

PUBLIC INSTITUTIONS AND THE INTERNET: POLICIES AND PRACTICE IN BOSNIA AND HERZEGOVINA

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Freedom of Access to Information Laws in Bosnia and Herzegovina do not contain provisions on the publishing of public information online, which impedes the development of proactive transparency of public institutions. Moreover, different sector laws and special policies, as well as guidelines and recommendations that pertain to the maintenance of websites of public institutions, partially oblige public bodies to publish certain types of information on the Internet. Such a fragmented legal framework for online information disclosure leads to uneven and undeveloped practice of web presence and transparency of public institutions in BiH. It is of key importance to improve the existing Freedom of Access to Information Laws by introducing provisions on mandatory proactive disclosure of a wide spectrum of information on the websites of public institutions, and operationalize such disclosure further in bylaws on the development and maintenance of official websites.

EXECUTIVE SUMMARY

1. INTRODUCTION

Thanks to the fast development of information and communication technology (ICT) and the wider use of the internet, public institutions' websites are becoming central points of access to information about their activities and services. Recognizing this trend, that is, the demands and the potential of new media, many state governments are enabling the provision of a growing number of services via the internet (e-government), improving transparency (e-transparency) and endeavoring to actively include the public in the processes of creating public policies through online consultations (e-participation). Consequently, public institutions in many states are increasingly publishing on their websites information and a range of data of public importance they hold.

The website www.gov.uk, for instance, currently consolidates information and services of 24 ministerial departments and more than 330 other agencies and public bodies of the United Kingdom, with the aim of being the

central point of access to information and providing government services. The website www.data.gov.uk complements the aforementioned website. Here the public sector publishes data of public importance so that citizens can use it not just for basic information gathering, but also for data processing, as well as creating applications for data analysis. Among the options for accessing information offered by www.data.gov.uk, we can select the interactive view of public officials' salaries,¹ as well as an updated report on spending of all institutions of central government,² which are obliged to file monthly reports on their expenditure. Similarly, the United States website www.data.gov currently offers more than 130.000 sets of government-held data which can be searched by keyword or topic. Besides improving its openness and transparency, the government also aims to encourage an innovative use of data, such as software applications, visualization and data mapping. The Republic of Croatia has also undertaken decisive steps with view of creating a central state website,

¹ See the central website for government information in the United Kingdom: <http://data.gov.uk/organogram/cabinet-office> (Accessed on October 21, 2014).

² See the central website for government information in the United Kingdom: <http://data.gov.uk/data/openspending-report/> (Accessed on October 21, 2014).

www.gov.hr, with the aim of systematization and an easier access to information held by executive government at all levels. The Republic of Slovenia has implemented a similar solution of a single point of access to information of public importance at www.gov.si.

In accordance with these trends, even the concept of freedom of access to information has greatly changed in past years, moving from a passive access to information based on individual citizens' requests towards proactive disclosure of information initiated by public institutions themselves.³ So, for instance, the relevant laws in Montenegro, Croatia, Macedonia and Slovenia prescribe the minimum content which must be published on public institutions' websites, while in Serbia, a bylaw – the Instruction for the Creation and Publication of the Information Booklet on Public Authority Work⁴ – regulates such content. In Montenegro, besides the guide to accessing information, which each public body is obliged to publish and regularly update, the law additionally prescribes a centralized information system of access to information, managed by an independent body responsible for access – the Agency for Personal Data Protection and Free Access to Information.⁵ The law in Croatia prescribes the Central Catalogue of Official Documents of the Republic of Croatia, which is not managed by an independent body (Information commissioner) but the Digital Information Documentation Office.⁶ In Slovenia, the law prescribes the State Catalogue of Information of Public Importance, managed by the relevant government department.⁷ Hence, some form of a central infor-

mation register is prescribed in the Montenegrin, Croatian and Slovenian law, and the law defines the content of the central register, at least in main points, in Montenegro and Croatia⁸. In Serbia, proactive information disclosure is based on an information booklet with all key information on a public body's work, which is compiled at least once a year. The aforementioned Instruction prescribes that a state authority that possesses, leases or otherwise uses a website is also obliged to publish an information booklet on that website.⁹

Such practice gradually establishes general standards for the disclosure of information held by public institutions, by which public institutions should, *inter alia*, proactively disclose institutional, operational and organizational information, decisions and other formal acts, information on public services, budget and expenditure, decision-making processes, information on databases, publications, information on appeal processes and dispute-solving mechanisms and the like.¹⁰ Besides, websites should be functional, that is, information published on them should be easily accessible and searchable, relevant, complete, free or inexpensive, up to date¹¹ and also accessible to people with disabilities. Finally, in order to meet democratic demands for the participation of citizens in decision-making and direct communication with public institutions and government representatives, institution websites should ensure a two-way, interactive communication between government and citizens as a precondition of e-participation. Various tools and platforms are used for that purpose: social media (Facebook, Twitter, Flickr); blogs; digital video;¹²

³ For more on proactive transparency, see Alen Rajko, *Proaktivna transparentnost u Bosni i Hercegovini: Stanje i perspektive u svjetlu međunarodnih standarda i komparativnih rješenja* [Proactive Transparency in Bosnia and Herzegovina: Status and Perspectives in Light of International Standards and Comparative Solutions], (Sarajevo: Analitika – Center for Social Research, 2014).

⁴ *Ibid*, p. 27.

⁵ *Ibid*, p. 27.

⁶ *Ibid*, p. 27.

⁷ *Ibid*, p. 27.

⁸ *Ibid*, p. 29.

⁹ *Ibid*, p. 27.

¹⁰ See: Nermina Voloder, *Zanemareni standard u Bosni i Hercegovini: Proaktivna dimenzija prava na pristup informacijama* [A Neglected Standard in BiH: The Proactive Dimension of the Right to Access Information], *Policy Brief* (Sarajevo: Analitika – Center for Social Research, 2014); Also see: Analitika – Center for Social Research, *Proaktivna transparentnost u Bosni i Hercegovini: Od kakofonije ka harmonizaciji* [Proactive Transparency in Bosnia and Herzegovina: From Cacophony towards Harmonization], *Policy memo* (Sarajevo: Analitika – Center for Social Research, 2014).

¹¹ Helen Darbishire, *Proactive Transparency: The Future of the Right to Information? - A Review of Standards, Challenges and Opportunities* (Washington: World Bank Institute, 2011), p. 1.

¹² For example, the homepage of the Government of Scotland website, <http://www.scotland.gov.uk>, dominantly features video content that covers current topics.

webcasting;¹³ mobile applications;¹⁴ crowd-sourcing;¹⁵ SMS; users' questions and comments; tools for online participation in public discussions;¹⁶ online polls, petitions¹⁷ and forums.¹⁸

However, although there is a growing trend of internet users in Bosnia and Herzegovina (BiH),¹⁹ policy and practice of public institutions' web presence only partially corresponds to aforementioned international standards and trends, which negatively impacts the overall transparency and openness of public institutions. Hence this policy brief aims to offer a short review and analysis of public policies and practice in this domain, and give recommendations for the improvement of the web presence of public bodies in BiH. The policy brief primarily deals with public bodies at the levels of BiH, Federation of BiH (FBiH) and Republika Srpska (RS), while other levels of government are not covered by this analysis.

2. WEB PRESENCE POLICIES OF PUBLIC BODIES IN BIH

Public policies in the area of web presence of public bodies in BiH are mostly inadequate, incomplete and fragmented. Strategic documents that should guide the development of the sector of information and communi-

cations technology, as well as e-government and e-democracy, are outdated and do not correspond to current trends and practice in this area, while relevant legal provisions and bylaws are mostly undeveloped and do not oblige institutions to a complete opening towards citizens.

2.1 Strategic Documents

With regard to strategic documents, the Policy of Information Society Development in Bosnia and Herzegovina,²⁰ as the framework document for the state and entity level, which, *inter alia*, foresees the development of e-government and e-democracy through creating conditions for the participation of citizens in decision-making, dates back to 2004 and has not been revised or harmonized with current trends and standards. The Strategy of Information Society Development in Bosnia and Herzegovina²¹ and the Action Plan of Information Society Development in Bosnia and Herzegovina were adopted in 2004 for the period 2004-2010. These documents foresee activities aimed at the development of e-government and the establishment of a single web portal of public authorities. The strategy also foresees the development of e-democracy through e-participation and e-voting. However, after the expiration of the period pertaining to these policies, new documents in this area have not been adopted in BiH.

¹³ For example, the Parliamentary Assembly of BiH offers live streaming of all its sessions on the website www.parlament.ba.

¹⁴ Many examples of mobile applications aimed at citizens are available on the central website for government data in the United Kingdom at <http://data.gov.uk/apps>.

¹⁵ An example of user-generated content is the case of the administrative unit of Lewisham in the United Kingdom, whose citizens can report a range of problems in the community on its website <http://www.lewisham.gov.uk>.

¹⁶ The website gov.uk of the United Kingdom publishes all public consultations in a simple and clear manner, announcing the beginning of the consultation, publishing the consultation itself and reports on completed consultations.

¹⁷ The Government of Montenegro started the website "Glas građana - E-peticije" [The People's Voice – E-petitions], <https://epeticije.gov.me/>, where citizens can file petitions relating to an aspect of the Government's work and vote for them. The petition which gains the support of at least 6.000 citizens within 60 days is submitted to Government for review.

¹⁸ See, for example, the website of the Government of the Republic of Slovenia, <http://predlagam.vladi.si/>, where public officials from different government departments reply to citizens' initiatives and suggestions.

¹⁹ In 2013, there was a 60% penetration of fixed network internet users. Regulatory Agency for Communications of BiH, Telekomunikacijski pokazatelji Bosne i Hercegovine za 2013. godinu [Telecommunications Indicators of Bosnia and Herzegovina for 2013], (Regulatory Agency for Communications of BiH, 2014). In 2013, there was a 40 % rise in internet users compared with 2012, and such a significant rise is the result of incorporating into the analysis mobile network internet users - see B92 website, http://www.b92.net/tehnopolis/vesti.php?yyyy=2014&mm=07&nav_id=879139 (Accessed on October 22, 2014).

²⁰ See: Council of Ministers of Bosnia and Herzegovina, Politika razvoja informacionog društva Bosne i Hercegovine [Policy of Information Society Development in Bosnia and Herzegovina], adopted at the second meeting of the advisory board on June 22, 2004 (Council of Ministers of BiH, 2004).

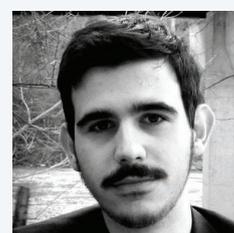
²¹ See: Council of Ministers of Bosnia and Herzegovina, Strategija razvoja informacionog društva Bosne i Hercegovine [Strategy of Information Society Development in Bosnia and Herzegovina], adopted at the 69th session of the Council of Ministers of BiH held on November 16, 2004 (Council of Ministers of BiH, 2004).



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The last available version of the E-government Development Strategy of Republika Srpska²² of 2008 (for the period 2009-2012), *inter alia*, aims for better and faster service provision by administrative bodies to citizens, as well as ensuring an easy access to public data. This document names the Agency for Information Society of Republika Srpska www.aidrs.org, in cooperation with a range of other stakeholders, as the main body responsible for establishing e-government. The strategy, *inter alia*, stipulates the development of a web portal for easy access to information on services of entity and local-level administrative bodies, which has been launched at the address www.esrpska.com (in the first phase, the web portal offers only service information, while it is expected that it will offer specific services in the future).

Finally, at the level of the Federation of BiH, there are no strategic documents nor other policies aimed at the development of an information society and the establishment of a basic institutional management framework in that area. Yet, the Decision of the Government of FBiH on e-government of August 2011,²³ as well as the justification of the decision, define the basic elements of future e-government infrastructure. The Postal, Telecommunications and ICT Sector of the Federal Ministry of Transport and Communications is responsible for such activities. However, there is no individual managing institution for the development of an information society, nor are there laws or bylaws which cover the existence of public bodies of this entity on the web.

2.2 Freedom of Access to Information Law and Proactive Transparency

Unlike in neighboring states, the Law on the Freedom of Access to Information in BiH²⁴

and the corresponding entity-level laws do not prescribe mandatory proactive disclosure of information on public institutions' websites.²⁵ All three laws only prescribe that the guide on access to information and the indexed register of information that are under the public body's control, be made available on the internet "where practicable to do so,"²⁶ which can be interpreted so that this information should be published by each public institution that has a website. It is to be expected that such a formulation exists in the law adopted in 2000, when many institutions did not have their website. However, the fact that references to information disclosure on the internet have remained the same in these laws even fifteen years later shows that changes in law have not accompanied the development of information and communications technology in that period. That then leads to the paradoxical situation where basic laws guaranteeing freedom of access to information neglect the internet as the most important tool for information access today.

2.3 Sector Laws and Other Policies

Certain sector laws at state and entity level prescribe standards and obligations of disclosing information and documents on the internet. So, for instance, the Law on Public Procurement of BiH²⁷ prescribes the disclosure of all relevant information and documents regarding public procurement (such as notices on public procurement and granting of contracts, appeal decisions and the like) on the public procurement portal <http://javnenabavke.ba>, while the procurement plan, basic elements of contracts and all changes made during the realization of the contract are to be published on the websites of contracted stakeholders. Also, audit laws at state and entity level prescribe the disclosure of

²² See the website of the Agency for Information Society of Republika Srpska (Agencija za informaciono društvo Republike Srpske - AIDRS): <http://www.aidrs.org/sr/download-zona/strateski-dokumenti/> (Accessed on October 23, 2014).

²³ Government of Federation of BiH, Odluka o pokretanju projekta Fe-uprava sa funkcijama G2G, G2B i G2C [Decision on Launching the Fe-Government Project with G2G, G2B and G2C Functions], decision adopted at 16th government session held on August 24, 2011 (Government of the Federation of BiH, 2011).

²⁴ "Zakon o slobodi pristupa informacijama u Bosni i Hercegovini" [Law on Freedom of Access to Information in BiH], *Official Gazette of BiH* 28/00, 45/06, 102/09, 62/11 and 100/13.

²⁵ Rajko, *Proactive Transparency in Bosnia and Herzegovina: Status and Perspectives in Light of International Standards and Comparative Solutions*, pp. 35-36.

²⁶ "Law on Freedom of Access to Information in Bosnia and Herzegovina," Article 20; "Zakon o slobodi pristupa informacijama Federacije BiH" [Law on Freedom of Access to Information in Federation of BiH], *Official Gazette of Federation of BiH* 32/01, Article 20; "Zakon o slobodi pristupa informacijama Republike Srpske" [Law on Freedom of Access to Information in the Republika Srpska], *Official Gazette of Republika Srpska* 20/01, Article 20.

²⁷ "Zakon o javnim nabavkama Bosne i Hercegovine" [Law on Public Procurement in BiH], *Official Gazette of BiH* 39/14.

audit reports on the websites of audit bodies. In addition, according to the 2013 Law on Budgets in FBiH, documents which should be published on the official website of the Federal Ministry of Finance, but also the relevant executive bodies at lower levels of government (cantons, cities, municipalities) are: economic and fiscal policy guidelines over a three-year period²⁸, the budget framework paper²⁹ as well as periodical and annual reports on budget execution³⁰. Finally, the legal framework for the participation of the interested public in the process of public policy-making at the levels of BiH³¹, FBiH³² and RS³³ defines the obligations of a relevant institution to disclose the initial draft a legal act on its website, while allowing for the submission of comments on the initial draft of the legal act on the internet during the consultation process. In addition, at the levels of BiH and FBiH, government institutions are due to publish their annual work plan on their websites, which includes a plan of normative and legal activities.³⁴

This is a partial review of the provisions of only a few of a large number of sector laws at different levels of government in BiH, but it provides at least an idea of the diversity of existing solutions and obligations of public

institutions to proactively disclose information and data in their possession on the web. However, even on the basis of such a limited view of provisions of sector laws and other public policies, we can conclude that the obligation of proactive disclosure of much important information on the web does exist, although it is very fragmented. It is thus very difficult to follow the extent to which public institutions are fulfilling such obligations, especially bearing in mind the complexity of the state's administrative setup, the number of institutions and variety of sector laws.

2.4 Specific Rules and Recommendations

In terms of relevant bylaws, two documents offer instructions on the web presence of public institutions in BiH: The Guidelines on the Development and Maintenance of Official Websites of the Institutions of BiH (2009),³⁵ which are binding and the new version of which³⁶ is in draft form, awaiting adoption after public consultations,³⁷ and the non-binding Recommendations for the Development and Maintenance of the Web Presentations of the Institutions of Republika Srpska (2013, version 1.3), published by AIDRS.³⁸ These guidelines and recommendations give important instructions with respect to the

²⁸ "Zakon o budžetima Federacije Bosne i Hercegovine" [Law on Budgets in the Federation of BiH], *Official Gazette of Federation of BiH* 102/13, Article 17.

²⁹ *Ibid*, Article 18.

³⁰ *Ibid*, Article 100.

³¹ Rules for Consultation in Legislative Drafting, a decision of the Council of Ministers of BiH of September 7, 2006 ("Pravila za konsultacije u izradi pravnih propisa," *Official Gazette of BiH* 81/06). At its 108th session, held on September 17, 2014, the Council of Ministers adopted the Rules on the Changes and Amendments to the Rules for Consultation in Legislative Drafting ("Pravila o izmjenama i dopunama Pravila za konsultacije u izradi pravnih propisa," *Official Gazette of BiH* 80/14), which stipulate that *online* consultation is the primary form of consultation. In addition, consultation becomes mandatory, as a legal provision not subject to consultation cannot be tabled at the session of the Council of Ministers of BiH unless it is an exemption prescribed by the Rules.

³² "Uredba o pravilima za sudjelovanje zainteresirane javnosti u postupku pripreme federalnih pravnih propisa i drugih akata" [Decision on the Rules for Participation of the Interested Public in the Preparation of Federal Legal Provisions and Other Acts], *Official Gazette of Federation of BiH* 51/12.

³³ "Pravila normativno-pravne tehnike za izradu zakona i drugih propisa Republike Srpske" [Normative and Legal Rules for the Drafting of Laws and Other Provisions of Republika Srpska], *Official Gazette of Republika Srpska* 13/06; "Pravila za izradu zakona i drugih propisa Republike Srpske" iz 2014 [Rules on the Drafting of Laws and Other Provisions of Republika Srpska 2014], *Official Gazette of Republika Srpska* 24/14; "Smjernice za postupanje republičkih organa uprave o učešću javnosti i konsultacijama u izradi zakona" [Guidelines for Republic Administrative Bodies on Public Participation and Consultation in Legislative Drafting], *Official Gazette of Republika Srpska* 123/08 and 73/12.

³⁴ "Rules for Consultation in Legislative Drafting," Article 5; "Decision on the Rules for Participation of the Interested Public in the Preparation of Federal Legal Provisions and Other Acts," Article 8.

³⁵ "Uputstvo o izradi i održavanju službenih internet stranica institucija Bosne i Hercegovine" [Guidelines on the Development and Maintenance of Official Websites of the Institutions of Bosnia and Herzegovina], *Official Gazette of BiH* 21/09.

³⁶ For the purposes of this analysis, the draft document was obtained from the Ministry of Communications and Transport of BiH, available in Analitika archives.

³⁷ Comments and proposals pertaining to this document could be given until December 2, 2013.

³⁸ Agency for Information Society of Republika Srpska, Preporuke za izradu i održavanje web prezentacija institucija Republike Srpske, Verzija 1.3 [Recommendations for the Development and Maintenance of the Web Presentations of the Institutions of Republika Srpska, Version 1.3], (Banja Luka: Agency for Information Society of Republika Srpska, 2013).

appearance and functionality of websites, but lack information with respect to interactivity as one of the more important aspects of the modern web presence of public institutions. In addition, the spectrum of information whose disclosure is prescribed as mandatory is significantly narrower than international standards in the area of proactive disclosure. Unlike at the BiH and RS level, there are no such documents in FBiH.

The draft of the new version of the Guidelines at the BiH level, in comparison to the existing Guidelines, defines provisions on minimum content that institutions are obliged to publish on their websites in more detail. However, these requests fall under just a few categories: Institutional information (responsibilities, obligations and competences, organizational structure), documents (acts that the institution adopts or are related to its activities,

Table 2.1.: Content Standards for Websites of Public Institutions³⁹

	BiH – existing Guidelines (2009)	BiH – new draft Guidelines (awaiting adoption)	RS – existing Recommendations (2013)
Institutional information			
Laws, bylaws and rules	YES	YES	YES
Positions and powers	YES	YES	YES
Organizational information			
Institutional structure	YES	YES	YES
Institutional personnel	-	YES	-
Contact details	YES	YES	YES
Operational information			
Work plans	-	-	-
Policies	-	-	-
Procedures	YES	-	-
Reports	-	YES (recommended)	YES
News on institution's activities	YES	YES	YES
Public services			
Information on public services	YES	YES	YES
Price lists	-	YES	-
Forms	YES	YES	YES
Guidelines / instructions	YES	YES	YES
Deadlines	-	YES	-
Budget and finance			
Budget information	-	-	YES
Income and expenditure	-	-	YES
Information on officials' salaries	-	-	-
Auditors' reports	-	-	-
Information on public procurement			
Tender criteria and decisions	YES	YES	YES
Copies of contracts	-	-	-
Contract execution reports	-	-	-
Other content			
Information on public participation	-	YES (recommended)	YES (recommended)
Information on subsidies and donations	-	-	-
Decisions and formal acts	-	-	-
Information on appeal procedures	-	-	YES (recommended)
Data registers held by the institution	-	-	-
Databases held by the institution	-	YES	YES
Publication information and electronic publications	YES	YES (recommended)	-
Information on the right to access information, contact details for filing requests and index of information held by the public institution	-	-	-

³⁹ Standards based on: Darbshire, *Proactive Transparency*.

rulebook on the systematization of working positions, public procurement), contact details, news, updates and links. Nevertheless, it may be considered an important development that this document recommends to institutions to designate a space for public consultation on their websites, as well as ensure access to databases of public interest in their sector. As well, the document contains a chapter on online services of institutions, which details the types of information that need to be offered on each service. It also stipulates that it is necessary to allow citizens online access to public institutions' forms.

In the Recommendations at RS level,⁴⁰ the following three categories of content that institutional websites should offer are listed: contact details, information on services and activities and the legal and organizational framework (with detailed content sub-categories). In addition, eight recommended categories of information are listed: information on a) budget and means the institution uses, b) projects it is undertaking, c) public consultation processes, d) filing requests to the institution, or e) the process of appealing the institutions' decisions, activities or omissions, f) tenders and public procurement, g) data of public importance (databases managed by the institutions) and h) links to the websites of important institutions. Table 2.1 shows to what extent the Guidelines at the level of BiH and Recommendations at the level of RS correspond to accepted standards in terms of content which should be published on the websites of public institutions.

When it comes to functionality standards, one can conclude that they are prescribed in a rather detailed manner in the existing BiH Guidelines and RS Recommendations. The BiH Guidelines, for instance, define, *inter alia*, detailed advanced search criteria, prescribe the introduction of online help and a website map, define the languages and script in which websites must be available, as well as techni-

cal standards, such as: website management, visual identity, clarity of web content, device accessibility and website performance. In the section covering web accessibility, this document devotes attention to the needs of users with disabilities and generally, standards of universal accessibility to all persons.

The RS Recommendations emphasize the need and importance of optimization of websites for search engines, but they do not offer guidelines for doing so. Besides general guidelines on website functionality, this document gives guidelines for the development of intuitive and simple navigation, recommends the development of the website in accordance with the World Wide Web Consortium (W3C)⁴¹ recommendations, defines a range of functionalities which should be contained in the Content Management System, while giving special attention to the development of documents, forms and tables. More specifically, regarding accessibility criteria, this document briefly refers to information featured on the W3 consortium website.⁴² Table 2.2. shows to what extent the existing BiH Guidelines and RS Recommendations correspond to existing standards in the domain of functionality of websites.

The interactivity aspect of websites, defined here as the existence of tools for establishing two-way communication between public bodies and citizens, is barely mentioned in the existing Guidelines at the BiH level, while it is only broadly suggested in the Recommendations at the RS level. The latter refers to the importance of two-way communication between users and institutions in the context of electronic service provision,⁴³ while in relation to other means of interactivity it is stated that it is desirable to "enable the possibility of two-way communication, so that users can ask questions and give their opinion, for instance through forums, online submission of questions, Frequently Asked Questions (FAQ) or 'online surveys.'"⁴⁴ The

⁴⁰ Ibid, p. 5.

⁴¹ World Wide Web Consortium (W3C), the global body that defines internet standards. See the website of W3C, <http://www.w3.org>.

⁴² Detailed guidelines for website optimization in terms of accessibility, including accessibility to persons with special needs, are featured on the W3C website, <http://www.w3.org/TR/WCAG20/> (Accessed on October 18, 2014).

⁴³ Agency for Information Society of Republika Srpska, Recommendations for the Development and Maintenance of Web Presentations of Institutions of Republika Srpska, p. 5.

⁴⁴ Ibid, p. 16.

Table 2.2: Functionality standards for public institutions' websites⁴⁵

	BiH – existing Guidelines (2009)	BiH – new draft Guidelines (awaiting adoption)	RS – existing Recommendations (2013)
Page loading speed	YES	YES	YES
Page display in most common browsers	YES	YES	YES
Page display on mobile devices	YES	YES	-
Posting documents in various formats	YES	YES	YES
Search and advanced search	YES	YES	YES
E-accessibility ⁴⁶	YES	YES	YES
Regularly updated information	YES	YES	YES
Usability ⁴⁷	YES	YES	YES
Additional functionality elements: ⁴⁸			
• Frequently asked questions	YES	-	YES (recommended)
• online support	YES	YES	-
• links to websites of other institutions, local and international organizations	-	YES (recommended)	YES (recommended)
• website map	YES	YES	-
• copyright	YES	YES (recommended)	YES
• conditions of use	YES	-	YES
• privacy policy	-	-	YES
• date of last website modification	YES	-	-

new draft Guidelines at the BiH level have gone the furthest in terms of defining interactivity: They recommend sharing content on social media and giving users the option to comment on the text content in the interest of better communication with citizens, as well as offering all categories of texts, especially those changed more often, for download using Really Simple Syndication (RSS) feeds⁴⁹. Table 2.3 shows to what extent the existing BiH Guidelines and RS Recommendations correspond to the established and widely available web tools for two-way online communication between public bodies and citizens and to what extent they allow citizen participation in decision-making.

3. WEB PRESENCE OF PUBLIC INSTITUTIONS IN BIH IN PRACTICE

Public institutions's web presence depends on a range of factors, such as the legal framework and policies, institutional capacities, internal organization and division of tasks, as well as the technical readiness of staff. In that sense, an inadequate legal framework and incomplete policies contribute to very unequal practices of BiH public institutions' web presence, and their lagging behind neighboring and other states in this area in many respects. Therefore, it is not surprising that, according to the UN E-Government Survey of 2014, BiH is ranked 97th of 193 UN

⁴⁵ Based on W3C standards, <http://www.w3.org>.

⁴⁶ E-accessibility pertains to accessibility of website content and services to all persons, including those with special needs, such as persons with impaired vision or the elderly. E-accessibility is considered a key precondition of e-inclusion. Detailed guidelines for page optimization in terms of accessibility, including that for persons with special needs, are featured on the W3C consortium website: <http://www.w3.org/TR/WCAG20/> (Accessed on October 18, 2014). Also see, for example, Directorate for e-Government, Ministry of State Administration and Local Self-Government of the Republic of Serbia, Smernice za izradu web prezentacija organa državne uprave i jedinica lokalne samouprave, Verzija 5.0 [Guidelines for Website Development for State and Local Administration Bodies, Version 5.0], (Ministry of State Administration and Local Self-Government of the Republic of Serbia, 2014), p. 29.

⁴⁷ Implies the ease of use of the website and in finding wanted information.

⁴⁸ By additional functionality elements, we refer to standard tools that make website use easier.

⁴⁹ Ministry of Transport and Communications of Bosnia and Herzegovina, Prednacrt Odluke o usvajanju Uputstva o izradi i održavanju službenih internet stranica institucija Bosne i Hercegovine [Initial Draft Decision on the Adoption of Guidelines on Development and Maintenance of Official Websites of Institutions of BiH], (Sarajevo: Ministry of Transport and Communications of Bosnia and Herzegovina, 2013).

Table 2.3.: Web tools for two-way communication and online participation of citizens in decision-making

	BiH - existing Guidelines (2009)	BiH - new draft Guidelines (awaiting adoption)	RS - existing Recommendations (2013)
Sharing content on social media (Facebook, Twitter, Google+, Flickr, LinkedIn, etc.)	-	YES	-
Blogs	-	-	-
Digital video	YES	YES	-
Webcasting	-	-	-
Mobile applications	-	-	-
Crowdsourcing	-	-	-
SMS	-	YES	-
Users' questions	YES	-	YES
Users' comments on content	-	YES	-
Tools for online participation in public consultations	-	YES	-
Online surveys, petitions	-	-	YES
Forums	-	-	YES
RSS feeds	-	YES	-

member states and is last among former Yugoslav states (by comparison, Slovenia is 41st, Montenegro 45th and Croatia 47th).⁵⁰

These results correspond to the findings of different research on the web presence of public institutions in BiH. So, for instance, when it comes to content, results of Analitika's 2014 research conducted on a sample of 66 websites of public bodies at state level in BiH⁵¹ show that public bodies mostly do not follow international practice and standards in publishing information of public importance on their official websites. They also show a worrying lack of transparency about budget and operational information, and partly information about the organizational structure of institutions.

Similarly, research conducted the same year by the Centers for Civic Initiatives (CCI) on a sample of 13 government and 13 parliament websites⁵² led to the conclusion that there are important differences in the level of de-

velopment reached by the analyzed websites. The results show that only three governments (RS Government and governments of Posavina and Zenica-Doboj cantons) foresee in their rules of procedure the disclosure of data on their work on their official websites. As well, only one government (Zenica-Doboj canton) and five parliaments had made measures discussed at official sessions available on their websites, while 15% of governments and 39% of parliaments published session minutes. A report on budget execution for 2010-2012 was not published by any parliament, and more than half the governments in BiH also failed to do so.

Finally, according to research conducted by the RS Agency for Information Society in 2014,⁵³ which covered the websites of 56 local governments (cities and municipalities) in Republika Srpska, only 10 websites fulfilled all set criteria of content and functionality. The research concludes that "there are significant differences in the reached level of

⁵⁰ United Nations, *United Nations E-Government Survey 2014* (New York: United Nations, 2014).

⁵¹ Analitika – Center for Social Research, *Rezultati istraživanja: Dostupnost informacija na službenim web-prezentacijama javnih organa Bosne i Hercegovine* [Research Results: Availability of Information on Official Websites of Public Bodies in Bosnia and Herzegovina], (Sarajevo: Analitika – Center for Social Research, 2014).

⁵² Centers for Civic Initiatives (CCI), *Javnost rada vlada i parlamenata u BiH: službene web stranice institucija kao efikasan alat za pružanje informacija* [Transparency of Work of Governments and Parliaments in BiH: Official Websites of Institutions as an Efficient Tool of Information Provision], (Tuzla: CCI, 2014).

⁵³ Agency for Information Society of Republika Srpska, *Pregled web prezentacija lokalne uprave Republike Srpske* [Review of Local Administration Websites in Republika Srpska], (Agency for Information Society of Republika Srpska, 2014).

website development”.⁵⁴ The research also finds a lack of mechanisms for improving communication between local administration and users.

Although they lag behind world trends in most cases, certain institutions of government in BiH are making the first steps towards the standardization of official websites and centralization of access through a single portal. Hence, at the BiH level, the structure and visual identity of websites of the Council of Ministers of BiH⁵⁵ and some government departments⁵⁶ are streamlined, while the website of the Government of Republika Srpska has become a central point of access to this entity’s ministerial websites, which have been created using the same template, but also the websites of other public bodies in the RS which have kept their own visual identity and organization of content.⁵⁷

Besides governments and ministries, there are other institutions that, as part of their mandate, collect and publish on the web certain information of public importance. So, for instance, notices of all public procurement in BiH are centralized and searchable on the website www.tenderi.gov.ba. A register of contracting authorities and bidders is available on the website <https://registar.ajn.gov.ba>, the aim of which is to enable a better and more efficient presentation and communication of contracting authorities and bidders in the public procurement process. The Audit Office of the Institutions of Bosnia and Herzegovina <http://revizija.gov.ba> offers all audit reports, searchable by several parameters. The Council of Competition of Bosnia and Herzegovina <http://bihkonk.gov.ba/naslovnica> publishes all acts (conclusions, opinions, decisions) regarding concentration, forbidden agreements and abuse of dominant position. Similarly, the Agency for Identification Documents, Registers and Data Exchange of Bosnia and Herzegovina

(IDDEEA) publishes information and data on issuing identity cards and drivers’ licenses, registered vehicles and lost identification documents on its website <http://www.id-deea.gov.ba/index.php?lang=bs>.

An interesting example in the area of functionality is the website of the Parliamentary Assembly of BiH www.parlament.ba, which, *inter alia*, offers live streaming of all its sessions on the front page. When it comes to interactivity, a project worth noting is a tool for anonymous reporting of irregularities, known as the Ethics line <https://etickalinja.ba>, which has been integrated into some public bodies’ websites in BiH, such as the Ministry of Defense of BiH and the Ministry of Security of BiH. A similar tool for reporting suspicion of corruption and other irregularities is available at the website of the Government of RS⁵⁸ for ministries and some other bodies.

4. FINAL OBSERVATIONS AND RECOMMENDATIONS

Freedom of access to information laws at the BiH, RS and FBiH level do not follow modern trends and do not offer guidelines on proactive information disclosure on the web, which prevents the development of proactive transparency of public institutions. This results in a fragmented legal framework on the web presence and proactive transparency of public institutions in BiH, particularly with regard to mandatory information, documents and data that they are obliged to publish on the Internet. All this leads to a very low level of development and unequal practices of web presence and transparency of public institutions in BiH.

In that sense, it is of key importance to improve existing freedom of access to

⁵⁴ *Ibid.*

⁵⁵ See the Council of Ministers website: <http://www.vijeceministara.gov.ba/>.

⁵⁶ See the websites of Ministry of Security of BiH, <http://www.msb.gov.ba/>, or Ministry of Justice of BiH, <http://www.mpr.gov.ba/>.

⁵⁷ See the Republika Srpska Government website at <http://www.vladars.net>.

⁵⁸ See the website of the Government of Republika Srpska: <http://apk.vladars.net/index.php?institucija=18>.

information laws by adding clauses on mandatory proactive transparency of public institutions,⁵⁹ which would strongly aid the development of public bodies' transparency as a whole, including their web presence. This would also ensure policy consistency in that area, so preconditions for streamlining of practices of proactive information disclosure on the web would be created. In other words, relevant policies and legal acts, beginning with freedom of access to information laws, should prompt public bodies to disclose all information of public importance besides that which relevant laws specifically prohibit, such as personal data.

With respect to the Guidelines on the Development and Maintenance of Official Websites of Institutions of BiH (2009)⁶⁰ and the new version awaiting adoption, as well as the Recommendations for Development and Maintenance of Presentations of the Institutions of RS, analysis and comparison with international standards shows that these documents detail the issue of website functionality, while they significantly lack information on interactivity. Regarding website content, it can be said that aforementioned documents correspond with international standards mostly in terms of institutional, organizational and operational information. Moreover, much information that is only recommended for publication in these documents should be mandatory, so that the range of content offered would come as close as possible to international standards, but would also more substantially contribute to the openness and transparency of public institutions in BiH. Here, it is necessary to point out that guidelines and recommendations in the area of development and maintenance of websites of public bodies should not be an alternative to freedom of access to information laws, but they should complement,

or elaborate in detail the provisions on proactive transparency once they are built into freedom of access to information laws at relevant administrative levels in BiH.

It is therefore necessary to improve existing documents (guidelines and recommendations) in the area of development and maintenance of official websites of public institutions in BiH in accordance with world trends and good practice of other countries, to adopt a corresponding document at the FBiH level, and harmonize these documents to the extent possible. It is especially important that future, improved versions of these documents should more precisely define the categories of content, or the types of information that public institutions should proactively disclose on their websites, following established standards in that area.

It is especially important that these documents link relevant provisions on disclosing information held by public institutions on the web, which stem from many sector laws and specific policies. This would greatly ease the work of officials charged with managing the websites of public institutions, which could contribute to a more consistent implementation of the documents.

Finally, bearing in mind a complex legal and institutional framework, and mostly undeveloped practices and policies regulating the disclosure of information on the web, it is necessary to ensure continued training of employees of public bodies, especially employees charged with managing data, information and web content, with the aim of raising awareness about the value of availability and accessibility of information on official websites of institutions in the context of modern trends of government openness, transparency and accountability.

⁵⁹ For more on proactive transparency, see: Rajko, *Proactive Transparency in Bosnia and Herzegovina: Status and Perspectives in Light of International Standards and Comparative Solutions*; Voloder, *A Neglected Standard in BiH*; also see: Analitika – Center for Social Research, *Proactive Transparency in Bosnia and Herzegovina: From Cacophony Towards Harmonization*.

⁶⁰ "Guidelines on the Development and Maintenance of Official Websites of the Institutions of Bosnia and Herzegovina."

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