

Regulation in transition: agency transparency in Serbia and Macedonia

Calls for greater transparency are widespread, but the actual application is more limited argues **Slobodan Tomic**

Transparency is one of the central pillars in the canon of good governance advice. Transition economies in particular are said to require transparency as new institutions are created whose modes of operation, it is maintained, clash with established, more informal ways of conducting economic and political relationships. While there has been much emphasis on the need for transparency, less attention has been paid to the ways in which agencies seek to be transparent, let alone trying to explain why agencies might vary in their understandings of what it means to be transparent.

The Western Balkans offers a fascinating context in which to explore transparency among recently established regulators. In particular, the study of regulatory agencies in Serbia and Macedonia offers insights into emerging regulatory bodies in two countries that can be classified as EU-aspirants. Table 1 provides an overview of these agencies.

How, then, can a degree of transparency among regulatory bodies be established? Transparency is defined here as exposure to external scrutiny, usually linked with disclosure and other publicity requirements. One way

to study such activities is, therefore, to explore the kind of information that regulators place on their websites. Furthermore, following Lodge and Stirton (2001; Stirton and Lodge 2010), transparency can be differentiated in a number of dimensions, namely:

1. Transparency of decisions and decision making process
2. Transparency of rules and procedures
3. Transparency of regulatees' conduct
4. Transparency of regulators' conduct (in exercising control)
5. Transparency of feedback

A study looking at a random sample of 20 per cent of the agencies' official website content published during 2013 and 2014 pointed to a variety of ways in which the agencies sought to exercise transparency. Media regulators, for example, scored most highly across all five dimensions. Energy regulators and competition authorities were, in contrast, far more limited. Their approach towards transparency focused primarily on their decision making process, their rules and procedures, and, to a lesser extent, information on

their regulatees. Table 2 provides an overview of the study. The asterik (*) sign indicates where a particular dimension is only partially present.

Table 2: Regulators and Transparency

Agency	Serbian agency
RATEL	1 *, 2, 3 *, 5 *
AEC	2, 3, 5 *
CfPC (S)	1, 2, 3, 4
CfPC (M)	1, 2, 3 *
REM	1 *, 2, 3, 4, 5 *
AVMS	1, 2, 3, 4, 5
EA	1, 2, 3 *
ERC	1, 2, 3 *
SEPA	1, 2, 3, 4, 5
DE	1, 2, 3 *, 4 *, 5

What explains these variations? Three potential explanations exist: (i) a focus on agency-specific features, (ii) a focus on sector-specific characteristics, and (iii) a focus on country-specific characteristics. Even with the proviso that the study only includes a small num-

Table 1: Regulators in Serbia and Macedonia

Sector	Serbian agency	Macedonian agency	Risks and problems
Telecommunications and IT	Republican Agency for Electronic Communications and Postal Services (RATEL)	Agency for Electronic Communications (AEC)	Regulatory agencies
Energy	Energy Agency (EA)	Energy Regulatory Commission (ERC)	Regulatory agencies
Media	Regulatory Authority for Electronic Media (REM)	Agency for Audio and Audio-Visual Media Services (AVMS)	Regulatory agencies
Market competition	Commission for Protection of Competition (CfPC (S))	Commission for Protection of Competition (CfPC (M))	Controlling agencies
Environmental protection	Environmental Protection Agency (SEPA)	Directorate for Environment (DE)	Executive agencies, under ministerial hierarchy

ber of agencies, certain findings do stand out.

Firstly, a focus on agency-specific characteristics, such as agency age, resources, media exposure, and de jure independence, does not explain the extent to which agencies are making their activities transparent in practice. Agencies do, however, follow mandatory requirements when it comes to the provision of transparency. In other words, agencies follow legal requirements ('de jure transparency'), but they do not move beyond that mandatory level. There is hardly any 'voluntary transparency' (Koop 2014).

Secondly, a focus on sector-specific characteristics, such as the degree of sector liberalization offers a mixed picture. Against expectations, the degree of market liberalization did not generate more transparency. Regulators in the most liberalized sectors, i.e. telecommunications, did not display higher degrees of transparency. However, once telecommunications are excluded, regulators overseeing a higher degree of market liberalization are associated with higher degrees of transparency. The two national environmental regulators also stand out as they provide more information than required by their specific statutory provisions. However, their higher score is a result of constitutional provisions and international conventions that tie these agencies to wider agendas advancing citizens' access to information.

Thirdly, national characteristics are also present. Macedonian regulatory agencies display a lower degree of transparency than their Serbian counterparts. Whether the one-party dominance in Macedonia (since 2006) has a constrain-

ing impact on agency and analysis.

In general, rather than for wider accountability, governance affects much

agencies' exercise of transparency, so, how, requires further

analysis. In general, the results paint a sobering picture of transparency – with wider implications regarding aspirations regarding ability and public sector governance. Agencies do not deviate from minimal mandatory

(legal) requirements. It might be that such an approach reflects a general risk aversion in systems witnessing economic and political transition. However, this has two further implications for countries in transition and international and national governance support programmes. The first is that calls for transparency should be accompanied by clearer understanding as to what transparency actually means. And secondly, for agencies to establish and enhance their legitimacy, they need to move beyond minimalist understanding of transparency and become more pro-active in the ways they make information publicly available.

References

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