

E-Governance and the Importance of Personal Data Protection in Albania

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Abstract

The use of public information and database processing in Albania is at a very early stage of implementation in terms of administrating public data and exchanging information with citizens and public servants in adherence to human rights. The government strategies and political programs have considered the e-governance and digital agenda as a priority that would lead the road towards EU membership. However, the information system in Albania needs improvement and legal and regulatory completion to respond to the dynamic development of this field and to foster inter-institutional cooperation for the internet and secure information system. Although the electronic government is being a vital tool for the future of better public services, successful participation, and good governance, there is still an important linkage between human rights data and e-government readiness. This paper aims to explain the relationship between e-government readiness and the human rights level of adherence in Albania.

Keywords: e-governance, human rights, information technology

Introduction

E-Government is a comprehensive term used to describe all types of electronic interactions between Government and citizens, government and businesses, as well as government with relevant ministries and agencies. According to Bennister and Collony E-governance is the use of communication technologies in government that can either create or alter new governance structures that were not possible before the ICT.¹ The opportunities and advantages offered by Information and Communication Technologies (ICT) and the new technologies involved offer an immense potential, as many dedicated applications promise fast, efficient and proper functioning of all institutions and agencies connected to the network. ICT infrastructure is critical in forming/constructing and developing the information society. Infrastructure policies aim to promote ICT infrastructure development to be available on equal terms, non-discriminatory and affordable prices so that all citizens benefit from information and communication technologies.

On the road to its membership in the European Union, Albania has undertaken a series of reforms needed to get as close to international and European standards. The use of information technology in recent years shows the high public unity of these tools and the support they give to increase quality and effectiveness in the performance of public functions. Electronic systems of registration and administrative proceeding in registration and licensing of businesses conducting public procurement payment of taxes, civil registry, or obtaining proof of criminal record have significantly increased accessibility, convenience, transparency, and decreased costs of receiving these services by citizens and businesses.

However, there is a misuse of technology in administrating public data. In December 2021, three datasets were published with the private data of Albanians, along with their salaries, number of identity cards, and the place where they work. This issue raised a significant question on the readiness and capacities of the Albanian government in administrating personal data and implementing this new way of governance in adherence to human rights. Despite the positive and negative effects of this governance, the violation of human rights is crucial in addressing the importance of this issue.

E-Governance in Albania

The Albanian government adopted a 2007-2013 strategy on electronic transactions in public administration and a Strategy on the Digital Agenda of Albania for 2015-2020.² These documents aimed to form a basis for the transfer of public administration in the Albanian information society. Thus, Albania would be in constant development to reach the comparable stages with developing countries, which are very aware that the transition of the information society is the only possible path for the future. These strategies envisaged the introduction of electronic transactions in the internal procedures of public administration and all-important administrative services for natural and legal persons. The main purpose of presenting electronic transactions was to provide simple, fast, quality, and free access for citizens and commercial entities to information on public administration and services. This would ensure greater transparency and efficiency in the functioning of public administration. Moreover, through these strategies, the Albanian government tried to promote digital initiative as a tool for modernizing governance, and knowledge for a more open and economically sustainable society for the citizens, to join the regional cooperation, and coordinated with the European Law and institutions within the process of integration of Albania in the European Union.

Through e-governance in Albania have been implemented some e-services for businesses and services operating in the country and outside such as e-Albania, the National Agency for Information Society Services (AKSHI), and the Agency for the Delivery of Integrated Services in Albania (ADISA). E-services offer several service categories such as document certification with a digital stamp that proves the legal status, education, labour insurances, contributions, etc., based on the request. Electronic governance in Albania is in the early stages of its development, but some of the achievements so far are the GOVNET government network, implemented with the support of UNDP and the European Commission. Thanks to this project, ministries, Albanian government departments as well as two public

¹ Bannister, Frank, and Regina Connolly. "Defining E-Governance." *E-Service Journal* 8, no. 2 (2012): 3–25. <https://doi.org/10.2979/eservicej.8.2.3> pg. 10.

² Council of Ministers, Cross-sectorial Strategy "Digital Agenda of Albania 2015-2020" https://akshi.gov.al/wp-content/uploads/2018/03/Strategjia_e_Axhendes_Dixhitale_shqip.pdf

service organizations have been connected through a high-speed fibre-optic network. Currently, the developments of this network have made possible the use of the following programs: Medium Term Budget Planning (MTBP); Human Resource Management System by Department of Public Administration (HRMS); Electronic system for control of the judicial status of citizens of the Ministry of Justice (SEMD), etc.

All ministries have their website and an electronic database where legal and sub-legal acts are presented, news on the activity of each ministry, and strategic documents, thus realizing the distribution of information electronically. Electronic publication of the official notebook and legislation as well as the provision of electronic service for the declaration of judicial status, computerization and monitoring of the implementation of government commitments under the Stabilization and Association Agreement are some of the main benefits of e-governance. In computerizing the process of assessing the progress of the implementation of the SAA and the process of approximation of legislation, care is taken to continuously improve the information technology system (IT) to enable online services in informing about the progress of the integration process

However, electronic governance is a long process that goes through several stages such as the distribution of information electronically through the presence on the web to the complete transformation of the way of governance through the provision of online public services safely, reliably, easily, accessible and with the active participation of citizens and business. The urgency of E-Government has been conditioned by the rapid development of information society. At the core of e-government is the response to the modern needs of society and the challenges dictated by modernization. E-governance is a continuous process that goes through a total transformation of governance through the process of offering secure and reliable information.³ Electronic public administration, moreover, is supposed to function in accord with the objectives that have been required by legal norms. Within the administrative system, its electronic form is associated with a set of regulated activities or those that facilitate service to the public based on non-profit. The result of the formulation and implementation of public policies is part of the implementation of a considerable range of problems that concern human beings and cooperative human endeavors. An area that may have been differentiated in several ways from public administration and production of goods and services to the public.

Data Protection as a Human Rights Issue

The speedy expansion in electronic communication has raised the issue of personal privacy in this online environment. Due to the gloomy concept between the public and private conceptions, the concept of privacy has shifted significantly in the digital age, especially in the context of profiling, where advanced devices are gradually compromising people's privacy and autonomy. The convention for the Protection of Human Rights and Fundamental Freedoms is the most important form of expression of the commitment of the member states of the Council of Europe to the values of democracy, peace, and justice and through them to respect the fundamental rights.⁴ Moreover, Article 7 of the Fundamental Rights Charter of the European Union provides the right to respect private and family life, communication, and home, and Article 8 secures the right to personal data protection.⁵ The right to privacy and the right to protection of private data are two fundamental human rights because they play a crucial role in the adherence to private life. The right to data protection derives from the right to respect private life, and the concept of private life relates to human beings, therefore human beings are the primary beneficiaries of data protection. Privacy, is a fundamental right, is a value that the right to data protection seeks to protect.⁶

Data collected to produce statistical information must be strictly confidential, used exclusively for statistical purposes, and regulated by law.⁷ According to Bygrave security measures should be implemented to protect personal data and used for specified and lawful purposes.⁸ The necessity to

³ Sejdini, Imelda, "E-government implementation in Albania, as a tool to increase citizens' participation and benefits", *International Journal of e-Business and e-government Studies*, Vol2 No2, 2010, pg. 14.

⁴ Preamble the European Convention on Human Rights, Publishing of Council of Europe, Strasbourg 1994

⁵ European Union, Charter of Fundamental Rights of the European Union, 26, October 2012, 2012/C 326/02.

⁶ McDermott, Yvonne. "Conceptualizing the right to data protection in an era of Big Data." *Big Data & Society* 4, no. 1 (2017): 2053951716686994.

⁷ Principle 6 of the United Nations Fundamental Principles of Official Statistics/ A human Based approach to data, "Leaving no one behind in the 2030 agenda for sustainable development" United Nations Human Rights.pg 15

⁸ Bygrave, L. (1998). *Data protection pursuant to the right to privacy in human rights treaties. International Journal of Law and Information Technology*, 6(3), 247-284. doi:10.1093/ijlit/6.3.247

secure personal data and privacy from the worldwide reach of modern electronic communications technologies is fundamental. The efficient protection of personal data requires the establishment of a regulatory framework that attempts to develop regulatory principles and standards that are approved and applicable in all nations.

Taking into consideration the fact that with the development of technology and online interactions has come the time that cybersecurity to be started treated as a human rights issue.⁹ In the new environment of information and communication technologies, information control and access to specific services create a stable structure from the development of telecommunication networks. The importance of digital technology in the dissemination of information is great because it allows the creation of an information society that interacts through this network.

Individuals' privacy is recorded, which leads to direct or oblique information about their political ideas and personal actions. In this way, the citizen is allowed to use his data, in the best case by putting him at the center of advertising policy, and in the worst case by putting him at the center of security services, which, in a state lacking democratic safeguards and judicial review of the legality of their actions, have a high potential to violate fundamental human rights through the processing, storage, and use of personal data. People are concerned that, as information technology evolves, they will be constantly exposed to intrusive monitoring of their privacy and misuse of their data.

According to M.Schwartz the privacy commons - a space for anonymous and semi-anonymous interactions - is the public good at risk in the context of data privacy.¹⁰ The privacy commons is produced by limiting the access of personal data through legal and other means. A social order founded on democratic discourse and the individual ability for self-governance is the benefit that a privacy common provides to the public.

The data subject should be able to choose the qualities she wants to share with a service provider using a digital identity management platform. The processing of data should be governed by these rights, which can be cancelled by the user of the digital identity management platform.¹¹ In this context, the data protection is a human right that need to be protected and secured under the domestic law and regulation of the governments.

Relationship Between Human Rights and E-government Readiness in Albania

E-government readiness is a key indicator of a country's willingness to accept e-government projects.¹² Although in the available literature, various e-government issues have been found in both developed and developing countries, some e-government issues are widespread in both developed and developing countries. Some issues with e-government service delivery may be more serious in developing countries such as Albania rather than in developed countries, through which a variety of "situational factors" influence the provision and execution of e-government services. E-governance through the years has been facing many challenges which are more complex and more integrated into the social environment.¹³

For government employees, running an e-government website is a difficult endeavor. In the Albanian case, the Albanian government must ensure that the correct information delivered by the officials is correct and available at the right time and place in accordance with human rights. Failure to do so may result in a variety of issues, some of which have been identified by authorities. If the responsible information technology employees are not capable of uploading the data to the e-government website, or they face difficulties in doing this process, major technical and legal challenges may arise, which could

⁹ Why cybersecurity is a human rights issue, and it is time to start treating it like one, Deborah Brown and Anriette Esterhuysen Publisher: APCNew <https://www.apc.org/en/news/why-cybersecurity-human-rights-issue-and-it-time-start-treating-it-one>

¹⁰ Schwartz, Paul M. "Property, Privacy, and Personal Data." *Harvard Law Review* 117, no. 7 (2004): 2056–2128. <https://doi.org/10.2307/4093335>, pg 35

¹¹ Kulhari, Shradha. "Data Protection, Privacy and Identity: A Complex Triad." In *Building-Blocks of a Data Protection Revolution: The Uneasy Case for Blockchain Technology to Secure Privacy and Identity*, 1st ed., 23–37. Nomos Verlagsgesellschaft mbH, 2018. <http://www.jstor.org/stable/j.ctv941qz6.7>, Pg. 36

¹² Abu-Shanab, Emad & Harb, Youstra. (2013). "E-Government Readiness Association with Human Rights Index". *Electronic Government an International Journal*. 10. 56-67. 10.1504/EG.2013.051275Ç pg. 58

¹³ Dawes, Sharon S. "The Evolution and Continuing Challenges of E-Governance." *Public Administration Review* 68 (2008): S86–102. <http://www.jstor.org/stable/25145732>, pg. 7

jeopardize the government's ability to function properly and this has led, in Albania's case, to the violation of human rights when three different datasets were published.

These datasets circulated online, in excel tables, and raised and increased the concern about the security of private data in the country. The information that was spread contained private information and the salaries of the citizens during January 2021 and then another leaked excel table with the salaries of April 2021. According to experts in the field *"this data leak was a threat to the national security and showed the Albanian government's weaknesses in providing a cyber-security infrastructure and a speed institutional reaction to the problem"*¹⁴ With this leak of information, not only was the privacy of Albanian citizens violated, but also the intelligence national services, military intelligence, and national security was in risk. The publication of the payroll for almost nine hundred thousand Albanian citizens showed the responsibility of the government, state structures, guarantors of personal data protection, computer systems, and servers that operate in the electronic systems in Albania, in the protection of privacy and human rights.

With the introduction of new technologies, contactless services will be further expanded in the future in the implementation of the government services, therefore it is required that e-services should be secured and protected. The data leak last year in Albania was a real blow to our security, non-confidentiality, and the inability of the state to eliminate the use of data by unauthorized individuals. The opportunity and access of public servants to the personal data of the citizens are accompanied by the obligation to protect this data and not to violate human rights or to take advantage of the place of work by using personal data, salary, IDs, license plates and other information without respecting the security of the information.

Moreover, the leak of this data on the salaries of Albanian citizens in public and private sectors strongly highlighted the differences and concealment of income by thousands of employees and deep inequalities between underpaid and overpaid employees. The publication of salaries despite showing the government's incapability and readiness in administrating these data in accordance with human rights brought to light many other social problems and differentiation that should be taken into consideration in raising the importance of a good e-government management service.

Recommendation

The electronic governance and e-government in Albania are at their early stages and during these years of implementation have been facing with various challenges. The implementation of the concept of e-government is not easy and requires the solution of a series of complex issues and problems, where one of the most important is the trust in interaction with public administration, as well as the security of the information exchange during this interaction.

In Albania there is still not enough assessment and awareness to improve the institutional, legal and technological infrastructure. Lack of financial means and qualified professionals are additional problems that increase the possibilities of abuse of duty from current employees, thus directly violating human rights. In this context, the Albanian government is responsible in ensuring that the data and personal information of the citizens are secured and safe, to encourage people to frequently use e-services to communicate with the government. With the issue of the data leak in Albania, the public administration of Albania showed that was incapable of administrating and protecting the personal data and privacy of Albanian citizens and showed its need for expertise in professionals who can verify and properly administrate public data. A state must govern through transparency and responsibility in its operation and civil rights protection. E-government should not only be used as a tool to solve problems, but at the same time as a driving force for the reorganization and well-functioning of the administration. Through the advancement of currently established systems for e-government and the construction of new applications, the creation of a modern, professional public administration should be an aim itself, which would act in accordance with the protection of human rights and would accelerate the integration processes which Albania is going through. Important factors that could improve the functioning of the electronic government are:

Security, as a large percentage of citizens after the incident of data leakage do not trust the sites on

¹⁴ Fjori Sinoruka, *"Massive Data Leaks in Albania pose public Security Question"*, <https://bird.tools/massive-data-leaks-in-albania-pose-public-security-question/> seen on 20 April 2022

which they should have their personal data. The solution to this problem can be the introduction of digital signatures which is very close to manual signature. Ensuring the reliability of e-government must be done in accordance with the standards set for the provision of information, with the legal and regulatory environment to protect personal data. The secure use of information technologies must be ensured when public services are delivered through digital means.

A comprehensive legislative framework that guarantees human rights in e-governance and enhances the transparency, accountability, and responsiveness of public institutions, and is in line with the EU legal framework is a prerequisite for the development of e-government. Increasing interaction between institutions and citizens should be a key component of e-government.

Training and capacity building should be provided to public officers because a more qualified and competent employee will be more responsible in administrating and using public data, therefore the quality of e-governance will increase. Cultivating knowledge, skills, and experience in the precise definition of duties and responsibilities for each employee of public administration, as well as the steps to be followed in accordance with the job description, the legal framework for the development of civil service, help institutions to perform with the efficiency of tasks and make the public administration more functional as a whole. In addition to this, there is a need to create an application for evaluating the performance of public administration from the citizens, which has a coherent, consistent structure, responsible in law enforcement as well as appropriate to the need for creative, innovative, and organizational change.

Campaigns on raising awareness in promoting and emphasizing the importance of e-governance in the future. Institutions through their capacities and collaboration with non-profit organizations have the potential in encouraging citizens' participation in e-governance programs, tools, and services.¹⁵ Through the promotion of e-participation, we could raise awareness of the importance of knowing how to use these platforms in promoting human rights and protecting our privacy and data without being exposed to the public. Servers of public institutions administered by AKSHI should create and take measures to prevent information leaks and manage this within time.

To conclude, this paper tried to provide a general overview of the e-governance situation in Albania and the recent risks the country is facing in protecting human rights in this new way of governance. The above recommendations could help to improve the e-governance towards offering better and safety services to the citizens and could lead to preventions of other cybersecurity incidents that violate human rights. The main goal is to create more transparent, responsible, and democratic institutions.

¹⁵ Ahn, Michael J., and Stuart Bretschneider. "Politics of E-Government: E-Government and the Political Control of Bureaucracy." *Public Administration Review* 71, no. 3 (2011): 414–24. <http://www.jstor.org/stable/23017498>. Pg. 2

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