



# TRANSPARENCY

## IN THE MUNICIPALITY OF SHKODRA

This report was prepared at the initiative of the association ***“Young Intellectuals, Hope”***, within the project *“Be active, build the future”* with the financial support of *Olof Palme International Center in Albania through funding from the Swedish Government*, under the direction and leadership of one of the best experts in our country in the field of administrative law, **Prof.Asoc.Dr. Migena Leskoviku**, Deputy Dean of the Faculty of Law at the European University of Tirana. The content of the publication is the responsibility of the author and do not necessarily reflect the views of Olaf Palme International Center and the Swedish Government.

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## Introduction

The right to information and transparency is an essential element that must be guaranteed for all citizens for proper and democratic governance. Transparency means sharing information as well as pursuing the activity of institutions openly to the public. Free access to information plays a key role in promoting transparency and preventing corruption, and as such state institutions must offer it on time and in full to the citizens, in order to guarantee an effective use. Willingness to provide information from the institutions of public administration increases their responsibilities in serving citizens.

One of the most important tools in the realization of this right is the existence of a good legislation and its effective implementation in practice. While the situation looks more optimistic as related to the existence of a normative framework that guarantees this right, even more commitment and will is needed by the public institutions to implement it in practice. On the one hand, this means guaranteeing this right to citizens, without being conditioned to motivate or justify the purpose of their request, and on the other hand it implies the provision and implementation of sanctions in unjustified cases of the denial of this right.

The report entitled “*Transparency in the Municipality of Shkodra*”, implemented by “Young Intellectuals, Hope”, within the project “*Be active, build the future*” is continuing the efforts of the association to increase its public contribution in enhancing transparency and access to information as a fundamental right of citizens that must be respected and guaranteed by all institutions. In this context, this report has been focused on public transparency and the respect of the right of **information** by the Municipality of Shkodra, aiming at analyzing the current situation of respecting the law on the right of being informed by the local public authorities.

The adoption of the Law Nr.149 / 2014 “On the Right to Information” was an important achievement to take the constitutional and legal rights of individuals to an even higher level against an open public administration under their service. This law includes not only state authorities but also the local government in obligatory information as the previous law. Therefore, considering this issue as very important for a government on democratic basis, the flow of people receiving services in these institutions, and the concerns that have been raised repeatedly over the guarantee of the right to information and transparency, the association “Young Intellectuals, Hope” is focused on this report to monitor the communication of these institutions to the public, the level of access to procedures and official documents and to educate local officials to respect the constitutional and legal guarantees regarding the right to information.

## • Methodology

In connection with the realization of this study, the main methodology is related to the analysis of the legislation on access to information and its implementation in practice, with an emphasis on the local authorities in the Republic of Albania, the monitoring of the implementation of the Law on the program of transparency and the duties arising from it, with the Municipality of Shkodra on focus.

Certain references have also been done in studies or previous data collected for this purpose by the “*Young Intellectuals, Hope*” in the frame of its projects and activity which is related precisely to the respect of the obligations of local authorities in implementing the legislation on the right to information, actually the project “*Be active and build the future.*”

Thus, to realize this study, the information is collected through the correspondence with the Municipality of Shkodra, field observations as well as the activities organized by the Municipality of Shkodra and also through monitoring the official website of the Municipality of Shkodra <http://www.bashkiashkoder.gov.al>.

From this association, there have been sent a number of 9 requests for getting informed, requesting information mainly concerning the implementation of law No. 119/2014 “**On the Right to Information**” and the Law No. 146/2014 “**On Public Notification and Consultation**” . From these requests only one of them has received a response within 10-day deadline, and in 3 cases the responses are returned with the intervention of the Commissioner for the Freedom of Information and Protection of Personal Data.

## ***I. An analysis of Albanian legislation on the right to information***

The right to information is the basis of public involvement in the process of transparency and decision – making and the control of the implementation of legislation. This right is guaranteed by the Constitution of the Republic of Albania, the Administrative Procedure Code and the law on the right to information or other special laws.

### ***a. Constitution of the Republic of Albania***

Article 23 provides that the right to information is guaranteed. Everyone has the right, in accordance with the law, to get information about the activity of government bodies, as well as persons who exercise government functions. Also, this article provides an individual right to attend meetings of collective elected organs. Article 48 of the Constitution provides that everyone, alone or together with others, may direct requests, complaints or comments to the public organs, which are under the obligation of answering in the terms and conditions specified by the law.

### ***b. Code of Administrative Procedure***

Article 13 of the current Code of Administrative Procedure provides that the Organs of public administration conduct their activities in close cooperation with private actors by providing them the necessary information and explanations. Also Article 20 entitled “*The right of information*” provides that all participants in an administrative procedure have the right to receive information and have access to documents used in the procedure, except in the cases when limits are set by law.

The right, hereinbefore, (paragraph 1 of this Article) may be exercised personally or through an authorized representative. The administrative organ that develops the administrative procedure is obliged to provide information to the participants in the procedure concerning their rights and obligations.

### ***c. Law no. 146/2014 “On Public Notification and Consultation.”***

This Law regulates the process of notification and public consultation of the draft, the national and local strategic draft-documents and the policies of high public interest, as well. It sets the rules of procedure to be followed to ensure transparency and public participation in policy and decision making processes of public authorities. This Law aims to promote transparency, accountability and integrity of public authorities. Transparency is an open activity of a public authority to inform about actions of high public interest, policy and decision making processes, which provides interested parties the opportunity to participate in these processes.

The Law has as its object the regulation of relations arising in a process of public consultation, transparent and comprehensive implemented in time and effective between the central and local public authorities and the interested party in the decision making process of the project acts as drafts, national and local strategic documents as well as policies of high public interest.

***d. Law no. 119/2014, “On the Right to Information”***

Based on the Constitution, the Law no. 119/2014 “On the right to information” regulates in details the right of information and its implementation in practice determining the obligations derived by the law for the public bodies at central and local levels as well as the deadlines and procedures that must be respected in the realization of this right. This Law regulates the right of access to the information produced or held by public authorities. The rules provided in this Law aim at guaranteeing the public’s access to the information, within the exercise of individual rights and freedoms in practice as well as the formation of the views on the state of the government and the society. This Law also aims to promote integrity, transparency and accountability of public authorities.

Every individual has the right to have access to the public information without being obliged to explain the motives. The public authority, itself, is obliged to inform the applicant whether or not it is in possession of the requested information.

Every individual has the right to access public information through the original document or getting a copy of it in the form or format that allows full access to the contents of the document. The public information given to a person cannot be rejected to any other person who requests it except when the information contains personal data of the subject in accordance with Article 17 of this Law.

The request for information should be in written form and delivered by hand, mail or e-mail showing the exact identity of the applicant and his signature. In any case, the request is registered in the Register of Requests and Responses as provided in Article 8 of this Law. The requests for information are recorded in order of application and treated with no differences. All the requests for information are treated, as a rule, through free consultation of the information on the premises of the public authority, through the unique portal e-albania.al or when appropriate, through the official website of the public authority online.



***Requirements related to written documents are treated by making available to researchers:***

- a) A full copy in the same format as that used by the public authority except in special cases;*
- b) A full copy of the information via email when the information is in this form or can be converted.*

*Regarding to other requests related to other forms of information, the information is provided in the most efficient way and at the lowest cost for the public authority.*

*In any case, the decision for rejection because of wrong format to is given in writing and reasoned.*

***The request for information should include:***

- a) name and surname of the applicant;*
- b) mail or email address where the information is required to be sent;*
- c) a description of the information required;*
- d) the format in which information is preferred;*
- e) any information that the applicant considers that it can help identify the required information.*

If the request for information **does not specify the format** in which information is required, it is given in the most efficient way and at the lowest cost for the public authority.



- ***Legal Deadline***

The public authority addresses the request for information, submitting the required information as soon as possible, **but no later than 10 working days** from the date of its submission with exception of the cases when the law provides this differently.

When the public authority that receives a request for information sends it to another authority, it replies **no later than 15 working days** from the receiving day to the first authority. In any case, the failure of dealing with the request for information within the above limits will be considered a ***reject***. *Rejecting of information, contrary to the provisions of this law, is punished with 150 000 to 300 000 lekë.*

- ***Preparation and approval of programs transparency***

The public authority, no later than 6 months from the time when this Law is created or takes effect, implements an institutional program of transparency which defines the categories of information that is made public without a request and the ways of making the information public.

In the preparation of the draft of transparency, the public authority takes into account the best interest of the public and especially:

- a) *ensuring a maximum access to public information;*
- b) *making available as much information as possible without a request in order to reduce the need for individual requests for information;*
- c) *approved models for the category of the public authority by the Commissioner for Freedom of Information and Protection of Personal Data, Article 6 of this Law.*

In accordance with the approved transparency program for any public authority, the latter ones prepare, in advance, the following categories of information which are in easily understandable and accessible formats and also available to the public on the Internet:

- a) *a description of the organizational structure, functions and duties of the public authority;*
- b) *the full texts:*
  - i) *conventions that have ratified by the Republic of Albania;*
  - ii) *laws;*
  - iii) *the bylaws;*
  - iv) *the codes of conduct;*
  - v) *any policy document;*

- vi) *manual or any other document related to the functions of the public authority and that affects the public in general ;*
- c) *information on the procedures to be followed to make a request for information, mail and email address to file the requests for information and the procedures of complaints for the relevant decision;*
- d) *data on the location of the offices of public authority, working hours, name and contact details of the coordinator for the right to information;*
- e) *data on the education, qualifications and salaries of the officials who have to declare their assets, salary structures for other employees as well as a description of the election procedures, powers and duties of senior officials of the public authority and the procedure they follow to make decisions;*
- f) *monitoring and control mechanisms that operate on public authority including the strategic work plans, audit reports by the Supreme Control of State or other entities as well as documents that contain indicators of the authority's performance;*
- g) *data on budget and expense plan for the next financial year and previous years as well as any annual report on the implementation of the budget. In cases when the public authority is self-financed by license fees or any other form of direct financing by entities regulated by it, documents that show the situation of the liquidation of the obligations from the licensed entities are made public;*
- h) *information on the procurement procedures or competitive procedures of concession / public private partnership, respectively, under the provisions of the Law no. 9643, 20.12.2006, "On public procurement", and Law no. 125/2013, "On concessions and public private partnership" carried out on behalf of the public authority, including:*
  - i) *list of signed contracts*
  - ii) *contracted sum of money*
  - iii) *the contracting parties and the description of the contracted services or goods;*
  - iv) *information on the implementation and monitoring of the contracts, also various instructions and policies;*
- j) *information on the services that the public authority provides for the public including the standards of the quality of service;*

- k) any mechanism and procedure for making requests and complaints in connection with the actions or inactions of the public authority;*
- l) any mechanism or procedure through which interested individuals may submit their opinions or affect in any way the laws, the public policies or the exercise of the functions of the public authorities;*
- m) a simple description of the system that the public authority uses for record keeping,, for types and forms of documents as well as for the categories of information made public without request;*
- n) the register of the requests and responses according to Article 8 of this Law;*
- o) a description of categories and forms of social assistance, subsidies granted by the public authority and the procedures to obtain them;*
- p) information and documents often required;*
- q) any other information deemed useful by the public authority.*

The public authority also creates and archives a digital copy of the official page of its website completed with the information required in the approved program of transparency as well as the methods, mechanisms and the publication frequency of public information which are made available to the public without request.

Actions containing rules, norms or restrictions of the fundamental rights and freedom of the individual, also with direct effect on them, are made public by posting on the official website, within 48 hours of the approval of the act by the public authorities.

The public authority creates, maintains and makes public a special register which reflects all requests for information and the information contained in their response. This register is updated every three months and published on the website of the public authority as well as in public waiting areas in the public authority offices. Identity of information seekers is not reflected in the register.

Failure to implement the program of institutional transparency, within the provided deadline in paragraph 1 of Article 4 of this law, is considered an administrative violation and is sentenced to **50 000 to 100 000** leke fine. Also, failure to review an institutional program of transparency within the period provided in paragraph 1 of Article 5 of this law, is fined with up to **50000 100 000**;

For the implementation of this law in order to coordinate the work to guarantee the right to information, the local public authority, appoints **one of the officials as a coordinator on the right to information.**

- **Administrative Complaint**

When an individual considers that **his/her rights provided by this Law are violated**, he/she has the **right to appeal administratively** to the Commissioner for Freedom of Information and Protection of Personal Data in accordance with this law and the Code of Administrative Procedure. Article 21 of the Law “***On the Notification and Public Consultation***” has predicted an appeal to the Office of the Commissioner for Freedom of Information and Protection of Personal Data *in case the interested actors consider that the public body has violated their right to notification and public consultation under the provisions of paragraph 1, Article 6, and when the deadlines provided in Articles 15 and 17 of this Law are not respected.*

The administrative appeal to the Commissioner for Freedom of Information and Protection of Personal Data is made within 30 working days. The Commissioner for Freedom of Information and Protection of Personal Data, *upon the receipt of a complaint, claims to the complainant and the public body against whom the complaint is made to submit in a written form within 10 days. When deemed appropriate, the Commissioner organizes a public hearing with the actors.*

When the Commissioner *concludes that there are violations of the provisions of this law, he/she proposes administrative measures to the responsible public body against the person / persons responsible, according to the legislation of the applicable civil service.*

- **Appeal to the court**

The applicant or the public authority has the right to appeal the decision of the Commissioner in the competent **administrative court**

***Law Nr. 139 / 17.12.2015 “On local self-government”***

Article 15, stipulates that local self-government units guarantee transparency of their activities for the public.

Every action of the local self-government bodies is published on the official website of the local unit and is displayed on sites settled by the unit for public announcements.

Each unit of local self-government is obliged to appoint the coordinator of transparency and approved the program of transparency, ensuring access to all, especially to the poorest communities in accordance with the provisions of the applicable law on the right to information.

- **Public consultation in local self-government units**

Local self-government bodies are obliged to ensure public participation in the process of decision-making. Each local self-government unit is obliged to appoint a coordinator for public notification and consultation in accordance with the provisions of the applicable law on the public notification and consultation.

- **Municipal Council Meeting**

Municipal Council meetings are open to the public. Every citizen is allowed to attend Council meetings as specified in the book of regulations of the Council. The notification about the Council meeting is made in the places designated for this purpose within the territory of the local government and the media accessible in the local unit including the date, place, time and agenda of the meeting.

At the request of the Mayor or one fifth of the members of the Municipal Council, Municipal Council meetings is held closed-doors when this is voted by not less than three-fifths of all its members.

- **Counseling sessions with the community**

The Municipal Council or County Council, before reviewing and approving acts, develops counseling sessions with the community which are mandatory for the cases provided in Articles 54, letters “a”, “dh”, “e”, “f” and “k”, and 77, the letters “a”, “dh”, “e”, “f” and “k” of this law.

Consultation with the public is made, in any case, as the Council specifies it by law using one of the necessary forms such as open meetings with residents and groups interest, meetings with experts, interested institutions and non-profit organizations or through taking the initiative to organize local referendums.

Council acts are published in the official website and posted in public places set by the Council with free public access, within the territory of the local unit and, where available, the Council also establishes other forms of publishing them. Informing the public in every municipality is done in accordance with the law on the right to information and rules set by the Council for this purpose.

- **Right to request, appeal and objection**

Any citizen or groups representing communities have the right to direct requests, complaints or objections to local self-government bodies on issues related to the functions and powers under the jurisdiction of local self-government unit. Local self-government bodies are obliged to ‘take into consideration the requests, complaints or comments and reply within the deadline prescribed by law.

- **Right to citizens’ initiative**

Each community, through its authorized representatives, or not less than one percent of the residents of the municipality has the right to file citizen initiatives for a decision making in the City Council on matters within the jurisdiction of the local self-government unit. The filing format of these initiatives, the review and approval procedure is specified in the rule-book of the organization and functioning of the Municipality Council .The proposals filed in the council as a civic initiatives, with financial impact on the budget of local self-government unit, are reviewed in the council, according to the agenda, and cannot be approved without the opinion of the chairman of the local self-government unit.

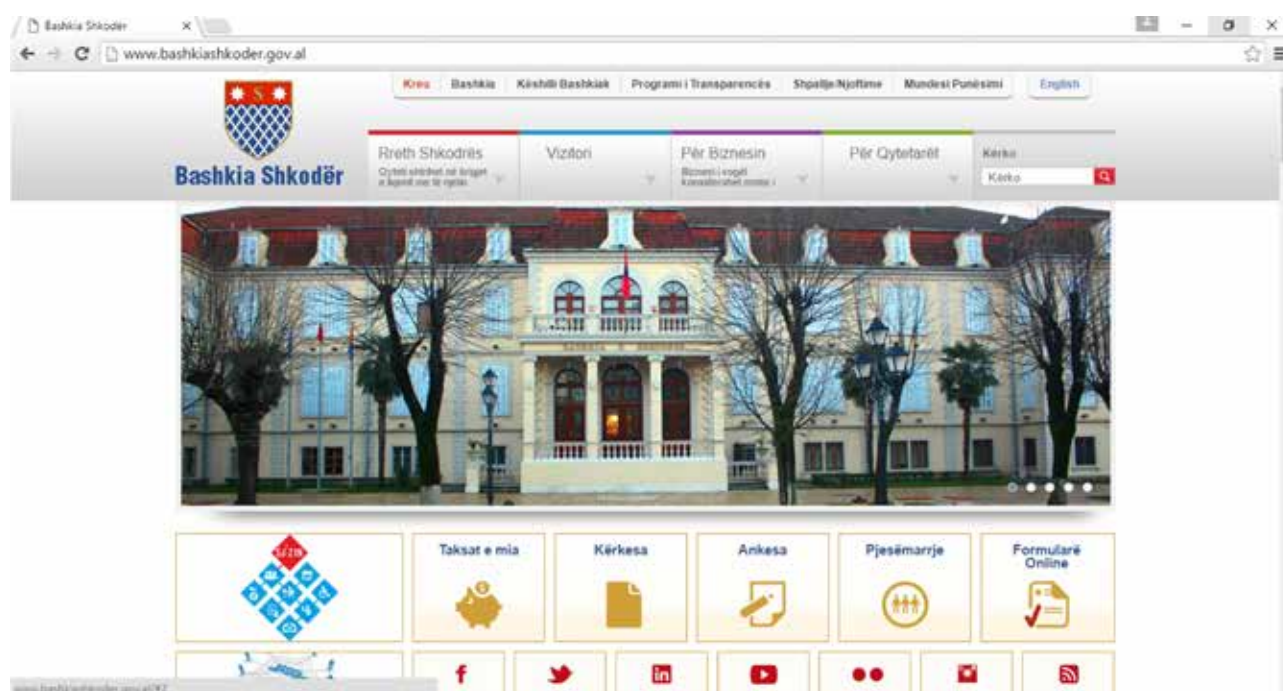
## ***II. Monitoring results in the Municipality of Shkodra***

### **2.1 Enforcement of Law 119/2014 “On the Right to Information”.**

Municipality of Shkodra in the law no. 119/2014 “On the Right to Information” has approved and published the “The transparency Program”, “The register of requests and responses” as well as other documents, which are published on the official website of this institution. The monitoring found that Transparency Program is deemed as a concrete way through which the Municipality of Shkodra has the opportunity to build and enhance transparency in its institutional activity. The information disclosed in this program aims at making the transparency of the work activity of the Municipality of Shkodra through its detailed presentation on the official website: [www.bashkiashkoder.gov.al](http://www.bashkiashkoder.gov.al) and on the premises of OSS. The program of transparency is reflected in several columns, text / content, the deadline for making it public, the way as well as the appropriate structure which produces or manages the document. The program content of transparency makes evident the publication scheme which reflects the lists where the document is addressed to the official website. In addition to this, each document is not fully accessible even in the scheme. Information characterized by limitations of personal identification data due to privacy of individuals / data entities, as legal obligations, is reflected on the official site. Also, as shown by the monitoring of the official site of the Municipality, the coordinator on the right to information is assigned.

A view of this official page is given below for illustration.

**Fig. 1 Municipal Official Website**





Steadily, the association “*Young Intellectuals, Hope*” has been monitoring the official website of the Municipality to identify the publication of the Program Transparency, the assignment of the coordinator for the right to information and also the publishing and updating of the register of requests and responses, in compliance with the obligations of the Law No. 119/2014 “*On the Right to Information*”. The association has had frequent contacts with this institution for the purpose of accomplishing the right to information and referring to special cases/requests. Up to now, it results that 20 requests are addressed in this Municipality for the period January-February 2016 and for the same period, the corresponding responses are returned by the Municipality. But there are no other updates on requests after 23 February 2016.

***More specifically, the findings are given as follows:***

In the Law 119/2014 “*On the Right to Information*”, Article 4/1 of this law stipulates that:

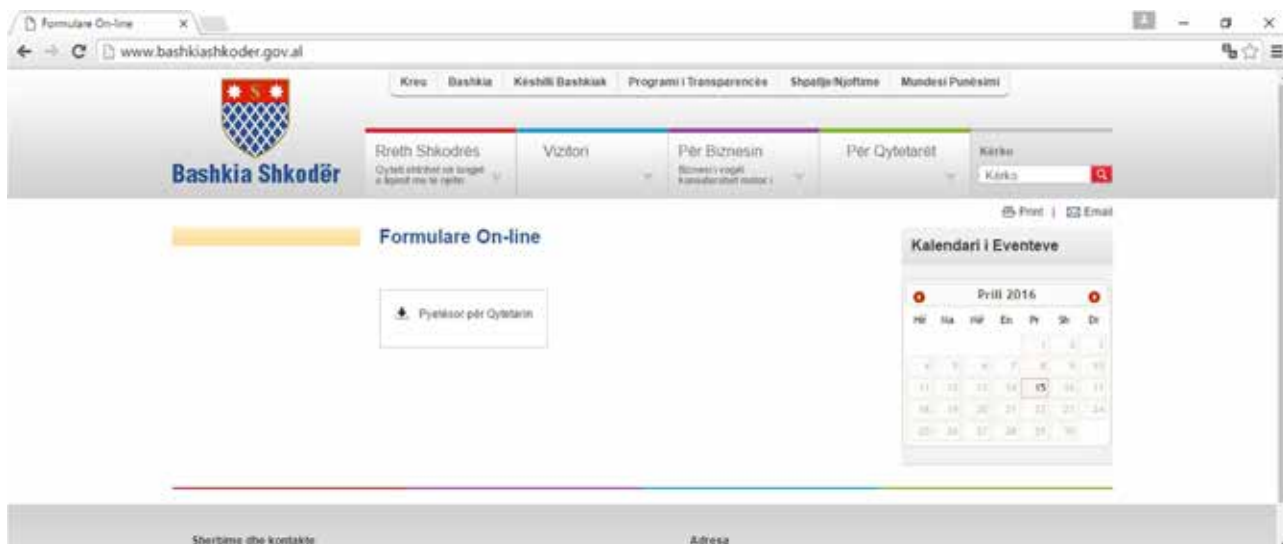
*“The public authority implements an institutional program of transparency , no later than 6 months from the date this law comes into effect or from its creation, , where we find defined the categories of information made public without request and the ways of making public this information . “*

**What is observed by monitoring is in accordance with the fact that although the Law took effect on 02.11.2014, The Transparency Program is published on the official website of the Municipality of Shkodra on 17 March 2016.**



In connection with the provisions of the letter 'c', Paragraph 1 of Article 7 of the Law in which information on the procedures to be followed to make a request for information, mailing address and email to file the requests for information, and also the complaining procedures on the decision must be given, **the monitoring of the official website shows that this information is found as a part of the transparency program and also part of "The Right to Information" where it is determined that the " application format" and " complaints format" are found in the " online form "; but the monitoring shows that such information cannot be found!**

**Fig 3. Official website of the Municipality "formular online"**



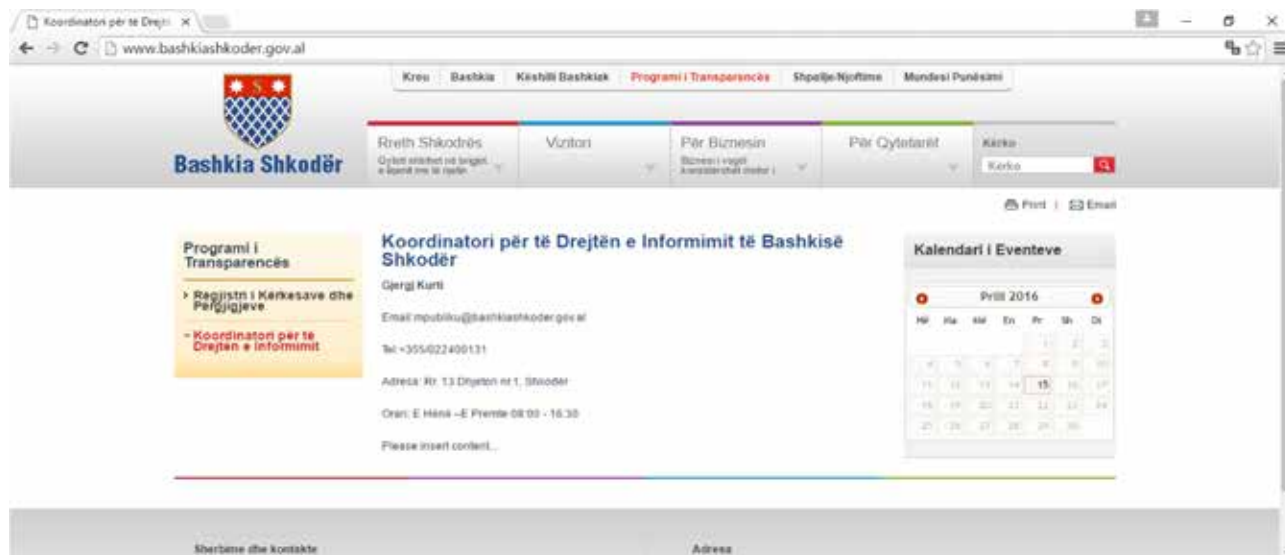
What is reflected in "The Right to Information", the subheading "The Module of Requests" is related to *The Types of Applications with relevant documents* reflecting the information / documentation to be met by entities in connection with the request as: permits or various licenses, certificates, authorizations, etc.

**Fig 4. Official Website of the Municipality "Moduli I kërkesave"**



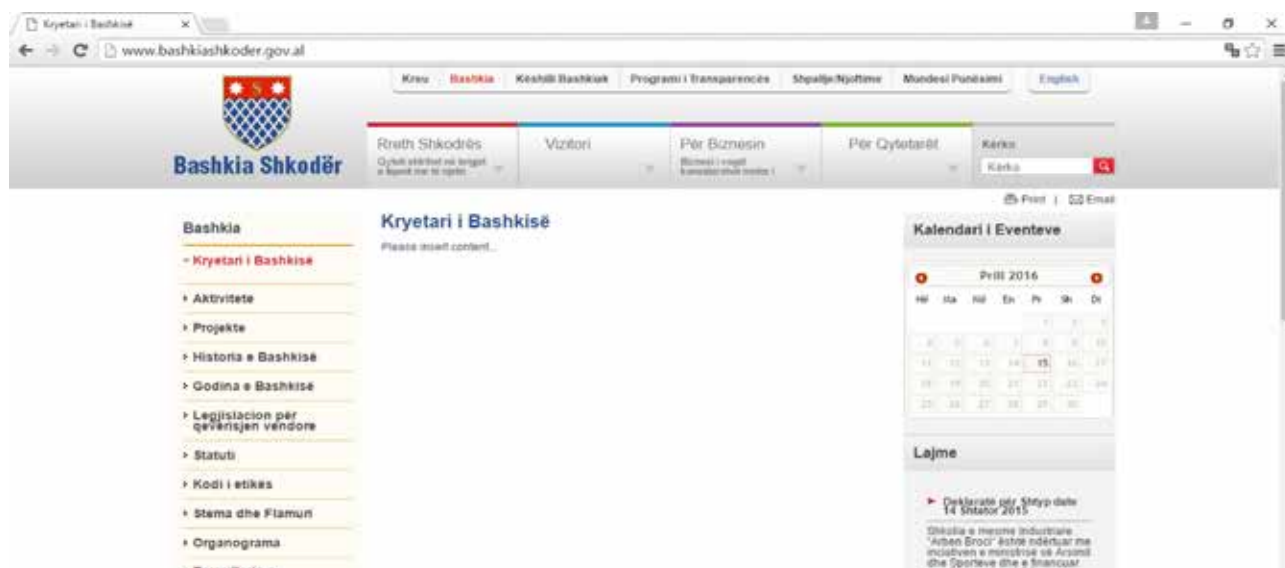
In connection with the provisions of the letter ‘ç’, paragraph 1 of Article 7 of the Law in which information should be provided on the location of the offices of the public authority, hours of work, name and contact details of the coordinator for the right to information, **the monitoring shows that such information is presented in full accordance with the law.**

**Fig 5. Official Website of the Municipality “The Coordinator for the Right to Information of Shkodra Municipality”**



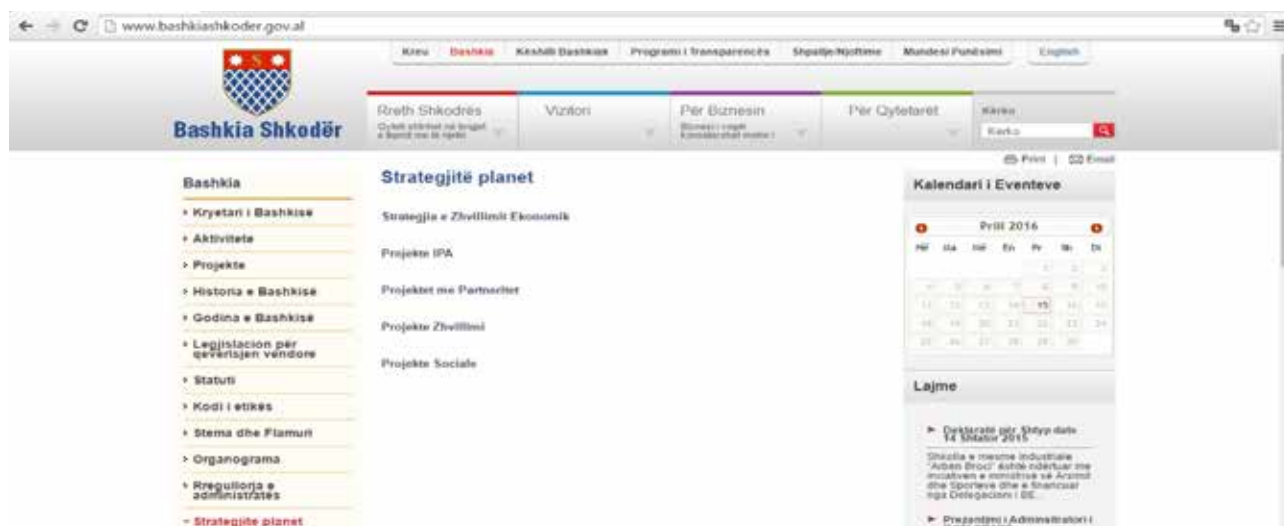
In connection with the provisions of the letter ‘d’, paragraph 1 of Article 7 of the Law where the information should be provided in terms of data on education, qualifications and salaries of the officials, who have the obligation to declare their assets, according to the law, the wage structures of other officials, as well as a description of the selection procedures, powers and duties of senior public authority and the procedure they follow to make decisions, **the monitoring shows that such information does not exist! Observing the official website of the Municipality of Shkodra, it results that there is no such information even about the Mayor of Shkodra Municipality!**

**Fig 6. Official Website of the Municipality “Kryetari i Bashkisë”**



In connection with the provisions of letter ‘dh’, paragraph 1 of Article 7 of the Law in which there must be given information on the monitoring and controlling mechanisms operating on a public authority including strategic plans at work, audit reports by the Supreme State Control or other entities , as well as documents that contain indicators of the authority’s performance, **the result shows that that there are some published strategic plans but there is a lack of audit reports by the Supreme State Control as well as documents containing performance indicators of authority!**

**Fig 7. Official Website of the Municipality “Strategjite planet”**



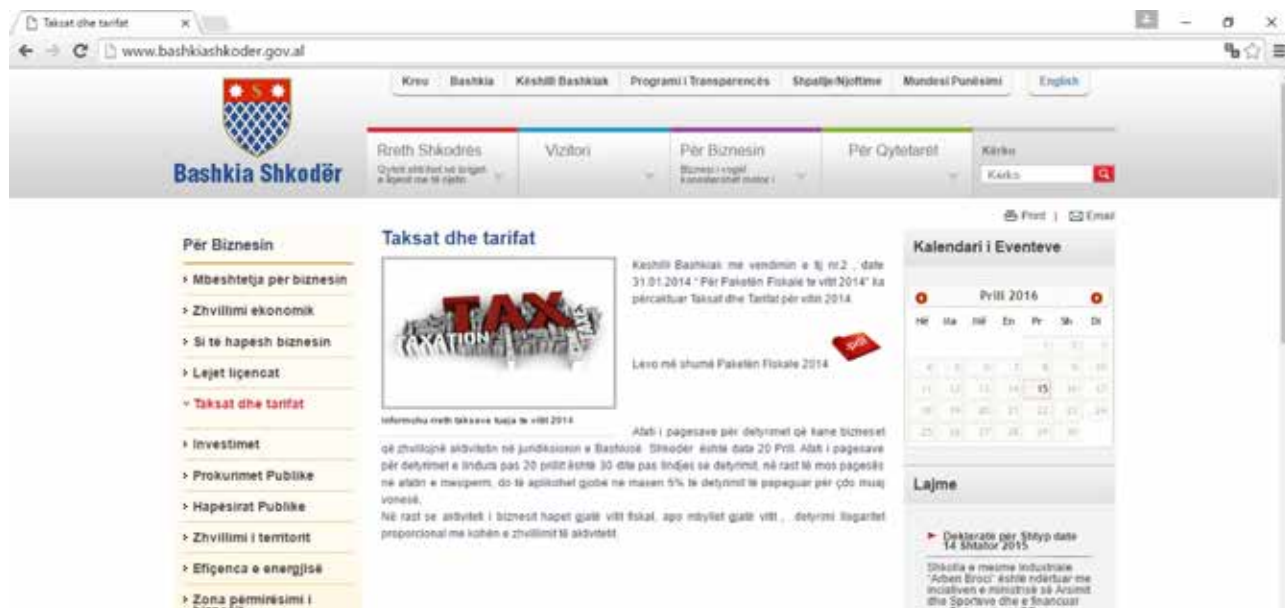
In connection with the provisions of the letter ‘e’, paragraph 1, Article 7 of the Law in which there must be given information on the budget and spending plan for the next financial year and previous years, as well as any annual report on the implementation of the budget. In such cases when a public authority is self-financed by license fees or any other form of direct financing by entities set by the public authority, the documents that show the status of extinction of obligations by the licensed entities are made public. **In this regard, the information provided on the budget is complete while the information about fees and license fees is not far refresh and it belongs to 2014.**

**Fig 8. The Official Website of the Municipality “Buxheti”**





**Fig 9. Official Website of the Municipality “Taksat dhe tarifat”**

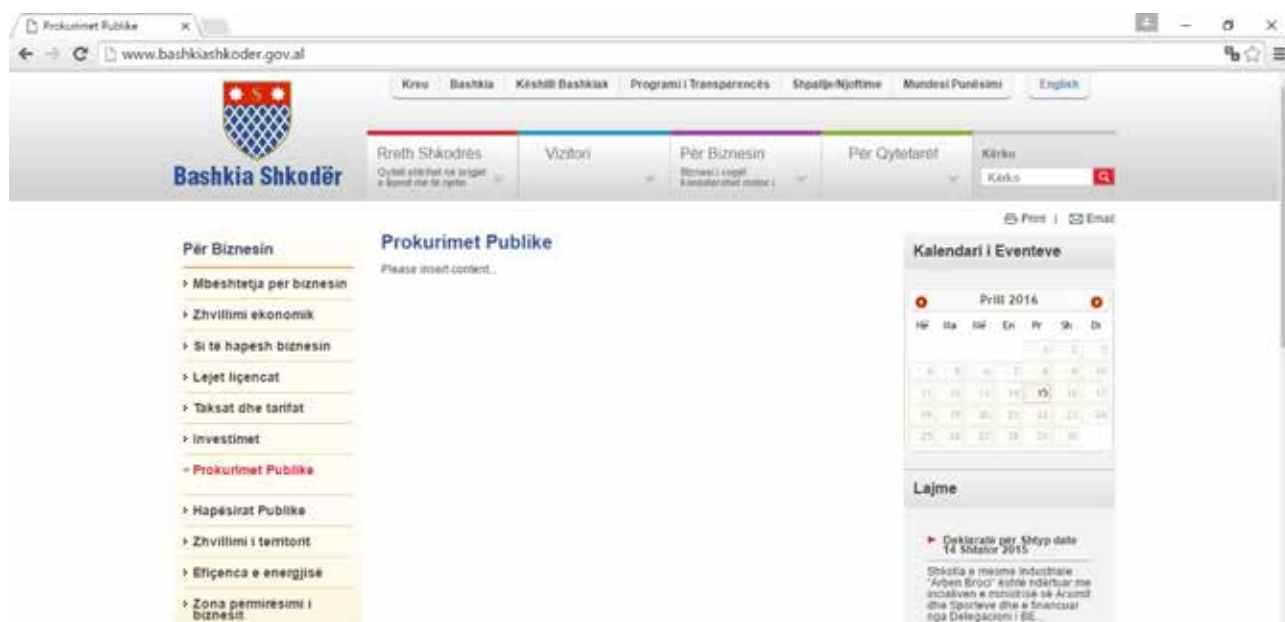


*In connection with the provisions of the letter ‘ë’, paragraph 1 of Article 7 of the Law in which there must be given information on procurement procedures or competitive procedures of concession / public private partnership, respectively, under the provisions of Law no. 9643, 20.12.2006, “On public procurement”, and Law no. 125/2013, “On concessions and public private partnership”, carried out on behalf of a public authority including:*

- i) list of signed contracts;*
- ii) contracted sum of money;*
- iii) the contracting parties and the description of the contracted services or goods;*
- iv) information on the implementation and monitoring of contracts, and also various instructions and policies;*

**as monitored on the official website of the Municipality, such information cannot be found!**

**Fig 10. Official Website of the Municipality “Prokurimet publike”**

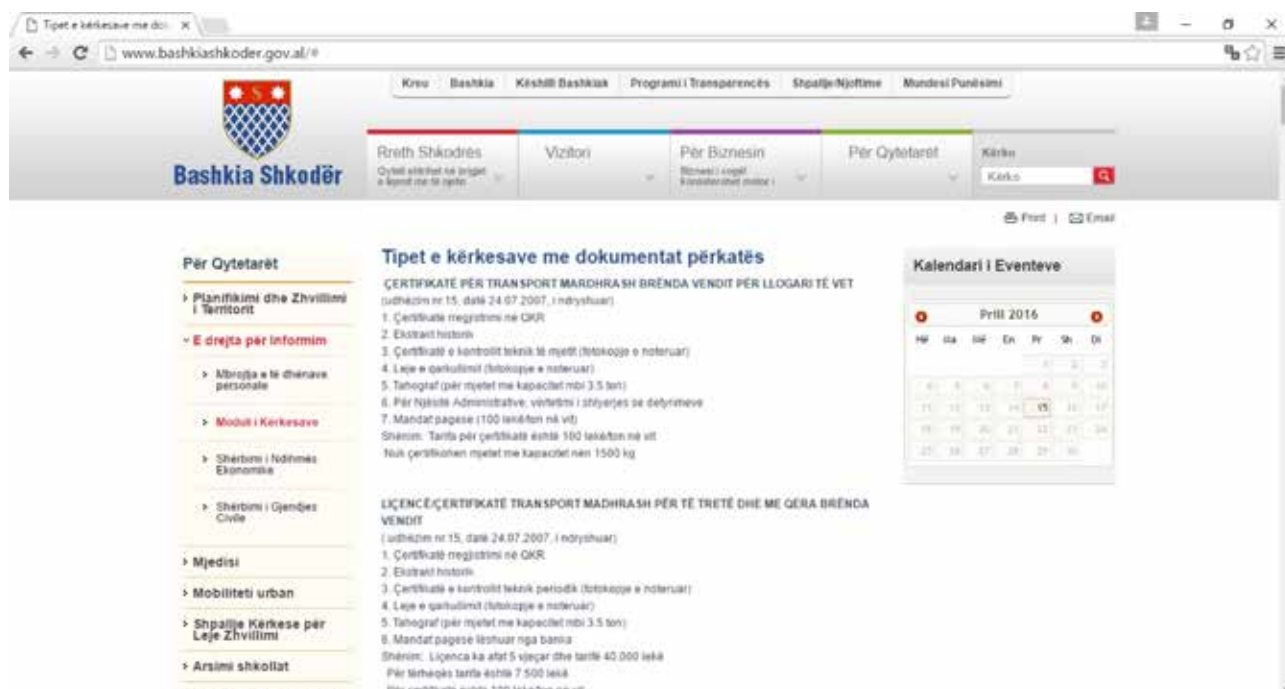


In connection with the provisions of letter 'f', paragraph 1, Article 7 of the Law in which there must be given information about the services that the public authority give to the public, including the standards for quality of service, in the official website of the Municipality there is sufficient information available to the public such as the documentation to be met in connection with different applications / inquiries, which is considered very positive!

Fig 11. Official Website of the Municipality “Dokumenta per shkarkim”



Fig 12. Official Website of the Municipality “Moduli I kerkesave”





In connection with the provisions of letter ‘g’, paragraph 1 of Article 7 of the Law where there should be provided information on information on any mechanism and procedure for making requests and complaints related to actions or inactions of the public authorities.

**As monitored, there is not any published mechanism or procedure for making requests and complaints related to actions or inactions of the public authorities!**

*In connection with the provisions of the letter ‘gj’, paragraph 1, Article 7 of the Law in which there must be given information on any mechanism or procedure through which interested persons may submit their views or influence in any way in the drafting of laws, public policies or the exercise of public authority functions;*

**As monitored, there is not any published mechanism or procedure through which interested persons may submit their opinions or influence the local government!**

*In connection with the provisions of the letter ‘h’, paragraph 1, Article 7 of the Law in which there must be given information on any system that the public authority uses for filing documents, types or different forms of documents and also the categories of information that is made public without request; The monitoring shows that this information is included in the Program of Transparency*

*In connection with the provisions of the letter ‘h’, paragraph 1, Article 7 of the Law in which there must be given information on the register of requests and responses, according to Article 8 of this Law; The monitoring shows that the register of requests and responses is already published on the official website of the Municipality of Shkodra*

**Fig 13. Official Website of the Municipality “Regjistri i kërkesave dhe përgjigjeve”**



In connection with the provisions of letter 'j', paragraph 1, Article 7 of the Law in which there must be given information on the categories and forms of social assistance, subventions granted by the public authority and the procedures to obtain them; The monitoring shows that the official website includes information about the forms social assistance and also the procedures to obtain it!

Fig 14 Official Website of the Municipality “Shërbimi I ndihmes ekonomike”

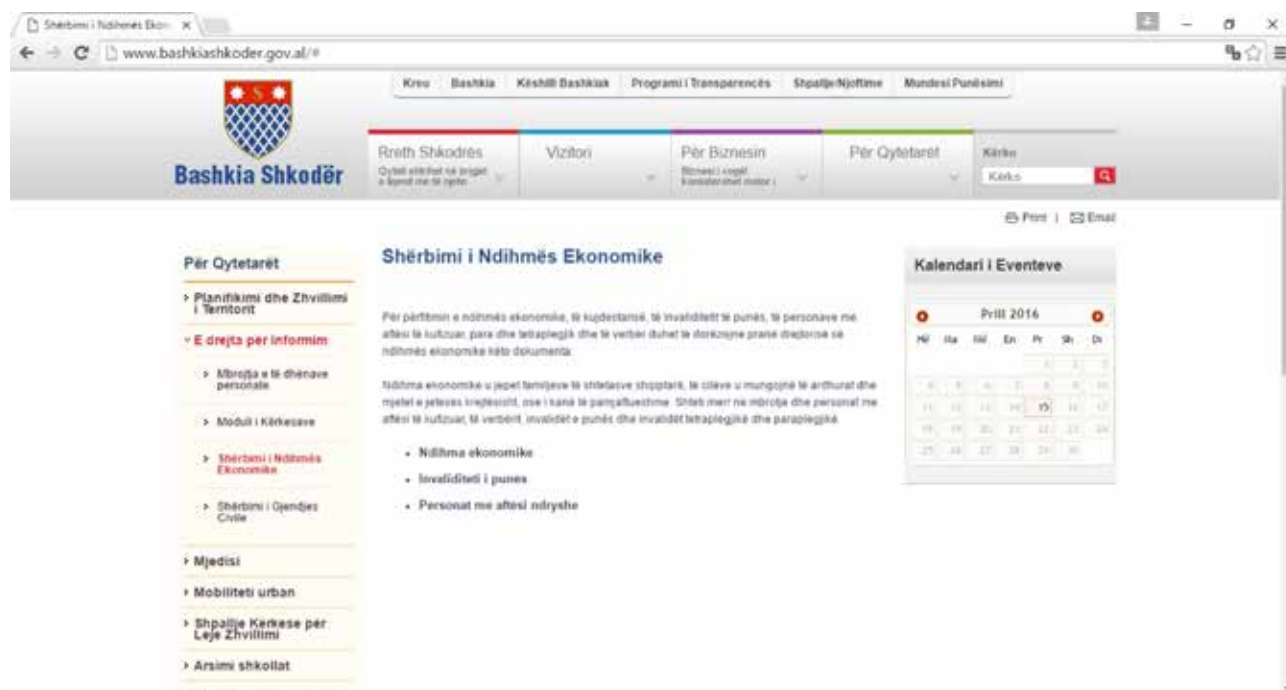


Fig 15. Official Website of the Municipality “Taksat, Tarifat, Gjobot”



## 2.2 Application of Law No. 146/2014 “On Public Notification and Consultation”

The obligation of the public authorities for public notification and consultation is provided in Article 6 of this Law. According to this Article, the public authorities are obliged to take all necessary measures in order to create opportunities for the participation of the public and all other groups of interest in the process of the public notification and consultation for this purpose. They need to include:

- a) the publication in the electronic register of the draft, the information for consultation and the data related to the consultation of the drafts;*
- b) the publication in the program of transparency of the annual plans of the public bodies related to the decision-making process, in terms of the Law no. 119/2014 “For the right to information”,*
- c) provide information about the process of public notification and consultation at all stages, starting from the publication of the draft, taking of the comments and recommendations for its improvement, organizing of the public debates to the approval of the final act.*

Official communications with the Municipality of Shkodra show that there are no annual plans of the Municipality related to decision making. Also the electronic register for public notifications and consultations of the drafts where you can consult the data and drafts as a communication opportunity for all the interested people to interact with the public body does not stipulate how these people can communicate or send their comments and recommendations. Below it is given a correct sample of the public notification of the draft:

Fig 16. “Model njoftimi” taken from the Official Website of the Agency for Promotion of Civil Society



**Paragraph 2, Article 6 of this Law provides that:**

*“The public body, after the publication of the application in the electronic register, may conduct direct consultations and public meetings with interested groups. Direct consultations and public meetings with interested people are documented. The report of such public meetings organized according to the Law is an official document.”*

**Official communications with the Municipality of Shkodra show that there is not a record of these meetings held in the required legal format but simply some descriptive materials which do not contain the necessary elements of an official document.**

**Article 10 of this Law provides that:**

*“Every public body appoints a person as a coordinator of public notification and consultation who is responsible for the overall coordination and management of work to guarantee the right of public notification and consultation provided by this law.”*

**The monitoring, conducted during this period, shows that there is not such a person who performs this function.**

In Article 12, the Law stipulates that: *“The public body, in special cases, may collect information and / or opinions from the groups of interest before the start of the process of drafting the relevant act.”* **From the received information, there is not such a practice performed by the Municipality of Shkodra.**

**Article 13 of this law stipulates that:**

1. In the notification for the start of the public consultation process, there should, at least, be determined:
  - a) the necessary reasons for passing the draft and its impact;
  - b) the deadline, place and the way in which interested parties submit or send their recommendations;
  - c) the contact address of the coordinator for the public notification and consultation of the public body to collect comments and recommendations on the draft;
  - d) place and date of the organization of the public meeting in which case the public body decides for its organization.

The information collected shows that compliance with this article is incomplete by the Municipality of Shkodra and especially in the implementation of the letter b) and c) in which none of the reports provide the deadline, place and the way in which interested parties can submit or send their recommendations. Also as noted above, it turns out that the address of the coordinator for public notification and consultation of Shkodra Municipality is not given!

**Fig 17. Official Website of the Municipality, consult online, “Projekte te aplikuara ne Qeverine Shqiptare”**

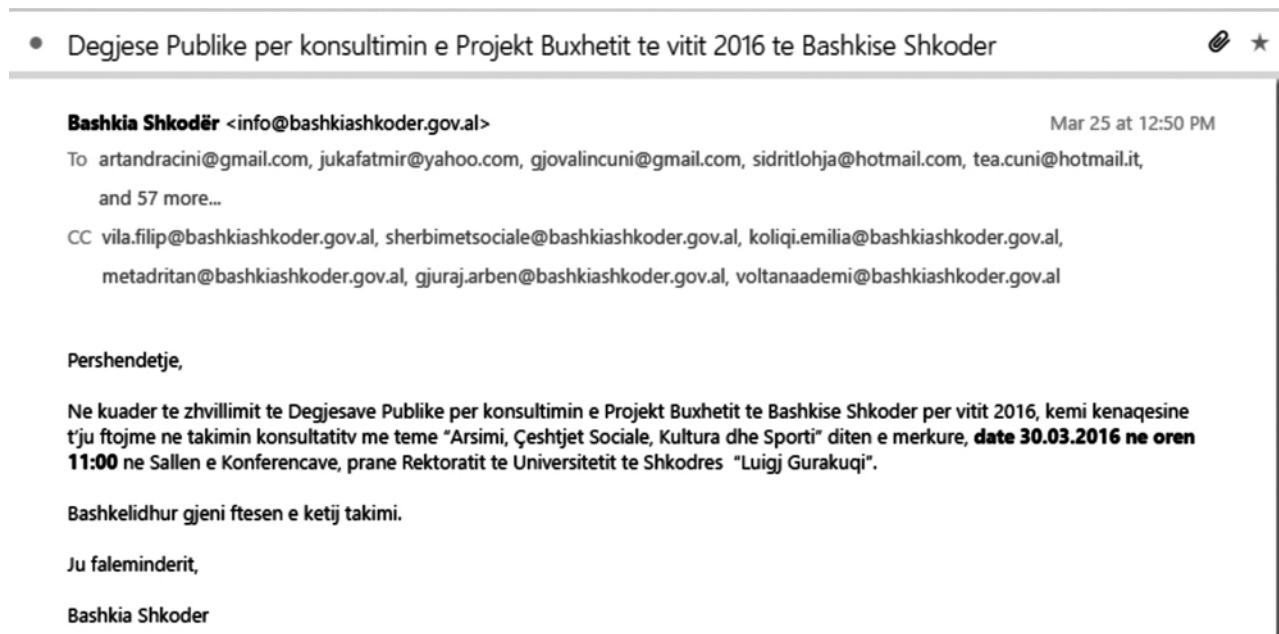


Article 15 of this Law provides deadlines for submitting comments and recommendations where the minimum period is 20 working days and for complex or significant acts the period can be up to 40 working days.

Also paragraph 2, Article 17 of this Law provides that: “Concerned parties, invited to participate in public meetings, are given the time needed for preparation. In any case, they are informed no less than 20 working days before the public meeting, being made available copies of the draft to be discussed. “

**It turns out that the Municipality of Shkodra in the case of discussions on the draft budget has not respected the legal term while in the case of the discussions on Local Plan this deadline is respected partially!**

**Fig 18. Invitation from Shkodra Municipality on 25 March for the consultation of the draft budget on 30 March 2016**



Paragraph 19/3 of this law determines:

*"Drafts are accompanied by a summary of the accepted recommendations under the provisions of this Law. If the recommendations of the group of interest are not accepted, then the public body presents a summary of the reasons for their rejection in one of the forms of notifications provided in Article 11 of this Law."*

**From the gathered information through the correspondence with the Municipality of Shkodra it turns out there is not such implementation and there is no official report, either!**

Article 20 of this Law stipulates that the public bodies are required to prepare and publish annual reports on transparency in the decision making process including information on:

- a) the number of acts consented by the public body during the reference year;*
- b) the total number of recommendations received from the groups of interest;*
- c) the number of the accepted and rejected recommendations and comments during the decision-making process;*
- d) the number of organized public meetings.*

**Information collected does not show any annual report on transparency in decision making to be compiled or published.**



### ***III. Conclusions and Recommendations***

The monitoring of the obligations that arise from the legislation in force regarding the right to information and transparency of the local institutions, shows that the Municipality of Shkodra are making positive steps and they are continuously reflected which shows the commitment and accountability of these local officials. Despite improvements in this regard, it should be noted that there is still room to improve in the respect of the obligations that are imposed to local authorities to guarantee the right to information.

In recent correspondence conducted for this purpose, there is an emphasis on having employees of Shkodra Municipality to answer respecting legal deadlines. Furthermore, our association is addressed to the Office of the Commissioner for Freedom of Information and Protection of Personal Data, who after reviewing the case in question, has found right our complaint and has asked the Municipality of Shkodra to act according to the Law, for the purpose of providing the requested information by 03.18.2016 (paper nr.343 / 1, dt.10.03.2016).

The analyses of the cases and the monitoring present a few problems in implementing the Law on the right to information and transparency, as mentioned in more details above. To improve the situation, the recommendations of this report will be summarized as follows:


- ***Better and more complete recognition and enforcement of the Law on the right to information is required so that citizens receive adequate information on this Law and the legal deadlines to get answers to their requests or complaints;***
- ***Must be made better update of the information on the official website of the Municipality of Shkodra in all its sections so that citizens and any interested entity receive the latest information.***
- ***Also not all are familiar with the use of the official website and accessing the information it contains, or even know how to use it; Citizens prefer to turn directly to the offices of local institutions as they face bureaucratic difficulties and obstacles making requests for information or find it easier to get information directly. So it is important the addition of receptions of information and services at various places of the Municipality of Shkodra.***
- ***You must respect the procedures and time limits for response and addressing of the requests / complaints because often there is no coordination of work between internal structures and there are noted deficiencies in knowledge and application of the Law affecting in the information given and legal deadlines for response.***
- ***Information related to taxes and fees must be updated.***
- ***The annual plans of the Municipality of Shkodra related to the decision-making process should be drafted and relevant information to them should be given.***
- ***Electronic registry of the notification and public consultation of the draft must be created. Here you can consult the data and the drafts and offered the possibility of communication of all parties concerned with the public body so that they can***



*communicate or send their comments and recommendations as well as get informed about the comments / recommendations that have been accepted or not.*

- There should be recognized every mechanism and procedure for making requests and complaints in respect of actions or inactions of the public authority, and any mechanism or procedure through which interested persons may submit their views or they may influence in any way in the drafting of the laws, public policies or the exercise of public authority functions.*
- Ongoing informing of the citizens about the legal provisions that guarantee the receiving of information and the procedures to be followed for the implementation of this right;*
- Ongoing information of the staff and the monitoring of their behavior related to the pursuit of the procedures and the respect of the legal deadlines for providing information;*
- Propose necessary legislative changes so that there is no uncertainty or overlap between the Law on the right to information and the public notification and consultation.*
- Promoting professionalism to improve the quality and the form of providing information to citizens;*
- Strengthen the capacity of the staff to best meet the obligations which the legislation imposes to information;*
- Improving of the work of the staff to give information and assistance to citizens on how and where to set their own requirements when these are under the jurisdiction of another body;*
- Continuous update of the official website regarding the information provided and the transparency program of the Municipality as part of a legal obligation.*
- Better orientation for citizens about addressing their requests and complaints to the right competent authorities;*
- Raising capacity through periodic training about a more comprehensive understanding of the legal obligations and their implementation by the staff of the Municipality;*
- Better cooperation and coordination in providing information and handling of the requests / complaints;*
- Strengthening of the cooperation with the civil society and mutual projects or activities promoting monitoring mechanisms of transparency;*
- Rising of awareness of all parties about their rights and legal obligations to guarantee the right to information and the strengthening of institutional transparency.*
- Encouraging of the creation of committees, boards, civic forums from various interest groups where the consultation of decision makings of the Municipality can be made for better service to citizens*
- There should be various forms of citizen participation online via blog / online discussions or the development of mobile applications.*

**Note:** This report following its presentation on 18th April 2016 was sent to the Municipality of Shkodra to give their comments regarding the findings, leaving them as a deadline for the submission of comments May 9, 2016. There has been no response from the Municipality of Shkodra and has not been sent any comment indicating that the findings of the report were appropriate and were all accepted by the Municipality of Shkodra !



**“INTELEKTUALET E RINJ, SHPRESE” (I.R.SH)**  
**“YOUNG INTELLECTUALS, HOPE” (“YIH”)**  
**L:”QEMAL STAFI”, RR:”DAUT BORIÇI”, NR= 874,**  
**SHKODER, ALBANIA**  
**TEL/FAX: +355 222 48811**  
**E-mail: [irsh\\_centre@yahoo.com](mailto:irsh_centre@yahoo.com)**  
**Date 18 Prill 2016**

Drejtuar: **Znj.Voltana Ademi,**  
**Kryetare e Bashkise Shkoder**

E nderuar znj.Kryetare,

*Ju lutem gjeni bashkangjitur kopjen e Raportit te Pare mbi Transparencen ne Bashkine e Shkodres. Ne do te kerkonin vleresimin dhe komentet Tuaja si perfaqesuese e Bashkise Shkoder ne lidhje me gjetjet e Raportit duke na informuar ne menyre konkrete per ato gjetje te cilat jeni dakort dhe per ato gjetje te cilat nuk qendrojne duke na dhene edhe kopje te dokumentave ne menyre qe ti bashkangjesim per tu publikuar ne raportin final.*

*Ne do t'ju luteshim qe komentet Tuaja ti sillni brenda 20 diteve nga marrja e ketij njoftimi ose jo me vone se data 9 Maj 2016.*

*Nderkohe Ju rikujtojme edhe njehere se organizata e jone mbetet e perkushtuar per bashkpunimin me Bashkine Shkoder duke Ju ofruar te gjitha asistencen e nevojshme per te vazhduar kete iniciative e cila qe ne fillimet e saj ka dhene rezultatet e para pozitive!*



Singerisht



Saimir Beqiraga

President i IRSH