

MONITORING REPORT: **THE HUMAN RIGHTS AND FREEDOMS COMMITTEE**

17 DECEMBER 2020 – 1 OCTOBER 2021



NATIONAL
ENDOWMENT
FOR
DEMOCRACY

SUPPORTING FREEDOM AROUND THE WORLD

Publication:

Monitoring Report: The Human Rights and Freedoms Committee
(17 December 2020 – 1 October 2021)

Publisher:

Institute Alternative

Bulevar Džordža Vašingtona 57, Podgorica, Montenegro

Tel/fax: + 382 (0) 20 268 686

E-mail: info@institut-alternativa.org

For the publisher:

Stevo Muk

Editor:

Milena Muk

Authors:

Nikoleta Pavićević

Marko Sošić

Prepress and design:

Artbuk doo

Podgorica, October 2021



This Monitoring Report was prepared within the project "Parliamentary Oversight for Better Governance", implemented by the Institute Alternative and supported by the National Endowment for Democracy. The Report is the responsibility of its authors and does not reflect the views of the NED.

TABLE OF CONTENTS

Introduction	4
The activities envisaged under the Committee's Work Plan for the first three quarters of 2021 and the status of their implementation by 1 October 2021.	7
Committee meetings in numbers: Only one opposition MP present at each meeting	9
Involvement of external stakeholders.	9
Transparency of the Committee's work.	11
The Committee's work was marked by boycott	11
The Committee's oversight role: No control or consultative hearings	12
The Committee's obligations stemming from the systemic laws	14
The Committee's legislative role	15
Emphasis on the activities outside the Committee meetings	17
The Committee's Secretariat: One vacant position	17
Conclusion.	18
Recommendations.	19
Sources.	20

INTRODUCTION

According to its Rules of Procedure¹, the Parliament of Montenegro establishes committees as its working bodies; in addition to reviewing proposals and proposing acts, the committees are responsible for conducting parliamentary oversight. Since “parliamentary oversight is an essential feature of a system of checks and balances in a democracy”², it is vital that the committees’ work be focused on a comprehensive oversight of the executive. On the other hand, the committee’s legislative function is also critical, particularly in terms of supporting informed and evidence-based discussions on the proposed legislation.

The respective competences of the standing committees are provided in the Rules of Procedure of the Parliament, which define their course of action. The committees of the 27th convocation of the Parliament were established by the Decision on the election of Chairs and members of Standing Committees³ from 17 December 2020. As stipulated in the Decision, the Parliament has 14 standing committees, each composed of a Chair and 12 members.

The oversight mechanisms available to committee members include parliamentary (consultative and control) hearings and parliamentary inquiry. Over the past decade, MPs stepped up the use of these mechanisms; however, the impact remained questionable, given the absence of monitoring of the follow-up on recommendations and conclusions. This was also noted in the European Commission 2020 Report on Montenegro.⁴

At the start of the term of the 27th convocation of the Parliament, MPs initiated amendments to more than 50 articles of the Rules of Procedure aiming to eliminate ambiguities and reinforce the oversight role of the Parliament and its committees. These amendments facilitated a more frequent use of the “minority initiative” mechanism, whereby a committee decides on running a control hearing upon a motion tabled by one-third of its members. This mechanism now allows the committees to pass the decision on a hearing twice, rather than just once during an ordinary meeting, which was the case prior to the introduction of the amendments. The process helped strengthen parliamentary oversight exercised by the committee members from the ranks of the opposition. In addition, the Rules of Procedure provide that the conclusions that follow a hearing are to be proposed by the Chair, and their implementation, following adoption, are to be monitored by the committee. The Rules of Procedure oblige relevant ministers to take part in the work

1 Rules of Procedure of the Parliament of Montenegro (Official Gazette of MNE 65/21) of 22 July 2021.

2 Global Parliamentary Report 2017: Parliamentary oversight – Parliament’s power to hold the government to account, Inter-Parliamentary Union and United Nations Development Programme, available at: <https://bit.ly/3G3B9EC>

3 Decision on the Election of the Chairs and Members of the Standing Committees of the 27th Convocation of the Parliament of Montenegro, Parliament of Montenegro, 17 December 2020.

4 Montenegro 2020 Report, the European Commission, Brussels, 06 October 2020.

of the committee if they have been designated to represent the entity introducing the proposed act - this is a novelty compared to past practice.

Given the need for strengthening the oversight role of the Parliament, and the major novelties introduced by the Rules of Procedure, this report aims to review the activities of the parliamentary committees, with a particular focus on their oversight and control functions. We focus on monitoring the work of five parliamentary committees⁵ whose remits correspond to the key programmatic areas covered by the Institute Alternative.

This Monitoring Report contains the findings stemming from the review of the work of the **Human Rights and Freedoms Committee**, with a particular focus on the analysis of the effectiveness of its legislative and oversight functions. The Committee is a standing body of the Parliament, responsible for reviewing all the acts related to citizens' human rights and freedoms, in particular minority rights. It oversees the performance of the relevant ministries in the Government of Montenegro and the Protector of Human Rights and Freedoms, Agency for Personal Data Protection and Free Access to Information, Fund for the Protection and Exercise of Human Rights. These institutions submit their annual performance reports to the Parliament; the reports are reviewed by the Human Rights and Freedoms Committee as the lead committee.

The Committee is also competent for reviewing citizens' petitions, as citizens may approach it when encountering difficulties in the exercise of their rights. The Committee established the practice of visiting institutions, NGOs, Reception Centres etc. to learn about their way of operation and activities taken to enhance human rights.

The findings of this analysis come as a result of the monitoring exercise that covered the work of the Committee from its establishment on 17 December 2020 until 1 October 2021 – its meetings, minutes from the meetings, Work Plan and other documents. Although Institute Alternative asked for interviews with the Chair and opposition member of the Committee to verify the obtained findings, there was no affirmative response and the interviews were not conducted. This Report was subsequently updated to reflect the comments provided to the draft version by the Committee Secretary.⁶ As mentioned in the comments and suggestions to draft Report, the period covered by this Report did not include the Second Ordinary Session of the Parliament⁷; this should be noted when considering the overall pace of the Committee's work.

5 Security and Defence Committee, Anti-corruption Committee, Committee on Political System, Judiciary and Administration, Committee on Economy, Finance and Budget and Committee on Human Rights and Freedoms

6 Written comments and suggestions to the draft Monitoring Report on the work of the Committee delivered by the Committee Secretary **Slava Burić**, 18 November 2021.

7 "The Second Ordinary Session (Autumn Session) shall commence on the first working day in October and shall last until the end of December", Rules of Procedure of the Parliament of Montenegro (Official Gazette of MNE 65/21 of 22 July 2021).

This Report begins with an overview of the relevant quantitative indicators that can be used to measure the performance, followed by a review of the Committee's oversight role. The third section presents the implementation of the Committee's obligations stemming from systemic laws, while the fourth gives an overview of its legislative activity's fifth section reflects on the administrative capacities of the Committee's Secretariat. The final section presents the recommendations for improving the work of the Committee and its oversight of the executive, stemming from the findings of the analysis.

The activities envisaged under the Committee's Work Plan for the first three quarters of 2021 and the status of their implementation by 1 October 2021:

PLANNED ACTIVITIES	STATUS
Reports	
2020 Performance Report of the Protector of Human and Minority Rights (Ombudsman)	IMPLEMENTED
2020 Performance Report of the Fund for the Protection and Exercise of Minority Rights	IMPLEMENTED
2020 Report on the advancement and protection of the rights of minorities and other minority national communities	NOT IMPLEMENTED, in the pipeline since 05 August 2021
2020 Report on the status of personal data protection and state of play in the field of access to information	IMPLEMENTED
2020 Report of the Committee as the working body competent for overseeing the implementation and monitoring the compliance with the MPs' Code of Ethics	IMPLEMENTED
2020 Annual Report of the National Mechanism for the Prevention of Torture	NOT IMPLEMENTED, not in the pipeline
The acts the Committee may request from state authorities (Article 68 of the Rules of Procedure)	
The study <i>Multidimensional Child Poverty in Montenegro</i>	IMPLEMENTED
Report on the representation of minority nations and other minority national communities in local government authorities, companies and public institutions founded by the Capital City, Old Royal Capital or municipalities	NOT IMPLEMENTED
Report on the implementation of the 2019-2023 Strategy for Exercising the Rights of the Child, accompanied by the 2021-2022 Action Plan	NOT IMPLEMENTED
2021 Action Plan for the implementation of the 2017-2021 Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality	NOT IMPLEMENTED
2021 Action Plan for the implementation of the 2019-2023 Strategy for Improving the Quality of Life of LGBTI Persons in Montenegro	NOT IMPLEMENTED
2021 Action Plan for the implementation of the 2019-2024 Strategy for Combating Trafficking in Human Beings	IMPLEMENTED
III Report of the Council of Europe GRETA Group of Experts on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Montenegro	IMPLEMENTED
National document for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)	NOT IMPLEMENTED
Mid-term report on the implementation of the recommendations received during the Third Cycle of Universal Periodic Review (UPR)	NOT IMPLEMENTED
Action Plan for the implementation of the recommendations of the UN Committee on the Rights of Persons with Disabilities for 2021 and 2022	NOT IMPLEMENTED
2021-2025 Strategy on Migration and Reintegration of Returnees in Montenegro, with the Action Plan for 2021 and 2022	NOT IMPLEMENTED
Proposed Annual MP Training Plan on the compliance with and implementation of the MPs' Code of Ethics for 2021	IMPLEMENTED

Monitoring the implementation of the Committee's conclusions	
2021-2022 Action Plan for the implementation of the 2019-2023 Minority Policy Strategy (conclusions passed at the 45th Committee meeting in 2019)	NOT IMPLEMENTED
2021-2025 Strategy for the Social Inclusion of Roma and Egyptians, with the 2021 Action Plan (conclusions passed at the 60th Committee meeting in 2020)	NOT IMPLEMENTED
Meetings and events attended	
Committee Chair meeting with the representatives of the Westminster Foundation for Democracy	IMPLEMENTED
Committee Chair attendance of the exhibition commemorating the International Holocaust Remembrance Day	IMPLEMENTED
Committee Chair attendance of the event <i>We raise our voice for those unable to do so themselves– Justice for victims of sexual violence</i>	IMPLEMENTED
Committee Chair participation in the RTCG programme Horizon	IMPLEMENTED
Committee Chair meeting with the Ambassador of Palestine in Montenegro	IMPLEMENTED
Committee Chair and members' attendance of the round table <i>New Dialogue for Minority Rights</i>	IMPLEMENTED
Committee members' attendance of the webinar on Presentation of reports on post-legislative scrutiny of the Human Rights and Gender Equality Network of Committees in the Western Balkans (HUGEN)	IMPLEMENTED
Thematic Committee session <i>Children are Children</i>	IMPLEMENTED
Meeting with representatives of the NGO Alliance of associations of parents of children with disabilities "Our Initiative"	IMPLEMENTED
Visit to the NGO Child Rights Centre of Montenegro	IMPLEMENTED
Meeting of the Management Board of the Human Rights and Gender Equality Network of Committees in the Western Balkans (HUGEN)	NOT IMPLEMENTED
Visit to the Reception Centre in Spuž	NOT IMPLEMENTED
Visit to the Ombudsman Office of Montenegro	NOT IMPLEMENTED
Visit to the Reception Centre at Božaj and meeting with representatives of the Ministry of Interior	NOT IMPLEMENTED
Conference (Multilateral Meeting) on the <i>Importance of preventing child, forced and arranged marriages and discrimination of Roma community members</i>	IMPLEMENTED
The Second Annual Conference of the HUGEN Network	IMPLEMENTED
HUGEN multilateral meeting to exchange knowledge and experience on the <i>Impact of the Covid-19 pandemic on persons with disabilities and other vulnerable groups</i>	IMPLEMENTED
Control and consultative hearings	
Control hearing of the representatives of the institutions responsible for the implementation of the Ombudsman recommendations contained in the report <i>Children and Addiction in Montenegro</i>	NOT IMPLEMENTED
Control hearing on <i>Implementation of the 2017-2021 Strategy for the protection of persons with disabilities from discrimination and the promotion of equality and the recommendations contained in the analysis of legal harmonisation</i>	NOT IMPLEMENTED
Consultative hearing of competent institutions' representatives on the <i>Observance of human rights and freedoms in Montenegro during the Covid-19 pandemic</i>	NOT IMPLEMENTED

COMMITTEE MEETINGS IN NUMBERS: ONLY ONE OPPOSITION MP PRESENT AT EACH MEETING

From its establishment within the new Parliament to 1 October 2021, the Human Rights and Freedoms Committee⁸ held **13 meetings** and discussed **44 points**. The MPs spent **one day, two hours and two minutes in the Committee meetings**. The longest Committee meeting was devoted to the discussion of the report on the work and status of the institutions falling within the Committee's purview and took three hours and 11 minutes. The shortest meeting (8:30 minutes) was the one on the amendment to the Proposed Resolution on the Genocide in Srebrenica.

The Committee is **composed of seven MPs** from the ruling parties⁹, and **six MPs** from the ranks of the opposition.¹⁰ Still, from its very establishment, its work was marked by the boycott of most opposition MPs. On average, its meetings were attended by just 1.3 **opposition** members.

INVOLVEMENT OF EXTERNAL STAKEHOLDERS

The Human Rights and Freedoms Committee had a leading role in terms of involvement of external stakeholders, namely representatives of institutions, international organisations and NGOs, with on average **10 stakeholders per meeting**. However, **line ministers**, as the top officials of the executive, **mainly failed to show up. Only the former Minister of Justice, Human and Minority Rights took part in one meeting** on behalf of the entity introducing the proposal. Though invited by the Committee, neither the Minister of Justice nor the other ministers took part in any other meeting.

The Committee invited the Minister of Justice, Human and Minority Rights to its **first meeting**, where it discussed the reports of the Ombudsman and the State Agent of Montenegro before the European Court of Human Rights in Strasbourg. The Ministry of Interior delegated a Director-General for the meeting, whereas neither the Minister of Justice, Human and Minority Rights nor any representatives of that Ministry showed up.¹¹

At the **third Committee meeting**¹², on the report on the post-legislative scrutiny of the Law against Discrimination of Persons with Disabilities, representatives of the Association

8 17 December 2020.

9 Jovan Jole Vučurović, Jelena Božović, Vladimir Dobričanin, Strahinja Bulajić (Democratic Front – NSD, DNP, UCG, RP), Albin Čeman, Miodrag Lekić (Democrats – Demos – Peace is Our Nation), Srđan Pavićević (“In Black and White” – URA)

10 Halil Duković, Ivan Mitrović, Mevludin Nuhodžić, Vesna Pavićević (Democratic Party of Socialists), Amer Smailović (Bosniac Party), Genci Nimanbegu (Independent MP, Forca)

11 The First Meeting of the Human Rights and Freedoms Committee, 23 December 2020, available at: <https://bit.ly/3HjE38U>

12 The Third Meeting of the Human Rights and Freedoms Committee, 21 January 2021, available at: <https://bit.ly/3HjE38U>

of Youth with Disabilities of Montenegro expressed their dissatisfaction with the absence of the representatives of the Ministry of Education, Science, Culture and Sport and Ministry of Justice, highlighting that it proved that the rights of persons with disabilities were perceived solely as a social or medical issue. The Committee Chair and its member from the ranks of the opposition appealed to Government ministers to respond to the invitations and attend Committee meetings.

The ministers failed to show up again at the next, fourth meeting of the Committee, devoted to the presentation of the study Multidimensional Child Poverty in Montenegro; the meeting resulted in the passing of the following **conclusion** on the review of the report: „The Human Rights and Freedoms Committee has criticised the Ministry of Education, Science, Culture and Sports representatives for not responding to the invitation to attend the meeting and familiarise themselves with the data from the Study and the activities planned to address the problems (...) continuation of such practice could bring into question the Committee’s multisectoral approach, which has contributed to the advancement of the rights of the child in Montenegro”.¹³

At the **seventh meeting of the Committee**, the Chair stated that he had expected the meeting devoted to the discussion on the next year’s budget to be attended by the Minister of Finance and Social Welfare, rather than the State Secretary. The Chair stated that the criticism referred to the Ministry’s failure to respond to numerous previous invitations to the Committee meeting.¹⁴

The Committee’s Secretariat¹⁵ reported that such practice had resulted in a letter to the Prime Minister, sent on 10 March 2021, notifying him of the persistent absence of representatives of the Ministry of Justice, Human and Minority Rights and Ministry of Education, Science, Culture and Sport. “Such practice could be interpreted also as a lack of interest in cooperating with the working bodies of the Parliament of Montenegro, shirking of responsibility and lack of interest in addressing the human rights and freedoms topics discussed in the Committee meetings”, stated the letter, which the Government failed to respond to.

Thirty-three NGO representatives and thirty representatives of international organisations took part in the work of the Committee upon its invitation. Five representatives of religious communities attended, upon invitation, the meeting devoted to amendments to the Law on Freedom of Religion¹⁶. Still, the request to involve representatives of the Montenegrin

13 The Fourth Meeting of the Human Rights and Freedoms Committee, 24 February 2021, available at: <https://bit.ly/3HjE38U>

14 The Seventh Meeting of the Human Rights and Freedoms Committee, 5 May 2021, available at: <https://bit.ly/3HjE38U>

15 Comments and suggestions to the draft Monitoring Report on the work of the Committee delivered by the Committee Secretary **Slava Burić**, 18 November 2021.

16 Proposal for the Law Amending the Law on the Freedom of Religion or Belief and the Legal Status of Religious Communities

Orthodox Church was denied, so the Committee **failed to demonstrate a genuine openness towards the involvement of all stakeholders.**

Besides the meeting attended by the former Minister, the Ministry of Justice, Human and Minority Rights representatives (civil servants – Individual Advisors) attended only two more Committee meetings held from the Committee's establishment to 1 October 2021. The Ministry of Interior delegated representatives from the ranks of senior management, expert-managerial and expert staff to attend meetings. During the meeting on the budget, the **State Secretary substituted for the Minister of Finance**; the two subsequent meetings were attended by two General Directors, two Coordinators and two Independent Advisors from that Ministry. **Ministry of Health representatives** – from the ranks of expert-management and senior management staff – attended on three occasions. An Independent Advisor from the **Ministry of Education, Science, Culture and Sport** attended one meeting.

TRANSPARENCY OF THE COMMITTEE'S WORK

The **second meeting of the Human Rights and Freedoms Committee**¹⁷, devoted to a discussion on the amendments to the Law on the Freedom of Religion, captured public attention the most, recording **33,173** views on YouTube. The live-streaming via YouTube spurred citizen interest in following the work of the MPs, so the Committee meetings had **90,794 views during this period.**

In comparison with the rest of the parliamentary working bodies, the Committee's work was transparent, as all the materials – minutes, reports on the materials being discussed, information on the activities of the Committee Chair, members and Secretary– were timely published and available on the Parliament's website.

THE COMMITTEE'S WORK WAS MARKED BY BOYCOTT

The Committee's meetings between 17 December 2020 and 1 October 2021 were marked by the boycott exercised by the majority of the parliamentary opposition, while the MPs constituting the parliamentary majority attended almost all meetings, thus securing the quorum for work and decision-making. The opposition did not nominate the Deputy Chair of the Committee by October 2021; according to the Rules of Procedure, the Deputy Chair is to be selected from among the members at the first Committee meeting.

The Democratic Party of Socialists (DPS) announced its boycott at the second meeting, held in late December 2020. The Committee Chair had invited to the meeting on amendments

17 The Second Meeting of the Human Rights and Freedoms Committee, 28 December 2020, available at: <https://bit.ly/3HjE38U>

to the Law on the Freedom of Religion representatives of, as he referred to them, traditional religious communities. He had declined the request of the Montenegrin Orthodox Church to attend the meeting, despite the appeals and tensions that followed in the deeply polarised atmosphere caused by the legal provisions in question. The DPS members of the Committee saw that as discrimination, pointed out that other representatives of registered religious communities had not been invited either, announced that they would not take further part in the work of the Committee and left the meeting.

Institute Alternative and other civil society organisations had warned that the Rules of Procedure did not set forth clear procedures and criteria for the involvement of external stakeholders, leading to unequal treatment of individuals and organisations. Namely, Article 67 of the Rules of Procedure, allows representatives of the Government, scientific and professional institutions, other legal entities and NGOs, as well as individual scientists and scholars, to take part in the work of the Committee (with no voting rights) upon invitation or upon their request, provided the Chair's consent. This provision leaves too much discretion to the Committee Chair, allowing him/her to deny participation to any stakeholder without any explanation; this was manifested in the meeting in question which addressed amendments to the Law on Freedom of Religion.

In addition to the boycott by some opposition MPs, the Chair announced on two occasions that he would not schedule any meetings until the amendments to the Law on the State Prosecution Service were included in the Parliament's agenda. Following those statements, the Chair still convened the fourth and fifth meetings due to what he phrased as "the importance of the issue of child poverty in Montenegro and respect for Roma population", and further meetings followed, despite the previous announcements.

THE COMMITTEE'S OVERSIGHT ROLE: NO CONTROL OR CONSULTATIVE HEARINGS

The opposition boycott resulted in the lack of initiatives for control or consultative hearings, and no such initiatives were tabled by the parliamentary majority either. Although envisaged in the Committee's Work Plan for 2021, no control or consultative hearings took place for close to ten months of the Committee's operation.

The following control and consultative hearings were planned to take place:

- Control hearing of the representatives of the institutions tasked with implementing the Ombudsman recommendations contained in the Report on Children and Addiction in Montenegro;
- Control hearing on the implementation of the 2017-2021 Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality and recommendations contained in the analysis of legal harmonisation;

- Consultative hearing of representatives of competent institutions on the observance of human rights and freedoms in Montenegro during the Covid-19 pandemic.

Despite the ambitious Plan, the Committee failed to exercise a strong oversight role by reviewing the reports delivered by the state authorities. According to Article 68 of the Rules of Procedure, the Committee may, within its remit, request from state authorities the data and information of relevance for its work. In line with this provision, the Committee's Work Plan envisaged reviews of 11 acts – reports, studies and action plans – during the first three quarters of the year. However, only one-third of those acts, namely three reports, were included in the agenda.¹⁸ The Committee also reviewed additional five reports outside the original Plan.¹⁹

The Committee passed conclusions on the substance of all eight reports that it reviewed pursuant to Article 68 of the Rules of Procedure and proposed specific measures for improvement to different institutions.

For instance, the proposed conclusion on the review of the Report on the situation of students in student residences/boarding schools in Montenegro included 13 points and provided recommendations to the Government, Ministry of Education, Science, Culture and Sport, Ministry of Finance and the Bureau for Education and student residences. The recommendations urged them, inter alia, to take the following prompt actions:

- conclude contracts between students residences/boarding school and parents/guardians to regulate the rights and obligations of the respective parties for the duration of students' residence;
- take urgent action to solve all the identified problems to ensure safe health and sanitary conditions for the residents;
- carry out adaptation of some of the facilities;
- hire professionals to provide the necessary support to residents.

The Committee Secretary reported that the Committee passed conclusions upon reviewing each act and monitored the follow-up as part of its oversight role. "In addition, the Briefing Notes drawn up following the reviews of annual reports contain a specific chapter on the implementation of the Parliament's conclusions passed upon the proposal of this Committee, following the Committee's review of the report for the previous year".²⁰

18 III GRETA Report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Montenegro, the 2021 Action Plan for implementation of the 2019-2024 Strategy for Combating Trafficking in Human Beings and the Report of the State Agent of Montenegro before the European Court of Human Rights in Strasbourg for 2019.

19 Three reports delivered to the Committee by the Ombudsman (Report on the treatment of migrants and two reports on the readmission of Montenegrin nationals); Report on the protection from discrimination from the perspective of the Ombudsman Office activities for the period 1 January-31 July 2020; Special Report of the Ombudsman Office on the protection from discrimination and status of children in the student residences in Montenegro.

20 Written comments and suggestions to the draft Monitoring Report on the work of the Committee delivered by the Committee Secretary **Slava Burić**, 18 November 2021.

THE COMMITTEE'S OBLIGATIONS STEMMING FROM THE SYSTEMIC LAWS

As part of the activities stemming from the systemic laws, whereby the Committee reviews the acts delivered to it by the state authorities it holds to account, the Committee reviewed the following:

1. 2019 Performance Report of the Protector of Human and Minority Rights (Ombudsman);
2. 2020 Performance Report of the Protector of Human and Minority Rights (Ombudsman);
3. 2019 Annual Report of the National Mechanism for the Prevention of Torture
4. 2019 Report on the status of personal data protection and state of play in the field of free access to information;
5. 2020 Report on the status of personal data protection and state of play in the field of free access to information;
6. 2019 Performance Report of the Fund for the Protection and Exercise of Minority Rights;
7. 2020 Performance Report of the Fund for the Protection and Exercise of Minority Rights.

Upon hearing the presentations of the representatives of the given institution and discussing the reports, the Committee members decided to endorse six, while the reports on the status of personal data protection and state of play in the field of free access to information for 2019 and 2020 were not endorsed.

The MPs from the ranks of the ruling majority stated that they were not ready to endorse the 2019 Report as the Agency for Personal Data Protection and Free Access to Information had acted as a branch of the Democratic Party of Socialists and a tool against the opposition. There was no discussion against the endorsement of the 2020 Report, but the Committee members voted following the Agency's presentation. No conclusions were passed on the ways to improve the situation in the given field, nor any specific guidelines provided to the Agency on improving its performance.²¹

Having reviewed the six reports, the Committee passed specific conclusions and recommendations that were shared with numerous institutions for further action or consideration. The reports on the conducted reviews included six conclusions with 54 points for improving operation and state of play.²²

21 The conclusions were phrased as follows: "The Report on the status of personal data protection and state of play in the field of access to information is not endorsed" (Report on the review of the 2019 Report on the status of personal data protection and state of play in the field of access to information, available at: <https://bit.ly/30os9Kq> and the 2020 Report on the status of personal data protection and state of play in the field of access to information, available at: <https://bit.ly/3Fcjzgg>)

22 Thus, for instance, the conclusions on the review of the six mentioned reports stated it was necessary to do the following: develop a strategic document to define the demographic-population policy, given the challenges faced by the children living in rural areas in accessing the right to education; awareness-raising on the concept of discrimination among the employees of public authorities; awareness-raising on

However, although the Work Plan envisaged also the review of the 2020 Annual Report of the National Mechanism for the Prevention of Torture and the 2020 Report on the Advancement and Protection of the Rights of Minority Nations and Other Minority Communities, these were not reviewed during the given period.²³

The delayed implementation of the activities included in the Committee's Work Plan for 2021 came partially as a result of the delayed adoption of the documents envisaged under the Government 2021 Work Programme, as indicated by the Secretariat to the Human Rights and Freedoms Committee. "The Committee Chair sent a letter to the President of the Parliament of Montenegro alerting him that, due to the Government failure to implement and adopt some acts, we were compelled to stall some of the activities identified in the Committee's Plan", reported the Committee Secretary.²⁴

THE COMMITTEE'S LEGISLATIVE ROLE

Judging by the 2021 Work Plan, the Committee had no legislative activity planned for the first three quarters of the year. Still, its agenda included two proposals for laws, one proposal for a resolution and 22 amendments.

In its second meeting, the Committee reviewed the **Proposal for the Law Amending the Law on the Freedom of Religion** and two amendments tabled by the "In Black and White" MP Group. That was also the only meeting attended by as many as four (out of six) opposition Committee members, prior to the boycott. It was also the only meeting attended by the Minister of Justice, Human and Minority Rights.

Before the adoption of the meeting agenda, the opposition MPs asked for a postponement until they received the opinion of the Venice Commission on the Proposal for Law at hand. The Chair declined the request; the Proposal for Law was then reviewed and endorsed. Some representatives of religious communities pointed that the deadline for consultations and review of amendments to the Law had been too short.

In the seventh meeting, the MPs reviewed the **Proposal for the 2021 Budget Law**, within the extent to which it referred to the spending units covered the Committee's remit, namely

the respect of the human rights of persons deprived of liberty, among police officers; enhance the human resources of the Fund for the Protection and Exercise of Minority Rights; consider the option of introducing into the legal system the model of the financial liability of state administration authorities and state authorities whose actions gave rise to violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

23 The Ombudsman did not deliver the report concluding with 1 October. The Government delivered the Report on the advancement and protection of rights of minority nations in August; however, it was not included in the Committee's agenda by 1 October 2021

24 Written comments and suggestions to the draft Monitoring Report on the work of the Committee delivered by the Committee Secretary **Slava Burić**, 18 November 2021.

the Ombudsman Office, Ministry of Justice, Human and Minority Rights, Agency for Personal Data Protection and Free Access to Information, Fund for the Protection and Exercise of Minority Rights, Centre for the Preservation and Development of the Minority Cultures, National Councils and Bureau for Education.

Although the topic of the discussion was the proposed budget for the Ministry of Justice, Human and Minority Rights, no Ministry representative attended the meeting. The State Secretary of the Ministry of Finance and Social Welfare substituted for the Minister; this was criticised by the Committee Chair. The representatives of state authorities who attended the meeting²⁵ took an active part and pointed to the lack of funding required for their operation. That resulted in the adoption of **three conclusions** proposing that additional funds be secured for the Ombudsman Office, Centre for Preservation and Development of the Minority Cultures and Bureau for Education. The Ministry of Finance agreed with the conclusions.

In addition to the two proposals for laws, the Committee members reviewed also the **Proposal for the Resolution on the Genocide in Srebrenica**, introduced by the opposition MP Ervin Ibrahimović from the Bosniac Party. Following the discussion, the proposal was rejected and the parliamentary majority MPs stressed there was no need to raise such a divisive issue and abuse it for political purposes. However, although the Committee proposed to the Parliament not to endorse the Proposal, the Resolution was supported in the plenary by all the MPs except those from the coalition “For the Future of Montenegro”.

The Human Rights and Freedoms Committee was the only parliamentary working body whose work was monitored during the given period that conducted post-legislative scrutiny. It did so through the Westminster Foundation for Democracy project. “Upon the initiative of the Human Rights and Freedoms Committee, post-legislative scrutiny of the Law against Discrimination of Persons with Disabilities was completed in January 2021. The aim was to review, in the course of post-legislative scrutiny, the implementation of the Law and its impact on the society and to help improve laws and citizens’ well-being”, stated the Committee Secretary Slava Burić.²⁶

25 Siniša Bjeković, Ombudsman, Ivan Medojević, Director of the Agency for Personal data Protection and Free Access to Information, Emir Dacić, Director of the Fund for the Protection and Exercise of Minority Rights, Salko Luborder, Director of the Centre for Preservation and Development of Minority Cultures, Zvonimir Deković, President of the Croatian Council in Montenegro, Sabrija Vulić, President of the Muslim Council of Montenegro, Faik Nika, President of the Albanian National Council of Montenegro, Rešad Sijarić, Director of the Bureau for Education.

26 Written comments and suggestions to the draft Monitoring Report on the work of the Committee delivered by the Committee Secretary **Slava Burić**, 18 November 2021.

EMPHASIS ON THE ACTIVITIES OUTSIDE THE COMMITTEE MEETINGS

In contrast to the rest of the parliamentary working bodies whose covered by this monitoring exercised, the Secretariat to the Human Rights and Freedoms Committee established the practice of proactively drawing up and publishing detailed information on the activities of the Chair, members and Secretary. Combined with the live-streaming of the meetings, this enabled monitoring of the rest of the work of the Committee and participation in conferences, meetings or TV programmes. During the given period, the Secretariat prepared and published 20 such notifications for the Parliament's website.

THE COMMITTEE'S SECRETARIAT: ONE VACANT POSITION

The Rulebook on the organisation and systematisation of the Parliament's Service stipulates a wide range of tasks to be performed by the staff of the Secretariat to the Human Rights and Freedoms Committee. The Secretariat is responsible for assisting the Chair and members in their work, assessing the impact of legislation and providing expert opinions on the issues being reviewed, as well as handling the logistics such as organisation of meetings and drafting of minutes.

The Secretariat's administrative capacities for handling that wide range of tasks were reduced during the period in question. At the sixth meeting, the Secretary called for additional staff to be hired, as she and another colleague were the only ones working at the Secretariat.²⁷ The capacities were strengthened – according to the most recent list of employees, the Secretariat had three Independent Advisors and the Secretary. One vacant position, however, remained vacant, as the Rulebook envisaged five positions within the Secretariat.²⁸

27 Minutes from the Sixth Meeting of the Human Rights and Freedoms Committee, available at: <https://bit.ly/3qF9rsu>

28 List of civil servants and state employees working at the Parliament of Montenegro, 28 October 2021; Rulebook on the organisation and systematisation of the Parliament of Montenegro Service No. 00-57-2/21-44/7 of 29 July 2021.

CONCLUSION

During the first three quarters of 2021, the work of the Human Rights and Freedoms Committee was marked by the opposition boycott. In addition, the Committee's activity plan for this year was not prepared in time and was adopted as late as April 2021; this was in part prompted by the delayed adoption of the Government Work Programme for 2021.

The boycott of the opposition members led to the absence of any initiatives for a stronger oversight role of the Committee. During the 13 Committee meetings, the MPs tabled no initiatives for control or consultative hearings. The three hearings included in the Committee's Work Plan were not held either.

The Parliament's Rules of Procedure do not stipulate clear criteria and procedures for the involvement of external stakeholders in the law-making process, which leads to unequal treatment. During the period covered by this Report, this affected in particular the work of the Human Rights and Freedoms Committee. Although it involved a large number of representatives of institutions, international organisations and the civil sector, the Committee did not demonstrate openness to the involvement of all stakeholders, as the Committee Chair rejected the Montenegrin Orthodox Church request to attend a meeting.

The Government failed to meet its obligations towards the Committee. The Government ministers did not take part in the work of the Committee, with the exception of the Minister of Justice, who attended the second meeting of the Committee on behalf of the entity introducing the proposal for the law. Despite the invitations and the public appeals voiced by the Committee Chair and members and civil society organisations during the Committee meetings, the Minister of Justice, Human and Minority Rights, Minister of Education, Science, Culture and Sport, Minister of Interior and Minister of Finance did not take part in any of the 13 meetings of the Committee covered by this Report.

The Human Rights and Freedoms Committee stood out in terms of the number of conclusions and recommendations that it shared with the relevant institutions, for their information and follow-up action. However, no conclusions or recommendations for improvement were provided concerning the two reviewed reports on the state of personal data protection and access to information that were not endorsed by the Committee members.

RECOMMENDATIONS

01

In the course of the ongoing drafting of the Law on the Parliament, **clear criteria and procedures for consulting and involving** stakeholders in the review of proposed legislation should be stipulated, in particular concerning equal participation of all stakeholders;

02

The Government of Montenegro, i.e. the **line ministers** should make sure that they attend more frequently and take more part in the Human Rights and Freedoms Committee meetings addressing materials from their respective remits when invited by the Committee;

03

The reports on the reviews of the reports that did not get endorsed by the MPs should be accompanied, just as the reports that the Committee endorsed and proposed conclusions on, by specific recommendations for improvement, to be shared with the institutions;

04

The oversight role of the Human Rights and Freedoms Committee should be enhanced, in particular through the initiation of control and consultative hearings and organisation of the parliamentary hearings already included in the 2021 Work Plan;

05

To strengthen parliamentary oversight, the Committee should actively monitor the implementation of the Parliament's conclusions and recommendations and develop periodical reports on their implementation.

SOURCES:

- Action Plan for strengthening the legislative and oversight roles of the Parliament of Montenegro in 2021, Parliament of Montenegro, March 2021.
- Montenegro 2020 Report, European Commission, Brussels, 06 October 2020.
- Decision on the election of the chairs and members of the Standing Committees of the 27th Parliament of Montenegro, Parliament of Montenegro, 17 December 2020.
- 2021 Human Rights and Freedoms Committee Work Plan
- Parliament of Montenegro Rules of Procedure (Official Gazette of MNE 65/21) of 22 July 2021.
- Rulebook on the organisation and systematisation on the Parliament of Montenegro Service, 29 July 2021, available at: <https://bit.ly/30Dkfwl>
- Government of Montenegro Work Programme for 2021, Government of Montenegro, 28 April 2021, available at: <https://bit.ly/3vWRyV3>
- For the Parliament which interferes with its work, Institute Alternative, 11 March 2021, available at: <https://bit.ly/2ZhblUG>

INTERNET:

- The Parliament of Montenegro website; minutes from the meetings of the Human Rights and Freedoms Committee: <https://bit.ly/3HjE38U>

Recordings of the Human Rights and Freedoms Committee meetings (Parliament YouTube Channel):

- Recording of the **1st Meeting**: <https://bit.ly/3CeMUoF>
- Recording of the **2nd Meeting**: <https://bit.ly/3kAn2Og>
- Recording of the **3rd Meeting**: <https://bit.ly/30wq139>
- Recording of the **4th Meeting**: <https://bit.ly/31X5Vzv>
- Recording of the **5th Meeting**: <https://bit.ly/3kYffdl>
- Recording of the **6th Meeting**: <https://bit.ly/3kYffdl>
- Recording of the **7th Meeting**: <https://bit.ly/3wNCDPg>
- Recording of the **8th Meeting**: <https://bit.ly/3calw0F>
- Recording of the **9th Meeting**: <https://bit.ly/3neyz7A>
- Recording of the **10th Meeting**: <https://bit.ly/3neyz7A>
- Recording of the **11th Meeting**: <https://bit.ly/3Hy3pQK>
- Recording of the **12th Meeting**: <https://bit.ly/3CfQ9fB>
- Recording of the **13th Meeting**: <https://bit.ly/31X6kC1>

ABOUT INSTITUTE ALTERNATIVE

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

Our mission is to contribute to strengthening of democracy and good governance through and policy analysis as well as monitoring of public institutions performance.

Our objectives are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.

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

We function as a think tank or a research centre, focusing on the overarching areas of good governance, transparency and accountability. The areas of our work and influence are structured around the following five main programmes: public administration; accountable public finance; parliamentary programme; security and defence, and social policy.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups Public procurement (5), Judiciary and Fundamental rights (23) and Financial control (32). Our flagship project is the Public Policy School, which is organized since 2012, and in 2018 we organized the first Open Budget School.

So far we cooperated with over 40 organisations within regional networks in the Western Balkans and with over 100 organisations in Montenegro. Institute is actively engaged in regional networks: Think for Europe (TEN), Pointpulse, SELDI, WeBER, UNCAC Coalition, Global BTAP, PASOS and The Southeast Europe Coalition on Whistleblower Protection.

The results of our research are summarised in 129 studies, reports and analyses, and the decisionmakers were addressed 1036 recommendations. Over four thousand times we communicated our proposals and recommendation to the media for better quality public policies.

We started three internet pages. My town is a pioneer endeavour of visualisation of budgetary data of local self-administrations. My Administration followed, which serves as an address for all those citizens that have encountered a problem when interacting with public administration and its service delivery system. The newest internet portal, My Money, provided national budget data visualisation.

Institute Alternative regularly publishes information about finances, projects and donors that support the work of the organisation. For this reason, the Institute have five-stars rating third year in a row, according to a survey conducted by the international non-profit organisation Transparify, which evaluates transparency for over 200 research centers.

President of the Managing Board is Stevo Muk, and our organisation currently has ten members.

www.institut-alternativa.org

www.mojgrad.me

www.mojauprava.me

www.mojnovac.me