



Proactive transparency and free access to information characterize democratic societies, introducing order of a country to ensure transparency of the work of its administrative structures. These structures need to provide a basis for initiating communication between institutions and citizens. Communication rests on a reactive transparency of the administration and its pursue of the Freedom of Access to Information Act. Upon this Act, citizens are to receive information upon request, while the administration publishes specific information on its own initiative for the purpose of informing the citizens of its work, on their rights and obligations, or to involve citizens in decision-making processes pertaining to laws, policies, actions and other. This communication takes place on different levels and through various channels, and with the development of new technologies and a wider use of internet platforms and social media, opens opportunities for new ways of involving the citizens.

All administrations in the Western Balkans are implementing laws which guarantee the right of access to information of public significance or freedom of information (FOI). Laws adopted to improve transparency and accountability by making information open to the public, present an important tool to protect democratic citizens' rights and ensure the rule of law and good governance. The law finds that every natural and legal person has the right to access information pertaining to public authority, and each public authority is required to disclose such information. However, in Bosnia and Herzegovina (BiH), the implementation has not met international transparency requirements yet. Here, the absence of a specialized overarching body responsible for overseeing and enforcing the compliance of public bodies with transparency requirements is a detriment to an effective implementation of the right to information. With that, a lack of political leadership at government level prevents the promotion of proactive disclosure of information. Within government administrations, accountability mechanisms exist in legislation at all levels, but the implementation is not found in practice. The latest SIGMA monitoring report for BiH from November, 2021 [1] indicates that perceptions of both citizens and business on government transparency is that it is deteriorating in this area.

WeBER Monitoring Results: Data Setting

As stated in the previous WeBER national report for 2017/2018 [2], BiH was the first country in the region to adopt Freedom of Access to Information Act [3]. In January 2019, SIGMA published a paper titled “Improving the Legislative Framework for Access to Public Information in Bosnia and Herzegovina”, reviewing legislation on access to public information in BiH at the national level, focusing on whether applicable laws comply with international standards and practices, providing recommendations on potential reforms to improve public authority accountability and harmonize access to information standards across the region. The Law on Ombudsman [4] governs the free access to information, whereas the Ombudsperson is responsible for investigating allegations of violations of the right to free access to information, as well as preparing and disseminating guides and general recommendations on the enforcement and application of laws. According to WeBER national report for 2019/2020 [5], there were no significant changes from the last monitor cycle in this regard. Survey results show that only 17% of CSOs agree that exceptions to the public character of information produced by public authorities are adequately applied in practice. Further, among CSOs that have sent a FOI request in the past two years, 42% claim that provided information is “often” (24%) or “always” (18%) in the requested format and 38% of surveyed CSOs declare that information is provided within prescribed deadlines and free of charge (66.7%).

Furthermore, just about 20% stated that they have “rarely” (16.6%) or “never” (4.4%) been asked to provide reasons for their requests. The improvement in results compared to the previous PAR Monitor 2017/2018 is notable in requesting access to information that contains classified materials. When asked whether non-classified portions are released when requests for access to information contains classified information, 20% of surveyed CSOs that had exercised their right to information answered “often” (17.8%) or “always” (2.2%).

[1] SIGMA (2021), *Monitoring Report, Bosnia and Herzegovina*, Available at: <http://www.sigmaweb.org/publications/monitoring-reports.htm> (Accessed on Dec 9, 2021)

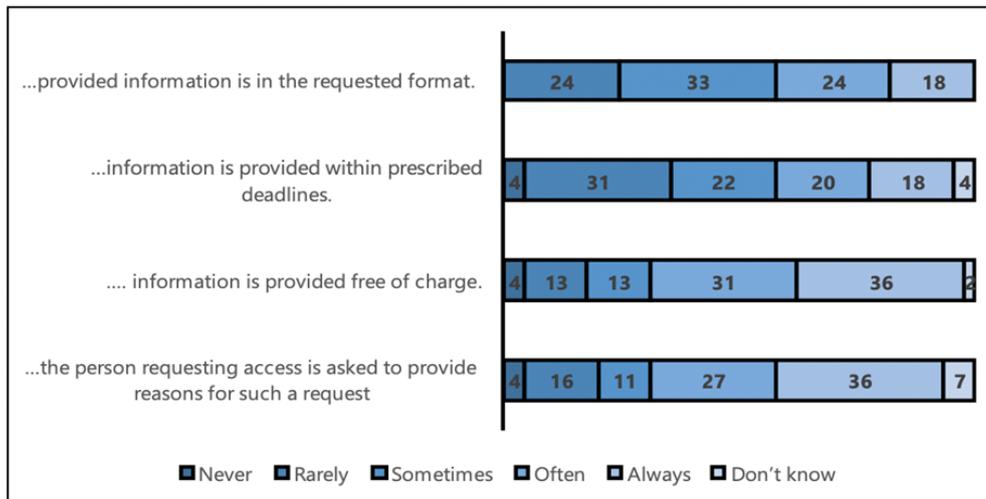
[2] *National PAR Monitor, Bosnia and Herzegovina 2017/2018*, Available at: https://weber-cep.s3.amazonaws.com/data/attachment_799/weber_par_monitor_2017-2018.pdf (Accessed on Dec 9, 2021)

[3] *Freedom of Access to Information Act of BiH, Official Gazette of BiH Nos. 28/2000, 45/06, 102/09, 62/11 and 100/13*, Available at: http://www.mpr.gov.ba/web_dokumenti/ZOSP1 - B.pdf (Accessed on Dec 9, 2021)

[4] *The Law on Human Rights Ombudsman of Bosnia and Herzegovina („Official Gazette of Bosnia and Herzegovina“)*, no. 32/00, 19/02, 34/05 and 32/06)

[5] *National PAR Monitor, Bosnia and Herzegovina 2019/2020*, Available at: <https://www.par-monitor.org/par-monitor-reports-2019-2020/>

Figure 1: When my organization requests free access to information... (%)



Source: WeBER National PAR Monitor Report for BiH 2019/2020

When discussing the role of designated supervisory body – BiH Ministry of Justice in terms of free access to public information, 32% of surveyed CSOs agree that this body employs sufficiently high standards in practice. However, when asked about soft measures issued by the BiH Ministry of Justice to public authorities, around 7% agree that they are effective in protecting access to information. Finally, in the case of violation of the right to free access of information, only 13% of respondents stated that prescribed sanctions lead to sufficiently grave consequences for the responsible persons in the non-compliant authorities.

For all the sampled institutions, information on the scope of work, related policy documents and legal acts is available on their websites, but it is not presented in a citizen-friendly format. Some institutions also published information on policy articles, surveys and policy reviews. Compared to the PAR Monitor 2017/2018, PAR Monitor 2019/2020 indicated that publishing of annual reports is regular and easily accessible, although they are not written in a citizen-friendly manner.

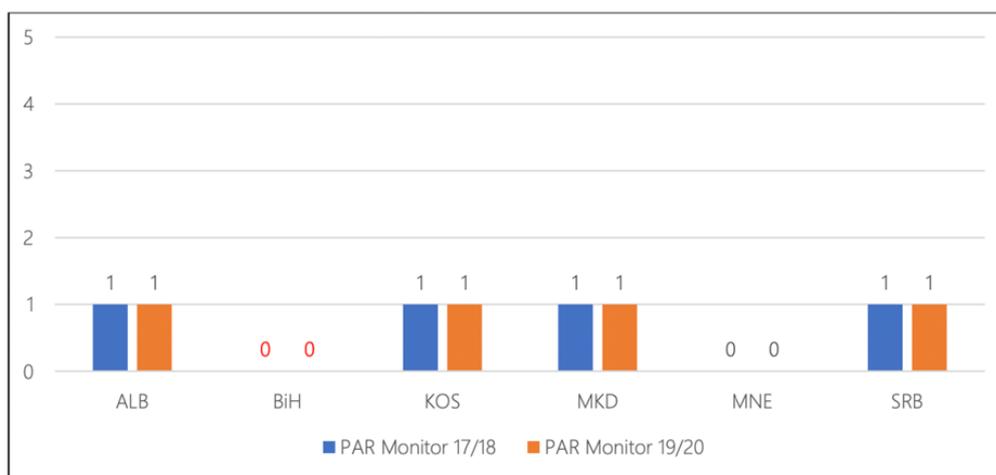
Due to a technical mandate of the state government in 2019, details on the budgets of the agencies (reports or financial plan for 2020) are missing, but the Interim Financing Decisions from the previous year and from the first three months of 2020, are available on the website of the Ministry of Finance and Treasury. More, financial reports for 2018 are available for almost all sampled institutions.

POLICY BRIEF

As for the contact information, they are fully available online, while a citizen-friendly approach is demonstrated via individual public consultation invitations or the e-Consultations platform. Overall, publicly available information is evaluated as partially complete and updates with accessibility within maximum three clicks from homepages of the institutions. However, institutions do not have an open data policy.

It can be concluded that, despite its vital role in reducing the risk of corruption and misuse of power, as well as involvement of citizens in decision-making processes, clear proactive transparency is still not present in Bosnia and Herzegovina. A similar situation persists among all Western Balkan countries, where quality of legislation and practice of access to information of public importance is low, while Bosnia and Herzegovina and Montenegro are at the very bottom. This result has remained the same for the previous and current PAR Monitor, indicating no improvement.

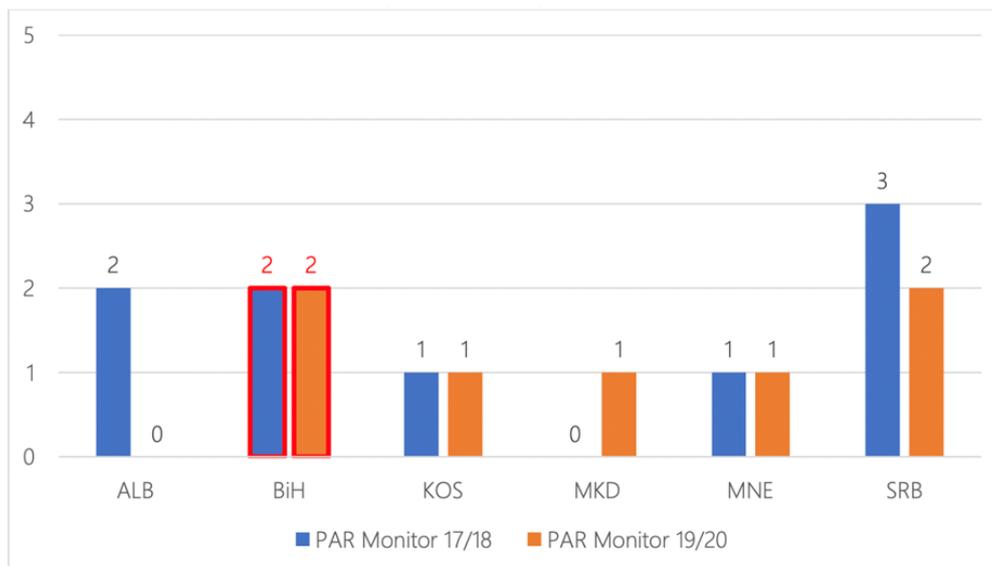
Figure 2: Civil society perception of the quality of legislation and practice of access to public information (regional comparison)



Source: WeBER Regional PAR Monitor Report for the Western Balkans 2019/2020

CSOs in the Western Balkans continue to express largely negative views on the implementation of the FOI system. The WeBER public opinion poll conducted among citizens and NGOs in BiH, indicates that the right of free access to information is often violated by the public institutions and the NGOs believe that adequate sanctions are mostly not introduced. Moreover, practices differ depending on the government level and even when all the preconditions are met, it is questionable whether a request for free access to information will be granted.

Figure 3: Proactive informing of the public, by public authorities (regional comparison)



Source: WeBER Regional PAR Monitor Report for the Western Balkans 2019/2020

Proactive Disclosure: Data Governance for Public Transparency

Based on the law provisions, every natural and legal person has the right to access information pertaining to public authority, while each public authority is required to disclose such information. The implementation in Bosnia and Herzegovina, however, has yet to meet international transparency requirements. The WeBER Monitoring Report highlights the potential of open governance to improve democracy at local and regional levels. To ensure that, authorities are expected to adopt and implement open government standards and introduce training courses in their administrations, so that the importance of transparency is recognized. Further, promoting the participation of citizens in decision-making processes and creation of policies is a vital step towards proactiveness in the public sphere. The governments are called on to encourage authorities to publish key documents and information, promote public consultation processes and support the monitoring and implementation measures.

In all Western Balkan countries, there is a notable positive trend in the area of citizen-oriented administration, where public perception findings from the PAR Monitor 2019/2020 indicate that the dealing with administrations has become easier in the past two years. To accelerate such progress, government's efforts must be directed towards digitalization of the work of public administration and offering digital services. With that, government institutions must invest in educating their officials, as well as the citizens, on the use of e-services. Furthermore, these services and the websites of the institutions should use a more citizen-friendly language. To increase transparent and effective communication between public authorities and citizens, annual work reports should be regularly published online and provide sufficient qualitative and quantitative information. Further, the authorities should always provide information in the requested format(s). Lastly, open data portal working in line with the open data standards is necessary to ensure public transparency. Open data publication delivers a variety of benefits, including increased quality, efficiency, and transparency of public services; cost saving and greater efficiency in processes and delivery of public services. From a social perspective, open data has a positive impact on public participation, collaboration and opens opportunities for the inclusion of marginalized groups. Further, through open data and increased government transparency, citizens can study the data through published reports and form personal opinions on various public matters. As such, open data presents a substantial value to society as a whole and has a direct impact on the daily life. For these reasons, proactive transparency is a basis for ensuring respect and exercise of democratic principles in Bosnia and Herzegovina, as well as other Western Balkan countries, and as such, vital to be implemented.

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