

Fact Sheet

September 2016

Proactive Transparency of Public Institutions in Bosnia and Herzegovina

Proactive transparency refers to a practice whereby public institutions publish the information they possess on their own initiative. This concept represents substantial progress from the now obsolete approach which rested solely on accessing information based on a specific written request, as is currently regulated by the freedom of access to information laws in Bosnia and Herzegovina (BiH). In contrast to that, proactively published information is available to all citizens, not only those who file for access, which ultimately makes possible a greater degree of public control of the institutions, and the participation of citizens in debates on matters of public interest.

At the same time, proactive publishing of information and important documents related to an institution is the cornerstone of good governance, since it obligates the institutions to inform the public about their work continually and in a timely manner, rather than on an ad hoc, case to case basis. Proactive transparency directly promotes the strengthening of the accountability of public institutions, especially in the field of public spending, and the prevention of corruption and other abuses. It also makes administration considerably easier, since it reduces the need to process individual access to information requests, if the requested information has already been published.¹

In order to increase the transparency of public institutions in BiH, in 2015 a working group comprising representatives of several public institutions and independent experts from various CSOs² drafted the Standards of Proactive Transparency in Public Administration in BiH, which defined a list of 38 documents and types of information which public institutions were encouraged proactively to publish on their websites. The standards were divided according to their so-called maturity level into three levels: basic, intermediate and advanced, which reflect the format in which a piece of information may come (Table 1).

In that context, the goal of this research was to gauge the degree of proactive transparency of state-level public institutions in Bosnia and Herzegovina (BiH). The analysis included 69 websites of state-level institutions, and analysed the availability of information from the following six categories:

These 38 standard documents and types of information may be grouped into six categories of information which public institutions should publish proactively:

- Budget information
- Public procurement information
- Strategic documents
- Operational information
- Organisational information
- Information on freedom of information

¹ More on the concept of proactive transparency in: Helen Darbishire, *Proactive Transparency: The Future of the Right to Information? A Review of Standards, Challenges and Opportunities* (Washington: World Bank Institute, 2011); Alen Rajko, *Proactive Transparency in BiH: Status and Perspectives in Light of International Standards and Comparative Solutions* (Sarajevo: Analitika – Social Research Centre, 2014.); Nermina Voloder, *Neglected Standard in BiH: Proactive Dimension of the Right to Access Information*, (Sarajevo: Analitika – Social Research Centre, 2014).

² The working group was made up of representatives of the following institutions and organisations: Public Administration Reform Coordinator's Office, BiH Agency for Statistics, Directorate for European Integration, Agency for Development of Higher Education and Quality Assurance, Transparency International BiH, The Center for Investigative Reporting – CIN, Analitika – Social Research Centre and *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ). It was formed under the auspices of the Strengthening of Public Institutions programme implemented on behalf of the Government of the Federal Republic of Germany by *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ).

Table 1. Standards of Proactive Transparency

LEVEL	BUDGET INFORMATION
BASIC	Budget, excerpt from the Law on the Budget of Institutions of BiH and International Obligations of BiH (for the institution)
	Budget execution report/Annex to the audit report
INTERMEDIATE	Budget in the form of the institution's request for the allocation of budget funds
ADVANCED	Budget, analytical
	Budget execution report, analytical
	PUBLIC PROCUREMENT INFORMATION
BASIC	Public procurement plan
	Calls for tenders
	Award notice/notice of termination, in line with the Law on Public Procurement of BiH
	Contract realisation report (List of basic elements of contracts for every public procurement procedure)
INTERMEDIATE	Annual public procurement plan including low-value procurement procedures
	Award notice/notice of termination, including low-value procedures
ADVANCED	Tender documentation after procedure
	Concluded contracts (confidential information protected)
	STRATEGIC INFORMATION
BASIC	Strategic documents of the institution
	Mid-term work plan
	OPERATIONAL INFORMATION
BASIC	Work report
	Annual work plan
	Audit report
	Advertisements, vacancy notices and their archive
	List of on-going and realised technical co-operation projects
	Calendar of events
	Public consultation documents
ADVANCED	Statement on the holding of public consultation
	ORGANISATIONAL INFORMATION
BASIC	Acts and/or articles of incorporation and other relevant regulations from the scope of the institution
	Scope of authority of the institution
	Organigram
	Internal organisation and job classification rulebook
	Employees' contact information
	Managers' biographies
	Anti-corruption action plan
	Integrity plan
	Code of ethics/code of conduct
ADVANCED	Total disbursements for appointees, supervisors, civil servants and employees by position
	FREEDOM OF INFORMATION ³
BASIC	Index register
	Guide to access to information
	Freedom of information request form
	Frequently asked questions (FAQ)
ADVANCED	Responses to freedom of information requests

Based on: Standards of Proactive Transparency in Public Administration in BiH, 2015.

³ In the document "Standards of Proactive Transparency in Public Administration in BiH", information related to access to information is categorised as 'organisational information' but here we set it apart because we believe it to be a fundamentally separate and extremely important category which must be seen separately.

The standards are not binding, and so far only the institutions which participated in their drafting are applying them, although they have been presented and provided to all state-level public institutions.

Taking these standards as its point of departure, in May 2016 Analitika analysed state-level institutions' websites in order to gauge the degree of their proactive transparency. The analysis included 68 websites of public institutions, and recorded the 38 types of information and documents defined in the *Standards of Proactive Transparency*. The results were given as percentages, whereby 100% indicates presence of desired information and documents, and 0% indicates absence of desired information from the website. The overall result was calculated for each institution based on the average results for each of the 38 standard types of information⁴ (for more details on the methodology used see Annex 1).

Of particular note are the following key ratings and transparency indicators of the analysed institutions:

- The average proactive transparency level of state-level public institutions is 34.8%, which, on the whole, indicates a relatively low level of proactive transparency of the institutions included in this research.
- However, the differences between institutions are quite drastic, thus there are also examples of advanced levels of proactive transparency, above all the Agency for the Development of Higher Education and Quality Assurance of BiH, which scored 74.56%, and the Directorate for European Integration, which scored 67.54%. These institutions top our ranking list, followed by another five institutions which scored over 50%.
- If we look at individual categories of information, the least published information has to do with the allocation and spending of public funds.⁵ Although the budgets for all institutions at the state level are published as part of the Law on Budget and International Obligations of BiH, good practice in this field would be for the institutions to publish their budgets on their official websites. However, almost 91% of institutions do not do so, and not a single one publishes its analytical budget.
- When it comes to publishing information on public procurement, the results are somewhat better, owing probably to the Law on Public Procurement of BiH (LPP), which obliges institutions to publish a greater amount of information on public procurement.⁶ Still, a substantial percentage of institutions do not publish procurement plans (28%), and around 50% of them do not publish public procurement plans and contract award notices, or basic elements of contracts (50%), in contravention of the Law on Public Procurement.⁷
- Compared to other categories, except budget information, the lack of proactive publishing was most clearly evident in the area of operational information: 62% of institutions do not publish their annual work plans, while almost 70% do not publish work reports. Also, not one institution publishes disbursements for appointees, civil servants and employees.
- When it comes to freedom of access to information, many institutions do not publish their index registers (44%), information access guide (22%) or the request for access to information form (34%), although the publishing of these documents is compulsory under the 2000 Law on Freedom of Access to Information of BiH.

⁴ Depending on the type of information/document, we considered the last relevant year for which the desired information could reasonably be expected to have been available and to have been published by May 2016 (for instance, the 2016 budget could reasonably be expected to have been published by then, but the 2015 audit reports were not finished at the time of analysis, so we considered the 2014 reports).

⁵ A low degree of budgetary transparency was also recorded in similar research on the transparency of BiH institutions conducted in May 2014. For more information see: Analitika, *Research Results: The Availability of Information on the Official Web Presentations of Public Institutions of Bosnia and Herzegovina* (Sarajevo: Analitika, 2014).

⁶ More details in: Nermina Voloder, *Transparent Public Procurement in BiH: Between Theory and Practice* (Sarajevo: Analitika, 2015).

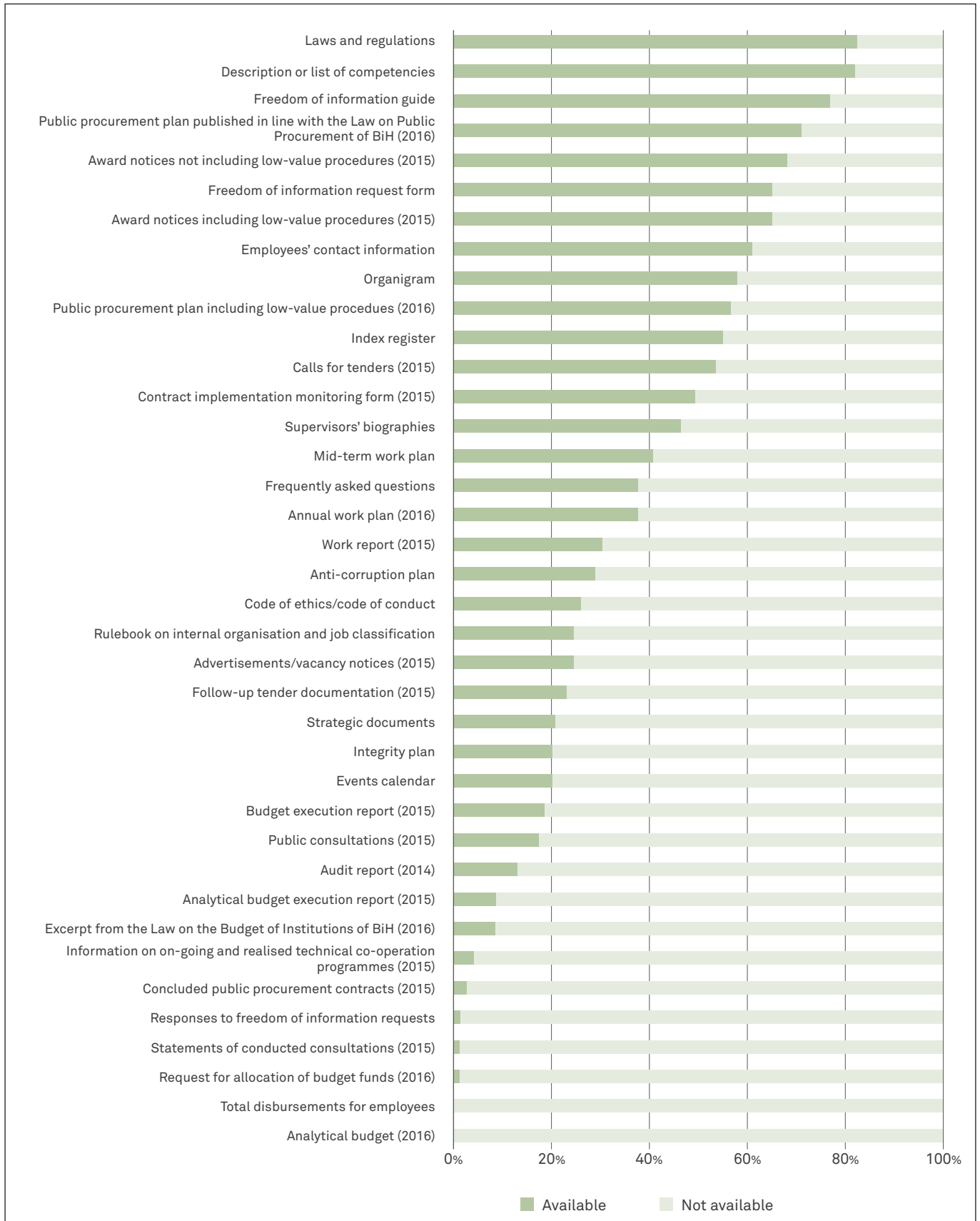
⁷ When it comes to availability of information on public procurement, it bears pointing out that these results are based on the assumption that all public institutions had at least one public procurement procedure in 2015 and 2016.

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Graph 1 gives an overview of the availability of all 38 types of information and documents listed in the Standards of Proactive Transparency.

In addition, Table 2 below ranks the institutions according to the total level of proactive transparency, which is the average of the total level of fulfilment of standards in all six categories, for all 38 types of information/documents.

Graph 1. Overview of availability of information on BiH institutions' websites



PROACTIVE TRANSPARENCY OF PUBLIC INSTITUTIONS IN BOSNIA AND HERZEGOVINA

Table 2. Ranking list of institutions according to the degree of proactive transparency (%)

RANKING	INSTITUTION	BUDGET INFORMATION Average (%)	PUBLIC PROCUREMENT INFORMATION Average (%)	STRATEGIC INFORMATION Average (%)	OPERATIONAL INFORMATION Average (%)	ORGANISATIONAL INFORMATION Average (%)	FREEDOM OF INFORMATION - Average (%)	TOTAL Average (%)
1	Agency for the Development of Higher Education and Quality Assurance of BiH	80	87.5	66.66	62.5	70	80	74.56
2	Directorate for European Integration	40	87.5	50	50	66.67	100	67.54
3	Public Administration Reform Coordinator's Office	40	87.5	0	37.5	90	60	63.16
4	Parliamentary Assembly of BiH	0	75	0	62.5	80	80	60.53
5	Food Safety Agency of BiH	60	75	66.66	50	60	40	58.77
6	Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption	20	50	66.66	25	90	60	53.51
7	Statistics Agency of BiH	0	75	16.66	37.5	70	60	50.88
8	Personal Data Protection Agency of Bosnia and Herzegovina	0	75	50	12.5	70	80	50.00
8	Ministry of Justice of BiH	0	62.5	0	25	90	60	50.00
9	Ministry of Human Rights and Refugees of BiH	20	75	0	12.5	76.67	60	49.12
10	Directorate of Civilian Aviation of BiH	0	75	16.66	62.5	40	60	48.25
11	Ministry of Defence of BiH	20	75	0	12.5	70	60	47.37
11	Indirect Taxation Authority	0	87.5	0	25	50	80	47.37
12	Agency for Identification Documents, Registers and Data Exchange of BiH	0	62.5	83.33	25	60	60	46.49
12	Agency for Medicinal Products and Medical Devices	0	87.5	83.33	37.5	40	40	46.49
13	Labour and Employment Agency of BiH	0	75	66.66	25	50	60	45.61
14	Ministry of Security of BiH	40	75	0	12.5	50	60	44.74
15	State Investigation and Protection Agency	20	50	16.66	37.5	60	40	42.98
16	Ministry of Finance and Treasury of BiH	0	62.5	0	12.5	60	80	42.11
17	Civil Service Agency of BiH	0	12.5	83.33	25	80	60	41.23
17	Public Procurement Agency of BiH	0	62.5	83.33	12.5	50	60	41.23
17	Police Support Agency of BiH	0	75	33.33	25	60	20	41.23
17	Ministry of Foreign Trade and Economic Relations of BiH	0	87.5	0	12.5	46.67	60	41.23
18	Market Surveillance Agency of BiH	0	75	66.66	25	20	80	40.35
18	BiH Directorate of Economic Planning	0	62.5	16.66	12.5	60	60	40.35
19	Audit Office of the Institutions of BiH	0	50	0	12.5	70	60	39.47
19	Agency for Forensic and Expert Examinations	0	87.5	83.33	12.5	33.33	40	39.47
20	Central Bank of BiH	0	75	16.66	12.5	40	60	37.72
20	Commission for Concessions of BiH	0	87.5	16.66	0	50	40	37.72

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21	Agency for Pre-Primary, Primary and Secondary Education	20	25	66.66	25	36.67	80	36.84
21	Central Electoral Commission BiH	20	75	50	12.5	20	60	36.84
21	Intellectual Property Institute of BiH	40	50	50	0	40	60	36.84
21	Veterinary Office of BiH	0	62.5	0	0	50	80	36.84
22	Foreign Investment Promotion Agency BiH	0	50	50	12.5	36.67	80	35.96
23	Institution of the Human Rights Ombudsman of BiH	0	62.5	16.66	12.5	40	60	35.09
24	Centre for Information and Recognition of Qualifications in Higher Education	40	50	50	12.5	30	40	34.21
24	Council of Competition of BiH	0	50	0	12.5	40	80	34.21
25	Standardisation Institute of BiH	0	37.5	50	25	26.67	80	33.33
25	Anti-Doping Control Agency of BiH	0	50	83.33	12.5	30	60	33.33
26	Presidency of BiH	0	50	0	12.5	40	60	31.58
26	Commission to Preserve National Monuments of BiH	0	50	0	0	50	60	31.58
26	Ministry of Communications and Transport of BiH	40	62.5	0	12.5	30	20	31.58
26	Regulatory Agency for Communications of BiH	0	50	0	25	30	60	31.58
27	Border Police of BiH	0	25	16.66	0	50	80	29.82
28	Ministry of Civil Affairs of BiH	0	37.5	0	12.5	36.67	60	28.07
28	Mine Action Centre of BiH	0	25	50	25	36.67	40	28.07
29	Air Navigation Services Agency of BiH	0	50	33.33	12.5	36.67	20	27.19
29	State Electricity Regulatory Commission	0	0	16.66	25	50	60	27.19
29	Transmission of Electric Power Company in BiH	0	75	16.66	12.5	30	0	27.19
29	Deposit Insurance Agency of BiH	0	37.5	33.33	12.5	26.67	60	27.19
29	Insurance Agency of BiH	0	12.5	66.66	37.5	40	20	27.19
30	Ministry of Foreign Affairs of BiH	0	50	0	0	30	60	26.32
30	Administration of BiH for Plant Health Protection	0	37.5	0	12.5	30	60	26.32
31	Office for Harmonisation and Coordination of Payment Systems in Agriculture, Food and Rural Development of BiH (administrative organisation of MoFTER)	0	37.5	16.66	37.5	23.33	20	25.44
32	State Regulatory Agency for Radiation and Nuclear Safety	20	12.5	16.66	37.5	30	0	21.93
33	Institute for Accreditation of BiH	0	50	16.66	12.5	26.67	0	21.05
34	Agency for Postal Traffic of BiH	0	0	66.66	0	20	60	16.67
35	Institution of the Consumer Protection Ombudsman of BiH	0	0	16.66	12.5	16.67	60	15.79
35	Service for Common Affairs of the Institutions of BiH	0	50	0	12.5	10	0	15.79
36	The Return Fund of BiH	0	12.5	50	12.5	23.33	0	14.04
37	Export Credit Agency of BiH	0	0	16.66	12.5	36.67	0	13.16
37	Archive of BiH	0	0	50	25	20	0	13.16
37	State Commission of BiH for UNESCO	0	0	50	12.5	30	0	13.16
38	Commission for Coordination of Youth Issues in BiH (MCA)	0	0	50	0	36.67	0	12.28
39	Institute of Metrology of BiH	0	12.5	16.66	12.5	20	0	11.40
39	Intelligence-Security Agency of BiH	0	12.5	0	0	23.33	20	11.40
39	Agency for Education and Professional Training	0	25	50	0	13.33	0	11.40
40	Agency for Gender Equality of BiH	0	0	66.66	0	3.33	0	4.39

ANNEX 1 – METHODOLOGY

Sample

As step one in choosing the sample we used a list of executive and legislative institutions based on the Ministry of Finance and Treasury's disbursement list broken down by institution. In addition to that, we included additional institutions that are not on the Ministry's disbursement list, such as the Central Bank of BiH. Of the 76 chosen institutions, six did not have a website, and the websites of two institutions were inaccessible during our research. Thus the final sample comprises 68 institutions.

Data collection and analysis

Information and document availability checks on the institutions' websites were conducted by independent coders. In order to reduce the margin of error in the coding process, the following methodological steps were taken:

- Before the search, the coders were provided with a guide containing detailed descriptions and examples of desired documents.
- Training on the research process was conducted.
- A guide was created, containing detailed descriptions of desired documents.
- The coding was conducted in two rounds (i.e. twice), for all institutions:
 - The first round of coding was conducted by two independent coders.
 - The second round was conducted by four different coders, who re-coded the websites of all the institutions.
 - In the second round of coding, the coders conducted so-called double coding for eight institutions, whereby coder A re-codes the website of an institution which coder B had searched the day before, without either one of them knowing that the website had already been coded. The purpose of double coding was continually to test for differences in the interpretations of different coders, correct potential errors and increase the reliability of the coders' work.
- Three coders made final checks for incongruities between the two rounds and resolved the discrepancies before the end of the analysis.

This approach made it possible to correct a large number of errors and ensured that the final results yielded as accurate a picture of the level of transparency of public institutions as possible.

Interpretation and evaluation of transparency

The scoring principle is very simple: each of the 38 types of information defined in the Standards of Proactive Transparency brings 100% if it is available, 0% if it is not available. Based on the availability of the 38 types of information we calculated the average degree of proactive transparency for each of the six categories of information (budget information, public procurement information, strategic documents, operational information, organisational information and information on FOI), as well as for the institution as a whole.

Certain more general types of information had to be broken down into several specific, quantifiable sub-types. Thus under 'Strategic documents' (not closely defined in the Standards) we included the presence of a strategic development plan, sectoral strategy and communications strategy.

We also applied a modified scoring system in cases where there is gradation of complexity of published information, as defined in the Standards. Thus, for instance, if there are three types of documents reflecting three levels of transparency (basic, intermediate and advanced) and if the institution in question has published the advanced form of the document, this means it has also published the basic and the intermediate form, seeing that the advanced document contains the information from the lower transparency level documents. In such cases the institution would get 100% for the lower transparency level information as well.

Methodological limitations

- An important limitation was the mismatching of the names of documents on analysed websites, whereby the institutions deviated from the standard terminology used in the relevant law, which made the identification and recording of documents difficult.
- Another important problem was impractical and badly laid out websites, which also made the analysis more difficult.
- This research is based on the assumption that the institutions possess each of the 38 types of information, and that they could have published all of them if they wanted. However, it is theoretically possible that some institutions did not conduct public procurement, public consultations or technical assistance projects during the observation period. In such cases, the institution in question would receive a 0% rating for failure to publish such information, which would affect its proactive transparency score. This rating is inadequate, seeing that the information in question could not have possibly been published, because it did not exist. Addressing this methodological problem was not possible considering the nature of the website content analysis, as it would require the application of other research methods which would go beyond the scope of this research. However, tests conducted on the gathered data have shown that excluding such information did not significantly affect the total ranking and proactive transparency rating, thus it was kept in the final overview and result analysis.

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Hamdije Kreševljakovića 50, 71000 Sarajevo, Bosnia and Herzegovina
info@analitika.ba
www.analitika.ba