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# Law on Parliamentary Oversight of Security and Defense Sector

- Second Year of Implementation -

*2012  
Monitoring Report*

Podgorica, 2013



**DCAF**  
a centre for security,  
development and  
the rule of law



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***The opinions expressed here are the authors' own and do not necessarily coincide with those of DCAF.***

## ***Contents***

Introduction	5
Second year of implementing the Law - Key impressions	6
Overview of Committee's Sessions during 2012	7
Annual Reports Review	8
Peacekeeping Missions and Oversight	8
Control Hearings	9
Consultative Hearings	11
Oversight of the Secret Surveillance Measures (SSM) Implementation	11
Budget Control	13
Visit as a Control Mechanism	15
Reporting to the Parliament - deliberation on the Committee reports in the plenary	16
Legislative activity	17
Parliamentary oversight planning	18
Composition of the Committee	18
Transparency of work	19
Amendments to the Rules of Procedure - redefinition of competences	20
Recommendations for improving parliamentary oversight	21
Overview of the implementation of the Committee's 2012 Oversight plan	22
About the Institute Alternative	23



## Introduction

The Law on Parliamentary Oversight of Defense and Security Sector was unanimously adopted by the Parliament of Montenegro in December 2010, after nearly three years since the conception of idea of the need for its adoption. The basic objective of the Law was to enable the Parliament of Montenegro, directly through the Committee for Defense and Security conducting the oversight of authorities in charge of security and defense, to ensure the protection of citizens' freedoms and rights against possible abuse, as well as to contribute to the development of a comprehensive and modern security system of Montenegro. The Law specifies the manner of conducting parliamentary oversight of actions of authorities and institutions dealing with the security and defense issues, their duties, as well as the relationship of the Committee for Defense and Security to the Parliament and Government of Montenegro.

Institute Alternative has contributed in the development of this Law, primarily by advocating the necessity of its adoption, and then also by cooperating with the competent working group in the course of drafting the legal text.<sup>1</sup> Following the adoption of the Law in the Parliament, in December 2010, we have organized a round table and we announced that we will continue to monitor the implementation of this important Law, in order to strengthen and maintain its spirit and motives that lay behind its adoption.

In December 2011, we marked the first year of implementation of this Law and presented our Report on the work of the Parliament and the Committee for Security and Defense in fulfilling its provisions. On this occasion, we concluded that:

“Adoption of the Law, to a certain extent, has triggered both the proactive and the more efficient work of the Committee, although it still suffers from the insufficient use of the available oversight mechanisms and uncertainty of conducted parliamentary oversight's impact.”<sup>2</sup>

The year addressed by this Report was featured by the parliamentary elections. In July, the Parliament adopted the decision on shortening its term, and the elections were held in October, and in November a new, 25<sup>th</sup> convocation has been constituted. Elections and associated events have influenced the work dynamics of the Committee for security and defense, resulting in failure to address a large part of planned commitments.

The Report before you is a review of the activities of the Parliament and the Committee, in reference to the oversight over security and defense sector. The structure of the report, to the greatest extent, relies on areas that we have addressed in our last year's report and at that time established methodology. Recommendations for improvement have been provided at the end of the Report, which we will address to the members of the Committee for Security and Defense, and other participants in the oversight process over this sector.

During last year, we have established cooperation with the Centre for Democratic Control of Armed Forces from Geneva (DCAF), which supported our monitoring of the Committee's work and the development of this Report. We would also like to thank the Committee for Security and Defense: president and members of the Committee, as well as the parliamentary service, for their cooperation in monitoring of the sessions and provision of information and materials throughout 2012.

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1 Our commentary of the draft law is available at: <http://institut-alternativa.org/komentar-na-zakon-o-parlamentarnom-nadzoru/> (in Montenegrin only)

2 Our 2011 Monitoring Report is available at: <http://institut-alternativa.org/zakon-o-parlamentarnom-nadzoru-u-oblasti-bezbjednosti-i-odbrane-prva-godina-primjene/?lang=en>

## *Second year of implementing the Law - Key impressions*

The Committee for Security and Defense has held 13 sessions, reviewed 22 points of the agenda and six law proposals, conducted two control and one consultative hearing during 2012.

Progress can be observed when it comes to oversight over the security and defense sector budget. This is because the Committee has the practice of discussing the final account of the budget (the year-end report) with the help of representatives of the State Audit Institution; because the Committee demands additional reporting from the institutions it controls in regard to effectiveness and efficiency in using approved funds; as well as because the Committee uses audit reports when reviewing key budgetary documents.

Half of the activities planned for 2012 have not been accomplished. Among them, failing to discuss the 2011 annual reports of the Police Directorate and the National Security Agency, are some of the more important ones.

During 2012, the Committee used none of the mechanisms it has at disposal when it comes to control over the secret surveillance measures implementation. This is especially worrying, having in mind that the situation was no different in 2011 in this regard.

The year behind us was marked by the lack of proactive approach by both the ruling coalition and the opposition. No initiatives for consultative hearings have been filed, while only two initiatives for control hearings were received by the Committee.

The Parliament is excluded from the process of deploying representatives of the civic protection, police and state employees to peace keeping missions, nor is it informed about their activities abroad. Cooperation with civil society organizations has declined considerably in relation to 2011, most of all because the planned consultative hearing has not been conducted.

The “field visits” to institutions have not yet become a functional oversight tool, because it does not result in conclusions, proposals of measures to be taken or recommendations for solving the problems that motivated the visit to be conducted in the first place.

The reports on conducted parliamentary oversight are not discussed at the plenary sessions of the Parliament, although 9 of them were submitted by the Committee during 2012. No progress has been made when it comes to approaching gender equality during the formation of the new convocation of the Parliament and the Committee for Security and Defense.

During 2012, partly due to parliamentary elections, a step backwards was made regarding the implementation of the Law on Parliamentary Oversight of the Security and Defense Sector, in relation to the previous year.

### *year 2012 in numbers*





## Overview of Committee's Sessions during 2012

- .....
- 43<sup>rd</sup> Session - closed for public** - Control hearing of the Head of National Security Agency and the Minister of Foreign Affairs and EU Integration, in reference to the assessments of NATO Montenegro Progress Report, participation in Membership Action Plan for 2011
- .....
- 44<sup>th</sup> Session** - Consideration of the Draft amendments to the Law on defense and the Draft Law on internal affairs
- .....
- February** **45<sup>th</sup> Session - closed for public** - Control hearing of Supreme State Prosecutor and the Director of Administration for the Prevention of Money Laundering and Terrorist Financing, in reference to the current activities undertaken by the competent state authorities in reference to the allegations on possible corruptive actions during and after the Telecom's privatization process
- .....
- 46<sup>th</sup> Session** - Consideration of the candidate proposal for the Head of National Security Agency.
- .....
- 47<sup>th</sup> Session** - Consultative hearing of the military - diplomatic representative of Montenegro, Lt. Gen. Ljubiša Jokić. Adoption of the Committee's annual report for 2011 and the oversight plan for 2012.
- .....
- 48<sup>th</sup> Session** - Consideration of the proposal for ending the state of emergency in Montenegro.
- .....
- May** **49<sup>th</sup> Session** - Consideration of the Report on the deployment of armed forces of Montenegro in international forces (...) in 2011, consideration of the 2011 Performance Report of the Ministry of Defense, and the 2011 Report on the general state of affairs in the Military of Montenegro.
- .....
- June** **50<sup>th</sup> Session** - Consideration of the 2011 Performance Report of the Ministry of Internal Affairs, and on the 2011 Report on the state of affairs in the field of protection and rescue system in Montenegro, as well as the Report on measures and activities undertaken immediately before and during the state of emergency with a proposal of measures to enhance the overall system for responding to states of emergency.
- .....
- 51<sup>st</sup> Session** - Consideration of the Draft amendments to the Law on Data Secrecy
- .....
- July** **52<sup>nd</sup> Session - closed for public** - Consideration of the candidate proposal for the Head of Police
- .....
- 53<sup>rd</sup> Session - closed for public** - Consideration of the information from the Supreme State Prosecutor and the Director of Administration for the Prevention of Money Laundering and Terrorist Financing, in reference to the current activities undertaken by the competent state authorities in reference to the allegations on possible corruptive actions during and after the Telecom's privatization process.
- .....
- October** *Parliamentary Elections*
- .....
- 1<sup>st</sup> Session** - Consideration of the Draft Law on the Budget of Montenegro for 2013.
- .....
- December** **2<sup>nd</sup> Session** - Consideration of the Draft Law on the Final Account of the Budget of Montenegro for 2011 (Year-end report) and the Audit Report on National Security Agency. Consideration of the Committee's Oversight plan for 2013.

## ***Annual Reports Review***

Pursuant to the Law Parliamentary Oversight of Defense and Security Sector, the Committee considers the Annual Reports of the Ministry of Defense and Army of Montenegro (including the Report on sending the Army members to missions abroad), National Security Agency, Police Administration and the Ministry of Internal Affairs (including the Report on the protection and rescue system status). The aforementioned institutions are obliged to submit their reports by the end of the first quarter of the current year for the previous year,<sup>3</sup> i.e., in this year's case, by the end of March 2012 regarding their work in 2011.

This segment of the Committee's work in 2012 was featured by problems entailing the review and failure to timely address some reports. Pursuant to the Plan on conducting parliamentary oversight, the Committee had to complete the review of all Annual Reports of institutional and authorities subjected to its oversight, by the second quarter of the year. Within this timeline, the Committee has managed to review:

- Annual Report of the Ministry of Defense;
- Annual Report of the Army of Montenegro;
- Annual Report on Deployment of Montenegrin troupes in International Forces (...)
- Annual Report of the Ministry of Internal Affairs;
- Report on Protection and Rescue System Status.

2011 Annual Reports of both the National Security Agency and Police Administration, as well as the Report on security status were not reviewed in 2012. Subsequent review of the aforementioned reports in 2013 by the Committee will be untimely and ineffective.

Delays and untimely consideration of the report undermines the reporting as the control tool. In addition, one of the common features of the Committee's sessions is that the discussion on reports is reduced to questions that have little or nothing to do with a report or the periods to which it relates. Untimely consideration is only increasing the risk of such "unfocused" discussions.

This year the Committee has reviewed the Annual Report of the Ministry of Internal Affairs, thus abandoning the current practice of reviewing the report of one organizational unit of the Ministry - Sector for Emergency Situation and Civil Security.<sup>4</sup>

As far as other reports are concerned, it is important to emphasize that even this year the Committee has failed in reviewing the Annual Report on Foreign Trade in Weapons, Military Equipment and Dual - use Items (obligations under the conclusions of the 11<sup>th</sup> Cetinje Parliamentary Forum).

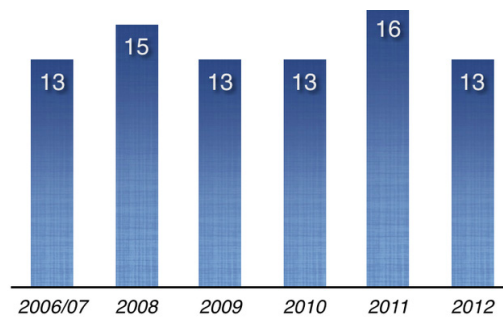
## ***Peacekeeping Missions and Oversight***

In 2012, the Committee has continued with a practice of considering several annual reports at one session. Thus, the Committee devoted one session for the *Annual Report of the Ministry of Defense and Report of the Army of Montenegro, Report on Deployment of Montenegrin troupes in International Forces (...)*. This practice undermines the seriousness of oversight over the key documents through which the Committee is becoming familiar with the work of the oversight entities, that may be further used as ground for launching oversight initiatives.

<sup>3</sup> Article 7 item 3 of the Law on Parliamentary Oversight of Defense and Security Sector;

<sup>4</sup> Report of the Sector for Emergency Situations and Civil Security has been on the agenda of the Committee Board at 33rd Session, held on 20th June 2011, adopted a report (with conclusions ) is available at: [http://www.skupstina.me/index.php?strana=sjednice&tipS=1&sjednicaid=1088&menu\\_id=7.2.2](http://www.skupstina.me/index.php?strana=sjednice&tipS=1&sjednicaid=1088&menu_id=7.2.2) (in Montenegrin only)

The oversight issue of sending the members of Army of Montenegro to the peacekeeping missions and approval for the deployment of new troops and making the insight into the recent activities represents a crucial competence of the Committee. Consolidating discussions, either on the aforementioned or other issues with the discussion on reports of oversight entities, is acceptable only if these topics are addressed at a separate session, which this time was not the case.



*Number of sessions held over the years*

Pursuant to the Law on Parliamentary Oversight of Security and Defense Sector, the Committee considers:

“reports on the participation of members of civil defense, police and employees in state administration in peacekeeping missions and other activities abroad.” In this segment, it is important to emphasize that the Committee was not informed on the participation of members of civil defense, police and employees in state administration in peacekeeping missions and other activities abroad, which is the obligation set forth in the Law on Parliamentary Oversight.

Furthermore, the Committee is also excluded from the process of sending the members of civil defense (and others) to the peacekeeping missions. Pursuant to the Law on Deployment of Montenegrin Troupes in International Forces (...) <sup>5</sup>, the Government is the only one to decide on participation of members of civil protection in peacekeeping missions and other activities abroad. The aforementioned provision, adopted in 2008 (i.e., prior to the adoption of the Law on Parliamentary Oversight) provides for quite excessive authority to the executive power, while leaving the Parliament completely excluded from the decision – making process.

## ***Control Hearings***

In 2012, the Committee held two control hearings that were closed for the public:

- 1) Control hearing of National Security Agency’s Director and the Minister of Foreign Affairs and EU Integration, in reference to the assessments of NATO Montenegro Progress Report, participation in MAP for 2011 (43<sup>rd</sup> Session, held in February);
- 2) Control hearing of Supreme State Prosecutor and the Director of Administration for the Prevention of Money Laundering and Terrorist Financing, in reference to the current activities undertaken by the competent state authorities in reference to the allegations on possible corruptive actions during and after the Telecom’s privatization process (45<sup>th</sup> Session was held in February, being continued at 53<sup>rd</sup> Session held in June).

***First Hearing*** has been initiated in mid – 2011, by the delegates of Movement for Changes. They claimed that the assessments of NATO Montenegro Progress Report state that the security services are not acting in compliance with NATO standards. According to the official information from the Session, during the discussion the members of the Committee were introduced to the NATO Montenegro Progress Report in the Membership Action Plan 2010-2011. In the report from the control hearing, the Committee, inter alia, adopted the conclusion based on which the number of reports that the Committee considers during the year has been extended: in the future, the Committee will

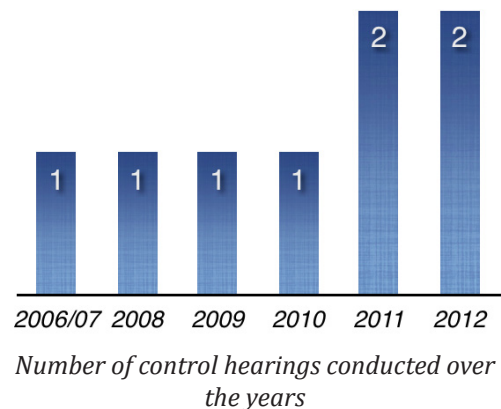
<sup>5</sup> Full title: Law on Deployment of Troops of the Army of Montenegro in the international forces and the participation of members of civil defense, police and employees in the state administration in peacekeeping missions and other activities abroad ( Published in the “Official Gazette of Montenegro”, No. 61 of 13 October 2008)

regularly consider Montenegro Progress Reports in the Action Plan for NATO Membership.<sup>6</sup>

The second hearing was devoted to the “Affair Telekom”<sup>7</sup> which marked 2012, since it was also the subject of a parliamentary inquiry – being the first one after 10 years of not using this control mechanism in the Parliament. The hearing was initiated by MPs from Social democratic party,<sup>8</sup> and the objective of the control hearing was to “discuss the current activities undertaken by state authorities in reference to the investigation of allegations of possible corruption activities during and after the Telekom’s privatization process”.<sup>9</sup> MPs were introduced

with the findings of competent authorities about this case which at that stage for the past six years was in the pre - criminal stage, i.e., phase prosecutorial investigation, not generating any concrete results. The Committee’s conclusion was that “it is necessary that authorities accelerate the process of gathering information and evidence,” and that the Committee “is to be informed about the results of future activities in this case” by May 2012.<sup>10</sup>

With a delay of three months, requested information were submitted and reviewed in a closed session on 31 July 2012. This Session, a sort of extension of the control hearing, was completed by the Committee’s conclusions that “numerous activities have been undertaken (...) that have resulted in obtaining new information of importance”.<sup>11</sup> By the end of 2012, the Supreme State Prosecutors Office failed to prosecute, i.e., failed to bring the charges against any suspect in the case of Telekom. In the light of the above, it can be concluded that the activity of the Committee did not achieve the desired effect, because it has not contributed to a resolution of the “Affair Telekom.” Unfortunately, the result was the same even after the parliamentary inquiry conducted on same matter.



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The year behind us was featured by a small number of initiatives for holding the control hearings. The first control hearing that was conducted was actually initiated in 2011. Throughout 2012, the Committee has received only two initiatives for holding the control hearings, one of which was undertaken (control hearing about the affair “Telekom”), while the second, which was launched by the opposition, has not been implemented.<sup>12</sup> The opposition did not use its right to initiate the

6 Report from this control hearing is available at: [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Izvjestaj%20sa%2043.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Izvjestaj%20sa%2043.pdf) (only in Montenegrin)

7 More information on parliamentary inquiry and aforementioned affair can be found in the analysis of the Institute Alternative: “Investigating Telekom Affair in the Parliament – unrealistic expectations and realistic limitations”, available at: <http://institut-alternativa.org/istraga-afere-telekom-u-skupstini-nerealna-ocekivanja-i-realna-ogranicenja/?lang=en> (November, 2012)

8 Initiative submitted on 23rd January 2012, by the members of the Committee and delegates of the Social Democratic Party, Borislav Banović and Raško Konjević.

9 Source: response of the parliamentary service at the request for free access to information of the Institute Alternative, Decision No. 00-41/13-2/2 (response includes the copy of the initiative submitted).

10 Report from this control hearing is available at: [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Izvjestaj,%2045.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Izvjestaj,%2045.pdf) (only in Montenegrin)

11 Report on reviewing information of the Supreme Prosecutor’s Office and the Administration for the Prevention of Money Laundering and Terrorist Financing, Committee for Defense and Security, No.: 00-64-03/12- 30/6, EPA 946 XXIV, Podgorica, 31 July 2012;

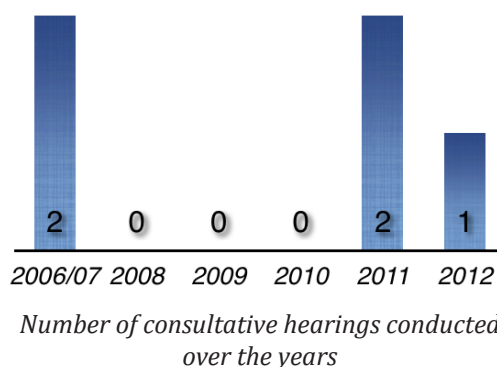
12 Initiative was launched by the Committee member Goran Danilović, for holding the control hearing of the acting director of the Police Administration and the National Security Agency Director in reference to “more frequent organized actions and attacks of organized criminal groups in Montenegro”. The initiative was submitted on 27th March 2012; During the discussion at the Session of the Committee, the MPs agreed that the initiative should be reconsidered after the discussion regarding the Annual report of the Police Administration.

holding of the Committee's session with one agenda item during the regular convocation of the Parliament.<sup>13</sup>

## Consultative Hearings

During 2012, a consultative hearing of the military - diplomatic representative of Montenegro, Lt. Gen. Ljubisa Jokić, who was appointed military attaché and military representative of the OSCE Mission to the Republic of Austria, on residential basis, as well as the military attaché in the Slovak Republic and the Czech Republic on non - residential basis prior to assuming the function.<sup>14</sup> This hearing was held in accordance with the provisions of the Law on Parliamentary Oversight, which is precisely determining that this control mechanism is to be used in the appointment of the military – diplomatic representatives.

Consultative hearing that was envisaged by the adopted Oversight Plan for this year, titled "Private Security Sector" was not held. The failure to hold consultative hearing in the true sense of this mechanism (broad consultations with a large number of stakeholders outside the Parliament in reference to a specific matter) has also reduced the cooperation with the civil sector during 2012. Contrary to the previous year, when two consultative hearings were held with many representatives of civil society, the Committee had no such experiences during 2012.



## Oversight of the Secret Surveillance Measures (SSM) Implementation

Pursuant to the Law on Parliamentary Supervision in Security and Defense Area, in conducting parliamentary supervision, the Committee: "8) considers reports on SSMS application by bodies and institutions referred to in Article 3, paragraph 1 of this Law,<sup>15</sup> the guaranteed rights and freedoms by Constitution are subjected to temporary limitation"<sup>16</sup>. However, the oversight practice over SSM has neither been developed, nor has the Committee in 2012 used numerous control mechanisms that are at its disposal.

### Oversight over National Security Agency's Implementation of SSM

In 2012, the Committee did not conduct systematic oversight over SSMS applied by National Security Agency, failing to both require a special SSMS Report or to visit National Security Agency with the purpose of exercising oversight over SSMS<sup>17</sup> by examining the procedure for implementing the

13 Right guaranteed by Article 12, paragraph 3 of the Law on Parliamentary Oversight of Security and Defense Sector;

14 Consultative hearing held on 47th Session, 24 February 2012;

15 Article 3, paragraph 1: the Committee shall conduct the parliamentary oversight of the work of: the Ministry of Defense, the Army of Montenegro, the National Security Agency, the Police Administration, the Ministry of Interior Affairs and Public Administration, as well as other organs and institutions engaged in the security and defense affairs.

16 Article 7, paragraph 1, item 8, Law on Parliamentary Oversight of Security and Defense Sector;

17 Indirect information on MTN has been obtained at the control hearing of the Minister Roćen, and Vladan Joković



measures, which is the option provided by the Law on National Security Agency. Since the Committee failed in considering 2011 National Security Agency's Annual Report during 2012, which sometimes contains scarce information on the number of SSMs applied - it can be concluded that the oversight over SSMs is completely missing in this year.

This is particularly worrying if we recall that the control mechanisms allowing for the SSMs oversight were neither applied in 2011. Last time the Committee requested a special report and had an insight into the process of SSMs application by the National Security Agency was in March 2010, prior to the adoption of the Law on Parliamentary Oversight.

The importance of the parliamentary oversight in this area is of particular importance if we have in mind that other authorities, having statutory authorization to monitor the implementation of these measures, such as the Agency for the Protection of Personal Data and on the Protector of Human Rights and Freedoms have never applied their authorization to the National Security Agency.

#### *Oversight over SSMs applied for the needs of the (newly established) counterintelligence unit<sup>18</sup>*

In 2012, the National Security Agency has gained additional legal basis for SSMs application. Amendments to the Law on Defense,<sup>19</sup> stipulate that the National Security Agency shall collect military - intelligence, counterintelligence and security information using means and methods of collecting secret information, in accordance with the procedures prescribed by the Law on National Security Agency, and based on an agreement entered between the Ministry of Defense and the National Security Agency. Based on automatism and in accordance with Article 7 of the Law on Parliamentary oversight (stated above), the Committee became in charge to preform oversight these measures as well.

However, the military - intelligence structures did not start operating by the end of 2012,<sup>20</sup> thus the parliamentary oversight in this segment of SSMs is only yet to come. The oversight effectiveness will depend on the quality of reporting of the National Security Agency and the Ministry of Defense on the actions taken and measures applied.

#### *Oversight over SSMs applied by the Police Administration*

In its hitherto work, the Committee has not performed oversight over SSMs that are applied in the criminal proceedings, although the Law on Parliamentary Oversight is providing a legal basis for exercising such control.<sup>21</sup> Police Administration, Supreme State Prosecutor's Office and courts do not submit precise information on the SSMs that they have been applied and approved in accordance with its powers. Additionally, they do not provide information about the results of application of measures, for the purpose of making an assessment of justification for the application of these measures.

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(then) National Security Agency Director, regarding the assessment report on the progress in the participation of Montenegro in MAP in 2011, control hearing also included a discussion of the alleged wiretapping of foreign diplomatic missions in Montenegro, which National Security Agency Director denied. However, this control hearing failed to result in oversight over measures that were implemented.

18 Department for military - intelligence and security operations as an organizational unit of the Ministry of Defense, and military - intelligence, counterintelligence and safety operations have been entrusted also to the Army of Montenegro;

19 Aforementioned amendments to the Law on Defense have entered into force on 5<sup>th</sup> March 2012;

20 Data taken from the Interview of the Minister of Defense, Milica Pejanović Đurišić for the daily "Vijesti", 1 January 2013 (Article available at: <http://www.vijesti.me/vijesti/sve-je-spremno-vojno-obavjestajnu-sluzbu-clanak-107161> - only in Montenegrin)

21 The basis for this statement is provided in Article 3, paragraph 1 and Article 7, paragraph 1, item 8 of the Law on Parliamentary Oversight of Security and Defense Sector;

## Budget Control

In terms of the budget control, the Committee has reached a higher level compared to the other parliamentary working bodies (excluding the parent Committee for budget issues). This is primarily due to the practice of a special consideration of the Year – end Account of the budget in the presence of the SAI's representatives, special requirements imposed to the spending units in terms of reporting on budget execution in reference to efficiency and effectiveness, as well as because of the use of the SAI's during the consideration of the key budget documents.

During 2012, the Committee has shared the fate of all working bodies and the plenum of the Parliament, because the Government, submitted both key budget document to the parliamentary procedure with significant delays and violation of the Organic Budget Law.<sup>22</sup>

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The first Session of the Committee, held in new convocation, was devoted to the discussion of the Budget of Montenegro for 2013, in the part relating to the following spending units: Ministry of Defense, Ministry of Internal Affairs and the National Security Agency. The Session was attended by the representatives of the aforementioned spending units, as well as the Ministry of Finance. Contrary to the previous practice, the proposed budget was reviewed prior to considering the Year – end Account of the budget for the previous year. Therefore, the lessons learned from considering the Year – end Account of the budget could not be taken into account when considering the budget proposals of institutions subjected to the Committee's oversight.

After the discussion on the budget proposal, opinion has been adopted<sup>23</sup> which was submitted to the parent Committee for Economy, Finance and Budget, entailing a positive assessment of the amount of resources allocated to the security and defense sector. Through its opinion, the Committee suggested to the Government to "consider options aimed at finding a solution to modernize/upgrade the helicopter unit." This suggestion refers to the conclusion of the Committee adopted during the consideration of the Report on measures implemented and actions taken immediately prior and during the emergency.<sup>24</sup> It is unclear why the Committee did not use the opportunity to amend the budget and thus ensure the implementation of the adopted conclusion.

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A few days after the discussion on the budget proposal for 2013, the Committee has also considered the Proposal of the Law on Year – end Account of the budget for 2011, in a part related to the spending units in the security and defense sector. The session was attended by the representatives of these institutions, along with the representatives of the Ministry of Finance and the SAI. In the adopted Report on review of the Year – end Account of the budget,<sup>25</sup> the Committee, in addition to the generalize formulation, used the opportunity to reinforce certain SAI's recommendations from its Audit Report of the Year – end Account of the budget for 2011.<sup>26</sup>

22 Regardless of the short deadlines for the review of these documents by the Parliament, they have been further decreased by the Government's delay in submission: Year – end Account for 2011 was submitted to the Parliament on 6th November 2012 (statutory deadline is the end of September) , and the Budget Proposal for the next year was submitted to the delegates on 17th December 2012( statutory deadline is the of November);

23 Opinion available at: [http://www.skupstina.me/cms/site\\_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/Misljenje%20-Predlog%20zakona%20o%20budzetu%20Crne%20Gore%20za%202013.%20godinu%20web.pdf](http://www.skupstina.me/cms/site_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/Misljenje%20-Predlog%20zakona%20o%20budzetu%20Crne%20Gore%20za%202013.%20godinu%20web.pdf) (only in Montenegrin)

24 [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/C%20r%20n%20a%20%20G%20o%20r%20a2.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/C%20r%20n%20a%20%20G%20o%20r%20a2.pdf) (only in Montenegrin)

25 Report available at: [http://www.skupstina.me/cms/site\\_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/Izvjestaj%201.pdf](http://www.skupstina.me/cms/site_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/Izvjestaj%201.pdf) (only in Montenegrin)

26 <http://www.dri.co.me/1/doc/Izvjestaj%20o%20reviziji%20Zavrsnog%20racuna%20Budzeta%20Crne%20Gore%20za%202011.%20godinu.pdf> (only in Montenegrin)

During last year's debate on the Year – end Account of the budget, the Committee annual accounts of the budget, unanimously adopted the conclusion that the spending units in the security and defense sector need to submit to the Committee a detailed analytical report, in terms of efficiency and effectiveness of spending the allocated budget funds. The Report should include the budget execution in the previous year and it needs to be submitted by the end of the first half of the current year .

In practice, this means that the Ministry of Defense, Ministry of Internal Affairs and the National Security Agency were obligated to submit the reports by the end of June 2012, that will provide data for 2011. All three spending units have failed in timely fulfillment of this conclusion, submitting these reports to the Committee in the second half of December.<sup>27</sup>

In addition to delays, only the Ministry of Defense has made an effort to respond to the task required by the Committee - to submit the Report with detailed explanations of expenditures and deviations in the implementation, in terms of efficiency and effectiveness. The reports submitted by the National Security Agency and, in particular, the Ministry of Internal Affairs, do not go beyond the formal patterns and typical cash flow statements.

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A particularly important event in the area of the budget control of the security and defense sector is the publication of the Audit Report on 2011 National Security Agency's Annual Financial Report.<sup>28</sup> In its report, the SAI gave: "positive opinion on the financial report and the conditional opinion on the regulatory compliance of audit entity." The SAI's key objections are related to the internal controls functioning, noncompliance to the provisions of the Public Procurement Law, Ownership Law, unrealistic budget planning, failure of keeping records on employees assets, etc.

Although released in early July, the Audit Report was scheduled on the Committee's agenda almost six months later.<sup>29</sup> The Committee considered the National Security Agency Audit Report as a separate agenda item, in the presence of the National Security Agency's officer and the SAI's representatives, within the Session devoted to the consideration of the Year – end Account of the Budget for 2011.

After debate, adopted a Report on the consideration of the report on revision of ANB's<sup>30</sup> It stipulates that, prior to the debate on the annual report ANB's for 2012. year, ANB be obliged to inform the Committee of the action taken upon the recommendations of the DRI sentences. Given that the Committee during the 2012th did not consider any ANB-annual report for 2011.

In addition to the National Security Agency audit, the SAI has so far conducted the audit of the Ministry of Defense (2008) and the Ministry of Internal Affairs (2009). This leaves the Police Administration as the only so far uncontrolled spending that is subjected to the Committee's oversight.

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Members of the Committee's professional services in the course of 2012, attended several training programs focusing on the parliamentary budget control and the budget documents analysis,

27 Ministry of Defense and the National Security Agency have submitted these reports on 21st December and the Ministry of Internal Affairs on 25th December. The Institute Alternative has obtain access to these documents based on the request for free access to information, Decision No .00 - 41/12-57/3 of 25 December 2012;

28 National Security Agency Audit Report available at SAI's Internet page: [http://www.dri.co.me/1/doc/Izvjestaj-oreviziji-godisnjeg-finansijskog-izvjestaja-Agencije-za-nacionalnu-bezbjednost-Crne-Gore-za-2011\(Montenegro\).pdf](http://www.dri.co.me/1/doc/Izvjestaj-oreviziji-godisnjeg-finansijskog-izvjestaja-Agencije-za-nacionalnu-bezbjednost-Crne-Gore-za-2011(Montenegro).pdf) (only in Montenegrin)

29 National Security Agency Audit Report was published on 3 July, whereas the Committee has considered it at the Session of 26 December;

30 Committee's Report on the occasion of reviewing National Security Agency Audit Report, available at the Parliament's Internet page: [http://www.skupstina.me/cms/site\\_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/izvjestaj%202.pdf](http://www.skupstina.me/cms/site_data/25%20saziv%20ODBORI/ODBOR%20ZA%20BEZBJEDNOST%20I%20ODBRANU/izvjestaj%202.pdf) (only in Montenegrin)



organized by the Centre for the Democratic Control of Armed Forces, Geneva (DCAF) and the Westminster Foundation for Democracy (WDF).

At the initiative of a member of the Committee, in February 2012, the parliamentary department for research, analysis, library and documentation has prepared and published a research paper "Budget Allocations for Defense and Security".<sup>31</sup> This is a comparative review of allocated funds from the state budget to the defense and security sector in 25 countries.

## *Visit as a Control Mechanism*

Based on the Parliamentary Oversight Plan, the Committee has envisaged 5 visits<sup>32</sup> during 2012:

- Visit to the Sector for Emergency Situations and Civil Security, planned for the first quarter of 2012;
- Visit to locations used for storing excess weapons and ammunition, planned for the first quarter of 2012;
- Visit to the Ministry of Defense, National Security Agency and the Directorate for the Protection of Personal Data, for the purpose of monitoring the implementation of the safety standards, planned for the first quarter of 2012;
- Visit to the Internal Control Department of the Ministry of Internal Affairs, planned for the third quarter of 2012;
- Visits to the Customs Administration (with the consideration of information on the role of the Customs Administration in the security sector).

Out of the planned five, two visits have been paid: a) visits to the Ministry of Defense, National Security Agency, and the Directorate for the Protection of Classified Information<sup>33</sup> with the objective of supervising the "application of safety standards", and b) visits to sites in which excess weapons and ammunition are stored - "Taraš" in Danilovgrad and "Brezovik" in Nikšić<sup>34</sup>.

The visit as the control mechanism aims at determining the facts based on direct insight, resulting in systemic change: improvement of the application of legal authorities and procedures prescribed by the subordinate legislation, as well as to point out the problems in its work and propose concrete and measurable solutions.

Bearing this in mind, it is particularly problematic that the Committee is not adopting Reports on paid visit. This means that there aren't any conclusions, recommendation or improvement measures adopted after the visit, the implementation of which could be monitored. It is not clear which problems were subjected to the analysis during the visit, because there are no documented reasons for oversight, disputable issues, and solutions and arguments which were sorted out. Some indications of control subjects can be obtained from the media, from the statements of opposition deputies.<sup>35</sup> Official records of the Parliament include only basic information about the date of making the visit, names of the Committee members who visited the institutions, locations that were visited, etc. But

31 Paper available at the following address: [http://www.skupstina.me/cms/site\\_data/111/01%2012%20Istrazivanje%20Budzetska%20sredstva%20za%20sektor%20odbrane%20i%20bezbjednosti%20februar%202012%20.pdf](http://www.skupstina.me/cms/site_data/111/01%2012%20Istrazivanje%20Budzetska%20sredstva%20za%20sektor%20odbrane%20i%20bezbjednosti%20februar%202012%20.pdf) (only in Montenegrin)

32 Visit mechanism is set forth in Article 15, paragraph 2, item 2 (extraordinary activities of the Committee) of the Law on Parliamentary Oversight of Security and Defense Sector;

33 The visit took place on 20 April 2012.

34 The visit took place on 26 April 2012.

35 For example, in the case of the first visit: opposition Member of the Committee, Nebojša Medojević (Pokret za promjene), claimed that a number of intelligence officers of the Yugoslav Army has passed the security clearance test, although the National Security Agency issued a negative opinion with a recommendation that these persons are not assigned in security services of the Montenegrin Army, thus the purpose of the visit was the clarification of the procedures for obtaining license to access the confidential data.

even if they contained more information, they can not be considered binding for the institutions in the security and defense sector. Among other things, this practice has prevented the development of institutional memory, as well as the experience gained of the Committee, which would represent a basis for the improvement of its further work.

## ***Reporting to the Parliament - review of the Committee reports in the plenary***

This year, the Parliament deliberated on the Annual Performance Report of the Committee for Security and Defense and the results of parliamentary oversight in 2011.<sup>36</sup> The report was adopted by a majority vote.<sup>37</sup> This is an obligation of the Committee toward the Parliament, stemming from the Law on parliamentary oversight,<sup>38</sup> and which is unique to this Committee: the Parliament does not deliberate on reports of any other working body in such a manner. These deliberations were characterized by a consensus among the opposition and the ruling coalition representatives, so the Committee has made a step forward in performing its duties and carrying out oversight activities during the reporting year 2011.<sup>39</sup>

In addition to general performance report, the Committee is obliged to deliver reports on parliamentary oversight to the Parliament. The report may contain conclusions, recommendations as well as a proposal of measures to be undertaken in specific subject matters.<sup>40</sup>

In 2012, the Committee submitted nine such reports to the Parliament (excluding reports about deliberations on draft laws), none of which were discussed in the plenary.

- Report on the control hearing of the director of National Security Agency and of the Minister of Foreign Affairs and European Integration with regard to the assessment from the 2011 NATO progress report on participation in MAP.
- Report on the control hearing of the Supreme State Prosecutor and of the director of the Administration for the prevention of money laundering and terrorism financing, with regard to the hitherto activities of the competent state bodies, in relation to the inquiry about the alleged corruption during and after the process of privatisation of “Telekom”.
- Report on the results of the consultative hearing of Montenegro’s military-diplomatic representative, lieutenant general Ljubiša Jokić, prior to assuming office.
- Report on deliberation on information received from the Supreme State Prosecutor and from the Administration for the prevention of money laundering and terrorism financing with regard to the control hearing on the hitherto activities of the competent state bodies in relation to the inquiry about the alleged corruption during and after the process of privatisation of “Telekom”.
- Report on the deployment of armed forces of Montenegro in international forces (...) in 2011.
- Report on deliberation on the 2011 Performance Report of the Ministry of Defense, and on the 2011 Report on the general state of play in the Military of Montenegro.

36 Report of the Committee is available at: [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZ-VJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/GODISNJI%202011BiO.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZ-VJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/GODISNJI%202011BiO.pdf) (only in Montenegrin)

37 A total of 58 MPs voted: 48 in favour, nine against, one abstained. The report was discussed at the fourth session of the first regular sitting (held on 8 May 2012). Minutes available at: [http://www.skupstina.me/cms/site\\_data/ZAPISNICI%20PLENARNE%202012/ZAPISNIK%20SA%204\\_%20%20C5%9AEDNICE%20PRVOG%20REDOVNOG%20\(PROLJE%20C4%86NJEG\)%20ZASIJEDANJA%20U%202012\\_%20GODINI.pdf](http://www.skupstina.me/cms/site_data/ZAPISNICI%20PLENARNE%202012/ZAPISNIK%20SA%204_%20%20C5%9AEDNICE%20PRVOG%20REDOVNOG%20(PROLJE%20C4%86NJEG)%20ZASIJEDANJA%20U%202012_%20GODINI.pdf) (only in Montenegrin)

38 Obligation defined by article 20, paragraph 1, of the Law on parliamentary oversight of security and defense sector (Official Gazette of Montenegro, No.80/10): “The Committee shall submit, at least once a year, a report on its work and on the results of the parliamentary oversight, to the Parliament.”

39 Source: The authorized transcript of this plenary session, available at: [http://www.skupstina.me/index.php?strana=sjednice&tipS=0&sjednicaid=1588&menu\\_id=0.1.1.3](http://www.skupstina.me/index.php?strana=sjednice&tipS=0&sjednicaid=1588&menu_id=0.1.1.3) (only in Montenegrin)

40 Article 21 of the Law on parliamentary oversight of security and defense sector.

- Report on deliberation on the 2011 Performance Report of the Ministry of Internal Affairs, and on the 2011 Report on the state of play in the field of protection and rescue system in Montenegro.
- Report on deliberation on the Report on measures and activities undertaken immediately before and during the state of emergency with a proposal of measures to enhance the overall system of Montenegro in state of emergency.
- Report on deliberation on the 2011 Audit Report of the National Security Agency prepared by the State Audit Institution.

## *Legislative activity*

In 2012, the Committee deliberated on six draft laws/amendments:

- Draft Law on internal affairs
- Draft Law on the budget of Montenegro for 2013
- Draft Law on the final account of the budget of Montenegro for 2011
- Draft amendments to the Law on defense
- Draft amendments to the Law on data secrecy
- Draft amendments to the Law on data secrecy (another set)

The expert service prepared informative overview for the Committee members, covering all draft laws/amendments, except for the draft Law on internal affairs. During its deliberations on the aforementioned acts, the Committee submitted its own amendments on several occasions in order to align the provisions of draft laws with the Law on parliamentary oversight.

During deliberations on the draft amendments to the Law on defense, the Committee proposed two amendments whose goal was to ensure implementation of the relevant provisions of the Law on parliamentary oversight of security and defense sector. Amendments clearly defined the role of the Committee in appointing the Head of Department for Military Intelligence and Security Affairs at the Ministry of Defense, as well as the issue of parliamentary oversight in this area in general. The proposer of this draft (Ministry of Defense) took on board all amendments submitted by the Committee, thereby incorporating them in the final draft amendments to the Law on defense.

During deliberation on the draft Law on internal affairs, the Committee insisted on introducing a provision whereby the Committee for Security and Defense would provide an opinion in the procedure for appointment of the director of the Police Directorate.<sup>41</sup>

By a majority vote, the Committee backed the first set of draft amendments to the Law on data secrecy and proposed to the Parliament to adopt it along with an additional amendment whose objective was to specify certain provisions. The proposer of the draft endorsed the additional amendment, thereby incorporating it in the final version of the draft amendments to the Law on data secrecy. The second set of draft amendments to the Law on data secrecy (submitted by a group of MPs with a view to allowing members of inquiry committees to access classified data), was adopted unanimously by the Committee.<sup>42</sup>

<sup>41</sup> In line with article 7, point 13, of the Law on parliamentary oversight of security and defense sector.

<sup>42</sup> Report on deliberation of this draft law at the 50th session of the Committee is available at: [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/crna%20gora3.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/crna%20gora3.pdf) (only in Montenegrin)

## Parliamentary oversight planning

The Law stipulates that an annual plan of parliamentary oversight for the subsequent year shall be prepared.<sup>43</sup> According to the relevant provision of the Law, the Committee is obliged to “adopt an annual plan of parliamentary oversight for the subsequent year by the end of the calendar year.” However, the Committee was late with its planning activities, which is why the plan for parliamentary oversight for 2012 was adopted at the end of February 2012.<sup>44</sup> In 2012, no amendments to the planning documents were made.

Toward the end of the year, efforts were made to overcome this shortcoming. At the last session of the Committee in 2012, its members discussed the plan of parliamentary oversight for 2013 (in addition to deliberation on the final account of the budget which was the key point on the agenda). The expert service prepared the draft Plan and invited the Committee members to deliver concrete proposals and suggestions. This initiative was supported unanimously, as well as the idea to have the plan for 2013 adopted at the first Committee session in 2013.

Composition of the Committee	
24 <sup>th</sup> convocation	25 <sup>th</sup> convocation
	Mevludin Nuhodžić (DPS)
	Nebojša Medojević (PZP)
	Radivoje Nikčević (DPS)
	Vasilije Lalošević (SNP)
	Predrag Bulatović (SNP)
	Borislav Banović (SDP)
	Milutin Simović (DPS)
	Obrad Mišo Stanišić (DPS)
dr Fahrudin Hadrović (DPS)	Luid Ljubo Škrelja (DPS)
Aleksandar Bogdanović (DPS)	Andrija Mandić (DF)
Goran Danilović (NOVA)	Velizar Kaluđerović (SNP)
Mehmet Bardhi (DSCG i AA)	Zoran Miljanić (PCG)
mr Raško Konjević (SDP)	Suljo Mustafić (BS)

## Composition of the Committee

In November 2012, the new Parliament was constituted. The number of members of the Committee for Security and Defense remained the same as in the previous convocation - thirteen. As it was the case before, the Committee will be chaired by the representative of the ruling coalition, which also holds the majority of seats in the Committee.<sup>45</sup> Besides that, the balance of power in the Committee has been modified. Instead of eight MPs of the ruling coalition and five opposition MPs, which was the case in the previous convocation, the Committee now provides a balance of power which is more convenient for the opposition: seven ruling coalition MPs and six opposition MPs.

In 2012, the Committee operated without a deputy Chairman.<sup>46</sup> In its new convocation, the Com-

43 Article 12 of the Law on parliamentary oversight of security and defense sector: “Parliamentary oversight shall be carried out regularly according to an annual plan adopted by the Committee, and extraordinarily upon need. The Committee shall adopt an annual plan of parliamentary oversight by the end of the calendar year for the subsequent year. (...)”

44 The plan for carrying out the parliamentary oversight for 2012, was adopted at the 47th session, on 24 February 2012. It is available at: [http://www.skupstina.me/cms/site\\_data/SKUPSTINA\\_CRNE\\_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Plan%20parlamentarnog%20nadzora%202012.pdf](http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/IZVJESTAJI/Odbora%20za%20bezbjednost%20i%20odbranu/Plan%20parlamentarnog%20nadzora%202012.pdf) (only in Montenegrin)

45 During the process of constituting the working bodies of the Parliament, Institute Alternative unsuccessfully kept pointing to the need for an opposition representative to chair this Committee. Such a provision would be in line with the resolution of the Parliamentary Assembly of the Council of Europe on the rights and responsibilities of the opposition in a democratic parliament, which stipulates that: “the chairmanship of committees responsible for monitoring government action, such as (...) the committee supervising security and intelligence services, should be granted to a member of the opposition.”

46 The Committee has been without a deputy chairman since December 2009, when MP Goran Danilović resigned. Danilović resigned after he was denied access to certain documents by the National Security Agency, which accord-

mittee has not yet elected its deputy Chairman, who shall be appointed from among the opposition members, in line with the Rules of Procedure.<sup>47</sup>

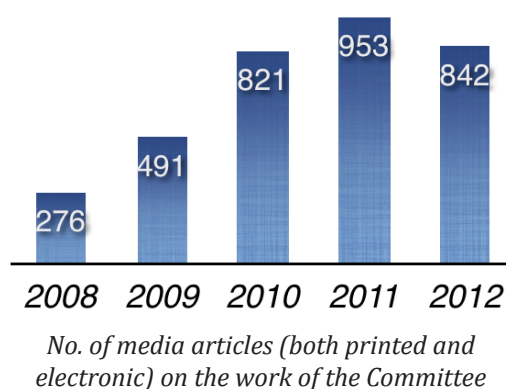
As regards the representation of women in the Committee, the situation has not changed: the new convocation operates as an exclusively “male club”, despite previous efforts of the Committee members to change the gender structure.<sup>48</sup>

## Transparency of work

Out of the total of thirteen sessions held in 2012, four were closed to public.<sup>49</sup> Both control hearings held this year, the deliberation on the information from the Supreme State Prosecutor and the Administration for the prevention of money laundering and terrorism financing - which was the continuation of the control hearing - as well as the discussion on the candidate for the director of Police Directorate, took place behind closed doors in a room for deliberation on classified documents. Minutes of these sessions are impossible to access.<sup>50</sup>

The Committee does not publish minutes from its sessions, even though it is bound to do it by the Rules of Procedure, as any other parliamentary committee.<sup>51</sup> Only reports from the Committee’s sessions are available at the Parliament’s webpage. However, all minutes from public sessions, as well as official notes of the Committee, are available upon request through the Law on free access to information.<sup>52</sup>

Fewer number of sessions in 2012, compared to the previous year, meant less media attention dedicated to the work of the Committee. Therefore, in 2012, the four-year trend of increase in the number of articles in both electronic and print media, dedicated to the topics addressed by the Committee, was stopped.<sup>53</sup>



## Amendments to the Rules of Procedure - redefinition of competences

In May 2012, the Parliament adopted amendments to the Rules of Procedure unanimously. The amendments encompassed the competences of the Committee for Security and Defense, with a view to aligning the Rules of Procedure with the Law on parliamentary oversight.

ing to the interpretation of the National Security Agency required approval of all other Committee members.

47 Article 34 of the Rules of Procedure of the Parliament of Montenegro.

48 At the tenth Cetinje Parliamentary Forum, entitled “Women, peace and security”, dedicated to the implementation of the Resolution 1325 of the UNSC (held on 21 and 22 June 2010). During his speech at the 10th Cetinje Parliamentary Forum, the Chairman of the Committee announced that “the situation as regards gender equality in the Committee, shall improve as soon as possible.”

49 43rd, 45th, 52nd and 53rd sessions of the Committee.

50 Answer from the Parliament’s service to the request for free access to information, decision No. 00-41/12-55/2

51 Article 71 of the Rules of Procedure of the Parliament of Montenegro.

52 Institute Alternative addressed the Committee with a request for access to information and received minutes of all sessions open to public.

53 Data was received via electronic media archive, Arhimed, [www.arhimed.me](http://www.arhimed.me)



### ***Competences of the Committee for Security and Defense (Art.41 of the Rules of Procedure of the Parliament of Montenegro)***

<i>Before the May 2012 amendments</i>	<i>After the amendments</i>
The Committee shall perform parliamentary control of the work of Police and of the National Security Agency;	The Committee shall deliberate on draft laws, other legal provisions and general acts, strategy and other issues related to security and defense of Montenegro and its citizens;
shall deliberate on the exercise of constitutionally guaranteed human rights and freedoms of citizens, during the application of authority of the police and of the National Security Agency;	shall perform parliamentary control of the work of Police and of the National Security Agency and other intelligence bodies and services;
shall deliberate on draft laws, other legal provisions and general acts, strategy and other issues related to security and defense of Montenegro and its citizens;	shall deliberate on the exercise of constitutionally guaranteed human rights and freedoms of citizens, during the application of authority of the police and of the National Security Agency and other intelligence bodies and services;
shall deliberate on the proposals for appointment of the Police Director and of the Director of the National Security Agency.	shall deliberate on the proposals for appointment of the Police Director and of the Director of the National Security Agency;
When carrying out control falling under its competence, the Committee shall act in a manner prescribed by the Law on Police and by the Law on National Security Agency.	shall provide an opinion on the proposal for appointment of heads of units for military intelligence, counterintelligence, and intelligence affairs at the Ministry of Defense.

The work of the Working Group in charge of preparing amendments to the Rules of Procedure was followed by a dilemma with regard to competences for monitoring the fight against corruption and organised crime. One of the possibilities included changing the competences and the name of the Committee for Security and Defense.<sup>54</sup> In the end, however, an agreement was reached to establish a new working body, the Anti-Corruption Committee.

The amendments to the Rules of Procedure also included changes to the control hearing mechanism. The provision of the Law on parliamentary oversight, as regards the possibility for the opposition to push through its own initiatives, is now precisely defined and is valid at the level of all standing committees.

### ***Comparison of provisions on the ability of the parliamentary minority to push through its own initiatives***

Rules of Procedure of the Parliament of Montenegro (after the last changes), Article 75	Law on parliamentary oversight of Security and Defense Sector, Article 12
“(…) Once during the regular sitting of the Parliament, the Committee shall adopt a decision on control hearing, upon request of one third of its members, with one item on the agenda.”	“(…) Once during the regular sitting of the Parliament, the Committee shall hold a session convened upon request of one third of its members, with one item on the agenda.”

The importance of this change is reflected in guaranteeing the possibility of holding a control hearing to one third of the Committee members (generally, parliamentary minority). The quoted provision from the Law on parliamentary oversight represents a step backwards compared to the provision of the Rules of Procedures according to which one third of the Committee members may, at any point in time, convene an unlimited number of sessions.<sup>55</sup>

<sup>54</sup> The initial stance of the New Serbian Democracy was to form a Committee for Security and the Fight against Organised Crime, and a Committee for Defense and International Relations. The proposal of the Social-Democratic Party was to form a sub-committee, within the Committee for Security and Defense or within the Committee for Political System, which would deal with issues of corruption and organised crime. There was also an idea to extend the competences of the Committee for Security and Defense to include the following: “In carrying out its control function, the Committee shall deliberate on the activities of the competent bodies in the fight against corruption and organised crime.”

<sup>55</sup> Rules of Procedure of the Parliament of Montenegro (Article 63) clearly stipulate: “Chairman of the Committee is obliged to convene the Committee to a session, if it is requested by the Parliament Speaker or by one third of the Committee members, indicating questions to be put on the agenda of the Committee session.”

## *Recommendations for improving parliamentary oversight*

- It is necessary to establish systemic oversight of the application of secret surveillance measures and to use numerous mechanisms which are at the Committee's disposal.
- Discussions on annual performance reports are effective only if they are timely. Therefore, the consideration of all annual reports of the institutions should be completed in the second quarter of the current year. It is necessary to avoid the practice of merging deliberations on different reports, delivered to the Committee by institutions which are subject to oversight.
- It is necessary for the Committee, together with the annual performance report of the Police Directorate, to receive information/report of the Council for civil control of the work of police on cases, petitions and activities in that year, with a view to having a more objective and comprehensive insight into the work of the Police. The relations of the Committee with the Ethical Board of the Police Directorate and with the Department for Internal Control of the Police (at the Ministry of Internal Affairs), should be defined in a similar fashion.
- For a more comprehensive oversight over the security and defense sector, it is necessary for the Committee to establish cooperation with independent institutions, such as the Ombudsman and the Personal Data Protection Agency (building upon the experiences of cooperation with the State Audit Institution).
- The mechanism of visit should be defined more precisely. Information on visits to institutions must be made in the form of a report, containing conclusions, measures or recommendations, and they should be made available at the Parliament's webpage.
- Publicity of the Committee's work (the open sessions) should be defined as a rule, while the closure of sessions needs to be treated as an exception in cases when classified information, defined as such by law, are discussed. The issue of open or closed sessions when reviewing the reports of institutions, must be defined beforehand, through the plan of oversight activities of the Committee. The majority of the Committee members should decide on the closure of sessions. The Committee must respect the provision of the Rules of Procedure and publish the minutes of its sessions.
- It is necessary to plan the work for the subsequent year in a timely fashion, at the end of the current year, in accordance with the Law. It is also necessary to discuss the extent to which the planned activities are implemented, at least once during a year, and to amend the plan as needed.
- The Committee needs to monitor the implementation of its own conclusions. It needs to remind the institutions about the deadlines or the actual meaning of certain requirements it has imposed upon them. The Committee's annual oversight plan must contain the obligations that stem from the Committee's own conclusions.
- It is necessary to appoint the vice-president of the Committee from the opposition ranks, as soon as possible.
- The mechanism of consultative hearing should be used more frequently in performing oversight. This and other mechanisms should be used to enhance the cooperation with the civil society.
- It is necessary to precisely define the contents of the analytical report on the execution of budget, delivered by the spending units to the Committee, and to insist on meeting the deadlines.
- The Law on the deployment of armed forces of Montenegro to the international forces and participation of civil protection units (...) needs to be amended in order to make it necessary for the government to seek consent from the Parliament when deploying civil protection units, police and state administration employees to missions abroad.
- The contents of the analytical report on budget execution must be made more precise and the Committee must insist on deadlines for its delivery.
- In the case of personnel changes in the ranks of the Committee in the near future, it is necessary to take into account the gender aspect and appoint women MPs as members of the Committee.
- The Committee must take a lead and show an example when it comes to fulfilling obligations stemming from the Cetinje Parliamentary Forum (most importantly, oversight over the trade in weapons, military equipment and dual-use items)

## Overview of the implementation of the Committee's 2012 Oversight plan

Monitoring activities of bodies and institutions in the security and defense sector of Montenegro, with the objective of reviewing the progress in the fulfillment of determined policy in this area and seeking information on activities and measures taken on any matter within the scope of their work	✓
Oversight of the respect of political, ideological and interest neutrality in the work of bodies and institutions	✗
Consideration of the Report of the Ministry of Defense and the 2011 Report on the general state of play in the Military	✓
Consideration of the National Security Agency's annual report	✗
Consideration of the Police Directorate's annual report	✗
Consideration of the Report on the state of play in the field of protection and rescue system	✓
Consideration of the annual report on arms trade	✗
Consideration of reports on deployment of the Army in the international forces (...)	✓
Consideration of Reports of the State Audit Institution	✓
Review of the Proposal of the Budget Law, related to the security and defense sector	✓
Consideration of reports on SSM implementation	✗
Consultative hearings implementation	✓
Oversight hearings implementation	✓
Initiating parliamentary inquiry	✗
Holding Sessions at the request of one third of the Committee members;	✗
Consideration of proposals of candidates for the appointment to managerial duties in the of security and defense sector	✓
Visit to the Sector for extraordinary situations and civilian security	✗
Visit to the arms storage locations	✓
Consideration of the information of the working group for integrated control system development	✗
Consideration of the Army's report on integrated naval security	✗
Visit to the Ministry of defense, National Security Agency and Confidential Data Directorate	✓
Consideration of the report on Montenegro's progress in NATO MAP	✓
Consideration of the report of the Coordination team for managing states of emergency	✓
Discussion of the Information of the Customs Office role in the security sector	✗
Visit to the Ministry of Interior Internal Control Sector	✗
Consultative hearing on the topic: "Private Security Sector"	✗



## *About the Institute Alternative*

Institute Alternative is a non-governmental organization, established in September 2007 by a group of citizens with experience in the civil society, public administration and business sector.

Our mission is to strengthen the democratic processes in Montenegro by identifying and analyzing public policy options.

Our strategic aims are to: increase the quality of development of public policies, contribute to the development of democracy and the rule of law, as well as to the protection of human rights in Montenegro.

The values we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.

Institute alternative acts as a think tank or a research centre, focusing on the areas of good governance, transparency and accountability. IA is concerned with and exercises influence by providing own recommendations on the following research topics: parliamentary oversight of security and defense services, oversight role of the Parliament and its impact on the process of European integrations, reform of public administration, public procurement, public-private partnerships, state audit and control of the budget of local authorities.

To date, Institute Alternative published the following reports/studies:

- Public administration reform in Montenegro – High expectations and limited capacities
- Risks Of Corruption In Montenegrin Sports
- Challenges of developing the welfare mix in Montenegro
- Committee for Anticorruption: Cure or Placebo?
- Social Card in Montenegro
- Investigating Telekom Affair in the Parliament – unrealistic expectations and realistic limitations
- Parliament and Civil Society Organizations – Partners in the Budget Control
- PIFC Development in Montenegro – Civil Society Standpoint
- Corruption and public procurement in Montenegro
- Montenegro and Negotiations on Chapter 24 – Justice, freedom and security
- Montenegro and negotiations in the Chapter 23 – Judiciary and fundamental rights
- Secret Surveillance Measures in Criminal Procedure – Neglected Control
- National Security Agency and Secret Surveillance Measures – Is there any control?
- Parliamentary Inquiry in Montenegro – Oversight Tool Lacking Political Support
- Parliament of Montenegro and the process of European integration – Just watching or taking part?
- Law on Parliamentary Oversight of Security and Defense Sector – First Year of Implementation
- Montenegro under the watchful eyes of Đukanović and the EU
- The Montenegrin parliament in the process of EU integration
- Regulatory Impact Assessment (RIA) in Montenegro – Towards “Better” Regulation
- Control of the local self-governments’ budget
- The State Audit Institution in Montenegro – strengthening its influence
- Report on democratic oversight of security services
- Think Tank – The role of Independent Research institutes in Public Policy Development
- Public-Private Partnerships in Montenegro – Accountability and Transparency
- Public Procurements in Montenegro – Transparency and liability
- The Assessment of Legal Framework and Practice in the Implementation of Certain Control Mechanisms of the Parliament of Montenegro: Consultative hearing, control hearing and parliamentary inquiry
- Parliamentary oversight of the defense and security sector: What next?
- The Lipci Case: How not to repeat it
- The Case of the First Bank – Lessons for the supervisor and other decision makers
- Public Administration in Montenegro: Salary schemes, reward system and opportunities for professional advancement in law and in practice

Institute Alternative is a member of the self-regulatory body of NGOs, and has disclosed full details on its financial affairs in line with the Activity Code for NGOs, to which Institute Alternative is a party.

*You can find out more about us at:*  
[www.institut-alternativa.org](http://www.institut-alternativa.org)



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