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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)

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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

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This document analyzes three control mechanisms envisaged in the Constitution of Montenegro and in the Rules of Procedure of the Parliament of Montenegro: control hearing, consultative hearing, and parliamentary inquiry.

Interviews were the methodological tool used in order to obtain information on the attitudes of the key actors in the process of exercising the control function. This envisaged the creation of three separate questionnaires: a) for Representatives and members of parliamentary parties in Montenegro; b) for representatives of institutions that were subject to parliamentary control; c) for journalists who reported on the parliamentary practice and representatives of NGOs dealing with the functioning of the Parliament.

The findings presented in this document are the result of a comprehensive study of the legal framework and practice in Montenegro related to parliamentary control and the implementation of parliamentary mechanisms. The data received from the Parliament's Service and the organs of state administration were obtained through requests for free access to information.

The comparative analysis of the legal frameworks and parliamentary practice related to control mechanisms included the states in the region (Serbia, Croatia, Macedonia, Slovenia), as well as Germany and some of the Baltic States. During the process of research a thorough analysis of legal frameworks has been undertaken (Constitutions and legislative procedures in Parliaments), and coupled with the study of parliamentary practice in these countries. Institute Alternative organized a roundtable, whereby the draft version of this document was debated. Representatives of political parties, non-governmental organizations and media took part at this roundtable.

The aims of this project are to enhance the quality of the legal framework and practice in the implementation of control mechanisms of the Parliament of Montenegro, to open a public debate on these issues, and to offer recommendations for improvement.

1. Introduction

The system of checks and balances between the separate branches of government, and among other social and political actors, is one of the pillars of democracy. Parliament is more than a mere instrument for the legalization of agreements within the system of checks and balances, and outside of this system.¹

“The strength of the national parliament is one of the main, if not the main, institutional keys of democratization.”² Parliaments are central institutions of democracy because they express the will of the people, transmit people’s expectations, and seek responses to people’s needs. Parliament is the institution bound to assist in finding the solutions to the most relevant problems that citizens encounter in their day-to-day lives. As the main legislative body, parliament has the task of adapting laws to the needs of society and to the ever-changing circumstances.

In addition to their responsibility related to the legislative process, parliaments have the key role in controlling the functioning of the government in the name of the people.³ As an institution entrusted with the control over the government, parliament is bound to ensure that the government is fully accountable to the people.

One of the key roles of every legislative body is the control of the executive. This control function is particularly relevant because of the immense power that the top government executives have. The most important function of the modern parliament is to “make the government behave – a democrat turns to the parliament in order to ensure control over the executive and prevent the abuse of its powers.”⁴

In the transitional countries, which are faced with the process of building their democratic institutions, it is a difficult task for the parliament to be independent from the organs of the executive. Representatives⁵ belonging to the parliamentary majority commonly confirm the proposals made by the government. In real, day-to-day politics, representatives respect and follow the party discipline. As a consequence, it is very rare that they will decide on the important issues contrary to the lines that the party they

¹ *Novi izazovi za novi mandat*, National Democratic Institute Report (NDI), 2006, p. 7.

² Steven Fish in *Journal of Democracy* (January 2006). Cited in: *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, NDI, 2007. p. 5

³ David Bitham, *Parlament i demokratija u 21. vijeku*, Interparlamentarna unija, 2006, p. 127.

⁴ Sir Kenneth Whear, cited in *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti*, NDI, Croatia, 2000, p. 20

⁵ The term ‘representative’ is used to denote members of parliament in this study. The term has been used as such, in light of the translation of Montenegrin laws. See: <http://www.legislationline.org/documents/action/popup/id/3765>

belong to has taken. This also happens in countries that are considered developed democracies.⁶

Parliamentary majorities often do not put any effort in stimulating parliamentary control. They can limit the capacity of the parliament to exercise this function through parliamentary mechanisms and the possibilities for the advancement of representatives. Party list electoral systems also impede parliamentary control. In these systems, “when careers of representatives depend on their inclusion in party lists, the last thing the parliamentarians wish to do is to become involved in activities that question the policy or the actions of the government formed out of their own party.”⁷

In parliamentary systems, the control over the parliament by a majority party, combined with party loyalty, limits the motivation of representatives to criticize the policies of the executive. “It is not politically profitable to put one’s closest political allies or one’s own political party in the spotlight.” The pressure “from above” can also “silence” the representatives. Ministers often seek to frighten representatives, once the latter start asking too many questions about their line Ministries.⁸

The modern systems deal with this nuance by having strong systems of checks and balances. The Parliament can enhance its powers if the opposition and the public, assisted by the media, press the government to be more transparent about political processes.

The practice of parliamentary systems reveals several ways (mechanisms) for the control of the executive: the right of representatives to question the Ministers, the Prime Minister and the Government (question time); the right to interpellation; the right of a group of representatives to initiate a parliamentary inquiry related to the functioning of the government or the work of some Ministers; the right to public hearing; and the right to representatives not to approve the budget, which would lead to the lack of support of the government and the fall thereof.⁹

Representatives in democratic countries around the world use these and other mechanisms in order to achieve a better balance between the legislative and the executive, thus increasing their own participation in the processes of control and policy-making. This perpetuating effort requires devotion both by the legislative and the executive, as well as by the civil society actors, media and the general public.

⁶ *Novi izazovi za novi mandat*, NDI, 2006, p. 8.

⁷ Statement by the Deputy Speaker of the Parliament of South Africa, cited in: *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti* – NDI Croatia, 2000, p. 22.

⁸ *Ibid*, pp. 21-22.

⁹ Slaviša Orlović, *Parlamentarizam i partijski život*, p. 5.

1. 1 Legal framework of the control function in Montenegro

The Rules of Procedure of the Parliament of Montenegro envisage the establishment of standing and temporary committees. “The Parliament establishes committees as its working bodies, in order to deliberate the draft laws, propose laws, exercise *parliamentary control* and other duties that the Parliament is entrusted with. The standing committees are established in line with the Rules of Procedure, and they can also be established by a separate decision, should the need arise. The current Rules of Procedure envisage eleven committees, as follows:

- Committee for constitutional issues and legislation
- Committee for the political system, judiciary and administration
- Committee for security and defense
- Committee for international relations and European integration
- Committee for economy, finance and budget
- Committee for human rights and fundamental freedoms
- Committee for gender equality
- Committee for tourism, agriculture, ecology and spatial planning
- Committee for education, science, culture and sport
- Committee for healthcare, work, and social welfare
- Administrative Committee.

In its 2008 Progress Report, the European Commission has noted the following: “The Parliament has significantly improved the control of the defence and security structures, which is the key priority of the European Partnership. However, there is room for more significant improvement of the control over the main aspects of the functioning of these bodies. The control function of the Parliament generally remains weak.

The strengthening of human resources is relatively limited. Administrative and other resources necessary for the work of the Parliament, including expert assistance, remain insufficient.”

In the Parliament of Montenegro, the ratio of power in the committees reflects the one in the parliament, i.e., the representatives from the ruling coalition form the majority in each of the committees. The Parliament distributes seats in the committees proportional to the representation of parties in Parliament, so that both the members of the majority and of the minority are represented in the committees. The parliamentary majority must not exclude the minority from the committees and vice versa.

Temporary committees are established by a special decision of the Parliament. The decision to establish a temporary committee determines the committee’s task, its composition, and the deadline for the execution of the task the committee is entrusted with. The temporary committee ceases to function upon the completion of its task, or after the expiry of the period for the duration of which it was established.¹⁰

“A representative has the right to access to all official material, documents or data that are being prepared in the committees or in the parliament’s service, in the government, ministries, or in the other organs of state administration, when these materials are related to issues important for the performance of their representative duty.

¹⁰ Rules of Procedure of the Parliament of Montenegro, Art. 33

A representative has the right to seek information and explanation from the Speaker of the Parliament, the chairperson of the working group, Minister or another state official in relation to the affairs thus entrusted, which they [representatives] require in order to perform their representative function.”

The Rules of Procedure of the Parliament of Montenegro institute consultative hearing: “Should the need arise, or for a particular period of time, the committee can contract - with no voting rights entailed - scientific and expert associates for certain areas, the representatives of state authorities and non-governmental organizations, in order to execute the tasks thus entrusted (deliberate draft legal acts, prepare proposals of legislative acts, or examine certain issues), with the aim of obtaining the necessary information and expert opinions, particular in relation to the draft legislation and other issues of particular significance for the citizens and the public.

The committee adopts the decision on contracting scientific and experts. The committee can establish separate working groups, to which it may contract scientific and expert consultants, in order to perform the tasks thus entrusted.

In order to prepare the representatives for deciding on the nominees for certain political offices, the committee in charge of the area that the selection is performed for can invite the nominator and the nominees to a consultative hearing.”¹¹

The Parliament’s Rules of Procedure also institute the control hearing: “In order to obtain information and expert opinion on the issues related to its functioning, as well as on issues related to establishing and implementing policies and laws, and other activities of the government and state administration, which are unclear, which cause dilemmas or conflicts of principles, the committee can invite to its session the representative of the government or another organ of the public administration and ask for their opinion, in order to clarify these issues.”¹²

NDI’s 2006 report notes that the control function of the Parliament of Montenegro is inadequate, as well as the control function of the parliamentary committees. NDI offers concrete recommendations to improve the state of affairs in this area. „In order to enter the European Union, Montenegro must affirm itself as an economically efficient and democratic country. Consequently, strenghtening the Parliament, that is, its representative, legislative, and control functions is a necessary activity, in addition to being a condition indispensable for fulfilling the strategic aim of harmonizing Montenegrin legislation with the legal system of the EU, with simultaneous strenghtening of parliamentary democracy.”

The Decision on the Government of Montenegro¹³ stipulates that the member of the Government is “bound to respond to the call to control hearing at the session of the relevant parliamentary committee, in order to deliberate on the issue that is the subject of that hearing, and to give the information sought in the process of parliamentary inquiry.”

The decision on a control hearing is adopted by the absolute majority of the committee’s members. The chairperson of the committee informs the Speaker of the Parliament and the Deputy Speaker of the

¹¹ Rules of Procedure of the Parliament of Montenegro, Art. 73

¹² Rules of Procedure of the Parliament of Montenegro, Art. 75

¹³ Official Gazette of Montenegro No. 80/08 (26/12/2008)

decision on control hearing in writing invites the person to the hearing and informs them on the subject of the hearing. The person invited to the hearing may be asked to deliver their opinion and stances in writing. The government officials invited to a control hearing are bound to respond to the call.

Parliamentary inquiry is stipulated both in the Constitution of Montenegro¹⁴ and in the Parliament's Rules of Procedure.¹⁵ According to the Constitution: "Following the proposal of at least 27 representatives, the Parliament may establish an inquiry committee in order to collect information and facts related to the work of the state's organs." The Rules of Procedure regulate the following: "Parliamentary inquiry may be initiated in order to assess the state of affairs in a certain area, and discuss issues of public interest, collect information and facts about certain nuances and events related to the determination and policy-making of the organs of state administration in those areas, which could be grounds for the decision of the Parliament on the political responsibilities of office-holders or on acting upon its [Parliament's] competence." In order to perform the duties stemming from this provision, the Parliament may establish an inquiry committee.

Court proceedings on the same issue are legally considered an impediment to the parliamentary inquiry. The Rules of procedure stipulate that the Speaker of Parliament "instantaneously informs the Minister of Justice [about the proposal for the parliamentary inquiry], and seeks information from them on whether there are any court proceedings related to the aforementioned facts, or issues." In such a case, the decision on the proposal for initiating a parliamentary inquiry "is postponed until the termination of the court proceedings". In the case the court proceedings are initiated after the formation of the inquiry committee, the inquiry committee "ceases to work until the termination of the court proceedings".

The Parliament decides on the proposal to open a parliamentary inquiry "with no debate, and on the whole proposal" by a majority of parliamentary votes. The proposal to initiate parliamentary inquiry also contains the "composition of the inquiry committee", while the chairperson of the inquiry committee comes from the opposition parties. In order to perform the investigation, the inquiry committee has the right to "seek data, documents and information, and receive statements from individuals should it deem necessary". On the other hand, the "state organs and other organizations and individuals are bound to give genuine documents, data, information and statements sought from them by the inquiry committee." After the completion of the parliamentary inquiry, the "inquiry committee submits a report to the Parliament, which can contain the proposal of measures to be taken or acts to be adopted as per the competencies of the Parliament."

The proposal for initiating the parliamentary inquiry also contains "the deadline for the completion of the task". The inquiry committee ceases its functioning "following the expiry of the period that it has been established for" or "on the day of the Parliament's deliberation on its report."

¹⁴ Constitution of Montenegro, Art. 109.

¹⁵ Rules of Procedure of the Parliament of Montenegro, Art. 78.

The functioning of the Committee for defense and security is particular. Apart from the Rules of Procedure, other legal acts - such as the Law on the Agency for National Security, the Law on Police, the Law on Military, and the Law on Defense – regulate its functioning.¹⁶

The work of the Parliament and its committees is public, except for when an act or material marked as a “state’s secret” is being discussed.¹⁷ Following an elaborated proposal of the government, or at least ten representatives, the Parliament can – without further debate - decide to close the session, or a part thereof, to the public.

The Parliament is obliged by the Rules of Procedure to inform the public through its website on its work, issues debated and decisions adopted.¹⁸ In addition, the draft laws that are being discussed can be published in the media, or in a special publication, while electronic media have the right to live broadcast the sessions of the Parliament and its committees.¹⁹

The Parliament’s Rules of Procedure envisage that journalists, accredited by an authorized organ, may follow the sessions of the Parliament and its committees.²⁰ Journalists are provided with materials that are being debated in Parliament or its committees, unless such materials are marked as confidential, i.e., as a “state’s secret”.²¹

The Parliament is bound to provide the necessary conditions for the media, so as to enable them to follow the sessions and inform the public.

There is a possibility of issuing an official statement for the media, that is of holding press conferences. The Parliament’s service is in charge of composing the text of the statement, which is then approved by the Speaker of the Parliament, or the chairperson of the committee, or another authorized person. A parliamentary club, or an individual

The European Commission’s 2009 Progress Report on states the following: “As regards control mechanisms, this committee called ministers to hearings on several occasions.

Parliament adopted 124 laws, which is a 30% increase compared to 2007. This intense activity is welcome as Montenegro continues to complete its legal framework following independence and taking into account alignment with the *acquis communautaire*. However, parliament's capacity to scrutinise legislation and monitor its implementation needs to be enhanced. Parliament continued its work on oversight of defence and security bodies, *inter alia* by organising a hearing of the director of the police in December 2008. This practice needs to continue and expand.

Mechanisms of inspection and control are insufficiently used. The control function of the Parliament generally remains weak. Currently, administrative and other resources, including expert support, necessary for the work of the Parliament are insufficient. Human resources and expert assistance to committees are insufficiently developed.”

¹⁶ For additional information on the parliamentary oversight of the security and defense sector see Institute Alternative’s analysis “Parliamentary oversight of the security and defense sector in Montenegro – what next?”

¹⁷ Rules of Procedure of the Parliament of Montenegro, Art. 211.

¹⁸ Rules of Procedure of the Parliament of Montenegro, Art. 212.

¹⁹ *Ibid.*, Art. 214.

²⁰ *Ibid.*, Art. 215.

²¹ *Ibid.*, Art. 216.

representative may hold a press conference.²²

The Parliament's service performs expert and other duties for the Parliament and representatives. It also performs certain duties for the parliamentary clubs.²³ A parliamentary club, consisting of more than five representatives in addition to the secretary of the club, may contract one expert consultant (club's official) at the expense of the Parliament. A parliamentary club is further entitled to contract one expert consultant per each additional fifteen members of the parliamentary club.²⁴

In addition, the duties the Parliament's service is entrusted with include:

- Participating in the preparation and organization of the session of the Parliament, its committees, and the Consortium of the Speaker of Parliament; producing committees' reports;
- Performing expert and other tasks related to streamlining draft legislation and other materials forwarded by the Speaker of Parliament to the committees and other institutions of the state administration;
- Preparing draft laws and other materials, following the request of the Speaker of Parliament, the Deputy Speaker, committees and representatives;
- Providing expert opinions, following a request of a parliamentarian, committee, or a parliamentary club, whereby these opinions are necessary to perform their functions;
- Collecting, processing, storing, making available for use and exchange information and documentation necessary for the work of representatives, committees and the Parliament;
- Organizing cooperation with journalists and providing materials necessary for the realization of their rights and duties related to reporting on the work of the Parliament;²⁵

²² *Ibid.*, Art. 217.

²³ *Ibid.*, Art. 218.

²⁴ *Ibid.*, Art. 32.

²⁵ *Ibid.*, Art. 219.

2. Some comparative insights

The following section examines to what extent the legal framework that regulates the three mechanisms of control (control hearing, consultative hearing and parliamentary inquiry) in Montenegro differs from the one of the other countries in the region; and – to what extent – from the countries with strong parliamentary systems. It is important to determine how these differences are mirrored, and what could be applied in Montenegro from the legal frameworks in other countries, so that democratic standards and their application in Montenegro are improved.

2.1 The importance of control and its limitations through the committee system

Parliaments in Europe are directly elected and they represent the people. This gives the Parliament the right to control the government of the state in which it has been elected. By definition, in strong parliamentary systems the Parliament can, at any time, withdraw its support to the Government. In constitutional systems of parliamentary democracy, it is the responsibility of each Parliament's leadership and of all representatives to perform parliamentary control over the institutions that are accountable to the Parliament for their work - in line with the Constitution and Law; and to supervise overall societal processes.

Most of the parliaments in the contemporary world have a mixture of mechanisms which allow them to supervise the executive. These mechanisms range from the possibility to invite the officials to respond to the Parliament, to the possibility to withdraw support in parliamentary systems, or to the dismissal of executive officials in non-parliamentary systems. Collective accountability (i.e., accountability of the entire cabinet) is a common feature in 40 countries, including: Brazil, Canadian, France, India, Japan, Jordan, Korea, Malaysia, Thailand and the United Kingdom. Individual accountability (i.e. accountability of the members of the cabinet) is also common to a large number of countries, and it is quite often combined with the system of collective responsibility. For instance, this is the case with Australia, Austria, Brazil, Denmark, Korea, the Netherlands, Norway, Sweden and the United Kingdom.²⁶

Legislative bodies also control the executive through less direct means. Countries such as Greece and Sweden establish committees, which supervise public authorities, while the Republic of Korea (Kuk Hoe) conducts annual inspections of the state administration.

²⁶ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, NDI, 2000, p. 57.

Parliaments also use their civil servants to ensure greater support to the representatives in their oversight of the executive. The Congress' Budget Office in the U.S.A., which consists of 245 well-trained officials, is a good example of such a support. Research capacities at lower levels also play an important role in providing support in countries such as Uganda, where the Budget Office employs of 13 officials who are economists by vocation.²⁷

In representative democracy, members of Parliament are faced with numerous duties and responsibilities. These range from working on legislative analyses to the control of the executive. In order to be able to fulfill their obligations, representatives organize committees as their working groups.

Almost all democratic legislatures rely on committees or commissions to facilitate the work of the parliament. Committees are minor groups of legislative officials, temporarily or permanently entrusted with the task of examining certain issues in more detail than the Parliament's plenary could do.

In the case of Uganda, select committees were used from 1997 to 1999 in order to conduct nine significant investigations against executive officials facing charges of corruption. Two of these investigations led to the dismissal of one minister, and the resignation of another. The President of Uganda was, following the investigation on the Minister of Agriculture, forced to replace her and reorganize the cabinet.

The most systematic method for the supervision of the executive is the one that relies on control through parliamentary committees. Committees oversee the functioning of each organ of the government and of Ministries, and examine the aspects of their policies - and the implementation thereof – that are the most relevant.

Committees are a strong weapon in the arms of the representatives to ensure the supervision of the executive. They enable the representatives to question the line Ministers in more detail than it is possible during the parliamentary question, or debate in Parliament.”²⁸

The committee system differs from country to country. Some Parliaments have standing committees that are involved in adopting laws and supervising the executive, while others do not. In some countries parliaments establish *ad hoc* investigative committees.²⁹

The distribution of seats in parliamentary committees around the world is based on the reflection of the ratio of the strength of party groups in Parliament. This rule is applied in countries like Germany, Bulgaria, Canada, France, Hungary, the United Kingdom, and the U.S.A.³⁰

Many parliaments have reformed their committee systems so that these could coincide with the line ministries and their membership. In this way, a corresponding system of expertise would be established within the committees. In many countries committees are common to both chambers of the Parliament. However, not even the

²⁷ *Ibid.*

²⁸ *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti* – NDI Croatia, 2000, p. 23.

²⁹ Hironory Yamamoto, *Tools for parliamentary oversight – A comparative study of 88 national parliaments*, Inter-Parliamentary Union, 2007, p. 15.

³⁰ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 31.

specialized committees are able to fully cover all the functions of a line Ministry. Still, it suffices that the Ministry is aware that a committee could rigorously scrutinize each aspect of its work. In practice, committees need to be selective in terms of which areas they supervise.

“Some countries have specialized committees that deal with the oversight of the activities of the executive. An example of this would be the U.S.A. and Sweden. Sweden has a *Committee that is only devoted to control*. This committee is called “Parliamentary Auditing”. It is composed of 12 representatives and 25 civil servants. They have the power to oversee “a whole range of issues, starting from the development of policy in parliament to its implementation in the state’s agencies. Auditing focuses on the entire system and broader policy issues [...] and it is not limited to narrower operative details.”³¹

Committees encounter numerous obstacles in performing their control function. These obstacles range from the aforementioned *structural* ones to the *political ones*, the latter dealing with the possibility to access confidential data, as well as issues related to the resources and quality of the human resources thus available. Committees seek different ways to overcome these obstacles.

Committees have the competence to request that the ministers and civil servants appear before committees, should they deem this necessary for increasing the efficiency of the examination thus conducted. Ministers and civil servants, in turn, are bound to respond to questions and deliver the documents sought by the committee. Access to information, including the access to confidential information, is key to efficient accountability.³² For example, in Slovenia, the Committee for security and the Committee for budget and public finance may ask the state services to submit documents and reports, following the request of 1/3 of its members.³³

“In the majority of the parliaments today, committees are legally entitled to call upon witnesses, including executive officials, and to request documents. The non-exhaustive list of these countries includes the parliaments of Australia, the Czech Republic, Georgia, India, Romania, and South Africa. The Swiss Constitution stipulates that ‘official secrets’ can not be the grounds for rejecting the request for the delivery of evidence to the inquiry committee. In such cases, the committee is responsible for keeping the ‘official secret’ away from the eyes of the public, as a trade off for having received this information. The effect of this provision is that ‘official secrets’ may be except from absolute protection, while the parliament is enabled to perform its constitutional obligations and formally ‘spare’ the officials of the executive (who would, by revealing an ‘official secret’ come in the situation of a conflict of interests).”³⁴

The Law on the Free Access to Information, which envisages numerous exceptions, or the right to veto for ministers in terms of revealing information, can be a

³¹ *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti*, p. 25.

³² *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 35.

³³ Rules of Procedure of the People’s Assembly of Slovenia, Art. 45

³⁴ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 35.

limitation for the Parliament in terms of its access to sensitive information. A large number of Parliaments use closed sessions for certain categories of information, as one of the methods to avoid such limitations.³⁵

In parliamentary systems, governments often limit the support to and interaction with committees. Governments can attempt to limit the competencies of the committees through controlling the resources given to the Parliament.³⁶

The issue of resources is of particular relevance in the context of detailed control performed by committees. Even in well-established Parliaments and legislatures, the number of available members of the committee is insufficient compared to the expert knowledge that the government's bodies can rely upon. In seeking to overcome the problem of the lack of committee members, services of the committee are supplemented in different ways. Commonly, external experts – members of civil society or academia – are invited to participate to committees for some special examinations or as members of a permanent advisory panel of a committee. The House of Commons (United Kingdom) has established the Scrutiny Unit, which offers specialized assistance to certain committees, once they are over-flown with work.³⁷

For instance, in Macedonia, a working body can have members who are experts or scientists. One should be nominated by the majority and the other by the opposition. The nominees must not be party members, and they do not participate in the decision-making process. However, they can provide expert assistance to representatives.³⁸

The result of the examination conducted by the committee often takes the form of a published report, delivered to the government along with recommendations. The report is submitted to the Parliament as an entity, in which case the Parliament needs to determine its priorities in terms of opening up the debate about the report and in terms of acting upon the receipt of answers from the government. The Parliament of India has toughened the procedure for implementing the recommendations of the Departmentally Related Standing Committees (DRSC), because it has been established that the government often delays the implementation of the recommendations that it had accepted.³⁹

In parliamentary systems, committees always have to deal with twofold challenges. On the one hand side, they need to deal with the strong desire of the executive to control, or even monopolize the work of the Parliament. On the other hand, committees need to balance the equally strong desire of the opposition to continue the electoral battle within committees.

³⁵ *Parlament i demokratija u 21. vijeku*, p. 129.

³⁶ *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti*, p. 19.

³⁷ *Parlament i demokratija u 21 vijeku*, p. 130.

³⁸ Rules of Procedure of the Parliament of Macedonia, Art. 119

³⁹ *Parlament i demokratija u 21 vijeku*, p. 130

Despite the political and structural obstacles, committees are still a very significant control mechanism. The activity of committees facilitates the development of networks among representatives, civil servants and interest groups. These networks stimulate the exchange of information on policy implementation. Committees also stimulate the representatives to develop their own competence in certain political areas, which in turn allows them to counter the ministers at an equal footing.

2.2 Control and consultative hearings in committees

Authorizations for the committees to request the Ministers and civil servants to appear before the committee and answer to questions have a key role for the efficient implementation of the control mechanism.

Supervisory public hearings (control hearings) - which consider the application of certain laws, quality of the government's programs, and the activity and performance of the representatives of the Government - are an instrument through which representatives check whether the implementation of laws is conducted in line with the intentions of the legislator. Through this mechanism, representatives can also verify whether public policy is used to realize the interests of the public (citizens).⁴⁰

“When there are uncertainties, dilemmas, conflicts of principle or doubts, the representatives of the government or the civil administration are invited in order to respond to questions and overcome possible misunderstandings or problems. The significance of this activity is that it increases *efficiency* and *transparency* of the executive government, while making it more *economic*. This is particularly necessary at the time of assessment of actions, adoption of decisions on the establishment of new agencies, and at the time of deliberation of the need to amend the existing legislation or adopt new laws. These hearings come from one of the basic pillars of the separation of powers (legislative, executive, judiciary), and they are related to parliament's *control, oversight and monitoring over the implementation of public policy by the executive*.”⁴¹

Hironory Yamamoto⁴² has conducted a research, which showed that – out of the total 88 parliaments examined (worldwide sample), 71 provided for hearings in committees.

Hearings are usually held if a decision is taken by the majority of the committee's members. In addition to Montenegro, this is the case in some other countries in the region, such as Serbia and Croatia. In the majority of the cases, committees need no approval from the plenary in order to hold a hearing. (In Luxembourg they need to seek permission from the Speaker of Parliament, and the Conference of the Committee's Chairman in order to hold a hearing).

⁴⁰ Slaviša Orlović, *Javna slušanja kao instrument parlamentarne prakse*, UNDP, Belgrade, p.18.

⁴¹ Ibid

⁴² Hironory Yamamoto, *Tools for parliamentary oversight – A comparative study of 88 national parliaments*, Inter-Parliamentary Union, 2007, p. 30.

Hearings in committees can be of a different degree of formality. In the Netherlands, there are “consultations” which are not recorded. By contrast, in Denmark, consultations are recorded following the request of at least three members of the committee.

In Bulgaria, there are hearings in the plenary and in the committees.⁴³ Hearings in plenary offer the individuals who proposed the hearing the opportunity to present their justification for the questioning within 10 minutes. After the response, two representatives from each parliamentary group and one independent representative have the right to ask an additional question – each limited to 2 minutes. Usually, these types of hearings are of an informative nature and it is not necessary to reach a decision after them.

Hearings in committees are premised on the right of the permanent and ad hoc committees to invite the Minister to participate to the sessions of the committee. The Minister invited is bound to reply to the questions posed by the representatives. All the institutions of the state, civil servants, or officials in state or local administration have the duty to provide the information and documentation that have been requested in relation to the case – the subject of inquiry, even information considered ‘state’ or ‘inquiry’ secret.

After the hearing, the committee can vote on the document, which reflects its views, but this is not compulsory. Such a document, if adopted, is distributed to all representatives. The main aim of the hearing is to give the opportunity to representatives to precisely examine all issues considered.

Hearings in committees can either be closed or open to the public. The degree of transparency in the work of committees varies across countries. Swedish parliamentary committees work behind closed doors “which has proven useful for cooperation within the committee; while the open sessions of the parliament are used to balance the closed phases.”⁴⁴

The choice between public and private sessions has a significant impact on the supervision of the executive. Private (closed) hearings can lead to greater inter-party and intra-party cooperation. They also reduce the possibilities of putting the government in the spotlight. Hearings held beyond the eyes of the public could spark more political changes, as the political race is no longer on the immediate agenda. However, closed hearings reduce transparency, while depriving the media and the public the important possibility of taking part in the process of creating and implementing policies. By contrast, open hearings can increase the political motivation for control.⁴⁵ In addition, open sessions also imply the obligation to inform the media and the public on the exact schedule of work.

⁴³ Control function of the Parliament of Bulgaria, at the roundtable “Control function of the parliament with particular emphasis on parliamentary hearings”, Parliament of Montenegro 18/04/2008.

⁴⁴ *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti*, p. 18.

⁴⁵ *Ibid*, p. 24.

In practice, open hearings have appeared to be particularly relevant in cases when the committee dealt with taxation and financial issues. However, the significance of open hearings in other areas as well should not be underestimated.

Public hearings allow the citizens to participate. At the time of democratic consolidation, seeking and perfecting the ways for the citizens and their elected representatives, expert and interested institutions, organizations and individuals, to cooperate among themselves with the aim of establishing a sustainable democratic environment and enhancing the quality of life in a given society is of particular significance.⁴⁶ In addition, public hearings enable different societal actors – businesspeople and NGOs, scientists and citizens to comment on the activities and effectiveness of the government’s programs, offer their expert opinion and assist to solve certain problems in the best way possible.⁴⁷

In the Committee for environment and water, several hundred amendments on draft laws have been submitted by non-governmental organizations. One third of these have been accepted by the Committee.

The chairperson of the committee asks all the invited participants to present their attitudes on the issues discussed. These materials are distributed among committee members and to other representatives that are interested in the given topic.⁴⁸ It is considered useful if the sessions are attended by as many people as possible with as many conflicting stances as possible. It is also considered conducive to good outcome if all the participants are prepared to face the invited officials, criticize draft laws, propose new ideas and point to the existing problems. However, this practice is not formally considered a hearing.

Public hearing is a mechanism to collect information used by parliamentary committees in their work, so that they can perform their duties in the most adequate manner. By testifying on the committees’ sessions, offering written comments and expert opinions, the representatives of the committee have the opportunity to collect relevant information, hear an expert opinion and practical experience. This enables them to better

prepare draft laws, oversee the work of the government or follow the implementation of some legal solutions. Apart from representatives, public hearings are used to inform the expert services and the public.

In Bulgaria, committee hearings are public. Invited citizens and citizens who express their interest in attending are free to attend. The exceptions are: Committee for external affairs, Committee for defense, and Committee for internal security and public order. Citizens, NGO representatives, academics, and experts that might offer an active contribution are invited to the session.

In the Committee for environment and water, several hundred amendments on draft laws have been submitted by non-governmental organizations. One third of these have been accepted by the Committee.

⁴⁶ Slaviša Orlović, *Javna slušanja kao instrument parlamentarne prakse*, UNDP, Belgrade, p. 22.

⁴⁷ *Jačanje zakonodavnog kapaciteta u odnosima zakonodavne i izvršne vlasti*, p. 24.

⁴⁸ Control function of the Parliament of Bulgaria, at the roundtable “Control function of the parliament with particular emphasis on parliamentary hearings”, Parliament of Montenegro 18/04/2008

Public hearings are an opportunity to widen the participation of citizens and civil society representatives in debates and deliberations. The participation of civil society members in public hearings emphasizes the needs and the opinions of ordinary citizens, strengthens the confidence to the parliament and the government, and brings the institutions closer to the citizens. In that way, the government becomes transparent and responsible. Its democratic dimension is stimulated and civil society is strengthened. The purpose of public hearings is that the elected representatives and appointed executive officials act in the best interest of citizens.⁴⁹

In the majority of cases, parliamentary committees decide on whether it is necessary to hold a public hearing. The decision is reached through a voting procedure. The number of required votes ranges from the absolute majority in Belgium, to a third of the committee members in Korea. For instance, in Mexico, the decision of the parliamentary committee needs the assent of the parliament's plenary.

Very often the hearings result from citizens' complaints. In 1998 in Georgia, for instance, the Agriculture Committee had public hearings on the privatization of land. This hearing was organized as a response to numerous letters of concerned farmers. The hearing led to the dismissal of a local governor (nominated by the president).

At present, many countries use the combination of private and public sessions, while taking major steps towards opening committees' work to the public. Montenegro is one of those countries. For instance, in 1990, France has allowed the chairpersons of committees to open up the sessions to the media, including TV cameras. In 1997, the sessions of the Inquiry Committee, which were closed to the eyes of the public, were made open following the provisions of a special law. In the Australian House of Representatives, the media advisor is in charge of assisting the committees to develop expert communication with media, as well as media strategies for following public inquiries. The aim of this process is to increase the presence of the committees' activities in the media.⁵⁰

Often, the right to access hearings is limited for the public. These limitations, however, can be justified by invoking national security or the interest to preserve the privacy of the officials that are being accepted in the civil service or dismissed therefrom. Although there are acceptable reasons for closing some hearings in committees, such cases need to be justified to the public.

South Africa offers an acceptable balance between private and public hearings. It is a common practice that all committees are open to the public, unless the committee adopts a decision on closing the session. Minutes of these meetings, and the supplementary documents, are always accessible to the public.⁵¹

⁴⁹ *Javna slušanja kao instrument parlamentarne prakse*, p. 23.

⁵⁰ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 33.

⁵¹ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 33.

2.2.1 Case study: Parliamentary hearings as an important segment of parliamentary functioning of the German Bundestag⁵²

This case study shows the legal framework that regulates the mechanism of the parliamentary hearing in the lower house of the German Parliament – Bundestag. This case is illustrative of the great importance of hearings in the German parliamentary practice.

The lower house (Bundestag) of the German Parliament is organized into committees. These committees reflect, to the extent possible, the strength of the party groups in Parliament. The majority, or the ruling party, retains control over all the committees in Bundestag.

In the Federal Republic of Germany hearings are organized in order to take into account the opinions of organizations and individuals, as well as the specific knowledge of experts, in the decision making process. Hearings do not take place only in parliamentary committees, but also in the administration of the executive.⁵³ In the Rules of Procedure from 1951, the aim to give advantage to the “meetings for public information” compared to the committee meetings that are closed. Individuals representing certain interests should be invited to such meetings, along with experts, and individuals able to provide certain information. Media and the general public may attend if the spatial conditions allow so.

In the Federal Republic of Germany a public hearing may be requested by ¼ of the members of Parliament. This may refer only to the issues that the Parliament has requested the committee to report on, while it can not refer to issues that have been self-initiated by the committee. The representatives of the executive are bound to participate to the public hearings in committee, following the request of the committee.⁵⁴

In the first instance, hearings are an aspect of the legislative process. However, they can be used to collect information needed to strengthen the grounds of other political decisions.

In the legislative process, hearings can be organized while the Government prepares and elaborates the draft law, and while the Parliament deliberates on whether to adopt the draft law or not.

Hearings which are not a part of the legislative process (hearings aimed at collecting information on a certain issue and adopting decisions unrelated to the adoption of draft legislation) are held only in the committees of the Parliament. These hearings are not organized by the government or other organs.

⁵² Rudolf Binding, „Njemački parlament – parlamentarna saslušanja – početak, razvoj i sadašnja praksa“

⁵³ *Uloga i praksa zakonodavnih saslušanja, primjer Njemačke*, transkript NDI-a, prezentacije Rudolfa Kabela, Kina, 2000, p. 2.

⁵⁴ *Javna slušanja kao instrument parlamentarne prakse*, p. 19.

The provisions of the Rules of Procedure stipulate all the issues important for the hearings.

It is clear that the hearing becomes a significant minority right for parliamentary groups as well. After the Rules of Procedure have laid out the details of this instrument, the number of hearings has increased.

It can be said that the hearings are an exceptionally important instrument of parliamentary work. In this way, the Parliament and its committee seek to use the knowledge of the experts and society.⁵⁵

In order to receive the information on the subject debated, the committee may hold public hearings of experts, interest group representatives and other persons able to provide information. Once a matter is directed to the committee, the committee in charge is bound to hold hearings, following the request of *one quarter* of its members.

When a hearing is requested by the minority of the committee's members, the persons nominated by the minority must be questioned. If the committee decides to limit the number of people who must be questioned, the minority may select only a part of the total number of individuals that may be questioned, in proportion to the number of minority representatives in that committee.⁵⁶

The committee that is required to provide an opinion may, following the consent of the committee in charge, decide to hold a hearing if the committee in charge does not use the opportunity thus granted. This committee can also limit its hearing to the aspects of the case that fall directly within its competence. The committee in charge will be notified of the time and the venue of the hearing, and the people that will be questioned. At the time of the hearing, the authorized committee members have the right to ask questions. This right can be limited to certain committee members, following the approval of the committee in charge.

The committee can enter a general debate with individuals providing information to the extent necessary in order to clarify the facts. The time of speech is limited. The committee can give instructions to individual members to conduct the hearing. In relation to this, each parliamentary group or committee are taken into account.

During the preparations for a public hearing, the committee informs the persons who provide the information on the questions thus shall be asked. The committee can require from those people to submit written comments.

The expenses of experts and people providing information are reimbursed only on grounds of formal invitations. Formal invitations are decided upon by the committee, with the prior consent of the committee's chairperson.

Occasionally, public hearings are broadcast on television. Hearings are usually held in large auditoria, so that the greatest number of interested parties, and particularly journalists, could follow the hearing. The main points of the statements and comments of

⁵⁵ Rudolf Binding, *Njemački parlament – parlamentarna sasušanja – početak, razvoj i sadašnja praksa*, p. 2.

⁵⁶ Rules of Procedure of the Parliament of the Federal Republic of Germany, rule 70, para. 2

the experts and interest group representatives invited to attend are included in the report of the committee. Occasionally, the minutes of the public hearing are fully included in a special series of books published by the German Parliament. In addition, modern media allow many hearings to be broadcast live on the Internet. Expert statements and written documents are also available on the Internet.

Following the request of a quarter of representatives, the Bundestag is bound to establish a study commission for the preparation of decisions on broad and significant questions. The members of the study commission are nominated in line with the agreement reached among parliamentary groups. Study commissions, composed of external experts, are bound to submit reports and recommendations to the Parliament before the expiry of its mandate. Although external experts already participate to the study commissions, they still conduct hearings in order to acquire a broader expert knowledge.

The Rules of Procedure make a difference between the core committee that is requested to deliver an opinion, and a committee that is interested to consider a proposal. In the core committees, a hearing is held not only when there is a majority of the committee members requesting it, but also without their consent – following the request of $\frac{1}{4}$ of the members of the committee. In practice, the spokespeople of parliamentary groups, who are simultaneously committee members, meet in order to negotiate on whether the hearing will be held or not. In the majority of cases the decision to hold the hearing is reached.

“When the hearing is organized on the request of the minority, the persons proposed by the minority must be questioned. If the committee decides to limit the number of people who must be questioned, the minority may select only a part of the total number of individuals that may be questioned, in proportion to the number of minority representatives in that committee.”⁵⁷

Usually, there is consent on these issues among the spokespeople of the parliamentary groups. Committee members often contact experts and associations in relation to issues that are debated in the committee meeting. They know who the people and associations that will be invited are. Certainly, they seek to invite those experts and associations whose stances they are familiar with, and whose stances they agree with. However, since different committee members have different opinions, these resonate at the time of the hearings.

Associations and experts receive the list of questions in advance. By rule, they are required to deliver a written statement to the committee in advance. Afterwards, this statement is circulated to all committee members. At the time of the hearing, experts reiterate their statements or make an oral presentation. Following that, committee members ask further questions.

In some cases, when the majority of associations or experts warn the government and the majority that a draft law needs to be significantly changed, the parts of the law that have been criticized can be withdrawn. Alternatively, amendments may be proposed

⁵⁷ Rules of Procedure of the Parliament of the Federal Republic of Germany, rule 70, para. 2

to those parts. This may happen even in cases when the government has held hearings before submitting the draft law to the Parliament. This situation is possible when the government has not heard a sufficient number of experts, or if it has underestimated their opinions. At the time of the parliamentary hearing, parliamentary groups usually nominate several experts or associations with different stances than has been done in the previous stage.

Committees have the right to consider those issues that are not related to draft laws, and that are delivered by the plenary.⁵⁸ These issues can be on any subject matter, e.g., a report of the government or any other issue of political significance. Additionally, the committee can organize hearings on these issues. For example, the Committee for internal affairs may organize a hearing on the safety of private services, while the Committee on TRANSPORT can organize a hearing on the number of traffic accidents caused by young drivers. Such hearings can be organized only if the majority of the committee agrees upon it. Hearings are organized in line with the provisions related to hearings in legislative processes. Reports are submitted to the Parliament about these hearings. No committee has the right to submit the report to the Parliament, or to give a proposal, on any issue that has not previously been delegated to that committee by the Parliament.

The aim of these types of hearings is to inform the committee members about certain issues and the background to those issues. The purpose of such hearings in the majority of the cases is to enhance the control over the government and prepare the committee for its prospective legislative activities. It is characteristic of Germany that each committee very often uses the right to hold a hearing.

2.3 Inquiry committees – parliamentary inquiry

As one of the components of representative democracy, free access to information and the right of citizens to information must actively be implemented by the Parliament. Citizens have the right to request transparency in all public affairs, which is a universally accepted principle in international agreements, such as the Social Charter of the South Asian Association for Regional Cooperation. According to this document, “all the signatory parties agree to underline the significance and responsibility of conducting affairs in public [...] institutions.” In representative democracy, this means that the Parliament, as an institution representative of the citizens has the general right to ask questions and demand answers. Thus, Parliament has a legally regulated right to request the establishment of an Inquiry Commission. This right is strengthened by a subsidiary right of the Parliament to invite witnesses, including the executive officials, and seek documents. This minimum standard is also in line with the principles established by the Parliamentary Association of the Commonwealth.⁵⁹

In the majority of the countries, Parliaments have the competence to call upon witnesses, including executive officials and to request documents. This right is often enforced through committees.

⁵⁸ Rudolf Binding, *Njemački parlament – parlamentarna saslušanja*, p. 6.

⁵⁹ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 33.

Parliaments, that is – representatives, can establish special inquiry boards in order to deliberate issues of major public importance. These issues are often a common area for several line ministries and several committees.⁶⁰ These commissions have the competence to force the executive officials to appear and present evidence under oath.

A total of 76 out of the 88 examined parliaments have the right to parliamentary inquiry through special inquiry committees. In the majority of the parliaments, parliamentary inquiry is initiated by the plenary. In seven European parliaments, qualified minority (between 1/5 and 1/3) may approve the establishment of an inquiry committee.⁶¹

Inquiry public hearings⁶² are somewhat similar to legislative and control public hearings. The difference is in the emphasis on inquiry, particular when there is suspicion of misconduct of public officials in their activities, either individually or collectively (institutionally). Parliamentary inquiry can be initiated in order to assess the state of affairs in a certain area, deliberate issues of public importance, or for political accountability of office-holders. To that end, the committee may invite to its session the responsible member of the government or of another organ of the state, and request their opinion on certain issues.⁶³

In some cases, in order to conduct a parliamentary inquiry, the parliament can establish a special commission or a subcommittee – inquiry committee – with the task to investigate a particular case. Inquiry committees have the right to request documents and information and to take statements from individuals, should the need for that arise. In that case, the state authorities and other organizations, as well as individuals, are obliged to provide genuine data requested from them by the inquiry committee. Consultative hearings may be organized when the representatives are preparing to decide on the nominees for certain offices. In this case, the committee can invite the authorized nominator, as well as the proposed candidates to a consultative hearing.⁶⁴

“The People’s Assembly of Serbia may form inquiry committees, out of its representatives, in order to assess the state of affairs in certain areas and to determine facts on certain nuances or events. The decision on the establishment of an inquiry committee determines the composition and the task of the committee. Inquiry Committee may not perform investigative or other judicial activities. The Committee has the right to request data, documents and information from the state authorities and individuals, and to take statements from individuals, as required. The representatives of the state authority and organizations, as well as citizens, are bound to provide genuine statements, data, documents and announcements to the inquiry committee. After the completion of its task, the inquiry committee submits a report, containing a set of measures to be taken, to the

⁶⁰ *Parlament i demokratija u 21 vijeku*, p. 135.

⁶¹ Hironory Yamamoto, *Tools for parliamentary oversight – A comparative study of 88 national parliaments*, Inter-Parliamentary Union, 2007, p. 39.

⁶² Term used by Slaviša Orlović for parliamentary inquiry.

⁶³ *Javna slušanja kao instrument parlamentarne prakse*, p. 18.

⁶⁴ *Ibid.*

People's Assembly. Inquiry committee ceases to function on the date when the decision on its report is taken at the session of the People's Assembly.”⁶⁵

The Croatian Parliament may form commissions of inquiry regarding any issue of public interest. The composition, competence and powers of the commissions of inquiry shall be in accord with law. The chairperson of a commission of inquiry shall be appointed by a majority of representatives from among the representatives of the opposition.⁶⁶

In Macedonia, the Parliament can establish inquiry committee for any matter of public interest. The decision to establish such a body contains the area of competence and the number of members of this body. The composition of this working body is determined on grounds of the decision of the Parliament, and it is composed of the representatives of parliamentary groups, people who are not organized into parliamentary groups, with equal opportunities for man and women.”⁶⁷

In Estonia, the work of committees is regulated in detail by the Rules of Procedure of the Parliament of Estonia (*Riigikogu*). There are two types of committees: investigation (inquiry) and study. Inquiry committees have the right to call upon individuals to appear before the committee, and to request information and documents necessary for its functioning. The person invited is bound to attend, to provide information and answer the questions. Information and documents requested by the committee are to be submitted by the deadline set by the committee. Failure to attend the questioning before the inquiry committee without prior justification, failure to submit information or documents, or the refusal to offer explanations, or respond to questions are subject to a monetary fine.⁶⁸

The Rules of Procedure of the Estonian parliament stipulate: “The Riigikogu may form committees of investigation in order to investigate the circumstances of events of public interest. A committee of investigation shall be formed by a resolution of the Riigikogu which sets out the composition, including an alternate member to substitute for each committee member, functions and term of authority of the committee. A committee of investigation shall present an interim report on its activities at least once a year and, upon the termination of its activities, it shall present a final report to the Riigikogu. The Riigikogu may form study committees in order to analyze problems of considerable importance. A study committee shall be formed by a resolution of the Riigikogu which sets out the composition, including an alternate member to substitute for each committee member, functions and term of authority of the committee. A study committee shall, upon the termination of its activities, present a report on its activities to the Riigikogu.”⁶⁹

The Constitution of the FR Germany stipulates the following: “The Bundestag shall have the right, and on the motion of one quarter of its Members the duty, to establish an investigative committee, which shall take the requisite evidence at public

⁶⁵ Rules of Procedure of the People's Assembly of Serbia, Art. 75

⁶⁶ Constitution of the Republic of Croatia, Art. 91

⁶⁷ Rules of Procedure of the Parliament of Macedonia, Art. 118

⁶⁸ Rules of Procedure of the Parliament of Estonia, Art. 22 and 23

⁶⁹ Rules of Procedure of the Parliament of Estonia, Art. 20 and 21

hearings. The public may be excluded. The rules of criminal procedure shall apply mutatis mutandis to the taking of evidence. The privacy of correspondence, posts and telecommunications shall not be affected. Courts and administrative authorities shall be required to provide legal and administrative assistance. The decisions of investigative committees shall not be subject to judicial review. The courts shall be free to evaluate and rule upon the facts that were the subject of the investigation.”⁷⁰ The Bundestag has some special competence in relation to parliamentary inquiry: judges and administration are bound to provide legislative and administrative assistance; courts are free to make assessments and to follow the facts obtained from the parliamentary inquiry.⁷¹

In the majority of OECD members, Parliaments have the right to initiate investigations. The Constitution of Bulgaria stipulates that each committee performs parliamentary control in the name of the Parliament. Ad hoc committees are established for inquiries and investigations.⁷²

In Belgium, Italy and the Netherlands, for instance, both chambers have this competence, while in the Czech Republic and Poland, this right is exclusive to the lower chamber.

Starting the inquiry may request a qualified majority, as is the case in Mexico. Conversely, it may be initiated by a small number of parliamentarians, like in Japan.⁷³

Seldom is an act of the governing body needed, as in Austria and the Netherlands; or an act of the committee for parliamentary procedure, like in Denmark. In the Republic of Korea, first, an “inquiry plan” is adopted at the plenary. This plan contains the purpose, subject, aim, method, timing and the cost of inquiry.

In the majority of the countries, the inquiry commission has broad competences, which often match the ones of the investigative court and the prosecution. Such are the examples of Belgium, France, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal and Switzerland.

An important element of the inquiry commissions is the protection offered to witnesses through regulation about whistleblowers, although this type of protection has a significance that is broader than this context. It is a prerogative of the legislature to establish inquiry committees for matters of public interest. A natural consequence of this law is the possibility for informants, witnesses or insiders to offer genuine information with the assurance that their identity will not be revealed and that they will suffer no harmful consequences – either personal or professional – for having made certain statements.

⁷⁰ Constitution of the Federal Republic of Germany, Art. 44

⁷¹ Hironory Yamamoto, *Tools for parliamentary oversight – A comparative study of 88 national parliaments*, Inter-Parliamentary Union, 2007.

⁷² Constitution of Bulgaria, Art. 78

⁷³ *Ka razvoju međunarodnih standarda u demokratskim parlamentima*, p. 61.

Many countries have such legislation, although there are differences in the level of protection. In the countries where protection is offered only when data are provided in a pre-defined way (for instance, to the employer), this procedure may lead to the covering up of the problem or the complaint, and its silent discard. By contrast, in the U.S.A., “insiders” employed in the federal services are not obliged to reveal information in a pre-determined way, and they can enjoy protection even when these information reach the press.⁷⁴

⁷⁴ *Parlament i demokratija u 21 vijeku*, p. 136.

3. An overview of the implementation of control mechanisms in Montenegro

In the period studied⁷⁵ six control and nine consultative hearings have been held. Eight initiatives for control hearings have been rejected. No initiative for consultative hearing has been rejected. The mechanism of parliamentary inquiry has not been used.

Committee for security and defense	3
Committee for economics, budget and finance	1
Committee for education, science, culture and sport	1
Committee for international affairs and European integration	1
Total	6

Control hearings held

Committee for security and defense	5
Committee for political system, judiciary and administration	1
Committee for human rights and freedoms	1
Commission for the following and control of privatization	1
Total	8

Rejected initiatives for control hearings

Committee for international affairs and European integration	4
Committee for security and defense	2
Committee for human rights and freedoms	1
Committee for healthcare, work, and social welfare	1
Administrative Committee	1
Total	9

Consultative hearings held

Accordingly, there was no use of control mechanisms examined in the following committees:

- Committee for constitutional issues and legislation
- Committee for the political system, judiciary and administration
- Committee for gender equality
- Committee for tourism, agriculture, ecology and spatial planning

⁷⁵ Data in this analysis cover the period from the adoption of the Rules of Procedure of the Parliament of Montenegro to the end of 2009.

The most active committee in terms of application of control mechanisms is the Committee for Security and Defense, which has held 3 control hearings, while rejecting 5; and has also held 2 consultative hearings.

Parliamentary inquiry has not been undertaken since the adoption of the new Rules of Procedure of the Parliament in 2006. At the roundtable organized by Institute Alternative, a member of the Committee for Security and Defense - Mišo Stanišić (DPS) – stated that the parliamentary majority bore the least guilt for the fact that parliamentary inquiry has not been used as a control mechanism. “No one asked for it.”, he said.

4. The implementation of the control function in Montenegro: experiences of relevant policy-makers⁷⁶

4.1 The degree of use of control mechanisms

None of the interviewees who participated to this survey was satisfied with the degree of use of the control function of the Parliament. However, many of them have noted some positive developments compared to the previous period.

Opposition parliamentarians were particularly dissatisfied. Aleksandar Damjanović - the chairman of the Committee for economics, budget and finance - states that the control function of the parliament has been neglected and insufficiently used. The reasons for such a situation, cited by Damjanović include the lack of political will, predominantly on the behalf of the parliamentary majority, and also on the behalf of the opposition. In his opinion, opposition parliamentarians could act in concert in order to initiate interpellations and parliamentary inquiries. However, they do not do that.

Damjanović also notes the legal limitations related to the exercise of control hearings in committees, and some recommendations on how those limitations could be overcome.

“In each of the 11 standing committees there is a majority which corresponds to the parliamentary majority. The very term ‘control hearing’, or a proposal to initiate it, raises suspicions within the prism of the majority that the issue is being politicized. With the caveat that these proposals can achieve a majority, the Rules of Procedure should allow hearings by default, following the request of 1/3 of the committee members, or a request of all of the minority representatives. The way things are now deprives the very provision of its sense. It is unlikely that the parliamentary majority will allow such a decision to be adopted, which might lead to the debate on the accountability of a certain minister, or a director of one of the directorates within ministries. The very term ‘control hearing’ appears to have been poorly translated. It implies a hearing and debate with the aim of obtaining explanations, as defined in the Rules of Procedure. It is not sufficiently used.”⁷⁷

Damjanović criticizes the indifference of the members of his committee, who have not put forward requests for control hearings. However, he believes that there have been some improvements. In relation to the Committee for economics, budget and finance, he notes the following:

“First, this year for the first time the work of the independent regulatory agencies has been debated – i.e. the implementation of the saving measures – independent from the

⁷⁶ This chapter contains the findings of Institute Alternative, received through interviews with the representatives in the Parliament of Montenegro, representatives of the organs of the state administration subject to parliamentary control, journalists, and representatives of other non-governmental organizations. The research was conducted from November 2009 to January 2010.

⁷⁷ Institute Alternative’s Interview with Aleksandar Damjanović, 23/11/2009.

[standard] debate on financial reports and plans that are discussed once a year. All the directors of these agencies were required to submit a report, and at the time when we will be deciding on the budget for the following year – in the Parliament - we will also decide on the financial plans of these agencies. In that, we will – as we have noted in the conclusions – take into account the financial report on the saving measures. Second, in relation to the control function there is the report of the State Audit Institution in the context of adopting the final Budget account, the report on the Budget, and separate consumer units. We have good cooperation with the State Audit Institution. These reports are a mighty weapon of the Parliament and the Government in terms of reducing some nuances that have been noted in that report. Both last year and this year, the Committee has adopted certain measures with the aim of implementing the recommendations of the State Audit Institution, all with the aim of improving the budget discipline. Some of them have been respected, some of them have not, some of them have been delayed, but the debate was fully open. The debate has outlined all the problems connected to budgetary spending and discipline. Third, another step forward compared to what the Committee has previously done is that the Committee will, should the need arise, invite the people from the State Audit Institution to explain the problems that are noted in relation to the final Budget accounts. This will be independent from the annual report by the institution, and a consensus has been made on this matter with the parliamentary majority.”⁷⁸

Goran Danilović, a member of the Committee for defense and security is not satisfied with the quality of information received at the time of control hearings, despite the fact that these hearings are held more often in his committee. Danilović sharply criticizes the representatives of parliamentary majority for the lack of political will to actively participate in the implementation of the control function and for their dependence on the majority party. He states the following: “Here, we could talk about a reversed process: that the Government successfully controls the Parliament through its parliamentary majority. I often have the feeling that some of my colleagues from the majority party feel that their mandates are equal to a punishment, or a purgatory leading to an engagement in the Government, one of the government’s agencies, diplomacy, or something like that. Very often, among the representatives of the majority in Parliament, the status and the rights of the Government are a greater concern than the status and the rights of the Parliament.”⁷⁹

Despite the fact that the control function is insufficiently used, Velizar Kaluđerović offers a positive example.⁸⁰ This example is the adoption of the Law on the Amendment and Addenda to the Data Protection Act, aimed at removing the formal barrier in the control over security and defense services by the authorized parliamentary committee.

Although there is some improvement, Borislav Banović believes that, among other things, the level of knowledge about the control function should be increased among representatives in parliament.

⁷⁸ *Ibid.*

⁷⁹ Institute Alternative’s Interview with Goran Danilović, 26/11/2009.

⁸⁰ Institute Alternative’s Interview with Velizar Kaluđerović, 24/11/2009.

The journalist of the daily “Dan”, Marko Vešović states that the representatives insufficiently, “or in some instances marginally use the control function”. He believes that there are two reasons for this: first, there is an essential disinterestedness of the executive to be controlled; and second, the dominant strength of the ruling parties in parliament represents a *sui generis* “dam” to the realization of some of the initiatives of the opposition.⁸¹

On the other hand, executive officials are not so dissatisfied with the extent of use of the control function so far. However, they believe that control should be well implemented in any case.

Sead Frljučkić, the advisor to the Director of the Police Directorate,⁸² and the president of the Ethics Committee, believes that his institution is under the watchful eye not only of the Parliament but also of the general public. He believes that the control function is sufficiently exercised upon his institution.

4.2 Obstruction or misuse?

In the interviews with the representatives of the state administration and representatives of the parliamentary majority we have tested the stances that were often directed towards the public: that the opposition misuses control functions as political propaganda; or that the ruling coalition obstructs the initiatives of the opposition to apply more firmly the control functions.

SNP’s parliamentarian in the previous congregation of Parliament, Velizar Kaluđerović, believes that the refusal of the opposition’s initiatives to implement the control function “conceals the lack of will of the majority to genuinely democratize Montenegrin society, because each quality parliamentary hearing or a parliamentary inquiry [...] represent a significant step forward for the realization of democratic freedoms in Montenegro.”⁸³

The representative of the ruling SDP, Borislav Banović, made the following comment in relation to this issue: “The opposition is right in claiming that the ruling coalition limits and obstructs some control mechanisms, and occasionally they raise some points vis-à-vis this issue; on the other hand, it is equally true that the opposition raises control mechanisms in a way that is essentially not a control function of the Parliament, but a political/propaganda/marketing tribune, which does not have the aim to alter or amend the work of the executive, its organs or services, but predominantly to bring down and negate the governing political force.”⁸⁴ His party colleague emphasizes the role of

⁸¹ Responses of the journalist of the daily “Dan”, Marko Vešović to Institute Alternative’s questionnaire, 04/02/2010.

⁸² Institute Alternative’s Interview with Sead Frljučkić and Vladimir Vukotić of the Police Directorate, 24/11/2009.

⁸³ Institute Alternative’s Interview with Velizar Kaluđerović, 24/11/2009.

⁸⁴ Institute Alternative’s Interview with Borislav Banović, 26/11/2009.

SNP in allowing the opposition's initiatives to pass: "as per my party, I can say that none of its members obstruct, because we have voted for the hearings along with the opposition than with our coalition partners against them."⁸⁵

The representative of MANS emphasized the important role of SDP in the exercise of the control function, and stated that a high number of initiatives for control or consultative hearings have passed precisely owing to this party's support.⁸⁶

Commenting on the hearing of the Minister of health, the representative of this Ministry⁸⁷ assessed positively the opportunity to discuss the flu pandemics in the committee. In the Ministry, the hearing was not "perceived as the attempt of the opposition to gain political points. The Minister was open; it was to our benefit that the message was sent that nothing was concealed, and that there were no information that would be denied to the citizens of Montenegro. At the end of the day, we consider it better to the individual statements which we showered upon the citizens every day."⁸⁸

Some of the institutions,⁸⁹ which were subject to control mechanisms believe that representatives coming from opposition parties "often consider those mechanisms an opportunity for self-promotion and politicization of many issues, while the representatives of the ruling parties do not show initiative and an investigative spirit."

Dušanka Džakula-Tušup of PzP maintains that the opposition can not misuse the control mechanisms, because they were imminent and necessary to every parliament. She deems it is a pity that the representatives from the ruling coalition use the control function marginally. Dušanka Džakula-Tušup maintains that the cause of such behavior is the fear of revelation of numerous illegal activities of the executive, or parliamentarians themselves as officials in public enterprises.⁹⁰

A good supplement to the explanation of the current dilemma has been given by SNP's Aleksandar Damjanović who said that "if Minister Škuletić⁹¹, is invited to explain the month-long strike of the students, that can hardly be called politicization. However, I suppose that it may happen that some requests for the hearing of certain Ministers made by certain parliamentarians in certain committees are politicized. Anything is legitimate. At the end of the day, the Parliament is a political stage. However, the non-implementation of something that is – at least to a certain degree – stipulated in the Rules of Procedure does benefit to no one: neither to the majority; nor the minority; nor the Parliament as the major legislative and control institution."

⁸⁵ Institute Alternative's Interview with Džavid Šabović, 17/12/ 2009.

⁸⁶ Institute Alternative's Interview with Aleksandar Mašković, MANS, 24/12/2009.

⁸⁷ Institute Alternative's Interview with Zoran Kostić from the Ministry of Health, 02/12/2009.

⁸⁸ *Ibid.*

⁸⁹ Response of the Ministry of Education and Science to Institute Alternative's questionnaire, No. 01-112/2, 08/02/2010.

⁹⁰ Response of PzP's parliamentarian Dušanka Džakula-Tušup to Institute Alternative's questionnaire, 27/01/2010.

⁹¹ Sreten Škuletić, Minister of Education and Science in the Government of Montenegro 2008-2009.

4.3 Memorable control hearings

Our respondents were asked to give examples of control hearings - the control mechanism that has been used the most – which they believe have had the most consequences.

Aleksandar Damjanović noted the hearing of the former Secretary-General of the Parliament - Milan Radović – in the Committee for economics, budget and finance. Although this was not a control hearing in the classical sense, but one of the possibilities stipulated in the Rules of Procedure, the outcome of this discussion with the former Secretary-General was the establishment of the duty to submit a financial report to the Parliament twice per year.

Goran Danilović maintains that the implementation of the control function was “the best when the DPS did not have majority in Parliament, but was shared with the Liberal Alliance of Montenegro. At that time, the parliament truly resembled an arena. Today, the representatives of the majority mock that Parliament [congregation], but I am proud that it existed, even for a year. At that time, not everything that came from the government was considered ‘the holy book’. On the contrary, when we conducted parliamentary inquiry, we conducted it properly. We have shown how it should function and what effects it should have.”⁹²

As a major move forward, Velizar Kaluđerović mentioned the control hearings within the committee for security and defense of the Parliament of Montenegro. These hearings were broadcast in the media and they “gave an important contribution to the dismantlement of the taboo that the affairs of the ANB, Police Directorate, Military, were something that is by default inaccessible to the general public.”

One of the hearings mentioned was the one with the Foreign Minister – Milan Roćen – in July 2009. According to the reporter of daily “Dan”, Marko Vešović, the ruling coalition was then prepared to discuss issues that were on the agenda “without the intention to obstruct the work of the Committee for international affairs”. Vešović deemed that this hearing is an exception, the success of which was only due to the enthusiasm of the participants to the process.⁹³

Dušanka Džakula-Tušup assessed the hearing of the Minister of Health as very fair, both because of the representatives and the Minister himself. At the same time, Džakula-Tušup criticized the hearings of the director of the Police Directorate – Veselin Veljović, because of his arrogance and strong “background”.⁹⁴

⁹² Institute Alternative’s Interview with Goran Danilović, 26/11/2009.

⁹³ Responses of the journalist of the daily “Dan”, Marko Vešović to Institute Alternative’s questionnaire, 04/02/2010.

⁹⁴ Response of PzP’s parliamentarian Dušanka Džakula-Tušup to Institute Alternative’s questionnaire, 27/01/2010.

The representative of MANS put particular emphasis on the control hearing of the Minister of Education and Science - Sreten Škuletić, stating that this hearing was one of the few that “yielded some results”.⁹⁵

4.4 Preparedness of representatives

The assessment of the preparedness of representatives for control hearings is generally positive. The respondents indicate the lack of professional assistance on the behalf of the Parliament’s service.

Borislav Banović maintains that the very course of the control hearings is not always well-managed, because it allows everyone “their five minutes” in line with democratic principles. This time is often used by representatives to detach from the topic on the agenda. Such a practice leads to polemic and debates that have no link to the main point of the control hearing.⁹⁶ Although the degree of informedness can be observed, the point of the hearing is not always to enforce a control mechanism – work, political accountability, change of acts, procedures, laws. Rather, it is sometimes used to gain political points.⁹⁷ On the other hand, Banović claims that, at the time of control hearings, it is impossible to detach the need of the representative to “make some political gain” through his/her questions and the desire to achieve an overall beneficial effect. This can be compared to the behavior of the government, which promotes the beneficial effects of policies on society as the policy of the parties that the executive is formed from.⁹⁸

Emphasizing that the questions of representatives are always better than the answers they receive, Goran Danilović notes the key role of the Parliament’s service, in claiming that the representatives are over-burdened. He emphasizes that representatives are having a hard time to obtain information, unlike the executive officials, who have a large number of staff at their disposal.⁹⁹ Representatives are merely the bearers of citizens’ will, which supports them, and which they need to articulate with the assistance and support of expert consultants, who should do their job professionally, regardless of their party belonging.

Once things are arranged in that way, it will be important that the elections are won by the ones who have the most support. In that case, rest assured that even if that person [who represents the will of the people] is in politics for the first time, and even if they have no clue about the legal procedure, within a few months they will demonstrate that they are well able to do their work as representatives. This is so, because all the preparatory work will be done by the expert services, as is the case with many of the Ministers. You can imagine what the Government would look like, or the speeches of the Ministers, if they would take the floor in the same way the representatives do. Rest

⁹⁵ Institute Alternative’s Interview with Aleksandar Mašković, MANS, 24/12/2009.

⁹⁶ Institute Alternative’s Interview with Borislav Banović, 26/11/2009.

⁹⁷ *Ibid.*

⁹⁸ Institute Alternative’s Interview with Goran Danilović, 26/11/2009.

⁹⁹ *Ibid.*

assured that such a Government would fall apart within a month. Very often those people do not have nearly as much practice as representatives do. Thus, in case their expert service was inexistent, they would not be able to perform their duties even for twenty-four hours, because they do not know how to do that job.¹⁰⁰

The representative of MANS stated that the majority of the representatives was well-prepared for the topics on the agenda at the time of the exercise of control mechanisms in committees. MANS' representative also noted that in every committee, there are representatives who are active only when the media presence is significant. In those instances, the mentioned representatives seek to get attention to themselves and to their party.¹⁰¹

The impression of the representatives of the institutions that were subject to parliamentary control is that the opposition representatives were more active than the ones of the ruling coalition.¹⁰² It has been emphasized that the parliamentarians mostly use the information from the media. The Ministry of Health assessed its own control hearing as a positive example, because it offered an opportunity for a constructive debate, which led to the production of a quality law.¹⁰³

The preparedness of a share of the parliamentarians (both majority and opposition) during the control hearing of the Minister of education and science and his associates was assessed as insufficiently professional. Namely, some parliamentarians did not behave in line with the Parliament's Rules of Procedure, which binds them to ask only those questions that are related to the topic of the hearing. This hearing, conversely, was perceived by some parliamentarians as an opportunity to politicize a concrete issue and the situation in the High School in Cetinje, which was not conducive to a quality performance of their representative function. A share of the representatives was insufficiently prepared for this hearing, because they did not have correct and verified information on the events preceding the hearing. Particular, they did not have the information on the numerous activities of the Ministry of education and science to resolve the problem. It is clear that the representatives used information selectively in this case.¹⁰⁴

4.5 Public and private sessions – what are we deprived of?

¹⁰⁰ Institute Alternative's Interview with Goran Danilović, 26/11/2009.

¹⁰¹ Institute Alternative's Interview with Aleksandar Mašković, MANS, 24/12/2009.

¹⁰² Institute Alternative's Interview with Sead Frljučkić and Vladimir Vukotić from the Police Directorate, 24/11/2009.

¹⁰³ Institute Alternative's Interview with Zoran Kostić from the Ministry of Health, 02/12/2009.

¹⁰⁴ Response of the Ministry of Education and Science to Institute Alternative's questionnaire, No. 01-112/2, 08/02/2010.

In principle, the work of the Parliament and its committees is public. However, numerous sessions of committees have, so far been closed to the public. This refers to the deliberation of acts and topic that were classified as confidential.

The respondents generally believe that the closure of the sessions to the public is well-grounded and justified. It has been noted that the closure of the sessions to the public, in some cases helps the focus of the representatives and their productivity.¹⁰⁵ There is a need for the Parliament to close its plenary, or the committee session, when issues related to security and defense are debated, or when issues such as flu pandemics come to the agenda, in order not to expose the public to unnecessary disturbance.¹⁰⁶ When ongoing investigations or court proceedings are being discussed, it has been said that it is more desirable to close the sessions to the public, particular if the pressure generated through those debates could affect the decisions of judiciary or investigative authorities.¹⁰⁷ The parliamentarians of the majority and the opposition agree that closing the sessions is justified if it will lead to timely actions and positive outcomes.¹⁰⁸ SNP's representative, and the chairman of the Committee for security and defense, pointed to some of the open sessions in which issues of major importance for society are being debated; sessions that are not attended by the media or the NGOs at all.

Sessions closed to the public give the representatives an opportunity to construct a good debate on the points on the agenda, which is not always the case when the microphones and cameras are switched on.¹⁰⁹ In the latter cases, representatives use the opportunity to send messages to the people, speak to the general public, thus leading a "political/marketing" battle.¹¹⁰

However, it has been noted that the openness of the sessions increases the accountability of representatives,¹¹¹ and that the number of public sessions should be increased.¹¹²

In terms of the difference in questions and answers in public and private sessions, the representative of New Serb Democracy (Nova) and the member of the Committee for security and defense - Goran Danilović – assesses that this difference is marginal. There is some difference in the way the questions are asked, but not in the essence of those questions.¹¹³ Danilović further claims that not much happens in the sessions that are closed to the public, and that representatives in any case receive information "that someone has deemed that they, precarious people, may obtain". He maintains that the very notion of closed sessions exists only to give an appearance to the public that something very important is being decided upon.¹¹⁴

¹⁰⁵ Institute Alternative's Interview with Borislav Banović, 26/11/2009.

¹⁰⁶ Institute Alternative's Interview with Aleksandar Damjanović, 23/11/2009.

¹⁰⁷ Institute Alternative's Interview with Borislav Banović, 26/11/2009.

¹⁰⁸ Institute Alternative's Interview with Aleksandar Damjanović, 23/11/2009.

¹⁰⁹ Institute Alternative's Interview with Borislav Banović, 26/11/2009.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² Institute Alternative's Interview with Džavid Šabović, 17/12/ 2009.

¹¹³ Institute Alternative's Interview with Goran Danilović, 26/11/2009.

¹¹⁴ *Ibid.*

There is some doubt in the justification of privacy of some sessions, due to the claim that nothing had been debated on them that could be classified as confidential.¹¹⁵ Velizar Kaluđerović said: “In several instances, the parliamentarians of the ruling coalition have voted to close some sessions of the Committee for security and defense. Without any grounds, or need, some sessions of this committee have been closed and the public was deprived from some significant information that were discussed.”¹¹⁶

The decisions of the ruling coalition to close some sessions to the public are often not led by the intention to protect some confidential act. Rather, it is the assessment of the majority that some issues should not be made public.

At the time of their visit to the U.S.A., Montenegrin representatives had the opportunity to follow a session of a committee, equivalent to the Montenegrin Committee on security and defense. They participated to a control hearing of a general of the U.S. Army, who gave information related to the war in Afghanistan. When a parallel is drawn, it is not a problem for the U.S.A. to allow foreign citizens and representatives to follow this process. The issues discussed were sensitive, and information that was highly accusatory of the government at the time were debated. These are democratic freedoms and genuine performance of the control function, because this happens before the eyes of the general public.¹¹⁷

4.6 The role of the Parliament’s service in the exercise of the control function

It is the general belief of representatives that the Parliament’s service does not have sufficient staff and administrative capacity to genuinely assist parliamentarians in their work. Parliamentarians state that only a few expert associates per committee which is insufficient to support them.

Aleksandar Damjanović states that “one of the pillars of good parliamentary work is a strong service that will be able to well prepare all the necessary materials, comparative practice, analyses, in relation to certain draft laws and incoming reports. Something is being done in relation to that matter. There are a lot of responsible people there, particular people with experience in expert services, but staff is insufficient both in terms of quantity and quality.”

Goran Danilović notes that the expertise of the staff should be improved. He maintains that we have inherited the communist administration, which is not acquainted with the contemporary processes. However, he notes that there are a number of quality employees at the Parliament’s service. “The Parliament does not have adequate working conditions. Its service should be strengthened, people who are close to retirement – with

¹¹⁵ Institute Alternative’s Interview with Velizar Kaluđerović, 24/11/2009.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

all due respect, and taking into account all the underlying issues -should be retired . For the forthcoming generations of parliamentarians, legislators, a service should be made for the parliament that at least matches its counterparts in the region.”

Borislav Banović claims¹¹⁸ that it is too much to expect the level and quality of service, and the accountability of representatives, equal to the standards of democratic countries in a committee that has existed for a few years only.

Velizar Kaluđerović believes that the staff of the Parliament’s service is not selected on grounds of competence and knowledge, but on grounds of party belonging. He states: “I am afraid that professionalism and preparedness of staff employed in Parliament are not predominant. Rather, their political opinion is taken into account, and particular the fact that their political opinion should be aligned with the opinion of the ruling coalition. Often there is a condition of having formal membership in the DPS or SDP, which is a bad thing. After the split in the monolithic DPS, the ruling oligarchy has literally crossed over half of Montenegro in terms of its human resources potential. I believe that is unjust, not only towards individuals and their families, but also it is to the detriment of Montenegro.”¹¹⁹

Some parliamentarians are satisfied with the work of the Parliament’s service. Džavid Šabović maintains¹²⁰ that the three officials employed in his Committee for constitutional issues do their job in the best way possible. He says that they seriously approach their job, the tasks entrusted to them, and that their preparation for the Committee’s sessions, their competence and enthusiasm are very useful. Thus, they largely facilitate his role as the president of the Committee for constitutional issues. He states that sometimes he merely acts as the spokesperson of their work and that he is really obliged for that.

The Parliament’s service does its job well, says Dušanka Džakula-Tušup. However, it is a small service, poorly paid and ill-motivated, while the parliamentarians use it insufficiently. They rely more on their “party” staff in their political clubs.¹²¹

The journalist Marko Vešović noted the party belonging in employment as the major obstacle to the work of the Parliament’s service, along with the poor equipment of the service, that is the building of the Parliament.¹²²

The representative of MANS reminded of the negative experience from times when Milan Radović headed the Parliament’s service. He emphasized that there has been

¹¹⁸ Institute Alternative’s Interview with Borislav Banović, 26/11/2009.

¹¹⁹ Institute Alternative’s Interview with Velizar Kaluđerović, 24/11/2009.

¹²⁰ Institute Alternative’s Interview with Džavid Šabović, 17/12/ 2009.

¹²¹ Response of PzP’s parliamentarian Dušanka Džakula-Tušup to Institute Alternative’s questionnaire, 27/01/2010.

¹²² Responses of the journalist of the daily “Dan”, Marko Vešović to Institute Alternative’s questionnaire, 04/02/2010.

visible improvement in the work of this service, since it has been headed by Damir Davidović, as its Secretary-General.¹²³

The Ministry of Health is also satisfied with its cooperation with the Parliament's service, on grounds of its cooperation with it in light of the control hearing of the Minister of Health in relation to the pandemic of virus A (H1N1). The legal advisor to the assistant to the Minister – Zoran Kostić – believes that the Parliament's service is very important in receiving quality material.

4.7 Media reporting on the exercise of the control function

The representatives of the ruling coalition agree when it comes to describing media reporting on the exercise of the control function of the Parliament.

Representatives point to the journalists' lack of competence in relation to the topics dealt with by the Parliament, and its committees. They also outlined the fact that there is no continuity on the behalf of the journalists in following certain topics or committees.

The parliamentarian of New Serb Democracy noted that the media do not sufficiently cover the Committee for human rights, and that it is incredible that “no media is present at the time when the annual report of the Ombudsman is submitted”. He maintains that these “institutes and institutions draw a lot of attention in the region, and there are numerous issues in there that are ‘sensational’ for the media.”¹²⁴ He points to the need for a deeper specialization of journalists and for the development of investigative journalism. He also describes the role of the public broadcaster RTCG: “Serious editorial boards, in particular public broadcasters financed by taxpayers’ money, must have specialized reporters, specialized shows; the work of the Parliament and the Government must be followed in an investigative way.” He noted that the media coverage of the conferences of political parties, and the Government, should be put second to investigative projects that parliamentarians themselves would participate to.

In interview, Damjanović emphasizes: “When, for example, we discuss the report of the Commission for stocks and bonds – which is related to the market of several tens of thousand or hundreds of thousand of euros; when we debate the report of the Agency for Energy, which also covers several hundreds of millions of euros; when we discuss the report on State Aid; when we deliberate the report on the supervision of insurance - these are the debates to which the directors of those agencies and institutions come. Serious debates take place. However, tomorrow you can almost read nothing about that in press, or see on television. It is not on me to judge whether this is done with good intentions or not.”

¹²³ Institute Alternative's Interview with Aleksandar Mašković, MANS, 24/12/2009.

¹²⁴ Institute Alternative's Interview with Goran Danilović, 26/11/2009.

The representative of MANS said that the presence of journalists at the sessions of committees is the highest at the time of consultative or control hearings. From his own experience in following the committee sessions he outlined that the committee that is the least followed is the Committee for human rights.¹²⁵

The representatives of certain institutions of the state administration see the media reporting as “bombastic” and “sensationalist”. They also note that statements are often taken out of their context.

One of the representatives expressed his concern that the journalists do not recognize the most important issues raised at the time when the Parliament was exercising its control function. Another representative points to the fact that ‘spicy’ issues, such as verbal conflicts among representatives, are often given a lot of space in the media, while central issues are far less represented in the coverage. He also points to the fact that the number of journalists following certain sessions decreases in time, and some important issues debated remain inaccessible to the media and the general public.

Unlike the representatives and the officials in the state institutions, the journalist of the daily “Dan” - Marko Vešović – maintains that the reporting of the media on the work of the parliament “is not at a low level, even when the control function is being exercised”. He claims that the three printed media in Montenegro, and many electronic sources, can offer “a rather decent insight in the topic of the debate”. On the other hand, Vešović criticizes the conditions that the Parliament provides for media reporting as inadequate.¹²⁶ He considers the issue of education of journalists initiated by certain representatives as offensive and unfair.¹²⁷

4.8 Effect on society, state administration and governance in general

Respondents were asked whether they believed that the exercise of the control function in the Parliament of Montenegro so far, has lead to more significant advancements in the functioning of the state administration. That is, whether it has increased the degrees of transparency and accountability in the state apparatus.

The most common response was that there have been some improvements, but that these are not at a satisfactory level, i.e. these do not correspond to the degree of use of the control function.

¹²⁵ Institute Alternative’s Interview with Aleksandar Mašković, MANS, 24/12/2009.

¹²⁶ Responses of the journalist of the daily “Dan”, Marko Vešović to Institute Alternative’s questionnaire, 04/02/2010.

¹²⁷ “In analogy, perhaps media could request additional education for representatives in terms of exercising the control function?”, Responses of the journalist of the daily “Dan”, Marko Vešović to Institute Alternative’s questionnaire, 04/02/2010..

We should not compare ourselves to others in any process. The world analysts put us to a 'high' 120th position, or to a 56th in some matters. That should not be a concern of ours as a small system; we are predetermined to be a system of social justice, equality, rule of law, legislation, and efficiency in any matter. We should not be satisfied by 'trifles'. When we compare ourselves to what we had in the past, we are better off. But I wish not to compare us to what was going on yesterday. I want us to see significant progress.¹²⁸

In addition, certain officials interviewed maintain that the progress in improving accountability in the state administration is uneven. Velizar Kaluđerović states: "We can't say that there have not been certain improvements, but that is only the beginning – we are still far from establishing the sense of the reach of control and supervisory mechanisms of the Parliament."¹²⁹

Borislav Banović believes that except from the public and institutional pressure, there are no other results of control hearings and the supervisory role of the Parliament.¹³⁰

If we look at the ultimate political consequences, that is – at resignations as a result of the implementation of the supervisory function of the Parliament, the state of affairs today is unchanged compared to the earlier days, when the supervisory function and its mechanisms were not used in their current form and quantity.¹³¹ Still, the situation is getting better, although "we are not yet a society able to think in a way which personalizes responsibility and guilt."¹³² There must be individual responsibility at the top of the government, and it will direct the behavior of officials at the local level. The present exercise of the supervisory role of the Parliament is reduced to giving morale and change of laws, which is its preventive influence. Although this is not enough, it is still a change compared to the situation of 5 or 7 years ago.¹³³

The relationship of the decision-makers with the Parliament, that is – with the exercise of control mechanisms has changed in the sense that there is now an awareness of its existence, and awareness that they may be called to a public hearing on a certain matter.¹³⁴ Director of ANB - Duško Marković – noted the immense influence that parliamentary control should have on the institution he manages. He said that "this aspect of control is the most significant one for ANB, in general terms". As the director of this

¹²⁸ Institute Alternative's Interview with Goran Danilović, 26/11/2009.

¹²⁹ Institute Alternative's Interview with Velizar Kaluđerović, 24/11/2009.

¹³⁰ "I expect that, after having debated the procedures and actions of the police during one street fight, that at the time of the next street fight, whoever the participants were – journalists, mayors, representatives – that the police, their bosses, directors will have in mind that they will be called before the Parliament to respond, that this will be broadcast on TV and that they will seek to fully implement their obligations. If the procedures did not suffice for that, I expect that they will think after this case, especially since a lot of attention on the behalf of the Parliament has been given to this case, in order to enhance the procedures. I expect that they will be clear on how things should be done." Institute Alternative's Interview with Borislav Banović, 26/11/2009.

¹³¹ Institute Alternative's Interview with Aleksandar Damjanović, 23/11/2009.

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ Institute Alternative's Interview with Borislav Banović, 26/11/2009.

institution Marković “was most content with the introduction of this type of control”. Marković explained that parliamentary control can largely contribute to freeing ANB from the burden it has because of the role of the secret police in earlier days. At that time, secret police was considered political police, and until the 1990s, a negative perception of this police was constructed within society. Marković outlined that he was dissatisfied with the exercise of the control function of the Parliament to ANB. He noted a negative experience related to the disclosure of confidential information from one of the previous control hearings. He also noted the fact that, until this interview was conducted, the representatives of the Committee for security and defense have not used their competence to look at the legality of actions and methods at the disposal of ANB.¹³⁵

On the other hand, some of the institutions¹³⁶ whose representatives were interviewed for this research maintain that the improvement in terms of transparency and accountability has been done. However, they believe that this improvement was not generated by the application of the control function of the Parliament. Rather, it was the result of their own initiatives and efforts,¹³⁷ while the control function was not essential for the realization of these objectives.¹³⁸ At the Ministry of Education and Science, they deem that, in order to strengthen the control function, the possibility of conducting a control hearing following a decision of a number of representatives smaller than the one required now is worth considering. They also note that “conclusions should be reached with the majority necessary to adopt decisions in the Parliament’s working entities.” Moreover, it has been estimated that the accountability and transparency of the work of the Ministry of Education and Science have been improved through the mechanisms of the Parliament’s control function: “above all, by the great number of parliamentary questions directed to the Ministry”.¹³⁹

¹³⁵ Institute Alternative’s Interview with Duško Marković, 27/11/2009.

¹³⁶ Institute Alternative’s Interview with Sead Frljučkić and Vladimir Vukotić from the Police Directorate, 24/11/2009.

¹³⁷ “Had you asked a citizen four years ago what the Committee for security and defense was they would not know; now, a significant number of citizens would say that it is the committee that exercises control”, Institute Alternative’s Interview with Sead Frljučkić and Vladimir Vukotić from the Police Directorate, 24/11/2009.

¹³⁸ Institute Alternative’s Interview with Zoran Kostić from the Ministry of Health, 02/12/2009.

¹³⁹ Response of the Ministry of Education and Science to Institute Alternative’s questionnaire, No. 01-112/2, 08/02/2010.

5. Conclusions and recommendations

5.1 Basic legal framework

In a comparative perspective, parliaments differ in terms of regulating the exercise of the control function. Vis-à-vis the three control mechanisms analyzed, their legal framework in Montenegro is different from the one in other countries in the region and in countries with more developed parliamentary democracy. However, these differences are not radical.

While parliamentary inquiry is generally defined by the Constitution, other control mechanisms are mostly stipulated in the Rules of Procedure of the Parliament of Montenegro. This iteration represents a limitation to the full and uninterrupted implementation of these mechanisms, because it is impossible to prescribe obligation for extra-parliamentary subjects. The adoption of the Rules of Procedure in the form of a law is no novelty in the European practice. A number of European parliaments adopts their Rules of Procedure as a law (e.g., Austria, Czech Republic, Sweden, Slovakia, Estonia, Latvia), or they regulate the majority of the provisions from the Rules of Procedure through the Constitution (Germany, Poland, Denmark, Czech Republic, Finland, Slovakia, Norway).

Key practical political disagreement

A key practical political disagreement exists in relation and the degree of implementation of certain control function.

The representatives of the parliamentary majority, possibly acting out of the need to spare their colleagues from the government from public and direct exposure to questions of the opposition, have an ex ante negative attitude towards the numerous initiatives for control hearings. While the parliamentary majority maintains that the opposition misuses control mechanisms, opposition representatives believe that the majority obstructs them by blocking their initiatives.

The term “control hearing” generates additional resistance on the behalf of the parliamentary majority, and debates are held in committees prior to the hearings whether a “consultative” hearing or a “conversation” should be held instead. These debates are initiated following the requests of the majority.

Recommendations

It would be important if the parliamentary majority would realize in the future that quality and efficient exercise of the supervisory role of the Parliament contributes to overall functioning of the Parliament. It is, at the same time, a good opportunity for the government to reaffirm and argue its

policies before the representatives and the public. In that sense, the initiatives from the majority would be a major step forward in bridging the difference between the 'defenders' and the 'attackers'. The role of the minor partners of the governing coalition is of utmost significance in this respect.

On the other hand, opposition representatives could use the other, softer parliamentary rights (parliamentary question, Premier's hour, right to access material, data, information and explanation) to make better arguments and strengthen their initiatives before the committees and the general public. This would also help them make a better selection of questions and topics they propose for the hearings.

We believe that the problem in the legal framework for the implementation of control mechanisms should be resolved through a separate law on the functioning of the Parliament of Montenegro. In this way, more firm obligations, as well as sanctions for extra-parliamentary subjects could be stipulated.

In terms of terminology, it is possible that the term "supervisory hearing" as a replacement for "control hearing", and "legislative hearing" instead of "consultative hearing" would better reflect the essence of these parliamentary functions and reduce the existing tensions and arguments in the Parliament.

5.2 Control hearing

Out of the researched control functions of the Parliament, there were the most initiatives for control hearing (a total of fourteen, out of which six were accepted, while eight were rejected), and the greatest improvement is noted in the application of this mechanism. In the period studied, the control hearing was used the most in the Committee for security and defense (three times), and once each in the Committee for economics, finance and budget, Committee for education, science, culture and sport, and Committee for international relations and European integration.

Committee for constitutional issues and legislation, Committee for the political system, judiciary and administration, Committee for gender equality, Committee for tourism, agriculture and spatial planning, Committee for human rights and freedoms, Committee for healthcare, work and social welfare, and the Administrative Committee have not been subject to this control function of the Parliament at all.

Eight opposition initiatives for control hearings have been rejected by parliamentary majority in committees.

Control hearings are initiated and held mostly for concrete isolated cases (events, incidents, statements).

Opposition in Parliament is not satisfied with the provision stipulating that the decision on the control hearing is adopted by the majority vote in committees. In this respect, the Parliamentary Assembly of the Council of Europe recommends that the condition for the realization of the hearing should be the request by ¼ of representatives in committees. In the current Rules of procedure, this possibility is limited to Ministers and the heads of the organs of the state administration.

Recommendations

The practice of hearings should be initiated in the seven committees that have not used the possibility to hold control hearings so far. p

The scope of subjects of control hearings should be extended to include public officials appointed by the Parliament of Montenegro.

The possibility of holding a control hearing following the request of ¼ of representatives in committees should be enabled. This would be in line with the recommendations of the Parliamentary Assembly of the Council of Europe, stipulated in the Resolution No. 1601 of 2008.

In the case of the rejection of the initiative for control hearing, the report of the committee should clarify the reasons for such a decision.

The iteration from the Rules of Procedure “responsible representative of the government or an organ of the state administration” should be clarified so that it is doubtless who can be invited to a control hearing and whether anyone can replace them, and, if so, who. Additionally, it should be precisely defined who can attend the hearing in addition to the “responsible representative”, that is, whether those individuals can participate to the debate, or answer to questions.

5.3 Consultative hearings

In the period studied, nine consultative hearings have been held. They have mostly taken the form of hearings of ministers and heads of the organs of state administration. This does not correspond to the purpose and the aim of this control mechanism.

Committee for international relations and European integration, and the Committee for security and defense, conducted a specific type of hearings for the nominees for certain office, within the selection procedure (selection of the Director of the Police Directorate, Director of ANB, and Ambassadors of Montenegro).

We believe that using consultative hearings in order to receive responses from Ministers is inadequate use of this parliamentary mechanism. Consultative hearings need to be reserved for the expert public, while control hearings need to be directed exceptionally towards Ministers, heads of the organs of state administration and other public officials appointed or nominated by the Parliament.

The procedure of selection of persons invited to consultative hearings has not been laid out in detail, and neither the obligations of these people were.

It is important to note that there were no rejections to the requests for consultative hearings in the period examined.

The relation between committees and the plenum on the issue of consultative hearings is unclear. It has not been defined what is the type of acts, or documents, that the committee adopts following a hearing. Neither has it been determined how the Parliament is informed about the hearing, and what rights and obligations it has vis-à-vis that committee.

Recommendations

Consultative hearings, as means of participation of the general and interested public in the process of decision-making in the Parliament, should be established as regular practice. This should particularly be the case when the adoption of systemic laws is pending, or when academic, professional or civil society organizations have expressed their interest in the subject matter. The engagement of experts in various fields would increase the quality of the committees' work, and the efficiency and transparency of the Parliament's work.

The procedure of selection of individuals invited to the consultative hearings should be laid out in detail. The minority in committees needs to have the right to nominate a share of the individuals invited.

The committee should clearly articulate the questions that it seeks to receive the answers to from the individuals invited to the consultative hearing.

Individuals invited to a consultative hearing must be bound to deliver their opinions in written form, while the Parliament's service should have the duty to distribute these to all the members of the given committee.

5.4 Parliamentary inquiry

Parliamentary inquiry has not been exercised since the adoption of the new Rules of Procedure in 2006. Neither have there been initiatives for a parliamentary inquiry. Having in mind that the opposition has the highest interest to conduct parliamentary inquiry, and the fact that proposing this initiative requires the support of 27 parliamentarians, the opposition bears the most responsibility for such a state of affairs.

Parliamentary inquiry is not defined by law, and it is thus not possible to determine the obligation of the state officials, civil servants and individuals to be heard before the inquiry committee. In addition, the Rules of Procedure do not stipulate any sanction in case of their rejection to appear before the inquiry committee.

The legal framework for conducting a parliamentary inquiry is inadequate and pauperized in terms of the following: prescribing a deadline for the response of the Ministry of justice on whether there is a criminal case pending on the subject matter of the inquiry; defining the rules of procedure within the inquiry committee; the equality of its members; the right to ask questions; access to information and the selection of individuals that will be questioned before the inquiry committee.

Recommendations

Parliamentary inquiry should be defined by law, so that the obligation on the behalf of the state officials, civil servants and individuals to be heard before the committee is defined, as well as the sanction in the case of their refusal to appear before the committee.

A short and binding deadline should be prescribed for the Minister of Justice to deliver the Parliament the information whether there is a court case pending on the subject matter of the inquiry.

It is necessary to lay out in detail the rules of procedure of the inquiry committee, including the equality of the committee members in terms of asking questions, access to information, and selection of individuals that will be questioned by the committee.

It is necessary to determine a reasonable deadline within which the Parliament should debate the report of the inquiry committee.

5.5 The role of the Parliament's service

An important element for the control of the Government by the Parliament is the access to knowledge, full and correct information. Access to information on the work of the Government to parliamentarians is a precondition for exercising the control function of the Parliament. In order to efficiently oversee the Government, the representatives need quality and reliable data sources, as well as access to Parliament's service in order to research the issues and obtain expert advice.

The capacity of the Parliament's service is insufficient for supporting the committees. The human resources policy and the classification of new employees do not correspond to the needs of representatives of all parties and committees.

Recommendations

The information on voting by the committee members on the reports from hearings, separate opinions of minority groups or individual committee members should be clearly presented in the reports from hearings.

Audio recording at the time of control or consultative hearings should be compulsory. Parliament's service should be bound to transcribe the audio recording and make it available on the website of the Parliament.

Parliament's public relation service should allow public access to reports from hearings at its earliest convenience.

Posting audio recordings from the committee sessions whereby hearings are taking place would offer complete information on the course and the content of the Parliament's work.

Parliament's service should be strengthened in terms of human resources, so as to enable it to assist the parliamentarians to perform their legislative, supervisory and control function. It is essential to create such conditions that the Parliament's service does not lag behind the Government in terms of knowledge and expertise, so that the representatives could match Ministers, ask better questions and control and oversee the government better. As the Parliament itself has the final say when it comes to the adoption of the state's Budget, there is no excuse for the absence of increased financing of the aforementioned needs of the Parliament.

Parliament's service should develop a database of the relevant non-governmental, or other organizations, trade unions, scientists and other experts relevant for the work of committees. In this respect, the database developed by the Centre for the Development of Non-Governmental Organizations, containing information on over 120 NGOs interested in cooperating with the Parliament could be the grounds for improvement in this area. This database has been given to the Parliament to use in its work.

5.6 Media reporting

Media are attentive to the work of the Parliament, and particular to the sessions whereby hearings are held. However, parliamentarians of both majority and minority agree in their criticism that the media reporting is insufficiently competent and focused on the central topics of the hearings. That is, they agree that media often adopt a ‘sensationalist’ approach to reporting.

Recommendations

Further specialization of journalists to follow the work of the Parliament, ensuring continuity so that certain journalists follow specific topics or committees, and full attention to the control functions of the Parliament, will all further strengthen the informedness of the public on the Parliament’s work, the quality of the work of the Parliament and its members, and increase this institution’s efficiency.

5.7 The effect of the implementation of control mechanisms

Control function of the Parliament has, in some areas, generated additional public institutional pressure and as such has contributed to the discussion of certain issues and topics. However it has not led to the determination of accountability of certain public officials, and in particular to their resignations or dismissals.

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- Goran Danilović, NOVA
- Borislav Banović, SDP
- Džavid Šabović, SDP
- Hidajeta Bajramspahić, SDP
- Dušanka Džakula-Tušup, PzP (responses to the questionnaire in electronic form)
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- Zoran Kostić, secretary of the Ministry of Health
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- Ministry of Defense (responses to the questionnaire in electronic form)
- Aleksandar Mašković, MANS, administrative assistant for monitoring the Parliament
- Marko Vešović, journalist of the daily “Dan” (responses to the questionnaire in electronic form)

Annex

Table 1. Control and consultative hearings held

COMMITTEE	CONTROL HEARING	CONSULTATIVE HEARING	TOPIC	INITIATORS	DATE
Committee for Constitutional issues and legislation	_____	_____	_____	_____	_____
Committee for political system, judiciary and administration	_____	_____	_____	_____	_____
Committee for security and defense	_____	Duško Marković, the director of the Agency for National Security (ANB)	Deliberating on the report on the work of the Sector for the fight against organized crime of the ANB for the past 2 years, with particular emphasis on unresolved murders.	Goran Batričević, Goran Danilović, Velizar Kaluderović, Dobrilo Dedeić and Ranko Kadić	2007/04/19
	Veselin Veljović, director of the Police Directorate	_____	The course and the results of investigation of the murder of Srđan Vojičić, and the physical assault on the editor in of the daily "Vijesti", Željko Ivanović.	Ivan Brajović, Borislav Banović and Džavid Šabović	2007/09/25
	Veselin Veljović, director of the Police Directorate	_____	The case of assault on Aleksandar Pejanović.	Dobrilo Dedeić	2008/12/10
	Duško Marković, director of the Agency for National Security (ANB)	_____	The claims of the retired inspector of the Security Center Herceg Novi (Ministry of Interior of Montenegro), Slobodan Pejović that his life is threatened by ANB's officials.	Goran Danilović, Predrag Bulatović, Vasilije Lalošević and Nebojša Medojević	2009/11/26

	_____	Veselin Veljović, director of the Police Directorate	The acting of police in the incident between the Mayor of Podgorica and the editor, and photo- journalist of the daily “Vijesti”.	Vasilije Lalošević, Predrag Bulatović	2009/09/18 (initiative)
Committee for international relations and European integration	Milan Roćen, Foreign Minister	_____	_____	_____	2007/07/09
	_____	Ramo Bralić, Ambassador of Montenegro to the Republic of Turkey	Committee’s opinion on the proposal of the President of Montenegro.	Constitutional competence (Art. 95, point 6 of the Constitution of Montenegro)	2009/07/28
	_____	Aleksandar Eraković, Ambassador of Montenegro to United Arab Emirates	Committee’s opinion on the proposal of the President of Montenegro.	Constitutional competence (Art. 95, point 6 of the Constitution of Montenegro)	2009/07/29
	_____	Igor Jovović, Ambassador of Montenegro to the Republic of Serbia	Committee’s opinion on the proposal of the President of Montenegro.	Constitutional competence (Art. 95, point 6 of the Constitution of Montenegro)	2009/07/30
	_____	Dragana Radulović, Ambassador of Montenegro to the Republic of Slovakia	Committee’s opinion on the proposal of the President of Montenegro.	Constitutional competence (Art. 95, point 6 of the Constitution of Montenegro)	2009/07/30
Committee for economics, finance and budget	Predrag Nenezić, Minister of Tourism	_____	Irregularities in the bidding process for the sale of shares of “Otrant“ hotel.	Zarija Franović	2007/11/19
Committee for human rights and freedoms	_____	(Interested parties)	Deliberation on the draft Law on the representativeness of trade unions	Snežana Jonica and Koča Pavlović	2009/12/10
Committee for gender equality	_____	_____	_____	_____	_____
Committee for tourism, agriculture, ecology and spatial planning	_____	_____	_____	_____	_____
Committee for education, science, culture and sport	Sreten Škuletić, Minister of Science and Education	_____	Protests of high school students and teachers in the High School in Cetinje	Svetozar Golubović, Veselinka Pejović	2009/10/09
Committee for healthcare, work and social welfare	_____	Miodrag Radunović, Minister of Health and Social Welfare	Pandemics of virus A (H1N1)	Dušanka Džakula – Tušup	2009/06/06
Administrative Committee	_____	Candidates for the president and members of the Commission for the prevention of the conflict of interests	_____	_____	2009/07/17

Table 2. Failed initiatives for control hearings

COMMITTEE	CONTROL HEARING	TOPIC	INITIATIVE	DATE
Committee for political system, judiciary and administration	Miraš Radović, Minister of Justice	(no data in the minutes of the committee's session)	Koča Pavlović, Neven Gošović and Snežana Jonica	2009/10/29
Committee for security and defense	Boro Vučinić, Defense Minister	The case of release of two aircrafts formerly belonging to the Military of Serbia and Montenegro, and the adoption of the decision to hold a consultative hearing related to the tender of the Ministry of Interior for the manufacturing of new identity cards.	Goran Batričević, Goran Danilović, Velizar Kaluđerović, Dobrilo Dedeić and Ranko Kadić	2006/12/18
	Blagoje Grahovac, advisor to the Speaker of Parliament	The statement of Blagoje Grahovac on the alleged illegal arm trade by the company "Coffis".	_____	2007/07/11
	Boro Vučinić, Defense Minister	Events in Nikšićka Župa (irregularities in the process of destruction of excess weaponry in relation to environmental protection and the health of residents).	Dobrilo Dedeić, Ranko Kadić, Goran Batričević, Velizar Kaluđerović and Goran Danilović	2008/10/13
	Jusuf Kalamperović, Minister of Internal Affairs and Public Administration; Veslin Veljović, director of the Police Directorate	Event in Dragovoljci near Nikšić of September 21 st , 2008 (abuse of power by the police in the alleged assault on the followers of the Serbian Orthodox Church and journalists).	Dobrilo Dedeić, Ranko Kadić, Goran Batričević, Velizar Kaluđerović and Goran Danilović	2008/10/13
	Boro Vučinić, Defense Minister	Suspicion that a secret service has been established in the Ministry of Defense, on no legal grounds	Opposition parties	2009/12/18
Committee for human rights and freedoms	_____	Political background of the relocation of a certain number of policemen to work outside the places of their residence.	Koča Pavlović	2006/11/28
Commission for the oversight and control of the process of privatization	Branimir Gvozdenović and Branko Vujović, director of the Agency for the reconstruction of economy and foreign investment	Privatization of the Aluminum Plant in Podgorica	Nebojša Medojević, Aleksandar Damjanović and Radojica Živković	2008/12/16

Institute Alternative

Institute Alternative is a non-governmental organization, established in September 2007 by a group of young, educated citizens, experienced in the civic society, public administration and business sectors.

The mission of Institute Alternative is the strengthening of democratic processes in Montenegro by identifying and analyzing public policy options.

Strategic Aims of Institute Alternative are to: increase the quality of development of public policy, contribute to the development of democracy and the rule of law, and to contribute to the protection of human rights in Montenegro.

Values that we follow in our work are the devotion to our mission, independence, constant learning, networking, cooperation and teamwork.

The Institute has completed the project “Public administration in Montenegro – salary schemes, mechanisms of appraisal and possibilities for professional advancement in law and in practice” (January to June 2008). Under the aegis of the project, research was conducted, yielding a study with the aforementioned title, and a roundtable whereby the study was discussed.

The Institute has published a short brief with recommendations on the transparency of financial affairs of the Parliament of Montenegro (June 2008).

On a daily basis, the Institute distributes its Daily Brief to a large number of recipients. Institute Alternative’s Daily Brief contains the most important information in the areas of politics, society, economy and regional cooperation. Commentaries of public persons, Institute Alternative’s associates, and other experts are published weekly. The recipients of Institute Alternative’s Daily Brief are mostly the representatives of foreign organizations and diplomatic envoys to Montenegro (EU, U.S.A., etc.).

The Institute is the co-publisher of the publication “Political Criteria for the Accession to the European Union”, authored by Aleksandar Saša Zeković, MA.

In June 2009, a study entitled “The Case of the First Bank – experiences for supervisors and other decision makers”. The author of the publication is Mila Kasalica. This publication has been supported by Friedrich Ebert Foundation. In December 2009, the Institute has published a study, entitled “Lipci Case 2008 – How to Prevent it from Repeating?” In January 2010, Institute Alternative has published “Parliamentary oversight of the security and defense sectors in Montenegro – What next?”, also with the support of Friedrich Ebert Foundation.

A representative of Institute Alternative has participated to the session of the Committee for economics, budget and finance, when the Draft Law on the Budget of Montenegro for 2009 was on the agenda. The representative of Institute Alternative has presented Institute Alternative's comment on this draft law.

Institute Alternative has participated in the project "EU Matrix – monitoring of the process of European integration – monitoring of the National Program for Integration of Montenegro to the EU" as a partner institution of the European Movement in Montenegro and the Monitoring Centre.

European Fund for the Balkans has supported a project of Institute Alternative dealing with external financial control, that is, with the examination of the legal framework and practice of the State Audit Institution. The publication of the results of this research is forthcoming in August 2010.

Activities of Institute Alternative have been supported by the Foundation Institute for an Open Society – Representative Office Montenegro (FOSI ROM) and Think Tank Fund, Friedrich Ebert Foundation, Commission for the distribution of funds for NGO projects of the Parliament of Montenegro, Canada Fund and the European Fund for the Balkans. Institute Alternative has established cooperation with the European Stability Initiative (ESI), with the seat in Berlin. ESI has conducted a capacity-building program for IA's associates.

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

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