

Transparency of the work of local government bodies

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Abstract

The spirit and basic principles of local self-government defined by the European Charter of Local Government put the transparency of local government bodies at the center of the focus of municipal bodies. Citizens realize most of their rights and responsibilities at the local government level, whose mission is to encourage citizens in decision-making through the publicity of its work, informing citizens about municipal activities and projects, and obtaining opinions. related to municipal priorities. The Constitution of the Republic of Kosovo has directly incorporated the European Charter for Local Government.

The purpose of this study is to analyze the level of municipal accountability and transparency for citizens, civil society and all interested parties regarding decisions, strategies, other political documents and actions that directly affect the life of the citizens. For the realization of this study, the comparison method, descriptive legal methods and statistical analysis were mainly used.

The results of this research show that although the legal framework for municipal transparency obliges municipalities to promote transparency in the work of municipal bodies, its full practical implementation is lacking. Not all municipalities respect the legal requirements when it comes to practical implementation of these obligations. Furthermore, the results of the survey with citizens show that they are not adequately informed about the work of the local administration.

Keywords: local governance, transparency, citizens, decision-making, local mechanisms.

Introduction

The transparency of public administration work is an expression and a result of democratic governance in general. The priority of good governance is to make the work of executive bodies transparent and provide information to citizens about all spheres of their interest.

Transparency is the foundation of local responsibilities and the main mechanism that provides citizens with information about the work of local government. Transparency, accountability, public participation in decision-making are some of the most essential elements for the good functioning of local government. At the local level, it is important to respect the standards of transparency and local democracy, due to the fact that the local level exercises responsibilities that have direct input into the lives of citizens and most of the needs for public services for citizens are provided by this level of government

Local democracy as the essence of local governance cannot be realized or advanced without informing citizens about all the activities of municipal bodies. An open, transparent public administration would enable citizens to influence the decisions and actions that the municipality executes within their powers.

Some of the most important elements of local transparency are: *access to official documents, open meetings and citizen participation, promotion of local democracy through consultations with the public, citizen initiatives, petitions, referendum, formation of consultative committees and commissions, etc.*

The lack of transparency and sincere commitment of municipal bodies, gives to local government attributes of a bureaucratic and unreformed administration, whose main feature is the exercise of power and not the improvement of citizens' lives.

Data and methodology

During the work on this topic, the scientific methodology composed of quantitative and qualitative approaches was used. Initially, the comparison method was used through which data were analyzed between the years 2019-2021 regarding the publication of decisions and other municipal acts on municipal websites.

During this paper, the use of descriptive legal method and statistical analysis was inevitable, thus having an important role in analyzing the data used in this paper. During the work, secondary data were also used, such as the reports published by the Ministry of Local Government Administration.

In order to research citizen participation in decision-making and municipal transparency, making use of quantitative methods, a questionnaire has been prepared and delivered to respondents. 704 respondents from most of the municipalities of the Republic of Kosovo were included in this questionnaire.

General results

From the data reflected in this research paper, it can be seen that during 2020, out of 521 meetings of municipal assemblies held in 38 municipalities of the Republic of Kosovo, public announcements on the official municipal website were posted for only 409 meetings. From this number, there are 29 municipalities that have published notices for the meeting of the assemblies, while 9 municipalities have not announced any call for the meeting of their assemblies on the municipal website. Also based on the analysis of municipal transparency reports for the last three years 2019-2021 monitored by the ministry responsible for local government, it results that approximately 50% of mandatory documents for publication such as *minutes of municipal assembly meetings, decisions, regulations, budget plans and procurement plans* are not published on municipal websites.

The theoretical approach

The word transparency comes from the Latin "*transparency*" which means to be "*visible*". Among the basic principles of the administration's work, an important place is that of its open work, a principle to which the states that claim to build a legal and democratic order attach special importance. This principle essentially means opening the administration to the society, namely informing the citizens about its work (Stavileci, Introduction to administrative sciences, 2013). Through this principle, it is

possible to “open the administration to the society, information about its work can be done in different ways and in different volumes, a principle that can be limited only in the cases specified in the legislation of each country” (Stavileci, Dictionary expository of terms administrative, 2010) .

Authors such as Esat Stavileci, Bajram Pollozhani and Ermir Dobjani define transparency as the main component of democratic governance, which requires a wide range of institutional actions both in the policy-making process and in the implementation and reporting phase. The importance of transparency affects many aspects including economic and financial stability, good governance, as well as the general system of state administration (Pollozhani, Dobjani , Stavileci, & Salihu, 2010).

Referring to the article published by researcher Elia Armstrong, who heads the Division for Public Administration and Development Management at the **United Nations Department of Economic and Social Affairs**, in her article “*Integrity, Transparency and Accountability in Public Administration, recent regional trends and International developments*”, highlights the importance of the transparency of the public administration towards the citizens. According to her, values, integrity, transparency and accountability in public administration have taken on an important dimension within the last three decades. Sound public administration involves public trust. Citizens have expectations that public offices fairly serve the public interest and properly manage public resources on a daily basis. Fair and reliable public services and predictable decision-making inspire public confidence and create a level playing field for businesses, thus contributing to well-functioning markets and economic growth. Integrity, transparency and accountability of public administration are a prerequisite and support for public trust and serve as a cornerstone of good governance. Corruption and maladministration in this context can be seen not only as individual acts but also as a result of systemic failure and an indication of “*weak governance*”. The cases of administrative failure and corruption published in the study, according to the author, have had a great negative impact on the trust level of public decision-making. Globalization has made possible a rapid spread of ideas and practices, enabling the public to demand more standards of integrity, transparency, accountability in the public sector (<https://www.insightsonindia.com/%C3%ABp-content/uploads/2013/09/integrity-transparency-un.pdf>, a.d.).

According to the Council of Europe Resolution and Recommendation on Transparency and Open Government, the elements such as transparency, participation and accountability and the main principles of open government, require innovation from local and regional authorities in their interaction with citizens and the way they manage their public administrations. Transparency requires from authorities to facilitate citizens’ access to information, particularly through open data and record management. It should go hand in hand with greater participation of civil society in the public decision-making process, including whistleblower protection. To this increase in participation must be added greater accountability of authorities, through the use of audits, codes of ethics and public scrutiny (Congress of Local and Regional Authorities of the Council of Europe, 2018).

Constitutional and legal aspects of local government transparency

With the reform of the public administration and the change of its role and mission, the transparency and accountability of the administration are the best indicators of a democratic government. Even the concept, models and forms of democracy have essentially changed over time. Now transparency is not treated only as a possibility and political will of the Government and administrative bodies, but as a matter of legal obligation and as such is fundamentally important and inevitable in the work of public administration.

Transparency and the right of access to public documents is a right guaranteed by the highest legal act, the Constitution of the Republic of Kosovo. Article 41 of the Constitution of Kosovo stipulates that each person has the right of access to public documents (Constitution of the Republic of Kosovo, 2008). Documents held by public institutions and state government bodies are public with the exception of information that is restricted by law, due to privacy, business secrets or classified security information (Constitution of the Republic of Kosovo, 2008). This right is also protected by international documents such as the European Convention on Human Rights and Fundamental Freedoms (Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 15, 1950), the Convention on Access to Official Documents of the Council of Europe, the Universal Declaration of Human Rights (Universal Declaration of Human Rights, 1948) and the European Charter for Local Self-Government (European Charter of Local Self-Government, 1985).

In order to strengthen and increase the transparency of the public administration, the central and local institutions have further drafted laws and legal acts in accordance with the Constitution, where the following can be distinguished: *Law on Access to Public Documents*, *Law on Local Self-Government*, *Administrative Instruction (MAP) No. 01/2015 for Web Pages of Public Institutions and Administrative Instruction No. 03/2020 for transparency in municipalities and Regulations for municipal transparency*.

According to *the Law on Access to Public Documents*, the right of each person, without discrimination on any basis, to have access to public documents, produced, accepted, kept or controlled by public institutions, as well as the right to reuse documents of the public sector is guaranteed (Law No. 06/L-081 Law on Access of Public Documents, 2019).

Administrative Instruction (MAP) No. 01/2015 on the Web Pages of Public Institutions, obliges all public institutions to have their official web pages. Their content should be informative and up-to-date, correctly written, responsive to broad audience requirements, and easy to access. The information published on the website must be accurate, conform to language requirements and standards (Administrative instruction (MPA) No. 01/2015 on the web sites of public institutions, 2015).

As for the legal framework of local government, which regulates transparency and access to public documents, in addition to the aforementioned laws and legal acts, the Ministry responsible for local government and local bodies have drawn up administrative instructions, municipal regulations and action plans. *The Law on Local Self-Government* stipulates that any person may inspect any document held by the municipality, unless its disclosure is prohibited (Law No. 03/L-040 on Local Self -

Government, 2008). Article 68 of this law obliges the Municipal Assembly to approve the *municipal regulation that promotes transparency of the legislative, executive and administrative bodies of the municipality*, increasing the participation of the public in making decisions at the local level and facilitating public access to official documents of the municipality (Law No. 03/L-040 on Local Self - Government, 2008). In addition to that, the same provision obliges the ministry responsible for local government to issue administrative instructions for municipal transparency.

The Ministry of Local Government Administration, in order to support municipalities and standardize transparency, has issued *Administrative Instruction (MPL) No. 03/2020 for the Transparency of Municipalities*. This Administrative Instruction obliges the municipal bodies to make decisions, activities and documents transparent and accessible to the public, according to certain legal deadlines, with the exception of confidential documents, as well as the implementation of mechanisms for the inclusion of citizens in decision-making processes (Administrative Instruction (MPL) No. 03/2020 for the transparency in municipalities, 2020). Transparency is the open activity of municipal bodies that provides the public and interested parties with the opportunity to participate in the decision-making process (Administrative Instruction (MPL) No. 03/2020 for the transparency in municipalities, 2020).

The municipal statutes also define the procedures for the practical implementation of transparency and local democracy.

Moreover, many international conventions, declarations and standards call for transparency and open government for citizens, such as : *International Declaration of Open Government, Paris - France 2016, Council of Europe Convention on Access to Official Documents (CETS No. 205)*, *Resolution and Recommendation of the Council of Europe on Transparency and Open Government, Resolution and Recommendation of the Congress of Local and Regional Authorities of the Council of Europe on Open Data for Better Public Services, United Nations Guidelines on Data Government Open for Citizen Engagement, etc.*

For the best implementation of this legal framework and the legal mechanisms of local democracy, the municipal bodies' work must result in a high performance of transparency and information to the citizen.

Comparative analysis of the transparency of the work of local bodies 2019-2021 through municipal websites

Based on the summary of the aforementioned legal framework, it is comprehended that the highest legal act of the country, the Constitution, defines that *"local self-government is based on the principles of good governance, transparency, efficiency, and effectiveness in the provision of public services "*. The same act determines that municipalities enjoy a high degree of local autonomy and encourages the active participation of all citizens in the decision-making process of municipal bodies (Constitution of the Republic of Kosovo, 2008).

The legal framework obliges the municipalities that the meetings of the assemblies of the municipalities and committees, the decisions of the municipal bodies, budget planning and expenditures, the plan and the procurement report as well as all the decisions and actions that affect the life of the citizens should be published on the

municipal website.

From the experience, it can be concluded that the meetings of the Municipal Assemblies are mostly open to the public and interested citizens can participate within the spatial capacities of the halls where these meetings are held.

According to statistical data from the transparency monitoring report through official websites, there is a significant difference between the number of meetings held by the assemblies and the announcements published on the website. Compared to 521 meetings of the municipal assemblies held during 2020, announcements on the official website were posted for 409 meetings (Ministry of Local Government Administration, 2021). In the following diagram, the data on publication of calls and of Assembly meetings held for each municipality can be found.

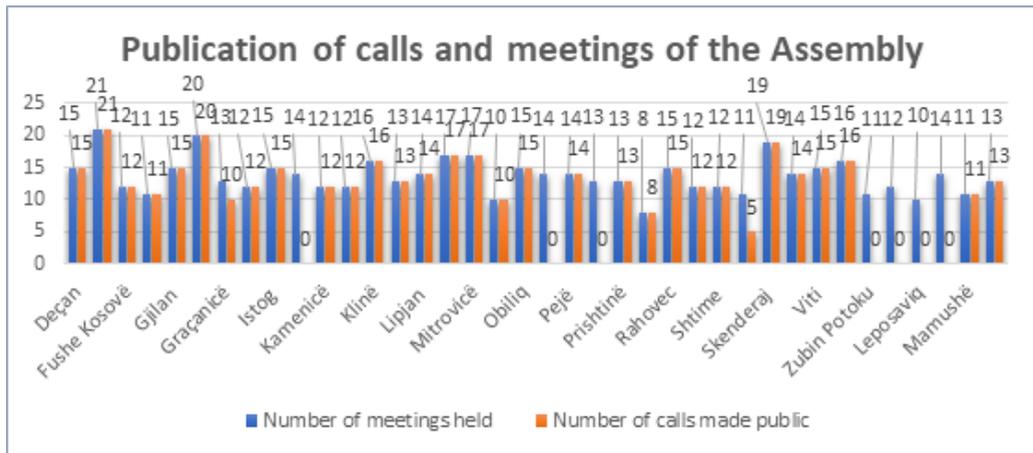


Figure 1 - Comparison between meetings held and notices published on municipal websites, January-December 2020

So, from the data presented, it is established that out of 38 municipalities of the Republic of Kosovo, there are 29 municipalities that have fulfilled the obligation to publish notices for the meetings of the municipal assemblies, while there are 9 municipalities that have not announced any call for meetings of their assemblies on official websites. Also, from the research and analysis of the municipal web pages, it is noticed that the municipalities do not have a unique standard for publishing calls on the web page, due to the fact that the municipalities leave their announcements in different sections, and that this fact causes difficulties in accessing information. .

All decisions of the Assembly and of the Mayor of the Municipality that directly affect the interests of citizens, according to legal obligations, must be published on the official website of the municipality. The following table reflects the acts approved and published on the municipal websites taken from the reports of the functioning of the municipalities of the Republic of Kosovo for three years (2019-2021):

Years	Meetings of Municipal Assemblies		decision		Regulations	
	Kept	Published minutes	Approved	Published	Approved	Published
2019	500	270	1890	1887	111	86
2020	517	301	1691	1464	79%	21%
2021	484	240	1478	1333	83	82

Table 1 - Approved acts published on municipal websites

As can be noticed, not all documents are published, in particular the minutes from the meetings of the municipal assemblies. It is worth noting that a number of municipalities do not respond to the requests for publication of acts at all, and from year to year these municipalities are the same, and in particular the municipalities with a Serbian majority.

According to Article 6 and 7 of Administrative Instruction (MPL) No. 03/202 for Transparency in Municipalities, municipalities are obliged to publish budget expenditures as well as any public procurement activity.

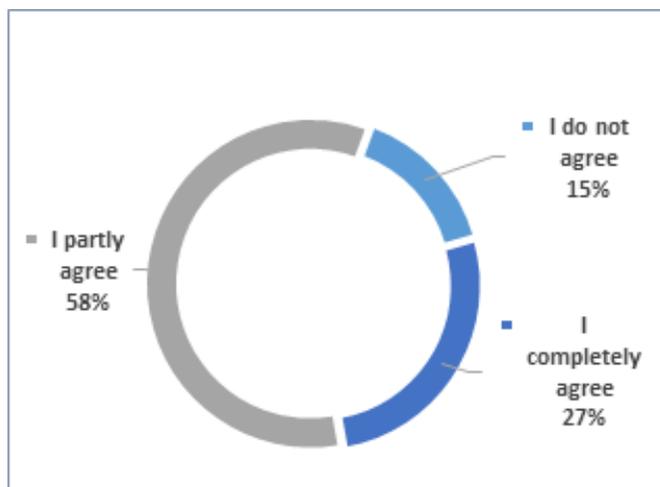
Years	Budget plan		Procurement plan	
	They published it	They have not published it	They published it	They have not published it
2020	28 municipalities	10 municipalities	27 municipalities	11 municipalities
2021	28 municipalities	10 municipalities	30 municipalities	8 municipalities

Table 2 - Budgetary expenses

Table number 2 points out the number of municipalities that do not respect these legal definitions, as is the case with other areas for which transparency is required. Therefore, strengthening supervision in the effective implementation of transparency and local democracy should be a priority of the Ministry of Local Government Administration, creating affirmative policies for municipalities that show good performance in this field, and on the other hand, undertaking legal measures to municipalities that do not perform at the appropriate level.

In order to stimulate the municipalities more in raising transparency, it is necessary to see the possibility of creating a special incentive grant for the field of municipal transparency, as an incentive for increasing performance in transparency and local democracy.

from the monitoring of the websites of the municipalities it can be estimated that the municipalities do not administer and manage their websites in a regular manner, this conclusion is also strengthened by the answers received in the questionnaire presented during the survey with the citizens. Regarding the question posed in the questionnaire *“Do you agree that the work of the bodies of your municipality is transparent and accountable”*, the graph below shows that citizens are not satisfied with the transparency and accountability of the municipality.



Graph 1 - Do you agree that the work of the bodies of your municipality is transparent and accountable

Only 27% of the respondents have the opinion that the work of the municipal bodies is fully transparent and accountable. On the other hand, 15% of the respondents have the opposite opinion. Most of the respondents, 58%, partially agree on the transparency and accountability of the municipality. Consequently, this makes us conclude that despite the fact that the primary and secondary legislation foresees high standards of transparency, nevertheless the municipalities have not made the necessary, essential commitments to make their work transparent to the public in order to influence the citizen perception. for the level of transparency and accountability.

Conclusions and Recommendations

From the above analysis, it can be seen that the primary and secondary legislation in the Republic of Kosovo promotes high standards of transparency and accountability of the administration bodies and in particular of the municipal bodies, but that their implementation is not satisfactory.

Informing citizens about the possibilities of access to information and decision-making by the municipal administration is a priority issue, therefore the supervision of municipal bodies by the governmental supervisory authority should be strength-

ened, as well as punitive measures should be taken for municipal authorities that fail in transparency results.

In order to further strengthen these mechanisms, a special law should be drafted and approved which would define transparency standards for all public administration institutions.

This law should be put in place to facilitate the procedures of access to documents and acts of public institutions in order to facilitate the information procedures for decision-making. This would transform the mechanisms of transparency into mandatory legal mechanisms, foreseen by a special law, increasing the volume of legal requirements regarding transparency for implementation by state bodies and public administration.

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