



LACK OF GOVERNMENT TRANSPARENCY IN SERBIA: LOW ACCOUNTABILITY DOMESTICALLY AND POOR RESPONSE TO EU CONDITIONALITY

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The Government of Serbia falls short of ensuring transparency of its work. By regularly publishing cherry-picked information from its sessions, access to all adopted decisions becomes hardly possible and the approach to provision of information unjustifiably selective. In addition, by irregularly reporting to the public on its performance, the Government reduces possibilities for public scrutiny of its results. Also, irregular reporting on budgetary performance adds to the overall picture of insufficient and low-quality reporting. Civil society in Serbia recognises these problems and holds the view that the Government's decision making is for the most part hidden from the eyes of the public. If the Government wishes to adhere to the principles of good governance, it can only do so by thoroughly and regularly publishing detailed information about its activities and results, thus paving the way for free exercise of public scrutiny and facilitating the accountability for its actions.

BACK TO BASICS OR WHY TRANSPARENCY MATTERS

Transparency of the government counts among the fundamental ingredients of good governance in a democratic society. The value of transparency in practical terms is that the public *understands* what the government is doing.¹ More broadly, transparency on a conceptual level “implies the accessibility of information about government operations and procedures” which allows the public to “hold the government to account for its policy and service delivery performance.”² In that sense, government transparency and accountability are inseparable parts of the same foundation that good governance rests on.

In Serbia, transparency of the Government's work is still a pressing topic. As a country seeking to join the EU, it faces challenges to demonstrate commitment to the standards of good governance. Beyond commitment, the Government needs to establish a sufficient track record of proper implementation of such standards. The need for transparency may not be breaking news; however, insight into basic transparency conditions, such as online information provision to the public, reveals that the challenge is real.

This policy brief tackles the transparency of two inter-related aspects of the Serbian Government's work: decision-making at its sessions and reporting on its activities and results, including on budget spending. It reminds that insufficient transparency limits opportunity for public scrutiny, and therefore opens the door for erosion of rule of law and other democratic standards. It starts with briefly setting governmental transparency within the overall context of the EU accession process. It further presents the evidence, collected through the WeBER monitoring of public administration reform (PAR),³ that the Serbian public is only partially provided with information on the Government's decisions, activities and achievements, despite the external EU's conditionality which requires transparent decision-making and reporting. Finally, it discusses the consequences of existing Government practices, possible reasons for their persistence, and concludes with recommendations for improving the transparency of the Government's work and for ensuring more effective public scrutiny.

1. *Transparency and Accountability Initiative, Open Government Guide, Customised report*, p. 3 <https://www.opengovpartnership.org/resources/open-government-guide>
2. *Can Chen and Sukumar Ganapati, "Is Transparency the Best Disinfectant? A Meta-Analysis of the Effect of Transparency on Government Corruption", Open Government Partnership*, p. 3, <https://www.opengovpartnership.org/resources/transparency-best-disinfectant>.
3. For more information about the WeBER project and PAR monitoring, see: www.par-monitor.org.

RISING EU DEMANDS FOR GOVERNMENTAL TRANSPARENCY

Public administration reform (PAR) has become one of the fundamental reform areas of the EU enlargement policy. With the Enlargement Strategy 2014-15, the European Commission recognised a well-functioning public administration as a crucial prerequisite for democratic governance as it “directly impacts government’s ability to provide public services and to foster competitiveness and growth.”⁴ Consequently, EU requirements in PAR were anchored in six key areas, elaborated in detail through *the Principles of Public Administration*.⁵ For any country seeking to become an EU member, as is the case with Serbia, SIGMA/OECD performs regular monitoring of progress against these principles. Since 2017, civil society in the region also monitors the Western Balkan governments’ progress towards these principles through the WeBER project.

One of the key PAR areas, *Policy Development and Coordination*, sets standards on how governmental policies and decisions should be planned and adopted to benefit society and allow public scrutiny. Two of the principles bear the most relevance in this case:

Principle 5: Regular monitoring of the government’s performance enables public scrutiny and supports the government in achieving its objectives

Principle 6: Government decisions are prepared in a transparent manner and based on the administration’s professional judgement; the legal conformity of the decisions is ensured

Moreover, the Principles request transparent reporting on the state budget, as part of the *Public Finance Management* area of PAR:

Principle 5: Transparent budget reporting and scrutiny are ensured

The most recent external assessments of PAR, produced within the EU accession process, show that Serbia fares poorly on these principles. Apart from the European Commission’s remark that the overall policy coordination “faces challenges in practice due to a focus on formal and procedural issues rather than on substance”, one of the highlights is the Government’s negligence to fully reveal key information on its work and performance.⁶ SIGMA monitoring report for 2017 notes that not all types of decisions are published online, such as agendas of the Government sessions.⁷ In addition, SIGMA states that the publishing of the Government’s reports in practice is sporadic and “where reports exist, they do not contain information about progress on achievement of outcomes against measurable indicators.”⁸ Regarding budget reporting, while noting that reports are regularly produced, SIGMA emphasises: “The annual financial statement [...] presents only basic information on budget allocation, executed budget figures and the differences between the two. It does not present any analysis of variations, details of state assets or non-financial performance information.”⁹ In essence, these assessments pinpoint weak spots inherent to the Government’s operations, at the expense of transparency and possibility for public scrutiny.



4. European Commission, *Enlargement Strategy and Main Challenges 2014-15*, p. 4, <https://bit.ly/2DYRiPb>.

5. *The Principles of Public Administration* have been developed by SIGMA, a joint initiative of the OECD and the EU, principally funded by the EU. SIGMA OECD, <https://bit.ly/2Qj0fZi>.

6. European Commission, *Serbia 2018 Report*, p. 9, <https://bit.ly/2HcTrEz>.

7. SIGMA Monitoring Report Serbia, November 2017, p. 38, <https://bit.ly/2zbLv4U>.

8. *Ibid.* p. 41.

9. *Ibid.* p. 150.

WeBER MONITORING EVIDENCE: IN SEARCH OF GOVERNMENTAL TRANSPARENCY

Complementary to the SIGMA findings, the external PAR monitoring carried out within the WeBER project sheds additional light on the transparency problem at the very heart of the Serbian Government.¹⁰ Opacity of the official government sessions and lack or poor quality of various Government reports exposes a systematic lack of transparency.

Poor transparency of Government decision-making

The analysis of available documents and the perceptions of civil society organisations (CSOs) show that the Government adopts decisions in an insufficiently transparent way. For the 27 Government sessions held in the last quarter of 2017, the official portal of the Government disclosed no agenda items or meeting minutes. Citizens can acquaint themselves with some adopted decisions, documents and press releases in most cases. Yet, with no agendas or minutes to compare against, it is impossible to determine if the published decisions are complete. Occasionally, the Government omits to publish any information about its session. In three cases within the observed period (sessions 19, 25, and 36), the Government did not provide to the public a single piece of information and no reason was provided for such an omission (see table below). Failure to inform on all outcomes of its sessions is a strong indicator of the Government's lack of willingness to work openly.

In addition, a specific type of acts – Government Conclusions – remain unavailable as a rule. They are only disclosed if their text explicitly specifies publication in the Official Gazette. More specifically, the Government did not publish a single conclusion out of the 27 sessions observed. Moreover, there is no public information about how many of these conclusions the Government has adopted and for what purpose. Such practices, which leave important pieces of information unavailable to the public, create ample room for decisions that are potentially harmful to the public interest but can hardly be scrutinised.

Furthermore, the established practice of publishing press releases, although a necessary part of the transparency package, provides little help in grasping the full range of decisions that the Government makes. Published separately from the sessions' materials, press releases mostly use simplified language in explaining their outcomes. However, not every session is followed with a press release (see table below). Moreover, in some cases they mention Government decisions (i.e. adoption of documents) which are unavailable on the website. Thus, despite being citizen friendly for the most part, the missing press releases rather add to the assessment of incompleteness and ad hoc character of publication of the materials and information from the Government sessions.



10. For full PAR monitoring results see: Miloš Đinđić and Dragana Bajić, "National PAR Monitor, Serbia 2017/2018", European Policy Centre - CEP, November 2018, <https://cep.org.rs/en/publications/national-par-monitor/>.

Table. Availability of materials from the Government sessions held between 1 October and 31 December 2017

Session ¹¹	Date	Agenda	Minutes	Documents ¹²	Press
18	6 Oct 2017	X	X	✓	✓
19	No information	No info.	No info.	No info.	No info.
20	9 Oct 2017	X	X	✓	✓
21	12 Oct 2017	X	X	✓	X
22	16 Oct 2017	X	X	X	✓
23	18 Oct 2017	X	X	✓	X
24	19 Oct 2017	X	X	✓	✓
25	No information	No info.	No info.	No info.	No info.
26	26 Oct 2017	X	X	✓	✓
27	31 Oct 2017	X	X	X	✓
28	2 Nov 2017	X	X	✓	✓
29	9 Nov 2017	X	X	✓	✓
30	15 Nov 2017	X	X	✓	✓
31	20 Nov 2017	X	X	✓	✓
32	24 Nov 2017	X	X	✓	✓
33	29 Nov 2017	X	X	✓	X
34	1 Dec 2017	X	X	✓	X
35	5 Dec 2017	X	X	✓	X
36	No information	No info.	No info.	No info.	No info.
37	8 Dec 2017	X	X	✓	✓
38	14 Dec 2017	X	X	✓	✓
39	18 Dec 2017	X	X	✓	X
40	21 Dec 2017	X	X	✓	✓
41	25 Dec 2017	X	X	✓	X
42	27 Dec 2017	X	X	✓	X
43	28 Dec 2017	X	X	✓	✓
44	29 Dec 2017	X	X	✓	X
Total	27	0	0	22	15

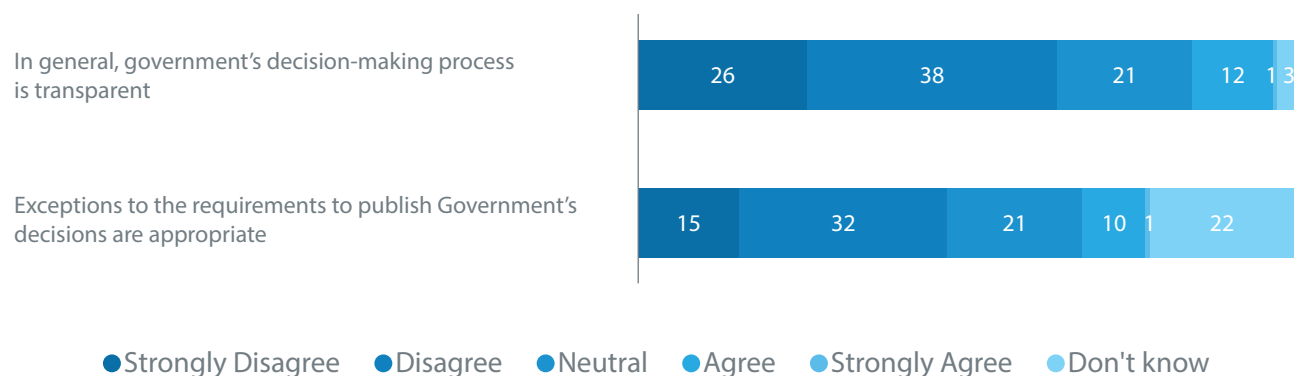
In addition, civil society in Serbia, as one of the key stakeholder groups in policy development, expresses high dissatisfaction with the Government's decision making. The results of the survey of CSOs that the WeBER team implemented in 2018 reveal that just 13% of respondents agree that the overall decision-making process is transparent, confirming the highly opaque practice. Even fewer survey respondents share the opinion that the exceptions from the requirement to publish Government decisions are appropriate.¹³ Such a negative perception reaffirms, in the first place, an embedded habit within the Government to circumvent transparency, but also represents a strong statement of the dissatisfaction of the civil society about the way the Government operates.

11. The archive of Government sessions is available at: <https://www.srbija.gov.rs/dokumenti/2430>.

12. In all cases where documents are published, it was impossible to ascertain their completeness. Two freedom of information requests that the research team sent to the General Secretariat of the Government, asking for agenda items and minutes of these government sessions, remained unanswered.

13. For Serbia, a total of 183 CSOs participated in the survey from 23 April to 4 June 2018. Data collection was conducted using a self-administered questionnaire on SurveyMonkey platform (web SAQ).

CHART 1 CSO PERCEPTION OF THE TRANSPARENCY OF DECISION-MAKING PROCESSES OF THE GOVERNMENT (%)



Note: Results are rounded to the nearest integer. Due to rounding, percentages may not always appear to add up to 100%, N=155

Irregular and low-quality reporting on Government results

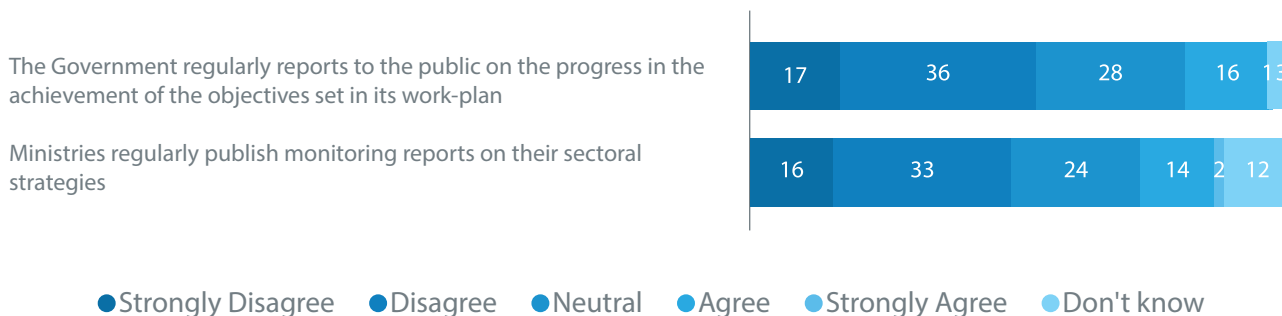
Furthermore, the Government does not report to the public on its activities and results. Reports on the implementation of its annual work plans are issued sporadically, in an ad hoc manner. The Government failed to publish the reports for 2015 and 2016 on its website, whereas the reports for 2013 and 2014 are available on the website of the Parliament. The executive does not inform about the implementation of its multi-annual programme either. An action plan for implementing this programme is prepared once a new government takes office; however, neither the action plan nor its reports have been published to date. Without regular public reporting, it remains difficult for any external stakeholder to analyse government's performance and to call it to account in cases of failures to deliver on its promises.

Moreover, insight into those Government reports found online reveals their poor quality. Rather than presenting information on overall performance of the Government as a collective body, they constitute collations of individual institutions' activity reports. Moreover, they lack any discussion of the results achieved in a reference year. At the same time, the language and style these documents use to present the information are far from citizen friendly. Consequently, even if made public, the current reporting mechanisms are hardly useful for the interested public to scrutinise the Government regarding concrete policy achievements or failures.

Civil society also perceives the governmental reporting habits as inadequate. Namely, only 17% of CSO respondents in the WeBER survey believe that the Government regularly reports to the public on the achievement of its own policy objectives, with an absolute majority of 53% disagreeing. Moreover, around the same share of CSOs believe that ministries report on their strategies in different policy areas, while just below a half of respondents (49%) disagree that this is case. What is more, CSOs believe that reports on the work plan of the Government do not, in fact, represent a meaningful reporting mechanism, as these work plans are not derived from broader development document and are not based on achievements and performance.¹⁴ These CSO opinions further confirm that the lack of regular and quality reporting by the government is a widely recognised problem.

14. Focus group with civil society organisations, held on 13 July 2018, in Belgrade.

CHART 2 CIVIL SOCIETY PERCEPTION: GOVERNMENT PLANNING AND REPORTING (%)



Note: Results are rounded to the nearest integer. Due to rounding, percentages may not always appear to add up to 100%, N=155

What is more, reporting on the EU integration related planning documents of the Government follows the same pattern in terms of low transparency. Within the monitoring period, reports on the National Plan for the Adoption of the Acquis (NPAA) for 2016 were not available to the public either, despite regular publishing of these reports in the preceding three years. In addition, when CSOs were asked if the Government reported against the EU priorities set in its plans, agreement stood below one-fifth of respondents. Combined, these findings suggest that even the external EU conditionality fails to effectuate adequate reporting practices by the Government.

CHART 3 CIVIL SOCIETY PERCEPTION: GOVERNMENT REPORTING ON THE EU ACCESSION PRIORITIES (%)



Note: Results are rounded to the nearest integer. Due to rounding, percentages may not always appear to add up to 100%, N=155

Insufficiently transparent budgetary reporting

The issue with budgetary transparency is twofold: firstly, it is insufficient as not all reports are publicly available, and secondly, disclosed data does not allow for purposeful budget scrutiny.

To begin with, the Government falls short of providing fully transparent information to the public on its budget spending and performance. When one considers both in-year and year-end budgetary reporting practice of the Ministry of Finance, only monthly budgetary data is regularly made available, through the *Public Finance Bulletins*. These monthly publications contain budget execution data broken down between different state levels. However, neither the Government nor the Ministry published any mid-year budget reports for the two consecutive years preceding the WeBER monitoring (for 2016 and 2017). Nevertheless, perhaps the most striking fact concerns the annual budget reporting: the Law on the final account of the state budget has not been adopted in Parliament for over a decade, the last one in 2002. With the same patterns of irregular and unpredictable publishing, budgetary reporting practice shows great similarity with the reporting on the Government’s policy planning documents.

What is more, the available budget reports are unhelpful for the public to comprehend the purpose and results of government spending. Analysis of the publicly available reports within the monitoring period shows that the Ministry of Finance mostly reports per types of spending (economic expenditures such as transfers, donations, subventions etc.). At the same time, reports rarely show data for individual budget users or for Government functions (for example, education, environmental protection, social protection, etc.). Moreover, budget reports contain no information on the performance of the Government that would simply and clearly explain the policy outcomes and results of budget spending to the public.

THE WAY FORWARD: SMALL STEPS TOWARDS GREATER TRANSPARENCY GAINS

As one of the cornerstones of the EU accession process, the Serbian Government has committed to comprehensively improve its administration. Despite this commitment and the continuing external EU's conditionality which puts pressure to keep up the pace of reforms, challenges persist regarding the transparency of the Government's work. This policy brief provides evidence to illustrate the modalities and consequences of the Government's failure to ensure transparency of its work. It also offers evidence-based recommendations to improve the current state of play.

Sporadic and partial publishing of decisions officially adopted at the Government's sessions paves the way for excessive discretion in decision making. Such practice exposes a Government's attitude that decision making which takes place at the sessions is an internal matter as well as a lack of commitment to transparency and openness. Except for the legally determined and justified cases, insufficient transparency of decisions bypasses the basic public's right to know and allows the Government to freely assume what information is of public interest.

Furthermore, the Government fails to regularly and adequately report to the public on its activities and performance, which frustrates the chances for external stakeholders, such as civil society, to monitor and scrutinise its work. Like the issue of availability of information from cabinet sessions, this indicates a lack of commitment to, and pursuit of, transparency. Moreover, irregular reporting to the public speaks volumes about the culture of accountability for results in the Serbian government - a culture that needs to be strongly advocated for and systemically embedded. Poor quality of the few Government's annual reports that have been published, in terms of lack of critical data to assess the Government's performance, attests to the lack of this culture. Although reporting on budget execution is more systemic and publicly available, deficiencies regarding annual reporting and quality of provided information significantly reduce its practical value. Accordingly, it is not only the publicity of information that matters; rather, the type and quality of available data and information can significantly alter or diminish their usability by the public.

Therefore, to ensure transparency of its decision-making, the Government should:

- **Regularly publish agenda items and meeting minutes of its sessions, with agendas provided preferably in advance of each session.** Consistency and timeliness in publishing all materials increases predictability of the Government's work, and it is a prerequisite for transparency of its decision-making.
- **Publish press releases together with other materials, so all the information from an individual session can be found and accessed at a single website location.** This can render easier the search of all available information pertaining to an individual session.
- **The Government should ensure that materials from all its sessions are published, with no exceptions.** The exceptions identified through the WeBER monitoring work raise suspicions about the motives for concealing the information about specific sessions of the Government.

In order to ensure adequate reporting practices and facilitate accountability for its promises, the Government should:

- **Regularly publish work plan implementation reports and reports on the action plan for the Government's multi-annual programme.** Both types of reports should be published at its official website and should be made easily visible and accessible from the homepage. Publishing of both types of reports is equally important to ensure a high level of transparency and increase accountability of the government for its actions and promises to the public.
- **These reports should include citizen-friendly descriptions of achievements by the Government as whole within the reporting period.** Once the reports are published, the Government should explain key results or achievements in a way that speaks to the public about why those actions matter. Use of complex, bureaucratic language and style of reporting undermines the use of these reports as documents of public character.
- **Improve annual reporting by including assessment of results in different policy areas in the reporting period.** As part of reporting on its achievements as an executive body with collective responsibility, the Government should dedicate attention to the specific achievements within the individual policy areas. Such practice would complete the information on the overall performance of the Government.

In addition, to improve budget transparency, the Government or the Ministry of Finance should:

- **Dedicate a single place on its website for all information on the executed budget (in-year, mid-year, annual),** listing separately different budget execution reports.
- **Publish budget execution data as comprehensively as possible, for better understanding of external stakeholders and greater transparency.** This means that besides the “business as usual” publishing of information by economic categories, each report should inform on budget execution according to functions of the Government and individual budget users for the whole public sector (state budget, local self-governments, social security organisations, state-owned enterprises).
- **Publish year-end budget reports with performance information of the Government’s work.** Firstly, this information should be disclosed in a concise and citizen-friendly way explaining achievements by the Government in terms of budget execution. Secondly, to complete performance related content of these reports, more detailed information should be provided on programme-budget indicators at the level of the programmes of all budget users.

One should stress anew that although governmental transparency is important for making progress in EU accession, it is even more significant for sustaining democratic governance domestically and for allowing the public to scrutinise office holders. For this reason, it is necessary to continuously pressure for full transparency in all PAR areas, both externally and domestically.

The public, and especially civil society in Serbia, should place a special focus on the heart of executive in the pursuit of transparency at home, i.e. on the activities and decisions that the Government makes as the chief executive body. The Government’s actions have the potential of affecting the whole society, or specific groups within the society, and knowing the purpose, content, intended effects, budgetary implications and eventually consequences of these decisions, becomes of paramount importance for enabling informed public scrutiny and accountable governance. Finally, unless the public and civil society are enabled to keep the Government under their watchful eye, both backsliding in reforms towards the EU and an erosion of democratic climate become inevitable and detrimental to society and the public interest.

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