mQzuWq>

Parliament openness in the region and Serbia

<https://goo.gl/GLCe5N>

Analysis of the openness of local self-government in Serbia and the region

<https://goo.gl/ABB3Vp>

Openness of judicial bodies in the region and Serbia

<https://goo.gl/hcpHmZ>

