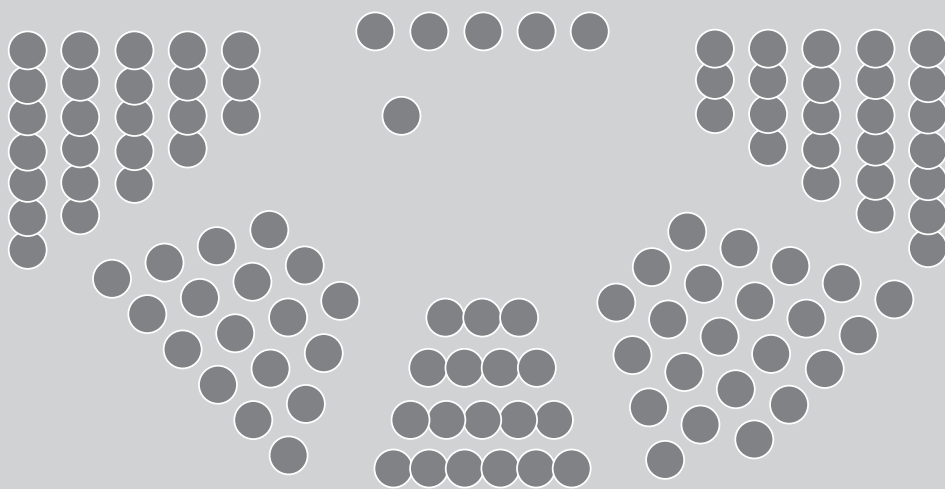


THE PARLIAMENT'S OVERSIGHT OF THE EXECUTIVE IN 2014



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Introductory remarks

“The Parliament’s oversight of the executive in 2014” monitoring report has been developed within the “Analytical monitoring of the oversight function of the Parliament” project supported by the Budapest-based Open Society Foundations – Think Tank Fund. Throughout 2014, the Institute Alternative research team monitored all the parliamentary committees’ sessions devoted to hearings or the deliberations on the state institutions’ performance reports. In accordance with our programme goals and our areas of interest, we paid particular attention to the work of four parliamentary committees: on economy, finance, and budget; security and defence; European integration; and anti-corruption.

The report presents the activities of the Anti-corruption Committee, as a special body for monitoring the areas of fight against corruption and organised crime, as well as the activities of the Committee on European Integration, the principal working body monitoring the EU accession negotiations. The work of the remaining committees has been analysed by looking at certain specific issues from their remits. The parliamentary oversight of the security and defence area is covered in a separate analysis.

This report also gives a short overview of the implementation of all the control mechanisms in 2014. Given that we devoted significant attention to researching the Parliament-related measures envisaged by the key strategic documents such as the Action Plan for Chapter 23 (Judiciary and Fundamental Rights) and the Action Plan for strengthening the legislative and oversight role of the Parliament, we also gave a short overview of the key commitments outlined in these documents. In this context, we hosted two special events for the purposes of this project: a round table discussing whether there was a need to adopt a Law on the Parliament, and a panel discussion on the Code of Ethics for MPs. In hosting these events, we received significant logistical support by the Service of the Parliament and the MPs, i.e. political party clubs in the Parliament.

The impact assessment of the control mechanisms available to the MPs has been conducted on the basis of a detailed analysis of the documents available at the Parliament’s website (minutes, parliamentary questions and ministerial responses, performance reports, action plans, etc.). We also sought data through the free access to information requests. The qualitative assessment of the control mechanisms’ practical impact was based on the interviews held in December 2014 with eight MPs and the Secretary-General of the Parliament.

Key information about the Parliament's oversight role in 2014

"As regards its oversight role, parliament has continued to hold consultative and control hearings on a variety of topics. Consultative hearings were held inter alia on foreign policy, public procurement in the health system, the functioning of local self-government, and the implementation of the strategy against domestic violence.

*The transparency of parliament's work continued to be strengthened through direct interaction with citizens and replies to all requests for access to information. Information and documents related to the work of parliament and its working bodies continue to be published regularly. The establishment of procedures for acting upon citizens' initiatives addressed to the parliamentary committees on human rights and anti-corruption is pending. Parliament has not yet adopted its code of ethics."*¹

Control hearings	11
Consultative hearings	34
Parliamentary questions	232
PM's questions	50
Parliamentary inquiries	0

The European Commission's Progress Report noted that the Parliament continued to strengthen its control function vis-à-vis the executive in 2014.² The Parliament is also showing a stronger resolution to encourage and promote reforms, i.e. to oversee the Government activities in this respect and to be an active participant in the EU negotiation process, among other things by implementing the measures from the Action Plan that envisage the strengthening of the legislative and oversight role of the Parliament.

However, the quantitative and qualitative indicators on the use of control mechanisms tell a different story. Compared to 2013, with the exception of MP's questions, the control mechanisms were used less in 2014. No progress has been made in solving a great number of open issues that we have outlined in our previous publications:

- Normative distinction between branches of government has not been made, and no improvement of control mechanisms' regulation took place;
- The opposition's right to have initiatives adopted without voting is still very underused;
- No improvements have been made to the procedure of reporting on the parliamentary conclusions;
- No changes have been introduced to the working bodies' structures;
- The contribution to the discussions on strategic documents and adoption of recommendations by specialised bodies for monitoring the accession process and anti-corruption has been very low.

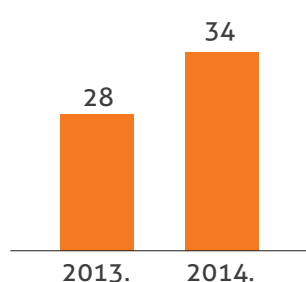
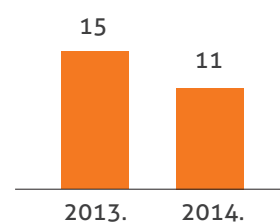
In 2014, the Parliament's working bodies held 346 meetings. During the monitoring period, the Committees held 11 control hearings and 34 consultative hearings, 11 of which were devoted to discussions on the appointment of ambassadors, while 9 of them were devoted to the deliberation of reports on the negotiation process at the Committee on European Integrations. In the same period, 232 MP's questions were submitted, and 50 questions were submitted to the Prime Minister. No parliamentary inquiries have been launched.

¹ European Commission, Montenegro Progress Report 2014, p. 6.

² "Parliament has continued to increase its oversight role, including through control and consultative hearings," *ibidem*, p. 8.

Control and consultative hearings

Control hearings in 2014 were dedicated to: investigating the implementation of the Law on electronic media; attacks against journalists; data protection in the sense of the Law on the National Security Agency; concessions for oil and gas exploration in the area of Prevlaka; bankruptcy procedure at the "Bajo Sekulić" salt production factory; the State Audit Institution's negative opinion on the work of the Centre for Professional Education; realisation of the contract between the Government and the A2A energy company; events at the University of Montenegro; events at the Bijelo Polje General Hospital; multi-million consultancy agreements of the EPCG energy provider; application submitted by the Association of Composers of Montenegro.³



Out of the total of 34 consultative hearings, 12 were held by the Committee on International Relations and Emigrants and these were related to discussing the suitability of candidates for ambassadors extraordinary and plenipotentiary. Nine consultative hearings were held in the Committee on European Integration, devoted to deliberation of quarterly reports, reports on the process of European integration, as well as the reports on the realisation of the Action plans for Chapters 23 and 24.

Table1: Overview of the number of control and consultative hearings per committee

Committee on Political System, Judiciary and Administration	1	Committee on Political System, Judiciary and Administration	6
Security and Defence Committee	2	Committee on International Relations and Emigrants	12
Committee on International Relations and Emigrants	1	Committee on Tourism, Agriculture, Ecology and Spatial Planning	1
Committee on Economy, Finance and Budget	3	Committee on Health, Labour and Social Welfare	1
Anti-corruption Committee	2	Committee on Economy, Finance and Budget	2
Committee on Education, Science, Culture and Sports	1	Anti-corruption Committee	2*1
Committee on Health, Labour and Social Welfare	1	Committee on European Integration	9
Total	11	Joint session of Committee on European Integration and Committee on International Relations and Emigrants	1
		Total	34

*Of which one consultative hearing took place when the 2013 session was resumed

Discussions at the hearings often do not focus on concrete questions or responses of the participants. In fact, more than a half of each session is devoted to introductory remarks and presentations of Government and other state institutions' representatives. For this reason, SNP's MP Aleksandar Damjanović believes that control hearings would be more effective if there were no introductory remarks at all, focusing strictly on the matter from the start.⁴

³ A detailed overview of control hearings may be found in the Annexes section below.

⁴ Interview with Aleksandar Damjanović, SNP MP, 12 December 2014.



I believe that after the control hearings we should immediately proceed with adopting the conclusions in a plenary session, and have the plenary reinforce the conclusions.



- Aleksandar Damjanović, SNP

It is not uncommon for the hearings to turn into political debates, partly because the MPs often pose questions that are not directly related to the topic of the hearing.

Our interviewees are largely undivided in believing that hearings should be more concrete, focused, and that their effects should be measured by looking at how well their conclusions were implemented. To test the practical value of these effects, we did a case study on the hearings related to public procurement.

Case study: Hearings in the area of public procurement

3	15	4	4
hearings	participants from state authorities	concerned parties	conclusions

The recurring public procurement issues in the area of health in 2013 and 2014, which caused shortages of certain medications, did not provoke a timely action by the Parliament. Instead, the first initiative for a hearing on this issue came from the civil society. The first hearing on this issue took place at the joint session of the Committee on Health, Labour, and Social Welfare and the Committee on Economy, Finance, and Budget held in October 2013 to discuss public procurement in the area of health.⁵ Two new hearings took place in 2014 at the Anti-corruption Committee, and they discussed corruption risks in public procurement and the multi-million contracts for EPCG consultancy services.

These hearing sessions were flawed on several levels. Firstly, the discussion on the corruption risks in public procurement was closed after reaching an agreement on the content of the minutes from the hearing, which is simply a more detailed report on the state of play in the area. It gives an overview of the institutional framework and institutional competencies in this area, excerpts from relevant reports, an overview of agreed procurements for several years, and the improvements introduced by the Law on Public Procurement.⁶ The minutes do not contain any statements made by the participants, Committee members, the finance minister, the directors of the Public Procurement Agency and the Inspection Directorate, president of the Commission for Control of Public Procurement Procedure, president of the Concessions Commission, or the civil society representatives. The facts presented in the minutes are basic information only and could be found in any regular annual report on public procurement published by the Public Procurement Agency. In addition to the fact that the general public and concerned parties had no insight into the discussions, no conclusions were adopted, and therefore no obligation in terms of public procurement was defined for the institutions. Hence, the only aspect where this hearing has exercised any influence was opening some important questions and informing the MPs and the public about the key trends in this area. This is

⁵ Institute Alternative, "Initiative for conducting a consultative hearing on public procurement in the health sector," available at: <http://institut-alternativa.org/inicijativa-za-odrzavanje-konsultativnog-saslusanja-o-javnim-nabavkama-u-zdravstvu/?lang=en>

⁶ Available at: <http://www.skupstina.me/index.php/me/odbor-za-antikorupciju/sjednice> (local language).

certainly not negligible, but the impact would have been greater were the Committee able to place some concrete obligations on the institutions.

Minutes from the hearings do not always offer a comprehensive overview of the discussion such as in the case of hearings on corruption risks or EPCG's multi-million contracts. On the other hand, a detailed report was made for the control hearing on public procurement in the health sector, but this hearing was not followed by any concrete conclusions, even though the session declared they would be made.

Even when the conclusions are adopted at and precisely defined, which was the case in the hearings on the multi-million legal consultancy contracts paid by the EPCG, their outcomes in practice are limited. Of the four unanimously adopted conclusions at the hearing, not a single one has been implemented by the time this report was drafted⁷ even though the Committee chairman formally contacted the Supreme State Prosecutor twice to insist that the required information be provided.⁸

Table 2: Implementation of the conclusions from the control hearing on the multi-million EPCG contracts

Conclusions	Implemented?
The materials received by the Committee members from the Ministry of Economy, EPCG, the Public Procurement Agency are forwarded to the Supreme State Prosecutor, in order for the Supreme State Prosecutor to inform the Anti-corruption Committee within 30 days as regards these materials, in line with the competencies of the Supreme State Prosecutor and the Committee. The Committee requires from the Supreme State Prosecutor to provide within the same deadline information on the activities undertaken as regards the criminal charges brought by: the Party of United Pensioners and Persons with Disabilities, and the Network for the Affirmation of the NGO Sector (MANS).	No
The Committee requires from the Ministry of Economy, the Government, and the Privatisation Council their opinions as regards the topic of the control hearing, and in particular the opposing views expressed in the materials received by the Committee members prior to the session.	No
The Committee will submit to the Public Procurement Agency the EPCG-related material with the request for the Agency to give their view as to whether the agreements on consultancy and other services are in accordance with the Law on Public Procurement.	No
After receiving the information, the Committee will hold a special session on the same topic, the date and participants of which will be set out in a separate decision.	No

*"Follow-up to the conclusions adopted by parliamentary committees in oversight hearings remains limited and needs to be reinforced."
Montenegro Progress Report 2014, p. 6*

Even though this is a good example of reminding the institutions to provide information, it is often the case that the Committees do not inquire sufficiently into the outcomes of the Parliament's conclusions, which has been noted by most MPs we spoke to, and also by the European Commission.

A step towards better reporting was made when at its session of 11 February 2015⁹ when the Anti-corruption Committee announced a special session for 2015 to follow up on the realisation of its

⁷ May 2015.

⁸ Information from the session of the Anti-corruption Committee held on 13 May 2015.

⁹ This session adopted the report on the work of the Committee in 2014 and presented the 2015 plan.

conclusions. The session was convened on 13 May 2015 and it discussed the information on the realisation of the Committee's conclusions. The session defined new deadlines for state institutions to submit the requested information.

The only way to ensure success of some of the more important aspects of the hearings, such as ensuring the authorities would submit their reports on implementing the conclusions is to introduce legal requirements. Even though the Strategy for combating corruption and organised crime has envisaged that a Law on the Parliament should be adopted in 2013, and even though the Action Plan for strengthening the legislative and control function of the Parliament has noted it was necessary to consider the adoption of such a law, no action in this regard has taken place so far. It is likely that this Law would prescribe such obligations for the executive branch that would help improve the parliamentary oversight.

Premier's hour and parliamentary questions

In 2014, the MPs posed 50 questions to the Prime Minister and 232 to ministers. Eight parliamentary sessions were devoted to the Premier's Hour, and four were devoted to parliamentary questions. The greatest number of questions came from Democratic Front (DF) MPs, and this party's parliamentary club boycotted seven sessions devoted to the Premier's Hour. The MPs posed the greatest number of questions to the Minister of Justice (32), followed closely by the Minister of Interior (29).

Even though the MPs believe the parliamentary questions are a powerful mechanism to exercise control over the executive, they are still not making the full use of its potential, and the results in practice could arguably be better. Some improvements in posing the questions to the PM and the ministers are evident, and they include e.g. more precise and concrete questions, improved quality of discussions in terms of expertise, the questions and answers are being published at the Parliament's website, etc. However, there are still some notable limitations. The ministries do not submit answers in writing before the parliamentary questions sessions, and they often do not submit written responses at all. The deadlines for delivering the responses are rather 'flexible,' given that the Rules of Procedure prescribe they should be submitted 'no later than the following sitting at which parliamentary questions shall be put.'¹⁰

The responses are not submitted directly to the MPs, who have to search for them at the Parliament's website, just like the general population.¹¹ Not all questions and responses are available at the Parliament's website – 9.9% of the total has not been published.

The Rules of Procedure prescribe that the questions to the Prime Minister may be posed monthly, and to the ministers bi-monthly, whereas in the parliaments of many other European countries it is commonplace to hold weekly question times for the Prime Minister and the ministers. In addition, Montenegro's Parliament does not recognise the institute of oral questions, i.e. impromptu questions, and it is required to submit questions to the PM at least 72 hours in advance and to the ministers at least 48 hours in advance. This should in theory ensure that the quality of responses will be better, but this is not always the case. The MPs we interviewed for this study mostly believe that the responses should be more concrete and they are displeased that the responses are often full of statistical data.

Ministerial responses are uploaded onto the Parliament website as .PDF documents, due to the way in which the ministries submit the responses, i.e. they do not provide them in an electronic machine-readable format. Questions and responses are listed and named according to the MPs who submitted them, and not by a thematic area or the ministries. Due to the format of submissions, the responses of the ministries cannot be searched for content.

¹⁰ Article 191, Rules of Procedure of the Parliament of Montenegro, no. 00-63-2/13-44, 28 November 2013.

¹¹ Interview with Andrija Popović, LP MP, 2 December 2014

Work of committees in 2014

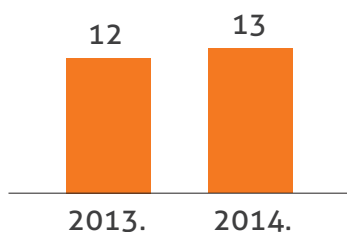
The Anti-corruption Committee

13	2	1	5	10
sessions	control hearings	consultative hearing	draft laws discussed	conclusions

On 8 May 2012, shortly after the amendments to the Rules of Procedure and the establishment of the Anti-corruption Committee, the Institute Alternative drafted an analysis in which we posed the question whether the newly formed committee was, having in mind its defined competencies, a cure or a placebo.¹² The answer to that question is still not clear, given that the issues that existed then are still present – from the issue of the Committee’s active role in drafting action plans and strategies prior to the Government’s adoption, with the view to exercising a greater influence on the final versions and ensuring an oversight of the implementation, all the way to the procedures for discussing submissions, i.e. the influence the Committee would exercise through its discussions.

“So far the committee has not lived up to its potential and has not been actively involved in preparing key anti-corruption legislation.”¹³

Even though the Committee did raise some important issues in 2014, such as on corruption risks in public procurement, there are still some fundamental problems that greatly limit the positioning of this parliamentary working body within the institutional anti-corruption framework. It should be noted that a big step forward was made when the Committee held dedicated sessions to discuss the progress in realising the measures from the Action Plan for implementing the Strategy for combating corruption and organised crime, as well as the action plans for chapters 23 and 24. However, only two sessions were devoted to discussing the implementation of strategic documents on anti-corruption, which is insufficient in terms of making a concrete contribution to the fight against corruption by offering guidelines and suggestions for improvement.



The number of sessions of the Anti-corruption Committee¹⁴

Alongside the two previously mentioned hearings on public procurement, the Committee held two control hearings and one consultative hearing. On 30 June 2014 the Committee held a control hearing for Economy Minister Vladimir Kavarić and the Director of the Intellectual Property Agency No-

¹² Institute Alternative, “Committee for Anticorruption: Cure or Placebo?,” November 2012, available at: <http://institut-alternativa.org/odbor-za-antikorupciju-lijek-ili-placebo/?lang=en>

¹³ Montenegro Progress Report 2014, p. 39.

¹⁴ In 2013, the Committee held another session, which was the continuation of a 2012 session, whereas in 2014 it held a joint session with the Security and Defence Committee.

vak Adžić, pursuant to the application submitted by the Association of Composers of Montenegro. Even though the plan was to vote also on holding a hearing for the acting Supreme State Prosecutor Veselin Vučković and the Police Director Slavko Stojanović in relation to those two institutions' activities on preventing the organised buying of ID cards of Montenegrin citizens, this session was not held due to the lack of quorum.¹⁵

The Committee failed to implement some important activities from the 2014 work plan, related to reports of state institutions tasked with fighting corruption and organised crime (the Supreme State Prosecutor, the Ministry of the Interior, and the National Security Agency),¹⁶ and the implementation of the action plans for suppressing these practices at the local level. In addition, the Committee did not hold all of the hearings that have been planned, such as the one for the Director of the Anti-corruption Initiative Directorate.

8/5

government-opposition ratio in the Committee

One session was devoted to marking the international anti-corruption day, and two dealt with submitted applications.¹⁷ However, by the end of 2014 the Anti-corruption Committee did not set a procedure for discussing applications submitted by the parties involved. This issue was noted by the European Commission in the latest Progress Report. A total of nine applications were submitted last year.¹⁸

"The establishment of procedures for acting upon citizens' initiatives addressed to the parliamentary committees on human rights and anti-corruption is pending."¹⁹

The Committee discussed five draft laws and gave opinions supporting their adoption, but its comments and proposals for amendment are not available. The Committee is still not defined as the lead committee for discussing these laws, but only a concerned committee. The scope of its competencies for the systemic and strategic documents for the combat against corruption and organised crime has also not been defined.

Accordingly, the Committee did not participate in the process of adapting the action plans for chapters 23 and 24, and also did not receive regular periodic information on the progress made in the EU accession negotiations process.

Even though it held special consultations with civil society representatives soon after its establishment, i.e. in 2013, and had something similar planned for the following year as well, consultations of this kind did not take place in 2014.

¹⁵ It was scheduled for 20 May 2014.

¹⁶ The session devoted to discussing the National Security Agency's report was scheduled, but the Agency asked for a reconvening.

¹⁷ A detailed overview of realised and not realised activities of the Committee can be found in Annex 3 below

¹⁸ Applications by the Association of Composers, "Montavar-Metalac," MANS, Ljubomir Martinović, DF representatives in the parliament of Budva Milutin Božović, Dragan Biga, Vojislav Cvijović, lawyer Darko Hajduković, representative of Stevo and Branka Vujačić, NGO "Centre for the Development of Durmitor" – Vojislav Cvijović.

¹⁹ Progress Report, p. 7.

Committee on European Integration

12 ²⁰	1	40	12
sessions held	performance report discussed	points of the agenda discussed	draft negotiating positions discussed

In 2014 the Committee on European Integration was most active in considering the draft negotiating positions. The Committee continued hosting thematic forums in advance of the discussions on the draft positions. However, the mere fact that these draft positions are classified as 'confidential' makes it impossible to know to what degree the Committee contributed to their improvement.

Last year, only one session was devoted to discussing the quarterly reports on the implementation of the action plans for chapters 23 and 24, whereas all the sessions were devoted to discussing reports about the overall activities within the EU Stabilisation and Association Process, contributions for the EU Commission's Progress Report, and the report on the overall activities within the process of EU integration. The public received no information as to whether and to what degree the Committee has participated in adapting the action plans for Chapters 23 and 24. It is also unclear why the Committee discussed only the first few quarterly reports on the implementation of these action plans, given that their implementation is essential for the future of the negotiation process and should therefore be this Committee's key framework for discussion and oversight.

Given that the majority of negotiating positions have already been discussed and consequently the number of thematic forums will be reduced notably, there is a distinct need to redefine the framework and focus of these events.

²⁰ Two continuations of previous sessions were also held, as well as two joint sessions with the Committee on International Relations and Emigrants.

Work transparency

Even though comparative research²¹ has shown that the Parliament of Montenegro is the most transparent institution in the country and more open than many parliaments in the region, there is still plenty of room for improvement both in terms of breadth of data made available and the presentation of the data. The Parliament's website shows e-mail addresses of all MPs but one, however other information, such as telephone numbers, is available for only 47 MPs, or 58%.²² The contact details are also unavailable for employees at the services of the Parliament.

Whereas in certain areas the Parliament of Montenegro is indeed a regional leader, such as in publishing parliamentary questions and responses, which for instance is not done at all in Serbia, the activities of the working bodies are still not sufficiently presented to the public. Likewise, whereas the plenary sessions are broadcast on TV and on the Parliament's own YouTube channel,²³ the citizens are still not sufficiently informed about the work of their representatives because the sessions of the committees are not being broadcast due to technical limitations and financial resources.²⁴

Why broadcast committee sessions?

The ability to observe the work of the parliamentary working bodies will have the following effects:

- Positive influence towards greater accountability of the executive;
- Ensuring more precise reporting about the course of the discussion;
- Improved quality of discussions;
- Greater visibility for Parliament's work;
- Increasing transparency of the legislative branch of government.

The Parliament should open up its work even more by enabling a live feed of Committee sessions, or at least publishing audio recordings. Having in mind the growing need for informing the public about the legislative and control functions of the Parliament, those who follow the Parliament's work are left wanting for MPs statements and discussion on important matters in accordance with Committee competencies, given that minutes from working bodies' sessions, which are currently available, do not contain detailed information on the discussion and opinions presented. A practice of this kind exists elsewhere in the region. For instance, citizens in Macedonia and Serbia have live feeds of all committees' sessions on the parliamentary websites.²⁵

21 The Parliament of Montenegro was ranked first for transparency and openness among the parliaments in the region in the study by Belgrade-based Centra za istraživanja, transparentosti i odgovornosti (CRTA), entitled "Parliamentary Openness Index", available at: <http://www.otvoreniparlament.rs/wp-content/uploads/2014/11/Parliamentary-Openness-Index-Serbia-and-region.pdf>

22 Institute Alternative, "Montenegrin MPs are Difficult to Reach via Email," December 2014, available at: <http://institut-alternativa.org/dostupnost-poslanika-za-komunikaciju-putem-emaila-na-veoma-niskom-nivou/?lang=en>

23 See: <https://www.youtube.com/user/SkupstinaCrneGore>

24 Response of the Parliament to the Institute Alternative initiative to provide Committee sessions' broadcasts was that there were no funds for this. See: Dan daily newspaper, "Iz parlamenta tvrde: Nema para za prenos sjednica odbora", 18 January 2015, available at: <http://www.dan.co.me/index%20sa%20obavjestenje%20u%20danasnjem%20broju.phtml?nivo=3&datum=2015-01-19&rubrika=Politika&najdatum=2015-01-18&clanak=471981&naslov=Nema%20para%20za%20prenos%20sjednica%20odbora>

25 See: Sessions of Committees and other working bodies of the National Assembly of the Republic of Serbia, available at: <http://www.parlament.gov.rs/%D0%BF%D1%80%D0%B5%D0%BD%D0%BE%D1%81%D0%B8.2091.html> (local language).

The MPs with whom we have spoken for the purposes of this research are divided on the issue of broadcasting committee sessions. SDP's MP Draginja Vuksanović believes that all committee sessions should be broadcast on TV, as the committee discussions allow for more arguments to be put forth than at the plenary sessions, where presentations are limited to five minutes.²⁶

However, SDP does not have a unified party view on this issue, and Borislav Banović believes that even the fact that the journalists are present is not a positive contribution to the discussions, saying that he believed that "some of the most democratic parliaments hold closed sessions for all committees, not just for some classified ones."²⁷

26 Interview with Draginja Vuksanović, SDP MP, 8 December 2014.

27 Interview with Borislav Banović, SDP MP, 8 December 2014.

Discussing annual work reports

In 2014, the Parliament's working bodies assessed 32 annual reports on the work of state institutions, of which as many as 16 were looked into by the Committee on Economy, Finance, and Budget.

Even though a powerful control mechanism, the impact of annual reports' appraisal is limited, especially bearing in mind that adopting conclusions at these discussions is not a standard practice but happens only exceptionally. Unless the Committee members, or the professional service that usually keeps records on the conclusions, remind the state organs that the deadline for reporting on the activities taken in line with the conclusions has expired, this process can go on endlessly, since no regulation exists that would make it a requirement to submit the responses. Certain institutions, e.g. the Concessions Commission, have provided information in their 2013 annual report on the activities undertaken in line with the Parliament conclusions.²⁸ Regardless of this good practice, the responses are often short and fail to provide any concrete information, even though they could easily have been provided.

Table 4: An example of reporting on the parliamentary conclusions – except from the report on the work of the Concessions Commission in 2013.

Conclusion of the Committee on Economy, Budget, and Finance	Response by the Concessions Commission
<p>Due to the fact that, according to the report, an income of 12.7 million EUR was made in 2012, which is 13 million less compared to 2011, when the income was 25.7 million, it is necessary to ascertain the reasons behind such a drastic slump by using the oversight mechanisms prescribed by the Rules of Procedure for the Parliament, i.e. the lead Committee.</p>	<p>Respecting fully the Parliament's conclusion and the topic it treats, I regret informing you that, under the provisions of the Concessions Law, the Concessions Commission does not have contacts in the field, does not possess the required data and information, nor the analytical and research capacities required for this purpose (given that it has no employees). According to the law, all the contacts, data, information, and employees dealing with granting concessions and monitoring their realisation, are to be sought at ministries, municipalities, agencies, and inspection directorates, whose activities in this regard are not coordinated from a single centre, but who all work individually. We hope this will be changed with the introduction of the new law on concessions and public-private partnerships, which is currently being drafted. A similar practice exists in the neighbouring Croatia. Namely, Croatia has an agency for public-private partnerships with more than a dozen employees, as well as a directorate for the realisation of concessions and public-private partnerships, meaning that projects are monitored throughout their implementation, which is something we would need to have in order to be able to provide an analysis required by the Parliament's conclusion.</p>

The Commission gave its view on all five conclusions, three of which were not related to it.²⁹ However, opinions on the solutions that would be offered by the new legislation for concessions are not of decisive importance from the standpoint of implementing the recommendation of the Committee on Economy, Finance, and Budget. To an extent it should also be noted that Committee recommendations on what should be regulated in the future through a new legal framework, even if relevant, are not something that could be responded to, especially because the draft Law in that period was not publicly available.

²⁸ Report on the work of the Concessions Commission in 2013, 29 March 2014, pp. 7-8 (in local language).

²⁹ Ibid.

The MPs we interviewed have several divergent interpretations of the reasons behind the failure of state authorities to submit reports regularly and in a timely manner. DPS's MP Obrad Stanišić is satisfied with the way the Government treats the Parliament's conclusions.³⁰ Borislav Banović (SDP) is of the opinion that each conclusion has a great political influence given that it has been supported by a committee and is therefore "no longer a thing of one MP or one party."³¹ The MPs think that the executive branch should have an additional responsibility towards the public to implement the conclusions.

“

I believe that the purpose of the conclusions is to make the problem more current; simply put, the ministers also feel uneasy if a big issue has remained in the public focus, and they wish to shut such issues down in a way, even if just for personal marketing reasons.

”

– Srđan Perić, PCG MP³²

DF's MP Branka Bošnjak thinks that the executive completely ignores the Parliament's conclusions, and says that this is best visible in the case of the conclusions regarding the KAP aluminium smelter, when they made it look as if the Government were supposed to exercise oversight of the Parliament instead of the other way around.³³

Just like the discussions at the sessions devoted to control and consultative hearings, the discussions on work reports are not well conceived, in most cases due to the fact that the reports are too large.

30 Interview with Obrad Stanišić, DPS MP, 23 December 2014.

31 Interview with Borislav Banović, SDP MP, 8 December 2014.

32 Interview with Srđan Perić, PCG MP, 5 December 2014.

33 Interview with Branka Bošnjak, DF MP, 19 December 2014.

The Parliament and the civil society

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civil society representatives participated in the work of the committees

In accordance with the provision of the Rules of Procedure which stipulates that representatives of non-governmental organisations may be invited to participate in the work of parliamentary Committees, without decision-making rights,³⁴ in 2014 the Parliament's working bodies have invited 100 representatives from 47 civil society organisations, public and other institutions, and companies to take part in their sessions. Despite the fact that the Parliament has made notable progress in improving its cooperation with the civil society, no formal rules and procedures for citizens' and civil society organisations' attendance and participation in the Committee sessions have been laid down. As a reminder for the readers, the Memorandum on Cooperation between the Parliament of Montenegro and the Network of democracy and human rights civil society organisations that was signed on 30 March 2011 envisaged the adoption of an act that would set out the manner and procedures for appointing NGOs to participate in the work of Committees and other parliamentary bodies, similar to the decree on the manner of cooperation between state authorities and NGOs. It is however unknown to what extent the civil society organisations and citizens use the provided forms for the submission of proposals and suggestions in relation to acts discussed by the Parliament's working bodies, as there are no records.³⁵

The MPs we interviewed mainly point out that they are open for cooperation and proposals offered by the civil society. The breadth and 'usefulness' of the proposals submitted by concerned parties is also dependent on the control mechanisms. When it comes to the questions submitted to ministers, the MPs usually give priority to the questions in the primary focus of their political party club, or those that have been submitted by citizens.³⁶

When it comes to submitting initiatives for control and consultative hearings, PCG MP Srđan Perić believes that it would be unnatural to allow every single individual in the country to launch an initiative, as this would in his view block the executive branch. As things stand now, according to him, it is possible to reach an agreement to have an MP submit, at the behest of a concerned party, a proposal and request a voting on it. An optimal solution could be for a group of citizens to submit an initiative directly, following a set procedure and having collected a required number of signatures.³⁷

LP MP Andrija Popović is critical of the practice of selective submission of NGO proposals and amendments to some MPs or party clubs and not to others.³⁸

LP MP Andrija Popović is critical of the practice of selective submission of NGO proposals and amendments to some MPs or party clubs and not to others.³⁸

³⁴ Article 67, Rules of Procedure.

³⁵ The form for civil society opinions is available at the Parliament's website: <http://boo.vg/3CII>

³⁶ Interviews with Borislav Banović and Ljerka Dragičević, MPs of SDP and HGI, respectively, December 2014.

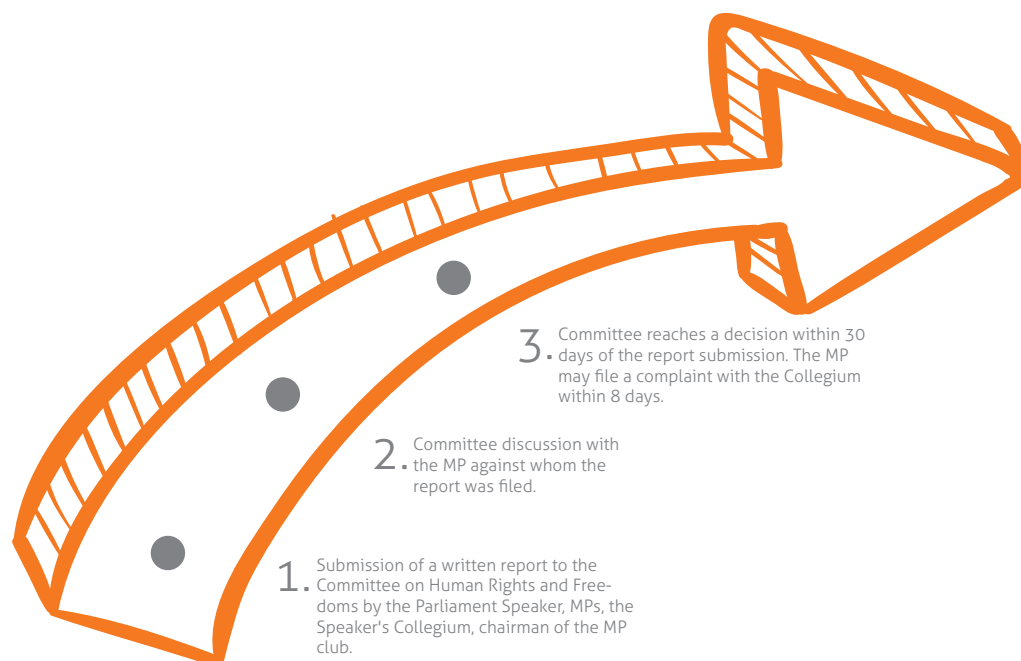
³⁷ Information obtained during Interview.

³⁸ Interview with Andrija Popović.

Code of Ethics for MPs

The Code of Ethics was adopted on 9 December 2014, a year after the deadline of December 2013 which was envisaged in the Action Plan for EU negotiations Chapter 23: Judiciary and fundamental rights.³⁹

Graph 1: The procedure of reporting breaches of the Code of Ethics



Even though the draft Code of Ethics envisaged the establishment of a dedicated committee for ensuring the Code's implementation, as well as imposing fines, i.e. salary reductions, on MPs that breach the Code, these provisions have been removed from the text during amendments and 'polishing' made at the Collegium. For this reason, and taking into account its composition, it is still an open debate whether the Committee for Human Rights and Freedoms will be able to monitor the implementation of the Code adequately, especially when deciding on the breaches. It is also dubious to what extent the application of the Code will be successful, given that the only envisaged penalties are reprimand, public reprimand, and expulsion from the session.

Moreover, given that the Code defines no-show at plenary and committee sessions as only minor breaches, and given that our research has shown that there are MPs how skip all committee sessions, it is necessary to keep a record and inform the public about the work of their elected representatives.

³⁹ Action Plan for EU negotiations Chapter 23: Judiciary and fundamental rights, September 2013, p. 114.

Conclusions

Taking into account the assessments of the European Commission and the degree of implementation of measures from the Action Plan, the Parliament has continued improving its legislative and control function in 2014. However, the monitoring analysis by Institute Alternative underlines a qualitative stagnation and a quantitative decline when it comes to the control function. Statistical data show that the MPs have used control and consultative hearings less than they did in 2013, and that no progress has been made towards regulating some important issues for ensuring the Parliament's control function, such as e.g. improving the reporting on conclusions implementation.

Precisely due to the fact that there is no obligation for the executive to act pursuant to the Parliament conclusions, the Government, as a rule, 'forgets' about them and fails to submit information on its activities within the deadlines set by the Parliament, i.e. a working body. A possibility to overcome this would be to provide information on the activities undertaken in accordance with the Committee conclusions in the institutions' annual reports, as was done by the Concessions Commission which in its 2013 report responded to the conclusions of the Committee on Economy, Finance, and Budget. As regards the lead committees' activity towards monitoring conclusion implementation, a more pro-active approach is needed in the sense of providing information to the public on the activities of the state institutions in relations to Parliament's conclusions. The framework for provision of information possessed by state authorities to the Parliament could be improved by prescribing a legal obligation, i.e. adopting a Law on the Parliament.

Control and consultative hearings have a limited impact also because of the way in which the working bodies' sessions on these issues are being organised. Most of the time in the sessions is devoted to introductory remarks by Government representatives, which are purely informative and very general. It is often the case that these hearings fail to adopt conclusions, which is not good for improving the control function.

Even though the Parliament is better than other state institutions in publishing information on its webpage, and is a leader in transparency among the region's parliaments, there is still plenty of room for improvement. The most notable areas that require improvement are data formats and issues with searching the .PDF files. Given that these issues are often to be blamed on the executive, i.e. the way it submits information to the Parliament, this is where the problem should be addressed first. Further limitation is posed by the nature of the minutes from the committee sessions, and especially from consultative and control hearings, as these are still insufficient as a mechanism for insight into the discussions. We therefore believe that the Parliament should open this part of its work to the public through live session broadcasts, as it did with the plenary sessions, or at least to start off by broadcasting the sessions devoted to control and consultation hearings.

Two years after its establishment, the Anti-corruption Committee has still not managed to position itself within the institutional framework for combating corruption and organised crime. This body has implemented only one third of the activities planned for the last year. A procedure for discussing applications at this Committee has not been regulated, and neither was the procedure for discussing the documents on the combat against corruption and organised crime, where this working body ought to be the lead committee, and not only a concerned one. Even though the Committee has made a qualitative leap by hosting dedicated sessions for monitoring the progress in the implementation of key anti-corruption documents, the control of measures must be continuous, and the sessions on key issues for the accession process in the area of anti-corruption should be held more often. Furthermore, the Committee should do much more in analysing and proposing measures to

improve the fight against corruption and organised crime. The same can be said of the European Integration Committee, which regardless of its numerous activities and large number of negotiating positions it considers, still has a limited impact on the negotiation process, or at least its contribution to the process is not visible to the general public. The contents of topic sessions of this body need to be redefined.

The MPs adopted the Code of Ethics one year after the deadline, in December. Even though an important document for improving the framework of defining breaches, the questions are already popping up as regards its implementation, including the need to publish the records on MPs attendance of plenary and working bodies' sessions.

Recommendations

Normative framework

Adopt the Law on the Parliament that will ensure the following:

- More precise definition and differentiation of competences of the branches of government, and finally complete the normative framework of the political system and ensure legal certainty;
- Define the obligation to report automatically on the Parliament's conclusions within a framework set as optimal by the lead Committee;
- Define the need for quarterly reporting on the implementation of EU accession negotiations commitments;
- Set out penalties/sanctions for state institutions that fail to submit in a timely manner the information on implementing the Parliament's conclusions, or fail to submit the responses to parliamentary questions;
- Define an obligation for institutions to submit responses and information in electronic and 'readable' formats;

Improving transparency and presenting the data on the Parliament's website

- With the view to improving transparency, all Committees' sessions should be broadcast at the Parliament's YouTube channel. Some alternatives to this solution could be the following: publishing audio-recordings from the sessions or broadcasting just those sessions that are devoted to control and consultation hearings. By the time the remaining Parliament's halls are equipped for broadcasting, a temporary solution could be to use the plenary hall when no plenary sessions are taking place;
- Enable a search option for all data available at the website;
- Adopt naming rules for parliamentary questions and ministers' responses that would enable users to classify them by topics and institutions;

Control and consultation hearings

- Do away with the introductory remarks of government representatives and instead hold Q&A hearings;
- Set a three-minute limit for posing questions to institutions' representatives as well as for their answers, in order to improve and channel the discussion. Use cross-examination;
- Improve reporting, make the state institutions more accountable by adopting concrete conclusions after the hearing, and by drafting dedicated Committee reports on the implementation of conclusions;

Parliamentary questions and the Premier's Hour

- The Rules of Procedure should be amended so as to envisage monthly parliamentary questions sessions;

- An obligation should be established for the ministries and the Prime Minister's Office to submit responses to parliamentary questions prior to the sessions devoted to this control mechanism;

Anti-Corruption Committee

- Amend the composition of the Anti-Corruption Committee so as to ensure parity between the government and opposition representatives;
- Set out the Committee's competences in discussing the legislation in the area of fight against corruption and organised crime. This should be done through Rules of Procedure amendments that would define the Committee as the principal working body to discuss laws and other acts in the anti-corruption area;
- Set out a plan for conducting annual analyses of systemic laws and strategic documents in the area of fight against corruption and organised crime, and prescribe concrete deadlines for realisation;
- Hold quarterly discussions at the joint sessions of the Committee on European Integration and the Anti-corruption Committee of the progress in negotiating the chapters 23 and 24;
- Repeatedly require the reports and information from state institutions, even those that are not mandatory by the Law but are important for the process of combating corruption and organised crime;
- Organise quarterly thematic meetings with civil society representatives that deal in anti-corruption matters;
- Establish a procedure for examining applications submitted to the Parliament;

European Integration Committee

- Hold quarterly sessions devoted to discussing progress in chapters 23 and 24;
- Redefine the hosting of thematic forums with concerned parties with the view to shifting the focus from the draft negotiating positions to the central issues in the accession process.
- Allow the civil society to submit proposals and suggestions for potential topics on these forums' agendas;

Cooperation with the civil society

- Presentations of civil society representatives at Committee sessions should be published in their entirety at the Parliament's website;

Application of the Code of Ethics

- Keep a record of the MPs attendance of plenary sessions and working group meetings, in order to ascertain Code breaches and to learn to what extent has the defining of no-shows as minor breaches of the Code had an effect on MPs' absence;
- Draft a form for reporting breaches of the Code.

Annexes

Annex 1: Overview of the 2014 control hearings

Committee on Political System, Judiciary and Administration	50 th session, 25 April 2014– Control hearing of the director and members of the Council of the Agency for Electronic Media entitled "Programme standards in electronic media –consistent application of the Law on Electronic Media."
Security and Defence Committee	21 st session, 11 April 2014–Control hearing of the Supreme State Prosecutor, the Minister of the Interior, and the Director of the National Security Agency, regarding the growing practice of attacks against journalists.
	16 th Session, 14 April 2014 – Control hearing of the Director of the National Security Agency on the topic of recording and storing data in the context of applying the Law on the National Security Agency.
Committee on International Relations and Emigrants	28 th session, 16 June 2014–Control hearing of the Deputy Prime Minister and Minister of Foreign Affairs and European Integration Igor Lukšić regarding the activity of the Government of the Republic of Croatia in relation to granting concessions for oil and gas exploration in the area of Prevlaka.
Committee on Economy, Finance and Budget	51 st session, 4 April 2014– Control hearing of the Finance Minister Radoje Žugić, Economy Minister Vladimir Kavarić, and bankruptcy manager of the "Bajo Sekulić a.d. Ulcinj" salt producer Ognjen Jovović, with the view to obtaining information on the bankruptcy procedure at the company, with a special emphasis on protecting workers' rights.
	69 th session, 15 September 2014–Control hearing of Slavoljub Stijepović, Education Minister, Duško Rajković, Director of the Centre for Professional Education, Zoja Bojanić-Lalović, Director of the Office for Textbook Publishing and Teaching Aids, and Nenad Šoškić, Director of the Contemporary Art Centre of Montenegro, regarding the negative opinion of the State Audit Institution on the annual financial reports of these public institutions.
	74 th session, 16 October 2014–Control hearing of the Deputy Prime Minister for Economic Policy and the Financial System Vujica Lazović, Economy Minister Vladimir Kavarić, Chairman of the Board of Directors of Elektroprivreda (EPCG) energy provider Srđan Kovačević, and Executive Director of EPCG Stefano Pastori, regarding the implementation of the contract between the Government of Montenegro and A2A company.
Committee on Education, Science, Culture and Sports	48 th session, 22 December 2014 –Control hearing of Minister Sanja Vlahović, interim co-ordinator of the Education Ministry, entitled "The current situation at the University of Montenegro."
Committee on Health, Labour and Social Welfare	68 th session, 9 December 2014 –Control hearing of Health Minister Miodrag Radunović, Assistant Health Minister Mensud Grbović, Director of the Public Health Institute Boban Mugoša, and the resigning director of the Bijelo Polje General Hospital Tomislav Jeremić, entitled "The current situation at the Bijelo Polje General Hospital."
Anti-corruption Committee	17 th session, 30 June 2014–Control hearing of the Economy Minister Vladimir Kavarić and the Intellectual Property Agency Director Novak Adžić, regarding the application submitted to the Parliament by the Association of Composers of Montenegro.
	22 nd session, 30 October 2014 – Control hearing of the Economy Minister Vladimir Kavarić, Finance Minister Radoje Žugić, and the Director of the Public Procurement Directorate Mersad Mujević, entitled: "Multi-million contracts paid by EPCG for legal and consultancy services."

Annex 2: Overview of the participation of concerned parties at the sessions of parliamentary working bodies in 2014

Working body	Number of sessions held in 2014	Number of representatives from the civil society, public institutions, and companies
Constitutional Committee	/	/
Legislative Committee	48 (1 cancelled)	5
Committee on Political System, Judiciary and Administration	36 (+5)	10*
Security and Defence Committee	16 (+2)	2
Committee on International Relations and Emigrants	23	/
Committee on European Integration	17 (+2)	5
Committee on Economy, Finance and Budget	46 (+12)	53
Committee on Human Rights and Freedoms	20 (+1)	25
Gender Equality Committee	16	35
Committee on Education, Science, Culture and Sports	22	11
Committee on Tourism, Agriculture, Ecology and Spatial Planning	19	11
Committee on Health, Labour and Social Welfare	41	21
Anti-corruption Committee	16 (+1)	4
Commission for Monitoring and Control of the Privatisation Procedure	7 (+1)	23
Administrative Committee	23 (+4)	/

*Of which 7 were representatives of the Working Group (joint 61st and 62nd sessions, 25 September 2014)

Annex 3: Overview of realised and outstanding activities of the Anti-corruption Committee in 2014

Planned	Realised
Discussion of the report, concerning fight against corruption and organised crime, for 2013, by the Supreme State Prosecutor, the Ministry of the Interior, the Police Directorate, the National Security Agency, et al.	No
Discussion of the report by the Judicial Council, concerning fight against corruption and organised crime, for 2013	No
Monitoring of the realisation of the Action Plan for Implementing the Strategy for Fighting Corruption and Organised Crime for 2013-2014	Yes
Consultative hearing of the Director of the Administration for Anti-Corruption Initiative in light of the European Commission's 2013 Progress Report and the Report on the Analytical Screening of the Alignment of Montenegro's Legislation with Chapters 23 and 24	No
Risks – Corruption in spatial planning and construction	No
Monitoring and analysis of the implementation of the Action Plan for Fighting Corruption at the Local Level (2013- 2014), and monitoring of the process of adopting and implementing the Codes of Ethics and the integrity plans for local government civil servants and state employees	No
Public opinion survey on corruption and organised crime and the role of the Parliament of Montenegro	No
Discussion of the draft Budget for 2015, as concerned committee, in relation to the funds allocated for fighting corruption and organised crime (of all spending units)	Yes
Monitoring of the implementation of Committee conclusions adopted in regard to the consultative hearing entitled "Removing personal identification numbers from web-pages of the Real-Estate Administration and the CRPS" and the implementation of the Decision on establishing a joint committee with the Committee on Political System, Judiciary and Administration	No
Involving the Committee in the process of adopting the laws, as a concerned committee for Chapters 23 and 24 (Anti-corruption Law, Lobbying Law, Law on the Prevention of conflicts of interest, etc.)	Yes
Monitoring campaign implemented by state institutions on the manner of corruption reporting and measures for protecting citizens who report corruption	No
Discussion of reports and surveys by prominent NGOs in the area of corruption	No
Holding a joint session with the Security and Defence Committee on the state of affairs and protection of investigative journalism in Montenegro in the context of investigating corruption and organised crime	No
Discussing quarterly reports of the Government in the area of fight against corruption and organised crime and launching concrete measures, proposals, and recommendations	Partly ⁴⁰
Holding joint sessions of the Anti-corruption Committee and the Commission for Monitoring and Control of the Privatisation Procedures	No
Analysing the existing normative framework for protecting persons that report corruption (provisions of the Criminal Code, Labour Law, etc.). Discussing the possibility of adopting a dedicated law with mechanisms and funds to protect persons that report corruption and persons that possess confidential information.	No
Analysing inter-institutional and international cooperation of the institutions dealing with corruption and organised crime	No
Discussing current matters that are relevant for combating corruption and organised crime	Partly

⁴⁰ The designation "partly" means that the Committee has treated this issue, but not on a quarterly basis in those particular cases.

Annex4: Overview of the number of discussed reports and conclusions per committee

Committees	No. of reports	No. of conclusions
Constitutional Committee	/	/
Legislative Committee	/	/
Committee on Political System, Judiciary and Administration	3	21
Security and Defence Committee	3	26
Committee on International Relations and Emigrants	1*	4
Committee on European Integration	/	/
Committee on Economy, Finance and Budget	16	20
Committee on Human Rights and Freedoms	4	6
Gender Equality Committee	1	/
Committee on Education, Science, Culture and Sports	/	/
Committee on Tourism, Agriculture, Ecology and Spatial Planning	/	4
Committee on Health, Labour and Social Welfare	/	38
Anti-corruption Committee	2	4
Commission for Monitoring and Control of the Privatisation Procedure	/	/
Administrative Committee	1	/

*At the joint session with the European Integration Committee, on the work of the MFAEI

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- **Andrija Popović**, Liberal party MP, 2 December 2014.
- **Branka Bošnjak**, Democratic Front MP, 19 December 2014.
- **Borislav Banović**, Social Democratic Party MP, 8 December 2014.
- **Draginja Vuksanović**, Social Democratic Party MP, 8 December 2014.
- **Obrad Stanišić**, Democratic Party of Socialists MP, 23 December 2014.
- **Srđan Perić**, Positive Montenegro MP, 5 December 2014.

Interviews with other officials

- **Damir Davidović**, former Secretary-General of the Parliament.
- **Siniša Stanković**, incumbent Secretary-General of the Parliament

About Institute Alternative:

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

*Our **mission** is to contribute to strengthening the democracy and good governance through research and policy analysis as well as by monitoring public institutions' performance.*

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

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

We function as a **think tank** or a research centre, focusing on the overarching areas of good governance, transparency and accountability. Our research and advocacy activities are structured within five main programme strands: i) public administration, ii) accountable public finance, iii) security and defence, iv) parliamentary programme and v) social policy.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups for certain chapters. Our flagship project is the Public Policy School, which is organised since 2012.

Organisation management is divided between the Assembly and the Managing Board. President of the Managing Board is **Stevo Muk**. Research Coordinator is **dr Jovana Marović**.

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