



OVERVIEW OF PARLIAMENTARY OVERSIGHT IN MONTENEGRO: FROM TALKING TO WORKING

October 2022

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Two years of the 27th convocation of the Parliament of Montenegro, which went down in history as the first convocation constituted following the change of Government in elections and three decades of rule by the Democratic Party of Socialists and their coalition partners, are now behind us.

Those two years were marked by numerous precedents. The most prominent among them are as follows: the vote of no confidence in two consecutive Governments (the 42nd and 43rd Governments, a greater degree of the legislative initiative of Montenegro), greater degree of legislative initiative by the Members of Parliament, and frequent re-composition of the parliamentary majority. In this year's review of the implementation of the control function of the Parliament, we underline the trends in the use of fundamental control mechanisms - interpellations, parliamentary questions, parliamentary hearings, parliamentary investigations and deliberations of reports. In assessing the use of the aforementioned control mechanisms, we were guided by principles of good parliamentary practice and lessons learned from parliamentary life in Montenegro.

MOTIONS FOR THE VOTE OF NO CONFIDENCE IN THE GOVERNMENT OF MONTENEGRO

Four motions for a vote of no confidence in the Government have been filed in the Parliament in the past year. In relation to the entire convocation of the Parliament, 93 percent of all MPs took part in filing these motions:

1. On 29/11/2021 a motion was filed by 40 MPs (subsequently withdrawn);
2. On 19/01/2022 a motion was filed by 31 MPs;
3. On 03/08/2022 a motion was filed by 36 MPs;
4. On 17/08/2022 a motion was filed by 32 MPs.

Only members of the Socialist People's Party—five of them were not among the signatories of any of the four proposed motions. Interestingly, although the involved MPs come from parties

with opposing ideological orientations, they all referred to the evident obstruction or stagnation in the process of European integration as one of the reasons for the toppling of the Government. Two initiatives were successful and resulted in votes of no confidence in the 42nd and 43rd Governments of Montenegro. A majority of 43 MPs voted no confidence in the 42nd Government of Zdravko Krivokapić in February 2022, while a total of 50 MPs voted no confidence in the 43rd Government of Dritan Abazović in August 2022.

The hearing of the motion for a vote of no confidence in the 42nd Government lasted less than six hours, while the hearing of the same motion concerning to the 43rd Government lasted twice as long. In contrast to the discussion on confidence in the 42nd Government, when the then Prime Minister Zdravko Krivokapić and 9 out of 11 ministers did not attend the session, the outgoing Prime Minister Dritan Abazović and most of the ministers in the 43rd Government attended the session on August 19, 2022.¹

PARLIAMENTARY HEARINGS

In the current convocation, parliamentary committees proposed a total of 16 reports from control hearings.² Only five reports contain specific conclusions following the hearings.³ In all other cases, MPs generally decided that they could not propose conclusions, either because the topic discussed was under the jurisdiction of other bodies or that the discussion was conducted on the basis of documents marked as sensitive.

Consequently, apart from the benefit of discussing certain issues, the hearings did not bring about wider positive impact on the strengthening of parliamentary oversight or systemic activities of MPs in relation to certain areas of governance. The fact that sensitive information was used in discussions should not have been an obstacle to, for example, proposing a way to systematically improve the institutional activity.

In addition to Zdravko Krivokapić, the Prime Minister of the 42nd Government, who believed that he had no obligation to respond to invitations to control hearings, his ministers also failed to respond to the invitations of parliamentary committees. In particular, the then Minister of Finance and Social Welfare, Milojko Spajić, did not respond to invitations to participate in control hearings organised by the Committee on Health, Labour and Social Welfare, the Gender Equality Committee, the Security and Defence Committee and the Committee for Human Rights and Freedoms.⁴

- 1 Milena Muk and Bojana Pravilović, *Vote of no confidence in the 42nd and 43rd Governments motioned by over 90% of the current convocation of the Parliament*, Institute Alternative, 12/09/2022, available at: <https://institut-alternativa.org/pitanje-nepovjerenja-u-42-i-43-vladu-pokretalo-preko-90-aktuelnog-saziva-skupstine/>
- 2 According to available information, two additional hearings were held (13th sitting of the Gender Equality Committee and 11th sitting of the Committee on Tourism, Agriculture, Ecology and Spatial Planning), but no reporting followed.
- 3 The reports are available at the Parliament website: <https://www.skupstina.me/me/sjednice/zakoni-i-druga-akta>
- 4 Nikoleta Pavičević, *Members of the Government to show respect for their obligations to the Parliament*, Institute Alternative, 11/12/2021, available at: <https://institut-alternativa.org/en/members-of-the-government-to-show-respect-for-their-obligations-to-the-parliament/>

PARLIAMENTARY QUESTIONS: BICKERING OR OVERSIGHT?

Parliamentary questions, as a significant form of control mechanism, were additionally strengthened by changes to the Parliamentary Rules of Procedure from December 2020, when the so-called ministerial hour was introduced—an opportunity for MPs to put forward questions related to a certain topic, chosen alternately by the parliamentary majority and the opposition.

A total of **539 questions** was put forward to the Prime Minister and ministers over the course of two years. The largest number of questions was submitted during the Fourth Special Sitting of the Second Ordinary Session in 2021, held on November 25, with as many as **126 questions** put forward. While the lowest number of questions was submitted during the Eighth Special Sitting of the First Ordinary (Spring) Session in 2021, held on June 24, when only **7 questions** were put forward.⁵

Five sessions were also held with parliamentary questions on a specific topic. The first such session was held on 28 April 2021, when MPs presented **eight questions** to the Minister of Health, Jelena Borovinić Bojović, on a topic chosen by the parliamentary majority - “**Immunisation and other challenges accompanying the COVID-19 pandemic**”. During the Eighth Special Sitting held on 24 June 2021, MPs put forward **three questions** to the Minister of Foreign Affairs, Đorđe Radulović, on a topic chosen by the parliamentary opposition - “**Diplomatic Consular Network**”. During the Second Special Sitting held on 29 October 2021, **seven questions** were put forward to the Minister of Finance and Social Welfare, Miloško Spajić, on the topic of “**Personnel policy and reforms in the MFSW**”, initiated by the parliamentary majority. During the Fourth Special Sitting held on 27 May 2022, **seven questions** were put forward to the Minister of Finance, Aleksandar Damjanović, on a topic initiated by the parliamentary majority - “**The status of public finances in Montenegro**”. The last session of this type was held on 20 July 2022, where MPs put forward **seven questions** to the Minister of Agriculture, Forestry and Water Management, Vladimir Joković, on a topic initiated by the parliamentary opposition - “**The Government’s strategy for overcoming the economic crisis, announced by the Government itself**”.

In the past two years, the parliamentary opposition was more active and put forward **283 questions**, while the parliamentary majority submitted **256 questions**. However, a significant number of MPs was passive when it came to using parliamentary questions as a type of control mechanism. As many as 28.4% of MPs did not put forward any questions at all to the ministers or the Deputy Prime Minister from October 2021 to October 2022, which is a continuation of historic trends, as recorded in 2019, 2020, and the first nine months of 2021, when 20% of MPs did not put forward any questions to the Prime Minister or members of the Government.⁶

Good practices in putting forward parliamentary questions imply that they are mainly used to obtain information or to apply pressure on the executive branch to undertake specific activities in certain areas. However, almost half (45%) of the questions put forward to the Prime Ministers of

5 Questions of MPs and answers are available at:

<https://www.skupstina.me/me/sjednice/poslanicka-pitanja-i-odgovori>

6 MPs question time: The opposition asks more questions, a fifth of MPs do not ask any, 10/09/2021, available at:

<https://institut-alternativa.org/poslanicka-pitanja-opozicija-vise-pita-petina-nista/>

the 42nd and 43rd Governments in the period October 2021-October 2022 were exclusively related to seeking a position or opinion on certain topics.⁷ The rest of the questions related to requests for information and planned steps in key areas of the Government’s activities, but often in a generic manner, which did not help establish a clear line of responsibility for providing information or taking specific actions.⁸

The situation is somewhat better in the context of questions put forward to ministers in the 42nd and 43rd Governments – there was a total of 158 questions submitted, not counting the three ministerial hours/question times. A smaller proportion of these questions was limited solely to expressing and seeking opinions on certain topics (22 questions, i.e. 13%), while the rest of the questions were mainly related to seeking information on the implementation of certain activities or plans. Although the questions to ministers were more specific and often represented an appeal for action aimed at pushing for greater progress in specific departments, they also abounded in generalised formulations and left ample room for manoeuvring through answers. Simultaneously, they showed that the Government was insufficiently proactive in reporting on its work to the Parliament and citizens because MPs were often forced to seek information through parliamentary questions that should have been made publicly available in a proactive manner. One example of such a question refers to the purpose of spending the budget reserve provided for in the Law on Budget for 2022.⁹

Additionally, as indicated in our past publications,¹⁰ MPs issued a series of warnings in 2022, over the lack of promptness on behalf of the Government in delivering requested information and reports. For example, during discussions at the Security and Defence Committee sessions, it was pointed out that the report on the operations of the National Security Council was not submitted on time. Additionally, at the 21st session of this working body, the President of the Committee pointed out the failure of the Prime Minister to attend control hearings, and to submit information about the activities of the Police Directorate in Cetinje on 4 and 5 September, although 22 days had lapsed since the request.¹¹

7 For example, the question that exclusively probed attitudes was as follows: “Are you happy with the functioning of the Government in the two months that you have been in charge?”

8 Questions on next steps, which did not seek to obtain specific information or incite specific action were as follows: “Are you willing to do whatever it takes to achieve this elevated objective?” and “What will the Government and you personally do in the near future to intensify the EU integration process, which has evidently slowed down?”

9 MPs question time: How to reach better parliamentary oversight, Institute Alternative, 04/10/2022, available at: <https://institut-alternativa.org/38447-2/>

10 Milena Muk, *Parliamentary Oversight in Montenegro: A New Era or Just New Rules*, Institute Alternative, 30/10/2021, available at: <https://institut-alternativa.org/en/parliamentary-oversight-in-montenegro-a-new-era-or-just-new-rules/>

11 Milena Muk and Bojana Pravičević, *Are Parliamentary Committees up to the Task? Analysis of the Performance of Five Parliamentary Committees (October 1, 2021 - October 1, 2022)*, Institute Alternative, October 2022.

REPORT DELIBERATIONS: SOME, BUT INSUFFICIENT IMPROVEMENT

Certain progress has been observed concerning to the quality of deliberation of reports on the work of institutions and the total balance in certain areas. At the committee level, for example, the Committee on Political System, Judiciary and Administration did not adopt the 2020 Annual reports on the work of the prosecution and judiciary. Yet, the Committee also did not propose any recommendations for improving the performance or the reports of the prosecution and judiciary. Contrastingly, this year's review of the 2021 Annual report on the work of the Judicial Council and total balance in the judiciary was followed by the Committee's seven proposed conclusions.¹² In the context of the Annual Report on the Work of the State Prosecutor's Office and the Prosecutorial Council for 2021, the same Committee proposed six conclusions.¹³

In terms of performing the control function in the deliberation of reports in specific areas, the Committee on Human Rights and Freedoms stands out, particularly when it comes to the number of proposed conclusions and recommendations – a total of 111 in the period October 2021-October 2022. However, despite minor advances in proposing conclusions and recommendations after deliberating reports on the work of institutions or the total balance in certain areas, there is room for improvement in how these conclusions and recommendations are formulated. For example, the Committee on Political System, Judiciary and Administration called for a change in the methodology of reporting on the work of the courts in order to gain better insight into the essence of their work “rather than into the statistics”. However, no recommendations were given on how to execute qualitative improvements of the said reports.

The fact that the deliberation of reports is insufficiently used as a control mechanism is best illustrated by the example of the Security and Defence Committee, which considered only one report on the results in the area of fight **against organised crime and corruption**, in mid-2019, out of a total of seven reports submitted by the Police Director since 2018.¹⁴

12 The need to improve the methodology of the drafting of the Annual Work Report was underlined, as well as the transparency of the work of the Judicial Council, alongside the need to implement permanent appointments of judges in accordance with the law. The Committee also determined that it was necessary to specify the jurisdiction of the Judicial Council in the process of considering appeals, to improve the system of determining the disciplinary responsibility of judges for disciplinary offenses in connection with the exercise of judicial function and handling of specific cases, and to ensure that the reasons for the statute of limitations in criminal prosecution are examined in all relevant cases etc, See: Committee on Political System, Judiciary and Administration, *Report on the deliberation of the Annual Report on the work of the Judicial Council and total balance in the judiciary for 2021, with the Report on activities for the implementation and improvement of management and control for 2021, and a proposed list of conclusions*, 22/07/2022, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/443/2803-16503-00-72-22-4-2.pdf>

13 The conclusions refer to the improvement of the reporting methodology, which should contain more substantive qualitative analyses. The Committee believes that a greater number of indictments should be raised in the area of fighting organised crime and high-level corruption, and that greater inter-institutional and cooperation with international partners is needed. The Rulebook for the evaluation of state prosecutors and heads of state prosecution offices should be consistently applied, and efforts should be made to limit the excessive application of plea agreements. Efforts should also be made to improve financial and personnel capacities. See: Committee on Political System, Judiciary and Administration, *Report on the deliberation of the Annual Report on the work of the Judicial Council and total balance in the judiciary for 2021, with the Report on activities for the implementation and improvement of management and control for 2021, and a proposed list of conclusions*, 22/ 07/2022, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/447/2806-16501-00-72-22-8-2.pdf>

14 Biljana Nikolić, MPs do not care about reports on crime, Daily Vijesti, 23/09/2022, available at: <https://institut-alternativa.org/en/mps-do-not-care-about-the-reports-on-crime/>

It should be noted that, after the fall of the 42nd Government in 2022, the new minority 43rd Government did not adopt a work programme following the exposé of the PM-designate, i.e. Prime Minister Dritan Abazović. The last report on the implementation of the Government's Work Programme refers to the 42nd Government, published in February 2022.¹⁵

PARLIAMENTARY INVESTIGATIONS ON HOLD

For the first time, following a seven-year-long hiatus, MPs in the Parliament of Montenegro adopted the decision to open two parliamentary investigations on the following issues:

1. Collection of information and facts about activities related to the work of state authorities and other entities in connection to the **Možura wind power plant project**,¹⁶
2. Collection of information and facts related to the activities of the Ministry of the Interior - the Police Directorate and the National Security Agency on **4 and 5 September 2021 in Cetinje**.¹⁷

However, the inquiry committees for conducting parliamentary investigations in these cases had not yet been formed by the end of October 2022. The last parliamentary investigation, launched to establish facts regarding the sale of the property of Duvanski kombinat AD Podgorica, ended without tangible results in 2016.¹⁸ Parliamentary investigations are regulated by a special law, which allows members of the Inquiry Committee access to classified / sensitive information. Moreover, the law imposes an obligation on civil servants and state employees, current and former holders of state positions in the executive and legislative branches to respond to the invitation of the Inquiry Committee and provide statements or answer questions posed by members of the Committee on facts known to them in connection to the subject of the parliamentary investigation, as well as to submit any documentation they might have. However, the law does not contain penalty provisions, which would prevent failure to respond or provide false testimony.¹⁹ The law addressed some of the shortcomings of parliamentary investigations, which were previously

15 Report on the implementation of the Government's Work Programme for 2021, 03/02/2022, available at: <https://www.gov.me/dokumenta/6725e60f-ed6a-4d40-bc46-7d730bf6ac87>

16 Draft Decision on the launch of a Parliamentary investigation and the formation of an Inquiry Committee for the collection of information and facts about the activities of competent state authorities and other entities in connection with the Možura wind power plant project (adopted), 13/06/2022, Parliament of Montenegro, available at: <https://www.skupstina.me/me/sjednice/zakoni-i-druga-akta>

17 Draft Decision on the launch of a Parliamentary investigation and the formation of an Inquiry Committee for the collection of information and facts about the actions of members of the Ministry the Interior, the Police Directorate and the National Security Agency, in relation to the events that took place in Cetinje on 4 and 5 September, 2021 (adopted), 07/06/2022, Parliament of Montenegro, available at: <https://www.skupstina.me/me/sjednice/zakoni-i-druga-akta>

18 The Report of the Inquiry Committee was never discussed at the plenum, and the representatives of the ruling majority at that time believed that the report should not be proposed, given that in the meantime, court proceedings were already initiated in relation to the issues that had been the subject of the parliamentary investigation. The Law on Parliamentary Investigation stipulates that, if court proceedings are initiated on an issue that had previously led to the formation of an inquiry committee, the inquiry committee shall immediately cease its operations on the issue.

19 The Law on Parliamentary Investigation, "Official Gazette of Montenegro", no. 038/12 from 19/07/2012.

pointed out by Institute Alternative²⁰. However, challenges related to the passability of proposals submitted by the opposition, greater participation of citizens in providing information that could help in additional clarification of issues, improving the transparency of the work of Inquiry Committee, including mandatory (proactive) publication of all documentation (minutes, reports, statements, decisions, initiatives for data provision) – all prevail to this day.²¹

WHAT'S NEXT?

The significance of the role of the Parliament of Montenegro is reflected in the fact that in just over six months, two Governments lost the confidence of MPs and that two motions were filed to initiate parliamentary investigations, following a “hiatus” that lasted seven years.

However, strengthening the role of the Parliament in the political system does not go hand in hand with qualitative and sustainable changes in parliamentary control of the executive branch.

A more detailed analysis of the work of the Parliament in the last two years indicates the poor performance of control activities and evident neglect of key obligations by MPs. Therefore, most of the recommendations for improvement of control activities refer to the improvement of overall parliamentary practice in Montenegro, although minor normative changes would help in defining a better relationship between the legislative and executive branches of power.

20 Parliamentary Inquiry in Montenegro - Oversight Tool Lacking Political Support, Institute Alternative, January 2012, available at:

<http://media.institut-alternativa.org/2012/07/institute-alternative-parliamentary-inquiries-in-montenegro-oversight-tool-lacking-political-support-en.pdf>

21 Dina Bajramspahić, How to Make Parliamentary Inquiries Successful? - A look at the Audio Recordings Affair Parliamentary Inquiry two years on, Institute Alternative, Podgorica, May 2015, available at: <http://media.institut-alternativa.org/2015/06/kako-do-uspjesni-istraga-u-skupstini.pdf>

RECOMMENDATIONS FOR THE PARLIAMENT:

The Law on Parliament or the Parliamentary Rules of Procedure must prescribe the obligation of the Prime Ministers and members of the Government to attend sittings when interpellations about the work of the Government or individual departments are on the agenda;

.....

Members of Parliament should use the Law on Parliament to advocate for the introduction of an emergency Prime Minister's or minister's hour if the Government does not provide the requested information and reports in accordance with the Parliamentary Rules of Procedure and special laws, or if members of the Government fail to respond to the call for attendance in a parliamentary hearing;

.....

Members of Parliament should increasingly use deliberations of reports as a control mechanism and proactively propose conclusions and recommendations in relation to those reports;

.....

Members of Parliament should use parliamentary questions to a greater extent to encourage the executive to take action in certain priority areas, and to obtain comprehensive information about the situation in certain departments.

RECOMMENDATIONS FOR THE GOVERNMENT:

The Government should proactively inform the public and the Parliament about its activities, through regular reports on the implementation of the Government's Work Programme and compliance with the provisions of the Law on Free Access to Information;

.....

The Law on Government should provide a clearer definition of the obligations of a newly formed Government to draft its work programme on the basis of the exposé presented by PM-designate, and report on it to the Parliament on a regular basis;

.....

Members of the Government should respond to invitations to participate in parliamentary committee sessions. In order to underline this obligation, the PM and the General Secretariat of the Government should regularly compile and publish information on the cooperation of members and representatives of the Government with the Parliament.

SOURCES:

- Milena Muk, *Vote of no confidence in the 42nd and 43rd Governments motioned by over 90% of the current convocation of the Parliament*, Institute Alternative, 12/09/2022, available at: <https://institut-alternativa.org/pitanje-nepovjerenja-u-42-i-43-vladu-pokretalo-preko-90-aktuelnog-saziva-skupstine/>
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- *Parliamentary investigations in Montenegro: a control mechanism deprived of political support*, Institute Alternative, January 2012, available at: <http://media.institut-alternativa.org/2012/07/institute-alternative-parliamentary-inquiries-in-montenegro-oversight-tool-lacking-political-support-en.pdf>
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- *Law on Parliamentary Investigations*, "Official Gazette of Montenegro", no. 038/12 from 19/07/2012;
- All the reports of the Parliament of Montenegro are available at: <https://www.skupstina.me/me/sjednice/zakoni-i-druga-akta>
- MP's questions and answers available at: <https://www.skupstina.me/me/sjednice/poslanicka-pitanja-i-odgovori>

ABOUT INSTITUTE ALTERNATIVE

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

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

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

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

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

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

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

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

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

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

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

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