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COMPARATIVE ANALYSIS OF DEMOCRATIC PERFORMANCES OF THE PARLIAMENTS OF SERBIA, BOSNIA AND HERZEGOVINA AND MONTENEGRO

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Edited by
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Unitary-federal/confederal state	Unitary	Federal	Unitary
Population	7,120,666 inhabitants (census of 2011)	4,377,033 (census of 1991)	620,029 (census of 2011)
Organization of government (parliamentary, presidential, semi-presidential system)	Parliamentary-presidential system (semi-presidential)	Semi-presidential system	Parliamentary with the President
Manner of the election of the Head of the State	Direct	Direct	Direct
Unicameral or bicameral parliament	Unicameral	Bicameral	Unicameral
Number of MPs in the parliament	250	42 members + 15 delegates	81
Electoral system	Proportional (D'Hondt formula), threshold 5%, natural threshold for minorities, Serbia as a single constituency	Proportional (Sainte-Laguë), threshold 3%, compensation mandates as correction, 8 constituencies	Proportional (D'Hondt formula), threshold 3%, special threshold for minorities, entire country as a single constituency
Number of parliamentary convocations since the introduction of multiparty system	Nine (since 1990)	Six (since 1996)	Nine (since 1990)
EU member (phase in the association process)	Candidate status since March 1st, 2012	Stabilization and Association Agreement signed in June 2008	Candidate status since December 17th, 2010. Accession negotiations opened on June 29th, 2012
NATO/Partnership for Peace member	Membership in the Partnership for Peace since December 2007	Membership in the Partnership for Peace since December 2006	Membership in the Partnership for Peace since December 2006; MAP obtained in December 2009

INTRODUCTION

The volume in front of you is the result of one-year research project "Comparative Analysis of Democratic Performances of the Parliaments of Serbia, Bosnia and Herzegovina and Montenegro." The research team of the project was composed by researchers and associates of the University of Belgrade – Faculty of Political Sciences, Faculty of Political Sciences of the University of Montenegro and Sarajevo Open Centre, who are the authors of this volume. The project was funded within a broader regional project "Social, Political and Economic Change in the Western Balkans" within the framework of the Regional Research Promotion Programme in the Western Balkans (RRPP) (http://www.rrpp-westernbalkans.net/). The RRPP is aimed at improvement and development of research in the field of social sciences in Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The programme supports researchers through research grants, methodological trainings and opportunities for regional and international exchange and networking of researchers. The programme is financed by the Swiss Development and Cooperation Agency, and is operated by the University of Fribourg, Switzerland (http://www.rrpp-westernbalkans.net/en/about.html). Therefore, the goals of our project included the enhancement of institutional relationships between the research organizations in the region, together with establishment of contacts among young researchers and creation of regional academic network that should serve as a basis for future joint projects.

The researchers were interested in political development of ex YU countries. Do they develop in an identical, similar or different ways? What are the problems and potential solutions for unconsolidated democracies? What are the similarities and differences? Does the same institution – parliament, yield different results in different social and political contexts? Parliaments do not exist "in a vacuum". Partners in this project come from new and fragile democracies. In a broader sense, these are three states which have been encountering very different problems in the process of democratic transition and consolidation, and which, above else, obtained their state independence in different ways. A relatively weak parliament is a common weakness of new democracies. The development of the idea and practice of parliamentarism after the renewed multiparty system has not been accompanied with adequate theoretical debates, empirical research or appropriate professional literature. Parliament is an institution enjoying almost the lowest

level of trust of citizens. Citizens rather see it as a "voting machine" and a "screen to democracy" than as "institution of high dignity and respect" or "the incubator of democracy". The global trend of supremacy of executive power has in the new democracies been completed to its ultimate consequences. Parliament has a limited influence in the process of political deciding. Although formally the highest branch of power, in practice there is a tendency of its marginalization. Starting from the importance of the parliament as the supreme legislative body, the controller of executive power and directly elected representative body of citizens, the aim of this volume is to enlighten in more details the problem of weakness of the parliament, analysing the functioning of the parliaments of Serbia, Bosnia and Herzegovina and Montenegro. Weak and inefficient parliaments cause distrust of citizens in representative institutions, which hinders the development and consolidation of democracy in these countries. In an aim to contribute strengthening of the parliament, besides pointing to the problem and explanation of weaknesses of the three parliaments, our goal is to offer recommendations for their overcoming. With that aim, this volume is accompanied with three studies of recommendations for each state individually, offering possible directions of solving certain problems identified by this research in the analysed fields.

The fundamental question raised in this volume is why the parliaments of the Western Balkan states are weak and how it is possible to enhance their position in the system of government and increase the efficiency of their work. Within the legislative function of the parliament, we are particularly interested in the relation between the competences granted by the Constitutions and the laws and the practice, i.e. who proposes the laws, to what extent the bills are changed during the legislative procedure, who proposes amendments and whose amendments are adopted, what and how large is the role of the parliamentary committees in the legislative process. Regarding the control function of the parliament, we are interested in the manner in which the right to the oversight over the work of the executive power is exercised (parliamentary questions, parliamentary inquiries) and in what way and how efficiently the parliaments perform the control over the work of the government (interpellation, voting no-confidence to the government, voting confidence to the government, etc). Starting from the hypothesis that the analysed parliaments insufficiently perform their competences in the field of control of the executive power, we are particularly interested in reasons and possibilities for activation of this parliamentary function. Within the third research dimension, we are interested in the manner for providing transparency and communication with citizens: which data are publicly available and in what manner, do the parliaments inform and consult the public during debates and decision-making, are their institutions of public advocacy etc. Starting from the hypothesis that the three parliaments are relatively transparent, our task was to explain why the analysed parliaments are the institutions of the lowest level of trust and re-

spect among citizens. Finally, particular attention was paid to the mechanisms of influence of international actors (the EU and international organizations) on the work and efficiency of the parliaments: if and in what manner these institutions influence daily work and decisions of the parliaments, to what extent the projects of international organizations influence the improvement of parliamentary work and capacities of MPs and services and how does this reflect on their subsequent work.

The research was based on the approach used in the study ***The New Parliaments of Central and Eastern Europe***, (Edited by David M. Olson and Philip Norton, Frank Cass, London, Portland, OR. 1996), taking care of external and internal characteristics, i.e. context in which the parliaments in these states work. We used content analysis to research the constitutional structure, forms of organization of government (parliamentary, semi-presidential system, i.e. system with directly elected president), as well as forms of state organization (unitary, federal state, provinces, entities, cantons). We processed the issues of electoral system (majority, mixed, proportional) and party system, as they directly influence shaping of parliaments. Also, we analysed internal characteristics of parliaments, from the number of MPs, number of houses (unicameral, bicameral) and the number of parliamentary committees. Considering that the functioning of the parliament at its best reflects in realization of its basic functions, in the empirical part of the research the emphasize was put on two important parliamentary competencies – legislative and control. Besides these two functions, the research focus was directed on the analysis of transparency in parliamentary work and influence of international actors. Efficient and effective performance of these competences contribute higher democratic performance of society and more quality laws, whereas the control of work of the executive power can contribute increase of political accountability, division of power and mutual limitation of branches of power, reduction of corruption and more quality work of the government. On the other hand, transparency of the parliament points to the quality of the representative function i.e. communication of parliament with citizens and speaks about the extent to which the parliament itself is accountable and open towards the citizens who elected it. Equally, transparency of work enables the civil society actors to participate in the decision making process and control the parliamentary work, thus increasing the democratic performance of the system. Influence of international actors on the parliamentary work is particularly neglected in national research, and particularly important having in mind that all three countries aspire to the EU membership ad that the EU requirements dominantly define the agenda of work of these parliaments. Also, the influence of international community in Bosnia and Herzegovina is institutionalized and essentially important for functioning of all institutions, including the parliament. Besides that, the cooperation of the parliaments with international organizations is increasingly intensive, while their

influence is particularly visible in improvement of capacities of MPs and the parliamentary services.

From the aspect of methodology, these are three case studies, which should offer relevant information for comparison. In doing this, the research team faced numerous difficulties. First of all, because comparative road is full of "traps" in respect to (in)comparability of different features and characteristics. Parliaments of researched states act in very different state frameworks and political systems. Roads and dynamics of consolidation of democracy are rather different, which reflects to their parliaments. The question is to what extent the parliaments are the causes or consequences of these circumstances. Research encompassed content analysis of constitutions, laws, rules of procedure and other documents regulating the position and functioning of the three parliaments, reports on work, analysis of relevant internet contents and finally in-depth interviews with MPs and representatives of international organizations which hitherto in different projects cooperated with the parliaments of Serbia, BiH and Montenegro. We carried out 36 semi-structured interviews (25 with MPs and 11 with representatives of international organizations) in direct meetings with the respondents, in average duration of between one and two hours. The interviews were accompanied with four questionnaires – separately for each analysed field. Same questionnaires were used for all three parliaments. The questionnaire on legislative function of the parliament contained about thirty questions formulated within three topics: first, the role of MPs as proposers in the process of proposing bills; secondly, the role of MPs in the process of drafting laws by other proposers; and third, the role of MPs and parliamentary committees in the process of amending the bills and adoption of laws. The other three questionnaires – 1. Questionnaire which served for obtaining data on performing control and oversight function of the parliament, 2. Questionnaire by which we investigated mechanisms for communication of the parliament with the public and the manners of provision of transparency in the work and decision-making in the parliament and 3. Questionnaire used as a means for checking the connection of roles of international organizations and European integration process with the parliamentary work – contained ten to fifteen questions in average. The interviewers were free to ask supplementary questions and by need return to the previously posed ones. With approval of the respondents, all interviews were recorded. The respondents nevertheless wanted to remain anonymous and their names are known to the researchers. As a supplementary method for data collection, questionnaires with supplementary questions were prepared and directed to the services of all three parliaments. Answers to the supplementary questions were an important source of concrete quantity data and additional explanations. Empirical research was carried out in the period from March to September 2012.

In the data collection process, the research team faced several challenges. First, in May 2012 the parliamentary election was held in Serbia which, due to the MP's focus to electoral campaign, significantly hindered the scheduling and conducting of interviews. Second, research team from Bosnia and Herzegovina encountered significant obstacles in contacting MPs and scheduling interviews. For more than two months, the researchers unsuccessfully attempted to contact MPs both through official parliamentary channels and through personal contacts. While responds to official mails have never been received, interviews were finally scheduled through personal contacts of the researchers. Third, the BiH Parliamentary Service did not respond to the questionnaire sent to them with an explanation that they are not obliged to do so pursuant to the law on access to information. The questions pertained to the analysis of legislative process (if there were legislative initiatives by citizens, who reads and answers the letters and questions of citizens if not addressed to particular persons, how many bills where the Government was not the proposer existed per convocation, how many amendments were adopted per convocation, submitted by the MPS of the ruling coalition and opposition, etc.). Bosnia and Herzegovina held local elections which additionally hampered the communication with political actors. At the end, the Montenegro team had the least problems in cooperation with the parliament, but the parliamentary election held in September partially disturbed the dynamics of work on the project.

The first versions of the findings obtained through the research were presented on September 28th and 29th, 2012 at the international conference organized by the University of Belgrade – Faculty of Political Sciences. The debate held during the conference significantly contributed the finalization of the research and the improvement of texts contained in this volume. The volume has been published in Serbian/Bosnian/Montenegrin and in English language. The conference was accompanied with three round tables, considering the recommendations for improvement of work of the analysed parliaments. The first round table was organized within the Belgrade conference, in order to consider and improve the recommendations for improvement of work of the National Assembly of the Republic of Serbia. The second round table was held in Sarajevo on December 18th, 2012, and offered an opportunity for analysis and supplement to the policy study focused on the BiH Parliament. The third round table was held in Podgorica on December 21st.

We hope that this volume shall motivate the interest for further research in the field of parliamentarism in the region, and at least in part supplement the lack of relevant literature and sources. It can still be said that there is no enough awareness developed, either in professional literature or in expert or broad public, on the importance of parliamentarism. The project is aimed at shifting this topic from the margin to the centre of interest and engagement. In other words, it

would, at least in part, fill the gap existing in political science, and significantly contribute deepening of knowledge of important political and social processes which our societies have been undergoing in recent years.

Our huge gratitude goes to the mentors and reviewers, Prof. Drago Zajc from the University of Ljubljana and Prof. Florian Bieber from the University of Graz, who critically read our texts and by their comments significantly improved our work. We are also grateful to Prof. Mirjana Kasapović from the Faculty of Political Sciences, University of Zagreb, and Prof. Srđan Darmanović from the Faculty of Political Sciences, University of Montenegro, whose advices helped the Montenegrin research team, as well as to our colleagues, Prof. Vukašin Pavlović and Prof. Zoran Stojiljković from the Faculty of Political Sciences, University of Belgrade, whose advices helped the Serbian research team. We are using this opportunity to thank to all MPs who contributed this research through their responds to the interviews, as well as to the parliamentary services which submitted the requested responses. We are particularly thankful to the University of Fribourg, Switzerland, and the Regional Research Promotion Programme in the Western Balkans (RRPP) which recognized the importance of this research and supported it financially.

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CONSTITUTIONAL AND INSTITUTIONAL CONTEXT OF THE PARLIAMENT

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CONSTITUTIONAL, POLITICAL AND INSTITUTIONAL FRAMEWORK OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

Introduction – Serbia 1990–2000

Although the multiparty system in Serbia was established in the same time as in other East-European states, political changes and democratization in Serbia significantly differ from other post-communist societies. Slobodan Milošević came to power in the pre-pluralistic time, transformed the League of Communists of Serbia (SKS) into the Socialist Party of Serbia (hereinafter: SPS) and was ruling from 1987 to 2000. Political life in Serbia during the 1990s had the characteristics of a closed state (by UN sanctions), a closed society (prohibitions imposed by the regime) and a closed system (by blockades), without the real political competition either allowed or possible. The SPS was "the dominant party" in Serbia in the 1990s. It was ruling all the time (1990–2000). The support to this party was declining from one election to another, and it was forced to make ever bigger concessions to the coalition parties, with the help of which it obtained the parliamentary majority (either being New Democracy, Serbian Radical Party or the Yugoslav Left). The regime in Serbia during the 1990s is qualified as hybrid, i.e. "authoritarian regime with a democratic facade" (Pavlović, Antonić). When speaking about Serbia, it is necessary to make a difference between the period from 1990 to 2000, after the political changes in Serbia and the replacement of Milošević. The change of regime in Serbia occurred through victory at "surprising election" and defence of that victory by peaceful protests in the streets around the Federal Assembly building. What happened on October 5th, 2000 meant, among else, the defence of electoral victory at the presidential and parliamentary elections (for the Federal Assembly) of September 24th. That was the second time (similar as after the local election 1996/97) that it was necessary to defeat Milošević first at the election and then also in the street, by defence of electoral victory. In Serbia, changes were carried out without a discontinuity with the former regime and were accompanied with liberal deficit, which would have effects on the dynamics and success of reforms. "Liberal revolution" without constitutionalization led to speaking about a "betrayed revolution"! Unfulfilled promises, betrayed hopes and expectations

("the bigger the expectations, the bigger the disappointments") brought disappointment of citizens and certain delays. Instead of a more radical break up with the old regime, the strategy of constitutional-institutional continuity was carried out. There was no agreement among the leading political actors when the establishment of the fundamental principles of the new order came to the agenda. The dispute was stuck in the procedural labyrinth between legality and legitimacy. The manner in which a state transforms from the hands of authoritarian leaders to the hands of pro-democratic leaders bears significant influence on the quality and stability of democracy (Sodaro, 2004: 210). Political changes of 2000, with ten-year delay in comparison to other post-communist countries, opened the issues of constitution of Serbia as a democratic polity. Political changes in Serbia in 2000 also had elements of replacement and transformation of the regime. What happened on October 5th, 2000 meant, among else, the defence of the electoral victory at presidential and parliamentary election (for Federal Assembly) of September 24th. The transition in Serbia has been accompanied by the "unsurpassed legacy of the past" (Mladen Lazić). Political changes, taken by the "domino or "snowball"" effect, assumed constitutionalization. In order to constitute a democratic polity, it is necessary to (re)solve the issues of its identity, establish procedures and attempt to point to possible directions of shaping a basic consensus and public good. Constitutionalism in Serbia was since the beginning of the 1990s faced with the problem of adoption, i.e. amendment to the Constitution, with the issues of implementation and respect of the Constitution being no less open. Political parties in Serbia even offered competitive constitutional models.[1] Noticing that the politics, by its interests as its basic determinants, took over the position of the law, Carl Friedrich, from that perspective, wrote that "constitutional provisions appear as a specific technical formula of basic political decisions" (Friedrich, 1996:11). Whatever the dilemmas or solutions offered by the theory and comparative experiences, the adoption of the Constitution is ultimately permeated by relations of power and imperatives of daily politics. In Serbia, since 1990, the Constitution was, among else, the subject of political competition (first in 1990: "first election and then the Constitution, or first the Constitution and then election" and then in 2006: "the election for the Constitution or the Constitution for the election"). After the introduction of the multiparty system in Serbia in 1989–90, the opposition insisted on a new Constitution, to be followed by the election. Milošević wanted to maintain the power and the continuity and was in favour of the reverse order, which finally happened. After the political changes of 2000, the Assembly of Serbia did not use its constitutional chance. The "window of constitutional opportunity" (Bruce Ack-

[1] Constitutional proposals were offered by: the Democratic Party of Serbia, Democratic Party and G17 plus, as well as the Belgrade Centre of Human Rights, Prof. Pavle Nikolić (the Constitution of the Kingdom of Serbia) and the Juris Forum. The procedure for amendment to the Constitution envisaged two-third majority in the parliament and referendum majority out of the total number of registered voters.

erman) was opened for a short time and was very quickly replaced by "the imperatives of daily politics, which deepen the differences among political actors" (Dimitrijević, 2002: 38). The DOS had a two-third majority (of DOS), 176 out of 250 MPs required for amending the Constitution. During 2004, a principle agreement of all parliamentary parties was achieved, to proceed with the enactment of the new Constitution, in accordance with the procedure envisaged by the Constitution that was enforce. The Government and the President of the Republic submitted to the Assembly their drafts of the Constitution. When the agreement on the amendment to the Constitution was reached, the drafting of the new Constitution unfolded almost entirely out of the Assembly. The Committee on Constitutional Issues of the National Assembly was excluded from the drafting process all until its end. The proposed models had a lot of similarities and several disputable and non-harmonized issues, such were: the definition of Serbia as a civil or national state, the manner of election of the President of the Republic (Draft of the Constitution of the Government of the Republic of Serbia, Basic Principles for the new Constitution of the Republic of Serbia by the Democratic Party of Serbia, 2002, and the Constitution model by the group of experts of the President of the Republic of Serbia envisaged direct election of the President of the Republic)[2] and the issue of spatial-territorial division and the division of power (regionalization and decentralization), i.e. the status of Vojvodina. After the referendum in Montenegro (May 21st, 2006), the Assembly of Serbia adopted on June 6th, 2006 the Decision on the renewal of the state independence of Serbia.[3] Almost suddenly and rather unexpectedly, the parliamentary parties achieved a compromise on the new Constitution, hardly imaginable in the previous period, although the work of the Committee on Constitutional Issues of the Republic of Serbia was in a two-year blockade due to the obstruction guided by party interests. The party interests and to some extent the state interests were also among the factors that accelerated the entire process of adoption of the new Constitution. One of the reasons for the adoption of the Constitution, as the parties stated, was the definition of the status of Kosovo and Metohija in the Constitution of Serbia. The text which entered the parliamentary procedure was allocated 4 hours in total for the debate and voting thereon. The night before the adoption of the Constitution, the Rules of Procedure of the National Assembly was amended, establishing a special sitting as a form of parliamentary work. The MPs received the Constitutional Bill two hours before voting thereon.[4] On September 30th, 2006, the National Assembly unanimously

[2] The proposed models were presented in the publications: *Predlozi za novi ustav Srbije*, 2, Friedrich Ebert Stifftung, Belgrade, 2005; *Modeli ustavnog preuredjenja Jugoslavije i Srbije*, Editor Milan Jovanović, Institut za politicke studije, Belgrade, 2002

[3] Decision of the Assembly of Serbia of June 6, 2006, Official Gazette of the RS, No. 48/2006

[4] On this in: Evropeizacija Srbije. Monitoring procesa evropeizacije drustvenog, ekonomskog, politickog i pravnog prostora Srbije, Fond za otvoreno društvo, Belgrade, 2006, p. 27.

(by votes of all 242 present MPs) adopted the Bill of the new Constitution of the Republic of Serbia and passed the decision on holding a referendum on October 28th and 29th, 2006, for the confirmation of the Constitutional Bill. By the majority of 53.04% of the total number of voters registered in the electoral list, the citizens confirmed the new Constitution and the National Assembly ceremonially promulgated it on November 8th, 2006. In the second part of that same special sitting, the Assembly adopted the Constitutional Law for the implementation of the Constitution of Serbia. Compromises and concessions reduced the quality of certain solutions. This Constitution symbolically means the break of the continuity with Milošević's authoritarian regime and the system of values which characterized it. It abolished social property, introduced new institutions and legal mechanisms, such are the Civic Defender, High Judicial Council, State Prosecutors Council, State Audit Institution, constitutional appeal etc. Human rights and freedoms, individual and collective, are a step forward towards the European standards, which was to a significant measure done already by the Constitutional Charter of Serbia and Montenegro (SiCG), i.e. the Charter on Human and Minority Rights and Civil Freedoms (inviolability of home, no death penalty, prohibition of cloning, human trafficking, sexual or economic exploitation of persons in unfavourable position, slavery and forced labour). Private property got the dominant role, while urban building land and agricultural land on private assets were granted the market character. It maintained the similar position of the Autonomous Province of Vojvodina with a bit higher economic autonomy, however also stipulating the possibility of establishing new autonomous provinces. The preamble of the Constitution defines that the Province of Kosovo and Metohija is an integral part of the territory of Serbia with the right to "a substantial autonomy". In comparison to the previous Constitution of 1990, the procedure of amending the Constitution has been facilitated. The amendment to the Constitution still requires a two-third majority of the total number of MPs, however abolishing the hitherto obligatory referendum and endorsement by the majority of the total number of voters for the constitutional amendment to be adopted. The new Constitution introduces the prohibition of the conflict of interest. Article 102 Para 3 states "Deputy may not be a deputy in the Assembly of the autonomous province, nor an official in bodies of executive government and judiciary, nor may he or she perform other functions, affairs and duties, which represent a conflict of interest". Members of the Government cannot act as MPs in the same time. According to Article 126, "Member of the Government may not be a deputy in the National Assembly, deputy in the Assembly of the autonomous province and representative in the Assembly of the local self-government units, nor may he or she be a member of the executive council of the autonomous province or executive body of the local self-government unit". One of disputable solutions is contained in Article 102, second paragraph, according to which parties decide on parliamentary mandates, on which more details shall follow later on. An important innovation in relation to the previous Constitution is that there is

no supremacy of generally adopted rules of international law and ratified international treaties over the national law. Namely, pursuant to Article 194 of the Constitution of Serbia, "Ratified international treaties and generally accepted rules of ithe international law shall be part of the legal system of the Republic of Serbia" if being in compliance with the Constitution of Serbia. This means that hierarchically they are above the laws and below the Constitution. The amendment to the Constitution is more closely elaborated in Article 203 of the Constitution. The Assembly adopts and amends the Constitution (Article 99 of the Constitution). The proposal to amend the Constitution can be submitted by at least one third of the total number of MPs, the President of the Republic, the Government and at least 150,000 voters. The proposal for amendment to the Constitution is adopted by the two-third majority. If the proposal is not adopted, the amendment to the Constitution cannot be initiated until the expiry of one year. If the proposal of the amendment to the Constitution is adopted, it shall be followed by drafting, i.e. consideration of the act on amendment to the Constitution. The Assembly adopts the acct on the amendment to the Constitution by the two-third majority of the total number of MPs and it can decide that citizens as well endorse it at the Republic referendum (Article 203).

Serbian parliament in the Constitution and in the Law on the National Assembly

The position of the parliament (the National Assembly of the Republic of Serbia) has been conditioned by the Constitutional and institutional structure (division of power, electoral system of proportional representation with open lists, party system, hybrid – parliamentary-presidential (semi-presidential) system, social structure (ethnic, religious) and political culture. "*The National Assembly shall be the supreme representative body and holder of constitutional and legislative power in the Republic of Serbia*" (Constitution of Serbia of 2006, Article 98). Such position and respect derive from the direct election by the citizens (people), its composition by the people's representatives and the legitimacy of the holder of "people's sovereignty". In contemporary parliamentary systems, the Law on the Parliament is a rarity, as in most cases the Constitution regulates the competence, organization and functioning of the parliament.[5] Constitutions most often regulate the competence of the parliament, while the detailed elaboration of organization and functioning of the parliament has been left to the Rules of Procedure. The formal position of the parliament as the supreme branch of power does not always correspond with its actual position. The new Constitution of 2006 made

[5] The states having no law on the parliament regulate these issues by the Constitution and the parliamentary Rules of Procedure. A few states which have a special law on the parliament include the United Kingdom, Sweden, Switzerland and, until 2000, Finland.

the Law on the National Assembly the constitutional category. This was both the chance and the challenge to regulate and define the parliament's autonomy.

The Constitution of the Republic of Serbia of 2006 stipulates the enactment of the Law on the National Assembly ("The Law on the National Assembly shall be enacted", Article 110). In this manner, the parliament has been left the right to regulate its own organization, work and parliamentary procedure not only by the parliamentary Rules of Procedure, but also by the Law on the National Assembly. The Constitutional Law on Implementation of the Constitution of the Republic of Serbia (Article 15), adopted on November 10th, 2006, stipulated the deadline of December 31st, 2008 for harmonization of all laws not in compliance with the Constitution. The basic goal of enacting the Law on the National Assembly was to regulate the functions, organization and the manner of work of the National Assembly, the status, rights and duties of MPs, the relation of the National Assembly with other authorities, the rights and obligations of the National Assembly in administration the property and budgetary assets at its disposal, as well as the position of the National Assembly Service. The Constitution of the Republic of Serbia does not enter into details of internal organization and regulation of the parliament's activities. These issues are regulated partly by the Law on the National Assembly, and partly by the Rules of Procedure of the National Assembly. The Constitution of the Republic of Serbia contains a controversy of constitutional provisions pertaining to the competence of the National Assembly. The Constitution states that the National Assembly adopts its Rules of Procedure by the absolute majority of all MPs, which attributes a particular significance to this act, whereas the Law on the National Assembly is not a subject to the rules by a special and more difficult procedure of enactment so it falls under the ordinary legislation. However, it is important to emphasize that hierarchy and supremacy of acts is derived per their features, which positions the law above the parliamentary Rules of Procedure. If it is so, the question remains why for the adoption of the Rules of Procedure the Constitution stipulates lower majority than for the adoption of a law, in this case the Law on the National Assembly (Pejić, 2006: 233–234).

The Law on the National Assembly in its Article 2 fully took over the provisions of Article 98 of the Constitution of the Republic of Serbia reading: "The National Assembly shall be the supreme representative body and holder of constitutional and legislative power in the Republic of Serbia". In its Article 15, the Law entirely took over Article 99 of the Constitution of the Republic of Serbia, pertaining to the competence of the National Assembly.

One of the guiding ideas for the adoption of the Law on the National Assembly, besides the Constitutional obligations, was the provision of conditions for the work of the parliament, as the supreme power in the system of division of power (legislative, executive and judicial). The level of autonomy of the parliament depends on its position in the constitutional system, its competences, and

also on the resources available thereto. Except for the normative solutions, the position of the parliament is frequently dependent on actual relations of political forces. The progress has primarily been made in the field of budgetary autonomy (Chapter XV, Assets and Financing of the National Assembly, Articles 64–69). On the basis of its "own" Law, the National Assembly was enabled to prepare the proposal of its budget, regulating its financial autonomy within the overall budget of the Republic of Serbia, prepared by the Government, however adopted by the National Assembly. The National Assembly prepares its budget (based on the guidelines of the Ministry of Finance) which the Government includes into the state budget without harmonization.

This Law established the Collegium of the National Assembly (Art. 26), a body of the National Assembly the Speaker of the National Assembly convenes to coordinate the work and perform consultations regarding the work of the National Assembly. The Collegium is composed of the Speaker of the National Assembly, Deputy Speakers of the National Assembly and Heads of the parliamentary groups in the National Assembly. Although the Law did not deal in details with relations with other state authorities and organizations, it indicated that these issues should be regulated by the Rules of Procedure. In this manner it precised the relation with independent and regulatory bodies ("Procedure for conducting oversight over the work of state institutions, organizations and bodies") in which election the National Assembly participated and which report on their work to the Assembly (Article 237 of the Rules of Procedure). After the adoption of the Law on the National Assembly, the new Rules of Procedure elaborated in more details many issues, such is the decrease of the number of parliamentary committees from 30 to 19, i.e. 20, which has been applicable since the parliamentary convocation of 2012.

Relation of the parliament and the President of the Republic

All states have parliaments, but not all of them are parliamentary democracies. Serbia has the system with directly elected president, with a lot of arguments in favour of calling it the semi-presidential system.[6] The President of Serbia does not have a "proactive power" of proposing laws and enacting decrees with legal force, but only a "reactive" power of returning the laws. This veto is a reactive legislative power. Considering the provision of presidential promulgation of laws by a decree, the President can request the National Assembly to repeat the voting

[6] Different terminology is used for this system: semi-presidentialism (Duverger, Linz), premier-presidentialism (Shugart and Carey), president-parliamentarism, bicephalic executive, "dual rule" or "one country and two masters", particularly when speaking about cohabitation. Semi-presidential systems are: France, Austria, Finland, Island, Ireland and Portugal. More details on this in the book: *Politički život Srbije, između partokratije i demokratije*, pp. 105–125.

on a bill, however being obliged to promulgate the newly adopted law. The President used this power in several occasions (Law on the Government and Law on Labour). This part of competences, although limited, showed its good sides as a corrective factor in the conditions of a fusion of power between the Assembly and the Government. According to the new Constitution of Serbia adopted in 2006, pursuant to Article 118, the Assembly of Serbia has the possibility to "dismiss the President of the Republic for the violation of the Constitution, by the votes of at least two thirds of deputies".

Relation of the parliament and the Government

One of the most important and probably the key issue in representative democracy is the relation between the legislative and the executive power, i.e. between the parliament and the Government. It is difficult to expect that in administrative sense the parliament has the dominant role and the Government only the implementation one. English theoretician Sidney Low long ago wondered how we could expect that the government, in which the generals sit, could only be a factor of implementation of decisions of the parliament which was occupied by ordinary privates. Contemporary solutions have been developing towards entrusting the governing-operative functions to the Government, and control and other functions to the parliament. The role of the parliament was also the one to change during the evolution of political institutions.[7] Today we are witnessing the increasing supremacy of executive power (the Government or President of the state), so that the focus of political power shifts to political parties. In that sense, parliaments are reduced to "chat rooms", "debate clubs" or "public forums", which only confirm the decisions made somewhere else. If the supremacy of the executive power is the world trend, the marginalization and subordination of the parliament to the Government in Serbia are the ultimate outcomes of that trend. According to the Constitution of Serbia, the executive power is concentrated in the Government, which creates the very core of governing. Art. 122 of the Constitution of Serbia reads: "The Government shall be the holder of executive power in the Republic of Serbia". Besides, the Government, "establishes and pursues policy" (Article 123). As Slobodan Vučetić emphasized: The actual power of the Government is primarily expressed in that it is almost the exclusive pro-

[7] Speaking about political-institutional development of the British system in a part of political literature, Vučina Vasović notes: "While during the last and in the beginning of this century in the set of papers the Crown occupied the first position, and then the Government and the Parliament, without inclusion of parties into the analysis framework, Austin Ogg, already between the two world wars, put the Government to the first place in his analysis, then the Parliament and finally party, in order for Andre Mathiot to start , in recent time, his analysis with parties, followed by the Government, the Parliament, and finally the king", Vučina Vasović, 2006, *Savremene demokratije, Volume I*, p 308.

poser of laws. Also, the Government implements laws, by enacting decrees and other regulations and measures which in fact expand and narrow or selectively implement certain legal solutions" (Vučetić, 2006: 36). One of the Government's competences enhanced by the new Constitution is the power to submit proposals to the Assembly for election and dismissal of prosecutors, which was previously under the competence of the High Judicial Council. The President of the Republic cannot anymore request the Government to expose his/her attitudes on certain issues from President's competence. Besides, the position of the Prime Minister has been significantly enhanced – "The Prime Minister shall manage and direct the work of the Government, coordinate the work of members of the Government and represent the Government" (Article 125). Also, Ministers shall now "account for their work and situation within the competence of their ministries to the Prime Minister, Government and National Assembly".

Territorial organization of Serbia

Territorial organization of the Republic of Serbia is regulated in accordance with the Constitution of the Republic of Serbia, (Part Seven – Territorial Organization, Articles 176 to 193) and the Law on Territorial Organization of the Republic of Serbia.[8] According to the Constitution and this Law, territorial organization of the Republic consists of municipalities, cities and the city of Belgrade, as territorial units, and two autonomous provinces (AP Vojvodina and AP Kosovo and Metohija) as a form of territorial autonomy. In Serbia, the above mentioned Law established 150 municipalities (earlier 169) and 23 cities (earlier only 5), while the city of Belgrade has by the Constitution been defined as the Capital of the Republic.[9] The city of Belgrade enjoys a specific position in the Constitution of Serbia and in relevant laws due to its size, economic development and overall

[8] *Constitution of the Republic of Serbia*, Official Gazette of the RS, No. 83/06, *Law on Territorial Organization,* Official Gazette of the RS, No. 129/2007.

[9] In the system of territorial organization, municipality is the basic territorial unit, which exercises local self-government and, by rule, has over 10,000 inhabitants. City is a territorial unit representing economic, administrative, geographic and cultural centre of the broader area, and, by rule, having more than 100,000 inhabitants. Territory of a city can be divided into city municipalities, which is defined by the statute of the city, in accordance with the law. It is important to emphasize that city municipalities are not territorial units and that, in difference from previous legislative solution, their establishment is not a prerequisite for obtaining the status of a city. The City of Belgrade is a separate territorial unit defined by the Constitution and the law. City territory is composed of urban and suburban areas, i.e. areas of cadaster municipalities entering into the composition of the City. For more effective and efficient performance of certain competences of the City, within the territory of the city defined by the law, the Statute of the City establishes city municipalities (Article 6 of the Law on Territorial Organization).

importance. However, this specificity of Belgrade remains limited within the borders of single-level and monotype local self-government.

Influence of electoral system on the structure and work of the parliament

Electoral system strongly influences the formation and functioning of the parliament.[10] In Serbia, the two-round majority electoral system was applied only in the first multiparty elections of 1990. Since 1992, the proportional electoral system has been used in all elections carried out so far for the Assembly of Serbia (1992–2012). All the time the threshold has been 5% of votes, whereas the transformation of votes to seats is calculated in accordance with the D'Hondt formula. The most recent change of the electoral system in Serbia was made in 2011. Proportional electoral systems (PR, *proportional representation*, or party-lists systems) are considered to be more favourable for smaller parties as they facilitate their entry into the parliament and provide for a better social representation. However, the minorities in Serbia have been most represented in the parliament after the first multiparty election, which implemented the majority two-round system. The territorial concentration of certain minorities was one of the reasons for such outcome. The question is raised to what extent a better representativeness of a parliament reflects to the efficiency of its functioning. This is often interpreted as *trade-off*, i.e. shall there be enough representative parliament and government or a strong and stable government; it is difficult to obtain both in the same time. Proportional electoral systems in average gives a more proportional result in relation to majority (non-proportional) electoral systems. Proportionality of electoral system bears a consequence of a more proportional transposition and higher representation of minority parties, smaller parties, as well as the fragmentation of party system and an unavoidability of a coalition government. This means the lower distortion between the number of votes obtained by the party and the number of seats allocated thereon. The electoral will of voters is not transferred to the government immediately upon elections, but coalition majorities are to be formed not so easily and not so fast. Small parties have the coalition and frequently the blackmailing potential. The higher is the proportionality of the system, the party system is more fragmented, and the more fragmented is the party system, the higher are the tendencies towards broader, i.e. more numerous coalitions. In states applying proportional electoral system, it is rare that a single party can compose a government, so that coalitions are unavoidable. This reduces or at least blurs the accountability of such government, as everybody is hiding

[10] On this in more details we already wrote in: Političke posledice izbornog sistema u Srbiji, Politički život, No. 4, 2012. Centar za demokratiju Fakulteta političkih nauka u Beogradu and Službeni glasnik, pp. 19–35

behind somebody. In that manner, pre-electoral promises given to voters are usually neglected.

Table 1. Effects of electoral system in Serbia

Year/ Election/ Ord./ Extraord.	Electoral system	Number of constituencies	DM – No. of representatives elected per constituency	No of municipalities without MPs[11]	Disproportionality index[12]	Effective No. of parties	Government – single party/coalition
1990 Ord.	Majority-two round ordinary	250	1	59	23.65	1.4	Single party – SPS 1–11. 2. 1991 23. 12. 1991 2–23. 12. 1991 10. 2. 1993
1992 Extraord.	Proportional extraordinary	9	27.7 (average)	90	10.22	3.4	Minority 10. 2. 1993 18. 3. 1993
1993 Extraord..	Proportional extraordinary	9	27.7 (average)	77	9.31	3.3	Coalition 18. 3. 1994 24. 3. 1998
1997 Ord.	Proportional ordinary	29	8.62 (average)	75	7.98	3	Coalition 1–24. 3. 1998 23. 10. 2000 2–23. 10. 2000 25. 1. 2001
2000 Extraord.	Proportional extraordinary	1	250	111	5.34	4.95	Coalition-single DOS list 1) 25. 1. 2000 12. 3. 2003 2) 18.3.2003 3.3.2004
2003 Extraord.	Proportional extraordinary	1	250	94	6.42	5	Minority 3.3.2004 15.5.2007
2007 Extraord.	Proportional extraordinary	1	250	99	5.16	5.25	Coalition 15.5.2007 7.7.2008
2008 Extraord.		1	250	98	2.18	4.25 (6.63)*	Coalition 7.7.2008 27.07.2012
2012 Ord.	Proportional ordinary	1	250	111	7.27	7.01*	Coalition 27.07.2012 ----------

* With coalitions

[11] The data on the number of municipalities without MPs from: Milan Jovanović, (2008), *Narodna skupština – Deformacije teritorijalnog predstavljanja*, godišnjak Fakulteta političkih nauka Univerziteta u Beogradu, year II, No. 2, December 2008, pp. 117–132

[12] The data on the disproportionality index from: Dušan Vučićević, *Lajphart's Conceptual Map of Democracy: The Case of Serbia*, Serbian Political Thought, p. 50.

Proportional elections do not contribute the creation of a parliamentary majority, majority electoral systems do not lead to a fair representation (Nohlen, 1992: 89). An insight into the changes of electoral system in Serbia since the shift to the proportional electoral system show the changes in the number of constituencies. A trend can be observed, of a reduction of disproportionality, i.e. increase of proportionality (Table 1 – Disproportionality index). The number of constituencies in Serbia was fluctuating as follows: 1992 – 9; 1993 – 9, 1997 – 29, 2000 – 1, 2003 – 1, 2006 – 1, 2008 – 1. (Table 2, the column referring to the number of representatives elected per constituency). Since 2000, the DM in Serbia amounts to 250, as that is the number of MPs being elected in a single constituency (the entire country). Considering that since 2000 Serbia is a single constituency, the electoral system has been extremely proportional (See Table 2). This proportionality has partly been reduced by implementation of the D'Hondt system, which is one of the least proportional electoral formula in the proportional system (Lijphart 1994, *Electoral System and Party System*), and also by the 5% electoral threshold.

Serbian parliament is extremely fragmented. The larger is the constituency and the lower is the threshold, the higher is the proportionality. This tendency also yielded the subsequent ones, such are high fragmentation of party system, strengthening of parties and party discipline, fractioning, splitting and division of parties. Radicalized intraparty conflicts result in division of parties and/or formation of new ones.[13] Almost no party in Serbia since the introduction of multiparty system was immune to that "disease". The party fragmentation in a parliament occurs, primarily, because smaller parties avoid the threshold effect in the elections, appearing on larger parties' lists and then separating their own parliamentary groups afterwards. Due to the fear that small parties cannot reach the 5% of votes (in Serbia, depending on the turnout, this amounts to about 200,000 of voters), small parties shelter to pre-electoral coalitions or appear on the larger parties' lists. In parliamentary elections of 2008, the 574 parties registered until that moment submitted 22 lists. Five lists passed the threshold, whereas the natural threshold for the minority parties was passed by three parties only. Nevertheless, in 2010 the Assembly of Serbia registered ten parliamentary groups and two independent MPs, or 23 parliamentary parties in total. This speaks about an indirect parliamentarization – smaller parties attain seats on the lists of the larger ones, to later separate a parliamentary group and fragmentize the party system. Four majority and two minority lists obtained less votes than the signatures necessary for candidature. With the adoption of the new Law on Political Parties of 2009,[14] 87 parties have been registered until the year of 2012. After the parliamentary elec-

[13] On this we wrote in more details in: Slaviša Orlović, *Politički život Srbije, između partokratije i demokratije*, pp. 450–459.

[14] Law on Political Parties ("Official Gazette of the RS", No. 36/09) entered into force on May 23, 2009 and started to be implemented on July 23, 2009

tion of 2012, the ninth convocation of the Assembly of Serbia formed fourteen parliamentary groups, plus independent MPs.

There are several manners in which the fragmentation of the parliament can be reduced. 1) Fragmentation of the parliament can be resolved by preventing the parties to separate their parliamentary clubs or parties from the lists entrusted by the voters. 2) In order to reduce the fragmentation of the parliament, it is possible to increase the number of constituencies. In proportional systems, the higher is the number of representatives being voted to, the lower is the disproportionality (and higher the proportionality) which is particularly favourable for smaller parties. The lower is the number of representatives being elected in a constituency, the higher is the percentage of votes necessary for a party to win the seat(s) (Nohlen and Kasapović: 1997: 12). The higher is the number of representatives being elected in a single constituency, the higher are the chances of smaller parties. An increase of the number of constituencies should reduce the proportionality, and therefore also the fragmentation of the party system. One of the explanations for this not being done are the elections at the territory of Kosovo and Metohija, where it would be more difficult to carry out the elections with more constituencies (Goati, 2011: 13). 3) The reduction of fragmentation of party system can be achieved by the staged threshold. In an intention to prevent the fragmentation of party system, the post-communist states introduced a slightly higher threshold in relation to other European countries, or a two-stage threshold.[15] Since the introduction of the proportional electoral system, Serbia has been using the 5% threshold. Due to the fear that small parties cannot reach the 5% of votes (in Serbia, depending on the turnout, this amounts to about 200,000 of voters), small parties shelter to pre-electoral coalitions or appear on the larger parties' lists.

In an event of a threshold lower than 5%, the fragmentation of the party system would be even higher, and if it is higher or staged, it would reduce the number of parties. The amendments of the electoral system in 2003 abolished the electoral threshold for minority parties. The so- called natural threshold (or so-called positive discrimination) have been introduced.[16]

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[15] Hungary has the threshold of 5% for independent lists and 15% for coalitions of four and more parties. Romania – 5% and 8–10% for coalitions, Poland 5% for independent lists and 8% for coalitions. Out of the post-communist states, Macedonia is the only one without an electoral threshold. The threshold in Turkey is 10%, Poland 7%. In the Czech Republic, the threshold is 5% for single parties, 10% for two parties, 15% for three parties, and 20% for four parties.

[16] This means that the total number of voters who participated in the election is divided with the number of seats in the parliament (250) in order to obtain the number of votes borne by one parliamentary seat. In relation to that number, minority parties obtain as many seats as is the result of the division of the number of the votes they won by the number of votes borne by a single seat. For example, if the number of voters at the election is 3,750,000 and that number is divided with the number of seats in the parliament (250), the result is 15,000,

4) One of the reasons for fragmentation of the parliament is the manner of formation of parliamentary groups. This can be solved by a decrease of the number of MPs necessary for forming a parliamentary group. Parliamentary groups are formed from the ranks of MPs of one political party, other political organization or group of citizens having at least five MPs (Article 22 of the Rules of Procedure of the NARS). 5) The reduction of fragmentation of parliamentary system can occur by introduction of a sort of majority or mixed electoral system. Expression of citizens' preferences for a certain candidate would increase the responsibility and autonomy of elected MPs and reduce the influence of parties, which would in the same time reform them from inside. The effect would also be the reduction of partocracy which slows down the consolidation of democracy in Serbia. Here it should be kept in mind that there is a danger that by solving the existing problem new problems can arise. Namely, personalized election of MPs does not only make them autonomous, but they can apostatize from the party, not respecting the party discipline, thus impeding the building of the majority and decision-making. In that manner, the MPs can pursuit their "own" politics, take care of their own marketing, "trade-off" and/or blackmail for the support. All this points to the need of meticulous harmonization of ultimate outcomes when speaking about the consequences of different institutional solutions.

The Assembly of Serbia has a weak geographic (territorial) representation. There are several reasons for such conclusion. **First, the Assembly of Serbia is not entirely representative when taking into account the representation of citizens from the territory of autonomous province of Kosovo Metohija.** Namely, pursuant to the Constitution of Serbia Kosovo is its integral part, however neither during the 1990s and particularly after 1999 Kosovo Albanians have not participated in parliamentary election called by the National Assembly of Serbia. Also, out of the Albanian parties from the south of Serbia, from the territories of municipalities inhabited by the Albanians (Preševo, Bujanovac and Medveđa), only the Riza Halimi's Party for Democratic Action participates in the parliamentary elections, whereas other Albanian parties from these municipalities participate in local elections only. Due to the *de facto* international protectorate over Kosovo established after 1999, the Assembly of Serbia has a limited sovereignty over this province. After the unilateral proclamation of independence and recognition by about fifty states, out of which twenty two EU member states, the Assembly of Serbia has been facing the problem with exercising its integrative function by which it should connect all its citizens. This as well hinders the exercise of the legislative competence. Local election that the Assembly of Serbia called for in the year 2012 was not carried out at the entire Kosovo territory, but only in the municipalities north from the Ibar River (Kosovska Mitrovica – north

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meaning that one parliamentary seat bears this number of votes. If a minority party wins 30,000 votes, this is divided by 15,000 and this party attains two seats in the Assembly.

part, Zubin Potok, Zvečan and Leposavić). Second, **a large number of municipalities and cities in Serbia do not have their parliamentary representatives at all.** In four convocations of the National Assembly, from 2000 to 2008, about 100 municipalities in average were without representatives. After the parliamentary election of 2008, a large number of self-government units – 98 (out of total 150 municipalities, 23 cities and the capital Belgrade) had no parliamentary representatives at all.[17] About 1,300,000 of citizens of Serbia live therein. In four convocations of the National Assembly, from 2000 to 2008, about 100 municipalities in average were without representatives. As many as 17 municipalities had no representatives in either of the eight convocations of the parliament. This primarily pertains to underdeveloped regions (Jovanović, 2008: 128). This is one of the tendencies of the electoral system in which the entire state is a single constituency; however, this was also contributed by the parties themselves, by their decisions on people from the electoral lists who should enter the parliament, not taking care about an even territorial representation. The parliamentary election of 2012 was followed by an excessive lack of territorial representation in the parliament. 111 self-governance units do not have their representatives in the parliament after the 2012 parliamentary election. The third problem is the **excessive representation of big cities, first of all Belgrade and Novi Sad, the so-called "metropolization" of political representation.** One of the problems with a single national-level constituency is the danger of higher concentration of MPs from urban environments, whereas other environments remain unrepresented. After the parliamentary election of 2008, the MPs from Belgrade and Novi Sad were dominant in numbers. In the same time, 39.2% MPs came from the territory of Belgrade and Novi Sad, although 26.9 % of voters are from these two cities. After the 2012 parliamentary election, the Serbian parliament has become extremely Belgrade-centric. The highest number of MPs come from Belgrade – 119, then Novi Sad 15, Niš and Kragujevac – five each.[18] This is the "metropolization" of political representation. The 2012 election, although under the changed electoral system by which the seats are allocated according to the order in the electoral list, maintained an excessive territorial unrepresentativeness of the parliament. This problem can be solved primarily by increase of constituencies. A solution applied in the Netherlands is the composition of lists at the regional level.

[17] On this we already wrote in: Slaviša Orlović, "Re-dizajniranje političkih institucija", in: Vukašin Pavlović (ed), *Kvalitet političkih institucija*, Fakultet političkih nauka – Centar za demokratiju, Belgrade, 2010, p. 89

[18] http://www.cmv.org.rs/vesti/gradani-i-gradanke-iz-94-opstine-u-srbiji-nemaju-poslanika-ili-poslanicu-iz-svoje-opstine/

Representation of women in the parliament

Today the absence of an equal representation of women in the parliament and in performance of public functions is considered a deficit of democracy. It is generally considered that proportional systems offer higher representation of women in the parliament. Apart from the electoral system, other factors also play an important role in this subject matter – the economic development, region, nature of political parties and the like. In proportional electoral systems, the average percentage of women in the parliament is 21.5%, while in majority electoral systems with single-mandate constituencies (SMP) it is 15,1% (Carter and Farell, 2010: 37). The more representatives are elected in a constituency (DM above 1), the higher is the percentage of women. In the formal-legal sense, the equality of women in politics in Serbia is better regulated than in the majority of the most progressive EU member states, and even than in the most progressive South European countries.[19] In the parliament of Serbia in 2000 there were 10,8% of women, and in 2003 – 12,4%.[20] In the Assembly of Serbia after the 2007 election there were 50 ladies MPs, which is exactly 20% out of the total of 250 seats. This was a significant improvement comparing to the previous convocation, as the number was nearly doubled.[21] After the 2008 parliamentary election, 53 ladies entered the parliament, i.e. 21,6%. From 2000 to 2008, the percentage of women in the Assembly of Serbia was increased by 100% – from 10.8% to 21.6% (See Table 4. The percentage of women in the Assembly of Serbia).

[19] Eight European countries' parliaments have more than 30% of women, whereas in Southern Europe – Macedonia, UNMIK Kosovo, Bosnia and Hercegovina and Croatian – the number of women in the parliaments is higher than the average of 27 today's EU member states.

[20] According to the parties, the number of women in the parliament in 2003 was as follows: G17 plus – 29,7%, DS –16,2%, DSS – 13,2%, SPO–NS – 9%, SRS – 4,9%, SPS – 4,5%.

[21] Although all parties announced that they will respect this OSCE recommendation, after the 2007 election only the G17 plus did so – out of 19 seats, seven belong to ladies MPs (36,8%). Out of 61 MP seat, the Democratic Party offered 15 to women (24,6%), Democratic Party of Serbia out of 33 seats gave six (18,18%), Serbian Radical Party out of 81 seats gave 13 to women (16,04%), whereas the Socialist Party of Serbia was represented by only two female members out of 19 MPs of that party (10,52%). The League of Social Democrats of Vojvodina equally divided its four seats. New Serbia was represented by two ladies MPs (20%), United Serbia by one (out of two won mandates), whereas the Serbian Democratic Renewal Movement gave both its seats to males, as did the List for Sandžak. Alliance of Vojvodina Hungarians, out of three seats, gave one to woman. In terms of percentages, the lowest number of ladies MPs shall be in the clubs of Socialists (two) and Radicals (13 out of totally 81 MPs).

Table 2. Percentage of women in the Assembly of Serbia

Year	Percentage of women
2000	10.8%
2003	12.4%
2007	20%
2008	21.6%
2012	about 30%

According to the amendments to the Law on Election of MPs of 2011, every third person on the list should be "the member of the gender less represented on the list".[22] This is a positive discrimination, providing for one third of women on electoral lists, in order to increase their percentage in the parliament. Considering that the electoral lists are closed, this will mean one third of women in the Assembly of Serbia from the year 2012. The parliament after the 2012 election had 82 ladies MPs, comparing to the previous convocation which had 52 of them in total.

Representation of minorities in the parliament

The general rule that proportional electoral system is more favourable for representation of minorities notwithstanding, the political parties of national minorities in Serbia won the highest number of mandates (14) in the first parliamentary election of 1990, when the majority two-round system (of absolute majority) was implemented. In communities where minorities are territorially concentrated, if constituencies are shaped according to that concentration, minorities can better suit a variance of a majority system. The largest problem is with the Roma, who are dispersed throughout Serbia. In the parliament of Serbia, constituted after the 2003 parliamentary election, no party of national minority entered the parliament due to the high electoral threshold of 5%. Only the MPs of the List for Sandžak entered the parliament on the list of the Democratic Party. In Serbia, the electoral threshold for national minority parties was abolished by the Law on Amendments and Supplements to the Law on Election of MPs of the Republic of Serbia of 2003.[23] The submission of minority lists, as well as the registration of minority parties, require 1,000 signatures.

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[22] Article 140 Para 1 is amended to read: "Electoral list, among each three candidates according to the order in the list (first three positions, second three position, to continue until the end of the list) should contain at least one candidate – member of the gender less represented in the list" (Law on Amendments and Supplements to the Law on Election of MPs, "Official Gazette of the RS", No. 36/11, Article 8).

[23] Law on Amendments and Supplements to the Law on Election of MPs, Article 13, Para 1 ("Official Gazette of the RS ", No. 10/03, 12/04).

Electoral mandate

Electoral system is to a large extent related to the nature of the mandate. Implementation of majority system means voting for a candidate and the mandate is obtained directly from the citizens. In proportional systems (system of lists), mandate is obtained (indirectly) from the party. In proportional system – lists, the voters elect the party, however with less influence on the selection of candidates. From this it depends whether a voter has only one vote when voting for a closed list, or more votes to express his/her preferences more openly. This can later reflect to the behaviour of elected representatives considering the origin and the nature of their mandates. The independence of candidates is higher in case of the individual ones. The parties influence the composition of the parliament already in the very process of nomination and composition of party lists.

One of the biggest problems among all systemic solutions pertaining to parties, MPs and the parliament is a sort of an imperative mandate and the so-called blank resignations. In a non-institutionalized party system, politicians often change parties. Transfers from one party to another have existed for all the time since the introduction of the multiparty system in Serbia. This process became somewhat more intensive after the year 2000. In order to protect themselves from potential loss of MPs, parties resort to different mechanisms. Majority of parties, except LDP and SVM, practice signing of blank resignations in advance. By the decision of the Constitutional Court of Serbia of May 27th, 2003 ("Official Gazette of the RS", No. 57/03), the provisions of Article 88 of the Law on Election of MPs are not in compliance with the Constitution. According to this provision, a MP's mandate would terminate "with the termination of his/her membership in the party or coalition on which list he/she was elected". According to the decision of the Constitutional Court, MPs (and not parties) are the owners of their mandates. The Decision of the Constitutional Court showed that the mentioned provision of the Law violated three constitutional principles in relation to the MP status: 1. MPs represent citizens (and not parties); 2. MPs decide and vote according to their own assurance; and 3. MPs cannot be revoked. This gave the opportunities for different interpretations. Parties in the parliament were not in favour to act in accordance with the decision of the Constitutional Court; no sanctions have been envisaged, or their implementation depend on whether the party is within the ruling coalition or not.[24] In the time of adoption of the Constitution in 2006, there was obviously an agreement among the representatives of political parties to adopt the solution according to which political parties decide on MP mandates. With an aim to supress transfers of and trading with mandates, the Constitution of the Republic of Serbia (2006) in its Article 102 Para 2 adopted the following solution: "Under the terms stipulated by the Law, a deputy shall be free to irrevocably

[24] More on this issue in: Slaviša Orlović, *Politički život Srbije, između partokratije i demokratije*, pp. 450–459.

put his/her term of office at disposal to the political party upon which proposal he or she has been elected a deputy". In this manner the MP owns his/her mandate only while signing the irrevocable blank resignation by which the mandate is transferred to the disposal of the party leadership. This can be interpreted as an attempt of introduction of an imperative mandate, which does not exist in the legislation of the EU countries.[25] The Constitutional provision about the position of MPs (Article 102 Para 1) is in a systemic contradiction with the provision on the immunity of MP (Article 103 Para 1 and 2) (Pejić, 2007: 9). On one hand, the Constitution guarantees to MP the full freedom to express the will of voters and perform his/her mandate, providing the immunity from criminal prosecution for the actions carried out during the term of office, while on the other hand the MP is not protected from political (party) accountability as the party, if dissatisfied by his/her work, can punish him/her by deprivation of the mandate. The Decision of the Constitutional Court of Serbia IU No. 52/2008 adopted on the sitting of April 21st, 2010 ("Official Gazette of the RS", No. 34/10, pp. 38–43) assessed that Article 47 of the Law on Local Election which introduced the institution of blank resignation is unconstitutional.[26] The Law on Amendments and Supplements to the Law on Election of MPs of 2011 regulates more precisely the issues of blank resignations and deprivation of mandates, by which: "MP submits his/her resignation, certified with the authority competent for certification of signatures, in person to the Speaker of the National Assembly, within three days from the date of certification", i.e. "The day of termination of the mandate shall be stated by the National Assembly of the Republic of Serbia immediately upon the receipt of the notification on reasons for termination of the MP's mandate, during the course of the sitting, i.e. on the first forthcoming sitting" (Article 14). The solution of this problem shall, first of all, imply the amendment to Article 102 Para 2 of the Constitution. As this is hardly achievable for procedural and political reasons, parties can at least show the readiness to recognize the principle of free mandate. Without free mandate there is no free parliament, but only the voting machines following the party leaders.

The overcoming of this problem requires the amendment to the Constitution of the Republic of Serbia in its Article 102, pertaining to the mandate of MPs. Proportional electoral system, and particularly closed lists lead more towards the candidate's dependence on the party. Different electoral systems produce different accountability of MPs. The "personally elected" MPs behave in a more autonomous manner as they received their mandate directly from citizens, while those elected on the party lists, i.e. indirectly elected by parties, keep more in line with

[25] Imperative mandate exists only in some states, such are Bangladesh, South African Republic, Panama and India.

[26] Decision of the Constitutional Court, IU No. 52/2008 of April 21, 2010. ("Official Gazette of the RS ", No. 34/10 of May 21, 2010, pp. 38–43).

the party discipline and show a higher level of loyalty to their parties. Open lists depend on personal support of voters, and therefore imply weaker relations with the party, and therefore a weaker party discipline (Gallagher, 2008: 557). Closed lists lead more towards the dependence of candidates on their parties. The existing solutions which pertain to the election of MPs reflect to weak bond of voters and MPs due to the fact that Serbia is a single constituency. One of the problems of electoral system with a single national-level constituency is that it reduces the contact between elected MPs and voters. Undoubtedly the strongest connection between MPs and voters is in majority electoral systems (simple majority) with single-mandate constituencies, and the weakest is in proportional electoral system with closed lists and a single constituency. Politicians elected on open lists show higher level of commitment to the voters in comparison to the ones elected on closed lists (Carter & Farell, 2010: 38). The same is true for campaign performance. When a whole country is a single constituency, as is the case in Serbia, the connection between MPs and voters is weak(est).

Internal organization of the parliament

The parliament has two administrative structures: political, from among the ranks of the elected MPs and administrative, from among the ranks of employees in the parliamentary administration. The Parliament is headed by the Speaker. Besides, there are Deputy Speakers, Chairs of parliamentary committees and Heads of parliamentary groups. Administrative part consists of the Secretariat with the Secretary General, working under the leadership of the Speaker. Internal organization of the parliament includes parliamentary (Assembly) committees and parliamentary (MPs) groups, administration (Support Service). Naturally, committees are the most competent for particular fields, i.e. areas. Parliamentary groups are centres of decision-making or transmission of political decisions by political parties. Administration is often the most competent and most operative part of parliamentary process, as all parliamentary materials pass though their hands. Differences in number of MPs are significant from one country to another, and they originate from the differences in social structure (ethnic, religious, linguistic), territorial division (federalism, regionalism), institutional solutions (electoral system, proportionality) and tradition. The Assembly of Serbia has 250 MPs. This issue is regulated by the Constitution (Article 100). In Serbia, with about seven and a half million inhabitants, there is about one MP to every 30,000 citizens, which is in accordance with the average for the region. MPs themselves gave certain indications on possibilities for a parliamentary work in a more narrow composition. By its Rules of Procedure, the Assembly reduced the quorum to one third, debate can be led “regardless the number of present MPs” while the quorum for voting is 126 MPs, except for some issues like the Constitution. The

size of that legislative body inclines to the cube root of the number of inhabitants (Lijphart, 2003: 179;, Tagaapera and Shugart, 1989: 173). For our conditions that would be about 200 MPs.

Parliamentary groups

Development of parties in new democracies is largely parliament-centric, for the simple reason that the parliamentary arena for them is the most important after the electoral one. That is the best way for free political marketing and carrying out the parliamentary campaign. As emphasized by Carl Friedrich, "Party organization profoundly influences the organization and structure of the parliament". There are at least two mediators standing between the citizens and the executive power – the political parties and the parliament. Parliamentary groups or parliamentary clubs are formed by uniting MPs of the same or similar programme profile. Parliamentary group is composed of MPs of one political party, other political organization or group of citizens having at least five MPs (Article 22 of the Rules of Procedure of the NARS). Elected MPs play a dual role. They have been elected by citizens and by their own parties, and take care both of the citizens' and of parties' interests. These two roles overlap, however not being always identical. The main task of the heads of the parliamentary groups is to maintain the party discipline in voting.[27] Another important source of control available to the party oligarchy is candidacy of its human resources in the next occasion, either for the parliament or for the government. The loyal ones are to be rewarded whereas the disloyal ones are to be punished, either by repeated candidacy for parliamentary election or by positions in the government. It derives from the above that MPs have a strong initiative to vote in line with their party attitudes.

Parliamentary committees

Committees are working bodies formed with an aim to assists the parliament to perform its activity (legislative and other) in as much efficient and quality manner as possible. They perform the preliminary deciding procedure on laws, consideration, proposing amendments, giving opinions on the bills. Woodrow Wilson already in 1885 said that "the rule of Congress is the rule of committees. The Congress in session is the Congress at a public exhibition. The Congress in cabinets of its committees is the Congress in action" (Haywood, 2004: 600). Committees are standing working bodies of the National Assembly established

[27] An extreme example of party discipline was recorded in 1993 in Ireland when the parliamentary group of the largest Fianna Fail party decided that any MP who would vote contrary to his/her party's attitudes on any issue whatsoever will be expelled from the parliamentary group.

for consideration of issues from the competence of the National Assembly, proposing acts, consideration of political situation, implementation of laws, other regulations and general acts by the Government of the Republic of Serbia, in the fields within their competence, and performance of other tasks defined by the Rules of Procedure of the National Assembly. The Rules of Procedure of the National Assembly envisage 19 standing committees. Committees are ideal places for debate in details. Although the work of parliamentary committees is not always under the best media coverage and remains insufficiently enlightened, they are the real centre or the nerve of the parliamentary life. They are the venues of quality debates, exchange of arguments, reactions to key issues and actual topics, considerations of laws and amendments, oversight and control of representatives of the executive power. When defining the composition of the committees, care is taken on MPs' gifts for certain issues and topics or education or interest, i.e. division of tasks in the party. Many parliaments can have different kinds and forms of committees, both by size and by purpose. Committees are mostly established on the basis of particular competences. In the parliamentary convocation 2008–2012, out of 30 standing committees 29 have been established. The Committee on Economic Reform has not been constituted, considering that out of totally twenty one members only nine members have been elected. The parliamentary convocation (of 2012) has nineteen committees and the Committee on the Rights of the Child which is formed as a separate standing working body.[28]

In practice, parliamentary committees do not have the role stipulated by the Rules of Procedure, nor is their work sufficiently present in public. The obligation of the Government's representative to attend committees notwithstanding (Article 74 and Article 229 of the Rules of Procedure), they either do not respond or send lower-ranked representatives. Plenary part of the parliament is burdened by issues which can be solved at the committees. Serbia is a unitary state and the National Assembly of the Republic of Serbia is unicameral. Certain forms

[28] The following committees shall be formed in the National Assembly (Article 46 of the Rules of Procedure of the NARS): Committee on Constitutional and Legislative Issues, Defence and Internal Affairs Committee, Foreign Affairs Committee, Committee on the Judiciary, Public Administration and Local Self-Government, Committee on Human and Minority Rights and Gender Equality, Committee on the Diaspora and Serbs in the Region, Committee on the Economy, Regional Development, Trade, Tourism and Energy; Committee on Finance, State Budget and Control of Public Spending,, Agriculture, Forestry and Water Management Committee, Committee on Spatial Planning, Transport, Infrastructure and Telecommunications, Committee on Education, Science, Technological Development and the Information Society, Committee on Kosovo and Metohija, Culture and Information Committee, Committee on Labour, Social Issues, Social Inclusion and Poverty Reduction, Health and Family Committee, Environmental Protection Committee, European Integration Committee, Committee on Administrative, Budgetary, Mandate and Immunity Issues, Security Services Control Committee and the Committee on the Rights of the Child as a separate standing working body (Article 47, RPNARS).

of control should be introduced. First, to intensify the activities and institutions at the disposal to the committees, such is the public hearing. To introduce a sort of public sanction against the representatives of the Government (ministers and state secretaries) when not responding to the committees' invitations.

Conclusion

In almost all democratic states, parliament is the institution enjoying large dignity and respect. It is particularly important for democratization of post-communist societies. As Sartori emphasizes: "States which get out from the dictatorship can have few choice besides the parliamentary one" (Sartori, 2003: 132). The parliament is a representative body directly elected by the people (citizens) to speak and decide "in the name of the people". In written constitutions it is given the place of honour and described before the executive and judicial power (Haywood, 2004: 758). Parliament (assembly, legislative) has, at least formally, the central position in the system of government. The Parliament is a huge stage in which a visible part, first of all of legislative activities, is performed, whereas the show is usually prepared at some other place – in headquarters of political parties and party coalitions. MPs before the rostrum resemble gladiators in the arena, while in parliamentary benches they reduced themselves to the ones who only press tasters and to voting machines. Here the decisions already passed somewhere else are only verified. Laws are adopted through the Assembly, and not by the Assembly. The parliament formally controls the Government, however the party leaders of the ruling coalition, sitting in the Government, control the parliament through the heads of parliamentary groups and through party discipline. The National Assembly of Serbia is somewhere on the edge between the "subordinate" and "submissive" legislator. The Constitutional solutions and parliamentary practice violated to a large extent the representative function of the parliament. In fact, a MP is reduced to a representative of his/her parliamentary group or party, instead of being the representative of voters' interests. The dignity and legitimacy of the parliament are impeded by frequent transfers of MPs and deprivation of mandates. Through an insight in the performance of its basic activities, it can once again be determined that the parliament loses control over its agenda and that there is strong tendency of the supremacy of the executive branch. The parties, and not the MPs, are the main actors, both in shaping the parliament and in its work. There is a serious job before the National Assembly regarding the harmonization of a large number of legal regulations, as a prerequisite in the process of the accession to the European Union. Between external imperatives and its internal contradictions, the Assembly of Serbia shall simultaneously have to improve its work and take care of interests of those who elected it, in order to avoid further sinking into the service of the Government and the ruling parties. The parliament is strong only in the Constitution, however it is emptied from the actual power. The Constitutional and

the actual power of the parliament do not correspond. If according to the Constitution "the Government defines and pursuits the politics", to which extent the parliament shapes public policies? Performance and internal capacities of the parliament largely depend on external stability of the system they are acting in. Campaign is carried out from the rostrum; however, since recently there are indicators of possible ways for shaping the basic consensus. Under the new Constitution, MP cannot perform other public functions in the executive power. One of important tasks is to enable the parliament to perform its basic functions and to return it the position belonging to it in the division of power. Without the autonomy of MPs and the dignity of the parliament, the entire idea of representative democracy becomes senseless, and therefore the meaning of parties and elections. This task is not easy at all, particularly in circumstances when in conditions of globalization and shared sovereignties a part of the state, and therefore parliamentary power, is transferred both to the super-state and to sub-state institutions, under external and internal imperatives. The parliament is, among else, a debate body (*parlare* – to speak) which openly discusses political issues, and also a body which consults and considers. The parliament is the most appropriate place for public discussions. The parliament is a sort of mirror of the government for the citizens and an open window for the citizens towards the government. Behaviour of certain MPs in the Assembly often de-legitimates this institution. For the parliament to be successful in performing its main duties, it is necessary that it has a full legitimacy and that it is composed of honourable and respectable persons, as the eyes of the public are directed to it as the mirror of the government. In words of Jeremy Pope: "If the public perceives MPs as deceivers who provided them powerful positions by trading, bribery, flattering or in similar manners, the parliament shall lose its respect and practically be disabled to promote the system of good governance and decrease the corruption in the society, even if sincerely aspiring thereto".[29] In Serbia with about seven and a half million inhabitants, there is one MP to about 30,000 voters, which is in accordance with the average for the region.

Strengthening of democratic performance of the Assembly of Serbia is possible in several manners.

1. **In case of the need for amendment to the Constitution, to do the preparations in a timely manner.** Majority of the countries which became the EU members at some moment amended their constitutions. The closer Serbia is to the membership, the higher will be the imperative for amending the Constitution. Therefore it is necessary to do the preparations for amendment to the Constitution in due time. The majority of the remarks of expert public in the time of the adoption of the Constitution of Serbia of 2006 pertained to the absence of standard public debate on the Constitutional Bill. The text which entered the parliamentary procedure was allocated 4 hours in total for

[29] Džeremi Poup, (2004), Antikorupcijski priručnik, Suprostavljanje korupciji kroz sistem društvenog integriteta, Transparentnost Srbija i OSCE Misija u SiCG, Belgrade, p. 45

consideration and voting thereon. The night before the adoption of the Constitution, the Rules of Procedure of the National Assembly has been amended, establishing a special sitting as a form of parliamentary work. The Constitutional Bill was submitted to the MPs two hours before the voting thereon.[30] Some of the basic Constitutional solutions met sharp criticism. Serbia is defined as a state of Serbian people and all citizens who live in it (Article 1), but this solution is not in accordance with the constitutional principle from Article 2 of the Constitution according to which "sovereignty is vested in citizens", which guarantees them the equality. Certain Constitutional solutions contain the abundance of contradictions and controversial attitudes. Thus Article 82 states that "economic system in the Republic of Serbia shall be based on market economy, open and free market", but also that "the impact of market economy on social and economic status of the employed shall be adjusted through social dialogue between trade unions and employers".

Important innovation in relation to the previous Constitution is that there is no supremacy of generally adopted rules of international law and ratified international treaties over the national law anymore. Namely, according to Article 194 of the Constitution of Serbia "ratified international treaties and generally accepted rules of international law shall be part of the legal system of the Republic of Serbia", if in compliance with the Constitution of Serbia. This means that hierarchically they are above the laws and below the Constitution.

2. To reduce the Government's pressures on the parliamentary work and prevent the tendency of supremacy of the executive. For the sake of prevention of this tendency, several directions of strengthening the parliament can be emphasized. To introduce a higher level of commitment of Government's representatives to respond to the invitation of the Assembly, having in mind the mechanisms for control of the Government such are parliamentary questions, interpellation, inquiry committees etc.

3. To strengthen the legislative initiative by the parliament and MPs. The Assembly of Serbia poorly uses its own legislative power. As in the majority of countries, the largest number of bills come from the Government. Although envisaged to be used in extraordinary circumstances, there is a very high percentage of laws adopted by urgent procedure (48.5% in average). Urgent procedure does not leave enough time for debate and interventions either to MPs or to broader public.

4. To define the calendar and the annual plan of parliamentary work. The Assembly does not have its calendar or the coordination with the annual work program of the Government.

5. Financial projection of laws and impact assessment are require for the fields to which they pertain. Laws are mostly enacted without necessary financial projections.

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[30] *Evropeizacija Srbije, Monitoring procesa evropeizacije društvenog, ekonomskog, političkog i pravnog prostora Srbije,* Fond za otvoreno drustvo, Belgrade, 2006

6. To enhance activities on improvement of quality of laws. Harmonization with European standards, without an analysis of applicability in national context, is not enough. Adopted laws are often of poor quality, contrary to the European norms and standards (Law on Religious Communities, Law on the National Bank of Serbia 2012). Laws are often adopted without an adequate public debate and are frequently severely criticized by the expert public (Law on Aid to Families of the Hague Indictees, Law on Higher Education, Law on Labour, Law on the Market of Securities).

7. To strengthen control mechanisms for implementation of laws. So far, these mechanisms either didn't exist or have not been implemented or have been implemented selectively. Certain laws, even several years after the adoption, did not start to be implemented (Lustration Law was adopted in 2003, Law on the Administrative Court – 2001, Law on Courts, adopted in 2002; Law on Civil Defender (Ombudsman) was adopted in 2005, while the Ombudsman was appointed only in 2007, Law on State Audit Institution). Some of the adopted laws are even not respected by the Assembly itself (e.g. disrespect of deadlines for election and constitution of newly formed organs – appointment of the National Educational Council, Broadcasting Agency Council, State Audit Institution, Commissioner for Free Access to Information of Public Importance, Ombudsman).

8. Control of the Government in the Assembly of Serbia is insufficient. MPs seldom use their rights pertaining to control of work of the Government: right of MPs to pose questions to ministers, Prime Minister and the Government (*question time*); right of MPs to motion for interpellation; right of MPs group to request opening of parliamentary inquiry in relation to the work of the Government or some of its ministers; right to public hearing and right of MPs not to adopt the budget by which the Government loses support and falls. Party discipline limits the parliamentary control. Control is reduced to opposition parties which do not have power (majority) to replace the government. Besides, the convocation of the Assembly of Serbia after the parliamentary election of 2003 has "bilateral opposition" (Sartori). This means that the two leading opposition parties (2008–2012: SRS and DSS; since 2012: DS and DSS) are individually closer to the Government then among themselves. This prevents their joint opposition action aimed at control or eventual overthrow of the Government.

9. Pressured by "imperative mandate", MPs are reduced to representatives of their parliamentary group or party instead of being the advocates of voters' interests.[31] Constitutional solutions and parliamentary practice largely crumbled the representative function of the parliament. In fact, MP is reduced

[31] The report *Evropeizacija Srbije, Monitoring procesa evropeizacije društvenog, ekonomskog, političkog i pravnog prostora Srbije* on its p. 30 states: "Absence of representativeness helps the power of decision-making to transfer or never move to institutions, allows development of suspicious and to no one entirely clear and known non-institutional arrangements and personal deals, prevents establishment of integrity of institutions and therefore

to a representative. It is important to satisfy party "gladiators", award loyalty, provide for existence and enable prestige and promotion offered and given by the institution of MP.

10. It is necessary to limit the adoption of laws by urgent procedure. The practice hitherto shows a very high percentage of laws adopted by "urgent procedure". By urgent procedure, from January 22nd, 2001 to January 27th, 2004 47.8% of laws were adopted; from January 27th, 2004 to February 14th, 2007 44.2%; from February 14th, 2007 to June 11th, 2008 63.8%; and from June 11th, 2008 to May 31st, 2012 39.3%. Urgency of procedure reflects on the quality of debate on laws, and hence the quality of the laws themselves.

For example: The Rules of Procedure in Slovenia in Article 143**, Para 1, regulates urgent procedure for adoption of laws: "When it is necessary in interest of security or defence of the state, or in the purpose of elimination of consequences of natural disasters, as well as for prevention of consequences for functioning of the state that would be difficult to rectify, the Government can propose a law to be adopted by urgent procedure".

11. To open the parliament even more for participation of citizens, experts, representatives of expert public and civil society in shaping public policies. Although the institution of public hearing was introduced, the possibility for the public hearing sitting to be participated by citizens, representatives of citizens associations and experts have not been used in full. The control function of public hearings is particularly important.

12. To consider the possibility for strengthening otherwise weak technical capacities of the parliament (up to 3 employees per one MP). To envisage a larger number of employees with higher education for support to the work of the committees. MPs, 250 of them, are served by 350 employees out which almost one third are appointees (120).

13. To intensify the cooperation of the National Assembly of the Republic of Serbia with independent and regulatory bodies for the purpose of external control of the Government and its bodies. With assistance of independent public authorities (elected by the Assembly and accountable to it for their work), to enhance the control (oversight) role of the parliament. These are the independent bodies elected by the Assembly such are the Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, State Audit Institution and Anti-Corruption Agency. The relation between the parliament and independent bodies is one of the foundations for establishing balance between the legislative and executive power, and also for good functioning of democracy. The bodies elected by the parliament are obliged to submit their reports in regular intervals, provide it with other sources linked to control of executive power and point to irregularities in work of public

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weakens the citizens' trust in institutions and facilitate the development of corruption both in its legal and ethical meaning".

authorities. In that sense, independent bodies are an extended arm of the parliament to whom they are accountable. The question is who oversees the supervisors and who controls the controllers. Apart from controlling others, independent bodies are themselves accountable to the parliament for their work. Parliament and independent bodies establish relations of partnership and cooperation.

Table 1. Comparative review of independent bodies

	Constitution	Law	Manner of adoption	Duration of term of office	Number of members	Executive competences	Can propose law	Financial assets
Civil Defender (Ombudsman)	Constitution	Law	**Assembly**	5 years – can be repeated	**4 Deputies Elected by the Assembly**	NO	YES (from its field of competence	budget
Commissioner		Law	**Assembly**	7 years – Can be repeated	Deputy	NO	NO	budget
State Audit Institution	Constitution	Law	SAI Council, Assembly		Chair of the Council + 3 members	NO	NE	budget
Anti-Corruption Agency		Law	**Board of the Agency, Assembly-Director of Agency – Board**	Board 4 years Director 5 years	Board has 9 members	YES	NO	budget
Commissioner for protection of equality		Law	**Assembly**	5 years	3 Assistants (not elected by the Assembly)	NO	NO	budget
Commission for protection of rights in public prosecution procedure		Law	**Assembly upon Government's proposal**	5 years Can be repeated	5 (President + 4 members)	NO	NO	budget
Commission for protection of competition		Law	**Assembly**	5 years Can be repeated	5 (President + 4 members)	NO	NO	Own income
Republic Broadcasting Agency		Law	**Council RBA Assembly**	6 years	RBA Council has 9 members	YES	NO	Budget + own income

14. It is necessary to introduce the practice of submission of periodical reports of the Government on the process of association to the European Union, as the Assembly is under the pressure of harmonization of legal regulations (Acquis Communautaire**), but without information on the association**

process from the Government. Although the Committee on European Integration can request information on the basis of Article 64 of the Rules of Procedure, it seldom happens. So far it has not been a practice that the Government, the competent Vice-Presidents or ministers, i.e. Directors of the Office of the Government of Serbia for European Integration submit to the Assembly report on negotiations on the accession and activities on the road to EU. For example: The Rules of Procedure in Slovenia envisage "procedure for debate on EU issues" (Article 154 l*, "the Government submits in a timely manner the reports before two competent committees on its activities and decisions in the EU Council as well as on implementation of attitudes of the Republic of Slovenia therein".

15. To reduce the tendency of regulatory bodies to transfer a part of competences of the Parliament to them. The Parliament is the only body legitimate to enact laws. There is a tendency by regulatory bodies (Republic Broadcasting Agency – RBA, Republic Telecommunication Agency – RATEL, Agency for Energy – AE, Commission for Protection of Competition) to take over a part of competences which do not belong to them. Certain number of independent bodies have regulatory role and delegated competence.[32] 'Regulatory body' is the name which to the largest extent includes the content of their action. Except the RBA Council elected by the Assembly, the management of regulatory bodies is appointed by the Government for a certain period of time and they are accountable to competent ministries and not to the parliament, which reduces the independence and public accountability of these bodies.[33] A part of tasks and part of accountability are transferred to these bodies. However, there is a problem of legitimacy, as these are not the elected, but appointed bodies. There is no guarantee that experts sitting in these bodies are more responsible than the representatives elected at the election, who are accountable for their work. Huge discretion power is also concentrated in these agencies.

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[32] The group of independent bodies includes: National Educational Council, National Higher Education Council, Agency for Energy, Telecommunication Agency and Radio Broadcasting Agency

[33] The Constitution of the Republic of Serbia in its fifth part entitled "Organization of Government" in section 4 pertaining to public administration by Article 137 regulates the issue of delegation of public powers. Article 137 Para 4 of the Constitution envisages that public powers can be delegated to specific bodies through which they perform regulatory function in particular field or affairs, in accordance with the Law.

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LEGAL AND POLITICAL FRAMEWORK OF THE WORK OF THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA

1. Introduction

The Constitution of Bosnia and Herzegovina is the legal-political foundation of the existence and operation of the Parliamentary Assembly of Bosnia and Herzegovina. It entered into force on December 14th, 1995, as Annex IV to the General Framework Agreement for Peace in Bosnia and Herzegovina (the so-called Dayton Peace Accords). The social-political conditions and the goals for which it was signed have influenced its contents in a myriad of aspects. The primary goals for passing this Constitution were to stop the war and create prerequisites for the state of Bosnia and Herzegovina to perform its functions in its entire territory and over its entire population.

The system of government established by this Constitutions suffers from multiple shortcomings, caused by the following reasons: 1) the society is divided (segmented) along the ethnic lines; 2) the political system is dominated by the national political elites which derive their legitimacy from the self-identification as the protectors of the national interests; 3) the national political elites are incapable to reach the consensus on the existence of the state and the basic features of its constitutional-legal order; 4) the constitutional and political system are the results of the necessary compromise which should have enabled the state to exist and function, in the same time, at least partially, satisfying the interests of all national political elites.

These reasons have led to that the constitutional-legal system of functioning of the Parliamentary Assembly is insufficiently standardized and in the same time complicated. This is true both for its organization and for the manner of decision-making, competences and relation with other political institutions.

2. Legal-constitutional framework

Article IV of the Constitution of Bosnia and Herzegovina stipulates that the Parliamentary Assembly of Bosnia and Herzegovina shall perform the legislative power. Although the Constitution does not explicitly envisage that the government of the state shall be organized on the principle of division of power, this has undoubtedly been the case, as can be concluded by an analysis of the relations among the political institutions – the Parliamentary Assembly, the Presidency of Bosnia and Herzegovina and the Council of Ministers. The Constitution prescribes the following basic rules indicating the acceptance of the principle of division of power: 1) the Presidency nominates the Chair of the Council of Ministers, which is approved by the House of Representatives of the Parliamentary Assembly; 2) the Council of Ministers not only conducts the policy of BiH but also participates in its creation, primarily through the right to legislative initiative; 3) the Parliamentary Assembly can vote no-confidence to the Council of Ministers; 4) the Presidency can dissolve the House of Peoples of the Parliamentary Assembly.

The Constitution of Bosnia and Herzegovina stipulates: 1) the structure of the Parliamentary Assembly; 2) the manner of election of its members; 3) the decision-making procedure; 4) the competences. The constitutional norms on performing certain functions of the Parliamentary Assembly of Bosnia and Herzegovina are very general, more than it is usual in comparative constitutional law, as they lack some solutions which are commonly a part of the constitutional subject-matter. This problem appears in constitutional standardisation of all functions of the Parliamentary Assembly. It is not random and it has arisen both from the fact that the Constitution was written under the dominant Anglo-American influence and from the fact that the primary goal of the framer of the Constitution was not to create a coherent state organization but only minimum conditions for functioning of the state.

When it is about the legislative function, the Constitution does not contain any norm about the following issues: 1) who is entitled to the right to legislative initiative; 2) who can propose the revision of the Constitution; 3) what the revision of the Constitution can be like – only partial, or total; 4) what will happen if the Parliamentary Assembly fails to adopt the budget before the beginning of the new fiscal year. Some issues have not been clearly regulated by the Constitution, so there are different interpretations, like: 1) deciding on the revision of the Constitution; 2) decision-making in the Parliamentary Assembly; 3) the role of the Constitutional Court of Bosnia and Herzegovina in the procedure of protection of vital interests of constituent peoples.

The Constitution has regulated the control function of the Parliamentary Assembly even more scarcely. It only principally envisages the political accountability of the Council of Ministers to the Parliamentary Assembly, however the procedure in which that accountability should be defined has not been regulated

even in the basic details. The Constitution does not mention the institutions which implementation provides for this accountability.

Considering that the constitutional solutions are incomplete or that there are constitutional gaps, the parliamentary houses are left to regulate themselves an important part of the issues pertaining to performing certain functions of the Parliamentary Assembly. They failed to do this in a satisfactory manner, either because certain issues which had not been precisely regulated in the Constitution were simply rewritten in the Rules of Procedure, or because certain issues have been regulated in an inadequate manner.

3. The structure and the manner of decision-making in the Parliamentary Assembly

The Parliamentary Assembly of Bosnia and Herzegovina has a bicameral structure. It consists of the House of Representatives and the House of Peoples. Such structure comes from the complex system of government and the nature of political regime of a segmented society. It should provide the representation of citizens and constituent peoples, and in a certain manner also the protection of entities' interests in the Parliamentary Assembly. Therefore the Constitution prescribes that the houses are essentially equal in performing the functions of the Parliamentary Assembly.

The Parliamentary Assembly has only 57 MPs. Out of that number, the House of Representatives has 42 Members, while the House of Peoples has 15 Delegates. The two-entities structure of Bosnia and Herzegovina influenced the structure of both houses, so that two thirds of their members are the members/delegates from the Federation of Bosnia and Herzegovina, and one third are the members/delegates from Republika Srpska. However, the population of the Federation of Bosnia and Herzegovina is not two times larger than the one of Republika Srpska, which jeopardizes the equality of the voting right (Marković, 2012: 90).

The original idea was that the parliamentary houses should represent different subjects. This idea has, however, been modified in the Constitution itself, in such a manner to make ethnic and entity interests predominant. This is particularly obvious in the analysis of the manner of decision-making of the Parliamentary Assembly. The basic decision-making procedure is identical in both houses although it should not be so, since the houses represent different subjects and protect different interests. The Constitution introduces a special kind of qualified majority necessary for adopting any decision, as it prescribes that a decision shall be adopted if voted in favour by the majority of the number of present members/delegates, providing that this majority encompasses one third of members/delegates from the territory of each entity. If this majority has not been achieved, the Speaker of the House and his/her deputies shall attempt to reach an agreement

within three days after the date of voting. If they fail to do so, the decision shall be adopted under the condition that it is not voted against by the two thirds or more of the members/delegates elected in each of the entities.

On the majority required for the adoption of laws and other acts there are different opinions in the theory as well, since the constitutional norm regulating this issue is not precise. It is disputable whether the required majority includes one third of members/delegates present at the sitting in the moment of voting, or one third of the total number of elected members/delegates. According to one opinion (Steiner and Ademović, 2010: 576), it should be one third of the present members/delegates, while in another opinion, accepted by the Parliamentary Assembly, one third of the number of elected members/delegates is required.

This manner of decision-making is known as entity voting and so far it has been a big stumbling block among national political elites. Serbian and Bosniak political elites have the largest disputes about it. The former wants to protect it in an unchanged form, as it enables it to prevent passing decisions it disagrees with, whereas the latter wants its abolishment as it has the largest number of members in the House of Representatives and in this manner is disabled to impose decisions. It is common that in the House of Representatives there are 22 members of Bosniak nationality, six members of Croatian nationality and 14 members of Serbian nationality (minimal derogations from this division are possible). These members belong to different parties. Sometimes it happens that members from among the ranks of certain people are elected in the territory of both entities.[1] Thus an image is created that the members represent all citizens of Bosnia and Herzegovina. This conclusion, however, cannot stand the factual probation: 1) that all parliamentary parties are ethnic and therefore do not represent all citizens, but only the citizens of one nation; 2) that all parties are essentially entity parties, as there is an obvious misbalance in their membership and influence, even if they have party organizations and candidates at elections in both entities; 3) that political parties themselves pose the focus of their activities to a single entity.

This manner of voting protects the interests of entities as they can prevent decisions they disagree with. It could not be said that the entities are entitled to

[1] In the convocation 2010–2014, all members of Bosniak and Croatian nationality were elected in the Federation of Bosnia and Herzegovina and all members of Serbian nationality in Republika Srpska. In previous convocations this was not the case. In the first convocation (1996–1998), the SDA had three members from Republika Srpska; in the second convocation (1998–2000), the Coalition for Whole and Democratic Bosnia and Herzegovina (led by SDA and SBiH) also won three seats; in the third convocation (2000–2002), Bosniak parties again had three members; in the fourth convocation (2002–2006), they won two seats. In the convocation 2006–2010, two Bosniak parties – the Party of Democratic Action (SDA) and the Party for Bosnia and Herzegovina (SBiH) – had one member each in the House of Representatives elected in Republika Srpska.

the right to veto, as the members formally decide independently, not being, either formally or factually, under the influence of entity institutions. Besides, passing a decision does not require the agreement of the majority, but only of one third of members/delegates from each entity.

If in opinion of the delegates in the House of Peoples of the Parliamentary Assembly some decision of the Parliamentary Assembly jeopardizes vital interests of their people, they can put veto on that decision. This can be done by three out of five delegates of one people. In that case, for the decision to nevertheless be passed, it must be accepted by the majority of the voting delegates from among the ranks of all three constituent peoples. The Constitution nowhere defines the vital national interests, so that it is not clear which issues can be considered the issues of vital national interest. Since they are neither defined nor explicitly stated, the conclusion is that any issue can be considered the issue of vital national interest.

There are "brakes" envisaged in order to reduce the possibility for abuse of this institution. When delegates from among the ranks of one people consider some issue to be of vital national interest, delegates of another people can consider the opposite. If they say that explicitly, the disputable decision shall be discussed by a joint committee, that shall attempt to reach a compromise solution. If it fails to do so, the matter shall be referred to the Constitutional Court of Bosnia and Herzegovina. The Constitution says that this Court shall review the decision for procedural regularity.[2] In reality, not only that the Constitutional Court examines if the procedure of protection of vital interests in the House of Peoples was carried out in accordance with the Constitution, but it also enters into merits.

The institution of vital national interest has so far been used only four times, by the Bosniak and Croatian delegates in the House of Peoples. Its seldom implementation is the result of the factual relation of the two houses in the decision-making procedure and the use of the institution of entity voting, which prevents many disputable decisions to be decided about in the House of Peoples at all, unless previously adopted in the House of Representatives. This means that the House of Representatives in fact dominates the procedure of political decision-making in spite of formal equality of the houses. This situation, together with constitutional solutions, particularly dissatisfy the Croatian political elite which, being small in the House of Representatives, cannot use the institution of entity voting, while in the House of Peoples it often cannot effectively use the institution of protection of vital interest, either because this house does not decide on the disputable issue at all, or because the Constitutional Court of Bosnia and Herzegovina decides about the disputable decision in the final instance.

[2] Article IV 3 f of the Constitution.

4. Elections and electoral system in BIH[3]

Elections and electoral system in BiH are embedded by the General Framework Agreement for Peace in BiH (the so-called Dayton Peace Accords) and the Election Law of BiH. The Accords pay a lot of attention to the regulation of electoral system in BiH which is founded on intertwining of the constituent principle and the principle of people's sovereignty, and international democratic standards concerning the electoral system. However, some of important issues pertaining to electoral system, which are important for democratic functioning of the state, are still not harmonised with international legal standards.

Annex III of the Dayton Peace Accords (Elections in BiH) covers the elections and electoral system in BiH, i.e. temporary electoral system. This Annex defines the role of the Organization for Security and Cooperation in Europe (OSCE) in carrying out the (first post-war) elections, which particularly refers to the assistance to the parties to the Accords in adoption of electoral principles and monitoring of preparations and carrying out of the elections for legislative and executive power in BiH at its state, entity, cantonal and municipal level. Besides, the OSCE established the Provisional Election Commission of BiH, with broad competences.[4] However, although the Accords envisaged that in the first (post-war) time (years 1996 and 1998) the elections should be held in short, i.e. two-year intervals, this practice of holding the BiH elections was continued all until the year 2002, i.e. until the establishment of the permanent electoral system in BiH. In addition to the human rights and freedoms guaranteed by the Annex I to the Constitution of BiH (i.e. Annex IV to the Dayton Peace Accords), Annex IV (Agreement on the Human Rights) also pertains to the protection of human rights and freedoms including the elections and the electoral system.[5]

The Election Law of BiH was adopted in the BiH Parliamentary Assembly in 2001. Although no significant changes were envisaged in comparison to the

[3] For more details on elections and electoral system of Bosnia and Herzegovina, see: Sahadžić, Maja. "Electoral System of Bosnia & Herzegovina: Short Review of Political Matter and/or Technical Perplexion" *Contemporary Issues*, 2(1) (2009): 61–78; and Sahadžić, Maja. "Izbori i izborni sustav Bosne i Hercegovine". In *Država, društvo i politika u Bosni i Hercegovini,* editors Saša Gavrić and Damir Banović, Sarajevo: Sarajevski otvoreni centar and Konrad Adenauer Stiftung, 2011.

[4] These competences pertained to the oversight over the electoral procedure in order to ensure free and fair elections, definition of rules for registration of voters etc.

[5] Annex I to the Constitution of Bosnia and Herzegovina refers to 15 additional agreements on human rights implemented in Bosnia and Herzegovina, some of which being directly or indirectly linked with the elections and electoral system in Bosnia and Herzegovina: Convention on the Elimination of all Forms of Racial Discrimination of 1965, International Covenant on Civil and Political Rights of 1966 with accompanying optional protocols, International Covenant on Economic, Social and Cultural Rights of 1966, Framework Convention on the Protection of National Minorities of 1994 etc.

provisional electoral system, the electoral system of Bosnia and Herzegovina remained within the framework of the BiH Constitution. Its adoption fulfilled all the necessary requirements for carrying out of the elections in accordance with domestic and international rules and regulations. However, the adoption of this law was accompanied by the assurance that it was a prerequisite for the admission to the Council of Europe (CoE), without offering large changes in relations to the provisions on the provisional electoral system. The central election commission of BiH of 2002 independently organized and carried out general election, as well as municipal election in 2004, when the municipal leaders and mayors and the members of municipal councils were for the first time elected directly. In accordance with the BiH Election Law, the authorities in charge for carrying out the election are the Central Election Commission, the Municipal Election Commission and the Polling Station Committees. The composition of these bodies must reflect the constituent peoples and Others in accordance with the last census. In order to participate in elections, the political parties, independent candidates, coalitions and list of independent candidates must be registered with the Central Election Commission of BiH. Same, political parties must be registered with the competent authority.

The election of members of the BiH Parliamentary Assembly should also be considered. In allocation of seats, the proportional representation formula per Sainte- Laguë method is applied, with the system of compensation seats being implemented as a correction. However, there is a notable discriminatory element within the electoral system, as two thirds of representatives are elected from the territory of BiH Federation and one third from the territory of Republika Srpska, thus disabling the expression of will of citizens from the entire territory of BiH although this house should reflect the interests of all citizens from the entire BiH territory. It can almost be concluded that the House of Representatives of the BiH Parliamentary Assembly represents entities, as one part of the members is elected from the territory of BiH Federation and one part from the territory of Republika Srpska. Therefore it is not surprising that in literature this house is called "a hidden representative office of BiH constituent peoples" "composed of ethnic MPs" (Pobrić, 2000: 262), having in mind the manner of election. Delegates of the House of Peoples from among the ranks of Croatian and Bosniak peoples are elected by Bosniak, i.e. Croatian caucuses in the House of Peoples of the Parliament of the Federation of BiH from among the ranks of its constituent peoples, while the representatives of Serbian people do not participate in voting. Delegates from among the ranks of Serbian people are elected by the members of the National Assembly of Republika Srpska – Serbian, Croatian and Bosniak. It is obvious that Bosniaks and Croats are represented exclusively by the Bosniak and Croat delegates from the Federation of Bosnia and Herzegovina, while Serbs are represented exclusively by the delegates-Serbs from Republika Srpska. Thus, as it seems, Bosniaks and Croats from Republika Srpska and Serbs from

the Federation of Bosnia and Herzegovina are represented by nobody. Besides, neither the Others are represented in the House of Peoples, which violates the principle of national equality, and therefore collides with the provisions of the BiH Constitution and the international standards which became binding for BiH by the Constitution.

Finally, we should remind on the judgement of the European Court of Human Rights in the case Sejdić and Finci v. Bosnia and Herzegovina, the implementation of which is still being waited for. Namely, the European Court of Human Rights in December 2009 passed a judgement in favour of Roma Dervo Sejdić and Jew Jakob Finci who lodged applications to this Court[6] complaining of their ineligibility to stand for elections to the Presidency of BiH and the House of Peoples of the BiH Parliamentary Assembly on the grounds of their non-belonging to one of the constituent peoples of BiH. From the judgement of the European Court of Human Rights and the Decision on the constituent peoples by the BiH Constitutional Court of 2000, two minimum standards of international character can be selected and must be incorporated into the constitutions of of the Council of Europe member states – the meaning of the concept of democratization and the right to identity. (Marko, 2010: 8). However, the fact is that before the call for BiH elections in 2010, the Central Election Commission was under a strong and unjustified pressure, being accused for the failure to implement the judgement of the European Court of Human Rights. It was obviously forgotten that the Central Election Commission only acts in accordance with the BiH Constitution and the laws adopted by the BiH Parliamentary Assembly, and that the focus of accusations should in fact be shifted towards the members of the legislative authority, i.e. the BiH Council of Ministers, which did not use its competences to initiate the procedure for their amendment in order to get harmonised with the international standards of human rights and freedoms.

The foundations of the electoral system of BiH are grounded on the BiH Constitution and the BiH Election Law, and it is easy to conclude that there are two normative frameworks regulating the elections and the electoral system in BiH. Besides, the provisions on elections and electoral system in the BiH Constitution are brief and short, and therefore the actual details regarding elections and electoral system are found only in the BiH Election Law. When it is about the respect of human rights and freedoms related to elections and electoral system, it should be noted that there is no consistency in the implementation of the international documents from Annex 1 to the BiH Constitution pertaining to elections and electoral system, due to the presence of the above described discriminatory elements in the BiH electoral system. Besides, the current electoral system of BIH uses different manners of allocation of seats, containing elements both of di-

[6] See: European Court of Human Rights, *Sejdić and Finci v. Bosnia and Herzegovina*, applications Nos. 27996/06 and 34836/06.

rect and indirect elections, majority and proportional system, etc. Same, the BiH electoral system reflects political, national, ethnic structure of BIH, whereas the goal should be a firm and full equality of citizens, free from discrimination within the frameworks of elections and electoral system of BiH, with respect of diversities. Therefore the conclusion should be as follows: "The definition of elections in accordance with the promises on the EU accession shall be a challenge to the proved influence of ethnic fear and extreme ethnic polarization in BiH. The state shall continue to face with significant changes, but the next 10 years shall, according to all indicators, be more progressive and dynamic because of the European Union accession process" (Tuathail, O'Loughlin & Djipa, 2006: 61–75).

5. Characteristics and importance of party system

Bosnia and Herzegovina has an extremely fragmented party system. From 1996 until today, between seven and twelve political subjects (political parties and coalitions) were being represented in the Parliamentary Assembly. The lowest number of them was in 1996 – six parties and one coalition. The figure gradually increased: in 1998 there were eight parties and two coalitions; in 2000 13 parties; in 2002 13 parties and one coalition; in 2006 and in 2010 – 11 parties and one coalition.

The fragmentation of the party system is conditioned by a large number of factors: 1) the nature of society; 2) the character of political regime; 3) the nature of electoral system; 4) the nature of political parties. Bosnia and Herzegovina has a proportional electoral system, with electoral threshold of 3% for each constituency. Such electoral system is already a guarantee of a multiparty parliament. Other factors only enhance the tendencies towards multiparty system. When a society is segmented, each segment, in this case nations, attempts to become politically organised. This means that, even if rigidly theoretically observed, there must be at least three political parties. As, however, even the political parties within the same people differ in ideological, political and strategic aspects, it is unavoidable that several parties will be formed within each people. Political parties are ethnic, which leads to their multiplication in spite of that they, at least nominally, share the same ideologies. Thus we have several social-democratic, liberal, people's and other parties, which are ideologically close, however gathering their voters and members mostly or exclusively from a single constituent people.

The cleavages which occurred in the three leading national parties after the war contributed the fragmentation of the party system, and even the appearance of important parliamentary parties. Thus the SBiH separated from the SDA, the Serbian People's Alliance (SNS) – the majority of the members of which later formed the Democratic People's Alliance (DNS) – separated from the Serbian

Democratic Party (SDA), while the Croatian Democratic Union 1990 (HDZ 1990) separated from the Croatian Democratic Union (HDZBiH).

The fragmentation of the Parliamentary Assembly is conditioned by this fragmentation of the party system. A large number of political parties in the Parliamentary Assembly, by itself, do not significantly hinder the formation of parliamentary majority and the election of the Council of Ministers. The reason is that the parliamentary majority is always unstable, regardless the number of parties composing it. It does not have a programme character, except in respect of a limited number of issues, mostly economic-social, which, in their large part, already do not fall under the competence of the state. There is a deep disagreement on the most important issues of organization and functioning of the state and its relation with the entities, coming to the surface when concrete decisions are to be made.[7]

Small parliamentary parties seldom enter the composition of the parliamentary majority. Neither they are necessary, since one or two strongest political parties from among the ranks of each people have enough seats to form the parliamentary majority. Therefore, a much bigger problem than fragmentation is segmentation, and segmentation by itself would not pose such a problem if the national political elites could reach a consensus on the fundamental issues of existence, organization and functioning of the state.

Political parties are not ideologically profiled to a sufficient level, and some of them have nothing ideologically recognisable and specific. Even those which are clearly ideologically defined often carry out identical politics or differ in less important issues.[8] This is another reason for which the parliamentary majority does not have a programme character. In addition, different coalitions are possible in the Parliamentary Assembly, being created at the basis of daily politics.[9]

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[7] Thus, for example, political parties of the parliamentary majority disagree if the transfer of competences should be done from entities to the state; if a reform of judicial system should be made; how to organise the institution of the Head of the state; what should the decision-making procedure in the Parliamentary Assembly be like, and other very important issues.

[8] For example, political parties declaring themselves as social-democratic, liberal or people's often define their politics according to the manner it shall reflect to the protection of so-called national interests, so it happens that ideologically different parties, if from the same people, carry out identical politics. It also happens that the biggest opponents in the Parliamentary Assembly are the political parties with identical ideological definition. A typical example is the relation between the Alliance of Independent Social Democrats (SNSD) and the Social Democratic Party (SDP), the parties which the public in this moment perceives as irreconcilable political opponents and holders of two opposed concepts of governent, although both define themselves as social-democratic parties and both were (until the expel of the SNSD) the members of the Socialist International.

[9] Thus after the election of 2010, the SDP entered the coalition with the SDA, the SNSD with the SDS, and the HDZ with the HDZ 1990, and subsequently jointly formed the state-

6. The structure of the sixth convocation of the BIH Parliamentary Assembly

The sixth convocation of the Parliamentary Assembly was elected at general election held in October 2010. After long and uncertain negotiations, the parliamentary majority was made of: Social Democratic Party, Alliance of Independent Social Democrats, Serbian Democratic Party, Party of Democratic Action, Croatian Democratic Union and the Croatian Democratic Union 1990. Out of 42 members in the House of Representatives, 33 belong to these parties. In the House of Peoples there are 15 delegates, and 12 delegates come from these six parties. In total, the sixth convocation represent 12 political subjects (eleven independent parties and one two-party coalition).

The SDP and SNSD has the highest number of members in the House of Representatives – eight each. The Party of Democratic Action has seven members, the Union for a Better Future (SBB) and SDS four each, the HDZ three, the Croatian Coalition (HDZ 1990 and Croatian Party of Rights) and SBiH two each, while the Democratic People's Alliance, Democratic National Alliance (DNZ), People's Party Work for Betterment and the Party of Democratic Progress one member each. If we observe the Parliamentary Assembly as a whole, the SDP has 11 members, SNSD and SDA ten each, SDS and HDZ five each, SBB and Croatian Coalition four each, SBiH, PDP and DNS two each, and DNZ and People's Party Work for Betterment one each.

In the House of Representatives, there are 33 men, i.e. 78.6 %, and nine women, i.e. 21.4 %. If we take into account the House of Peoples, in the Parliamentary Assembly there are 46 or 80.7 % men and 11 or 19.3 % women.

Members in the House of Representatives are organized into caucuses. The Rules of Procedure of the Parliamentary Assembly stipulate that a caucus can be organized by at least three members. Since small parties, which won less than three seats at the election, also have members in the Parliamentary Assembly, they have to form mixed caucuses or their members act outside the caucuses. In this convocation, several small parties formed a mixed caucus of people's parties, whereas the SBiH members neither have their caucus nor have joined some other one. On the other hand, it is possible that a member of one party acts through the caucus of another party, like the member of the People's Party Work for Betterment who is a member of the SDP caucus.

Delegates in the House of Peoples are organised in caucuses of members of constituent peoples. Here it is not the matter of their party but of their ethnic affiliation, so that delegates of ruling and opposition parties belong to the same

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level government. This coalition was formed after long negotiations, without a programme and created of political parties which views to the BiH polity drastically differ. Besides, the SDP defines itself as a civil party, and criticizes other parties (some of which, like the SDA, also define themselves as civil) for their mono-ethnic character.

caucus. It is assumed that they, regardless their party affiliation, should define and protect vital national interests.

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Constitution of Bosnia and Herzegovina

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CONSTITUTIONAL AND LEGAL-POLITICAL FRAMEWORK OF THE PARLIAMENT IN MONTENEGRO, 1989–2012

The renewal and development of the multiparty system in Montenegro

The democratization process in Montenegro since 1989 was marked by turbulent events concluding with the referendum on the renewal of the state independence. In different from some states (Czech Republic, Hungary or Baltic states), Montenegro had a far more difficult transition experience. Similar to Romania, Serbia, Croatia, Georgia, Ukraine, Slovakia, Montenegro passed through a two-stage transition (1989–1997 and 1997–2000).

The first transition (*stopped transition, competitive semi-democracy,* Darmanović) in Montenegro lasted from 1989–90 until the year 1997. In January 1989, on the wave of the street protests, with support of Serbian communist leadership headed by Slobodan Milošević (the so-called AB revolution), the young generation of the ruling League of Communists[1] came to power in the Republic. The League of Communists, with the new leadership, convincingly won the first multiparty election in 1990, thus becoming the only communist party in Europe winning after the fall of communism.[2] Already this, together with the fact that the new government did not come out from an anti-systemic but from the systemic circle (like in Romania, only without its bloody scenario), reveals the roots of

[1] Although the dissolution of the SFRY Communist Party was obvious, communists of Montenegro and Serbia for some more time refused to face with the reality, and attempted – without success – to create conditions for the continuation of work of the 14th Party Congress. The issue of introduction of the multiparty system was posed even earlier, already on the Tenth Extraordinary Congress, however the final conclusion was that "more parties does not mean more democracy" (Vujović, Komar, 2006:175).

[2] In Serbia, after the first multiparty election, the power was preserved by the transformed League of Communists under the new name of the Socialist Party of Serbia, led by its president Slobodan Milošević.

the authoritarianism of the Montenegrin regime in the coming period. The elections held in 1992 and 1996 as well as the referendum of 1992[3], did not fulfil the requirements to be assessed as fair and democratic. The work of opposition political parties was hindered, and in certain cases even accompanied with violence from the side of the ruling structures. A particularly radical attitude of the position to the opposition was emphasized in the period of a strong dominance of the united DPS (1990–1997). The supporters of independence and opponents to the war in the former SFRY, gathered around the LSCG, SDP and independent Montenegrin national associations, came under the strongest attack. In the situation of war in the neighbourhood, with international isolation (1990–1995), civil and media freedoms were quite limited and followed by police control of the society and strengthening of the network of clientelist relations. The war and the repression produced fear among ordinary citizens. Such feeling was additionally contributed by the cases of forced displacement from Bukovica, establishment of the Morinje camp, deportation of Muslims from Herceg-Novi, the so-called Lim affair, barricades at the entrance to Bijelo Polje etc. Montenegro definitely had a regime which was partly authoritarian, partly democratic, but with authoritarianism prevailing to a large extent (*hybrid, semi-authoritarian regime,* Darmanović, 2007: 85), However, in difference from Serbia or Croatia, where one charismatic person was the undisputed leader of the ruling party and the state, this was not a case in Montenegro. Montenegro was ruled by several outstanding representatives of the ruling party, at least three of them – Bulatović, Marović and Đukanović. Therefore we can say that Montenegro had an oligarchy. The President of the Republic and the Party Momir Bulatović, was only *primus inter pares*, and not an undisputed leader. After the election of 1996, which were, due to the extreme abuse of state monopolies and also to retailoring of constituencies after the call for elections, convincingly won by the DPS (since 1991 the renamed SK) which defeated the united opposition composed of populists and liberals, under the influence of various factors, the developments in Serbia in late 1996 and early 1997 certainly being among them, a conflict occurred at the highest top of the party. During few summer months, Đukanović managed to attract Marović and Milica Pejanović – Đurišić to rally to his side, so that all three Party Vice-Presidents cancelled the obedience to the then Party President Bulatović. Bulatović was dismissed and Pejanović-Đurišić came to his place. The conflict in the DPS significantly contributed the strengthening of the democratization process. Next clash between Bulatović and Đukanović resulted in the election of the latter for the new President of Montenegro. This was still the only real change within the executive

[3] The referendum was held in irregular conditions, under the boycott by the strongest opposition parties – the People's Party and the Liberal Alliance of Montenegro. On the referendum question "Are you in favour that Montenegro, as a sovereign republic, continue to live in Yugoslavia, equally with other republics wanting the same?" 95.96% of those who turned out voted positively.

power which resulted in an electoral outcome. This election (October 19th, 1997)[4] marked the end of the first (negative) transition and the move to the second one, the real transition (according to the *conflict transaction* model, Darmanović), the road to which was, among else, paved by the signing of the Agreement on the Minimum Principles for Development of a Democratic Infrastructure in Montenegro[5]. The Agreement signed by all parties except the SNP (then still under the title DPS – Momir Bulatović), was from one hand an alliance against this party and Slobodan Milošević, and from the other a guarantee to the opposition parties that the forthcoming parliamentary election will be fair and honest. The equal strength of the two parties originating from the united DPS, their mutual restriction of electoral abuses, and for the first time the presence of international observers[6] at parliamentary election made the parliamentary election of 1998 a huge progress in respect of international standards. The outcome of the election was the fact that the power was gained by a coalition (*To Live Better – Milo Đukanović*, composed of the DPS, SDP and NS), and that ever since then no party has won the absolute power independently. In the coming period, Montenegro

[4] Although the position of the President of the Republic was not constitutionally strong, as in classic parliamentary system such was enforce in Montenegro since the 1992 Constitution, the largest portion of the executive power belongs to the Government, the election had a tremendous symbolic and psychological importance, exactly because they were a kind of the Montenegrin plebiscite on Milošević's politics. How much the defeat which Milošević's candidate suffered was perceived as a landslide, speaks the fact that the defeated former President Bulatović organized in January 1998, in the eve of the transfer of presidential duty, violent demonstrations in the capital Podgorica, when his supporters attacked the building of the Montenegrin government. In a dramatic night of January 13/14, special police forces loyal to the Republic Government broke up the protestors and restored the order in the country. Probably with an assurance that there will still be opportunities for a showdown with Đukanović, Milošević did not decide to use army in Montenegro and the transfer of power was carried out the next day, on the ceremony in the historic capital of Montenegro, Cetinje, where the ambassadors of the main Western countries in Yugoslavia by their presence expressed the first signs of a clear support to the newly elected President. Since then, in his struggle with Milošević's regime, the President Milo Đukanović will enjoy a strong, political, financial and in critical moments certain security support, first of all by the USA, and also by the EU, i.e. its most influential states (Darmanović, 2007::92).

[5] By division of the DPS in the first half of 1997 a part of the then ruling party which supported the Vice-President of the Party and the Prime Minister M. Đukanović lost the parliamentary majority, due to the fact that a large number of MPs supported the President of the Party and the Republic M. Bulatović. Due to the need for ensuring the parliamentary majority, as well as the support at the forthcoming presidential election, Đukanović signed the Agreement on the Minimum Principles for Development of a Democratic Infrastructure in Montenegro with the opposition, on September 1, 1997 in Podgorica (Vujović, Komar, 2006: 200).

[6] For the first time international observers monitored the electoral process at the presidential election in 1997, while the parliamentary election of 1998 were the first parliamentary election in Montenegro monitored by international observers.

transferred one by one function from the federal to the republic level[7]. Although it is considered that Montenegro, even while Milošević was on power, became an electoral democracy, its further democratic consolidation was limited and slowed down due to the realistic war threat from Belgrade, atmosphere of war in Kosovo and, always actual and then increasingly actual – the state issue. Clearly, there is no consolidation before the definite solution of such a big issue, as is the one pertaining to the state status[8]. The state issue was not just a conjecturing matter related to the rule of Slobodan Milošević. This was the issue that was completely logical – can Montenegro, seventeen times smaller, ever be equal in an union with Serbia, even if it is democratic? Therefore Montenegro continued to insist on replacing the federation by an alliance of independent states, which, however, was favoured neither by Serbia nor by the international community, which in this saw just another new problem in the Balkans.[9] In spite of numerous problems in functioning of the minority DPS-SDP government supported by the LSCG, additionally burdened by signing the Belgrade Agreement which resulted by its fall, the DPS and SDP continued preparations for the referendum, postponed for three, i.e. effectively four years. It is therefore the best to define the period 2000–2005 as the period of *blocked majority* (Darmanović, 2007:94) After the elapse of this time, the government nevertheless insisted on holding a plebiscite, however the pressures by the opposition, Serbia, and above else the EU continued. In the beginning of the year 2006, Montenegro found itself in the atmosphere of waiting and negotiating.

The referendum and parliamentary election of 2006

Both transitions in Montenegro unfolded in the shadow of an *eternal* questions –the state-legal status. Therefore the referendum on the state-legal status was important for everyone – parties, non-governmental organizations, individuals. In spite of the pressures from international community, the referendum was held, provided that, in order for it to be accepted by the opposition and recog-

[7] One of the bravest moves, contrary even to the requirements of international supporters of Đukanović (Madeleine Albright, the US Secretary of State) was the introduction of German mark as an official currency, i.e. the replacement of Yugoslav dinar with this foreign currency on November 1, 1999.

[8] An unsolved problem of statehood *always slows down the process of democratic consolidation*, as it forces the main political actors to keep returning to the capital question – the very *framework* within which the political process is unfolding, instead of improvement of the already defined and established framework – Darmanović, PhD thesis.

[9] While Milošević was on power, Đukanović was welcomed in Western capitals, received at much higher level than it is common for a president of a federal unit, and Montenegro in that time received American help per capita lower only than the one intended for Israel.

nized by the international community – the threshold of 55%[10] was set for the option *yes* for the referendum to succeed. The final results was 55.5% so that the Montenegrin independence was very quickly recognized, although the unionist bloc has never accepted the results. The referendum was not only a conflict between the supporters of the renewal of independence and the supporters of the union with Serbia, but also a clash of two entirely opposed perceptions of the world – on one hand, there were those in favour of civil state, the largest number of representatives of minorities, among whom many already pro-Western, anti-Milošević oriented, and on the other side more conservative forces, mainly Serbs and a part of Montenegrins, among whom more or less all parties which supported Milošević even in the eve of his fall (Darmanović, 2006: 17). It is interesting that, although the subject matter was the resolution of what for Montenegro was the mother of all issues, the campaign was extremely calm, without sparks and without disturbance and conflicts. In the pre- and post-referendum process, the Montenegrin society showed an amazing maturity. The referendum was assessed as democratic and fair, while the high turnout, 86.5% , confirmed its legitimacy. Soon after the victory at the referendum, the government called for parliamentary election on September 10th, 2006, in order to benefit from the victorious mood of the supporters of independence. That move was understandable and successful for them, as they won the majority, however this election is important, besides being the historical, first election in independent Montenegro, for being the first on which the state issue was not any longer dominant (although in campaign both of them still spoke about it and disputed about some issues deriving from the state one), which was also proved by the fact that for the first time a party (Movement for Changes) entered the Parliament as an important force, without having a clearly defined attitude towards the state and national issue, nor building its identity on that subject matter. This election, also positively assessed even by the actors themselves, as only SNP did not have a reason for satisfaction, while other opposition parties did, showed the path along which the Montenegrin political scene would go in future and closed, although only in part (as confirmed by adopting the Constitution in October 2007) one chapter of Montenegrin history,

[10] After a very long and tiresome negotiation procedure, the role of the EU from mediation more and more transformed to imposing of electoral model, so that the European mediator, Slovak diplomat Miroslav Lajčak, with support of Solana's cabinet and approval of the European twenty five, offered as "take it or leave it" a very unusual electoral model, which had so far never been implemented anywhere in the world. The majority required for voting the independence was defined to 55% of those who turn out to vote, which in fact meant that the supporters of independence had to win with at least 10% margin for the country to win independence. Although, in sport terminology, this meant a handicap-match, a match with 10% "advantage", the independence bloc, faced with strong European pressure, decided to accept this condition, which was also done by the unionist bloc, with assurance that the 55% majority is nevertheless unreachable, and not wanting to reject the European proposal (Darmanović, 2006:16).

of permanent conflict about the issues of identity, on the expense of life, economic and reformative issues in various spheres of society.

In the period after obtaining the independence, Montenegro reached a significant success in Euro-Atlantic and European integration. In spite of divided public opinion regarding this issue, the full membership in the NATO was proclaimed as an important goal. To that end, Montenegro obtained the MAP and it expects the invitation for membership in near future, although there is still a lack of mood for such development among a significant number of citizens. Simultaneously with its progress towards the NATO, Montenegro made a serial of steps towards the European Union membership, crowned by the opening of negotiations on accession in June 2012.

Regardless the fact that for already six and a half years it is an independent state, the Montenegrin political scene is still burdened with the so-called "identity questions" which are important issues in actual political campaign, in combination with the economic and social ones that came to the forefront after the beginning of the economic crises which lasts for the entire term of office of the actual government, and which succeeded the period of relative welfare after the renewal of statehood.

Development of the constitutional-legislative framework

In the time of the single party system, Montenegro followed the constitutional order existing in other republics of the former SFRY[11]. Political changes from the end of the 1980s caused the adoption of amendments to the Constitution. Multiparty system was introduced, the structure of the Assembly changed in such a manner as there was no delegate system and chambers anymore, and then the attribute "socialist" was deleted from the name of the republic. After the final dissolution of Yugoslavia, the 1974 Constitution was replaced by the adoption of the new Constitution, on October 12th, 1992. This act had 121 articles and was divided into six chapters. The Constitution of 1992 defines Montenegro as a democratic, social and ecological state. Also, Montenegro was defined as a republic and as a member of the Federal Republic of Yugoslavia (the Constitution of the Republic of Montenegro of 1992, Article 1). The third part of the Constitution pertained to regulation of government. The Constitutions determines the competences of the Parliament on which more details shall follow. It also introduced the function of the President of the Republic instead of the former

[11] According to the Constitution of 1974, the Socialist Republic of Montenegro was a republic-member of the Socialist Federal Republic of Yugoslavia. As in other members of the Yugoslav federation, the Assembly was formed according to the delegate system. It was composed of three chambers. Until 1974 the Speaker of the Assembly was at its head, and since that year the Presidency, headed by its President.

President of the Presidency. The President is elected on direct election with five years term of office, while the Constitution stipulated that the President of the Republic represents the Republic in the country and abroad and performs a set of mostly ceremonial functions. Such constitutive definition of the leading person of Montenegro classified it among the parliamentary republics. However, the direct election of the President classified it into the group of the so-called parliamentary systems with president. With more or less competences than the ones granted to the Montenegrin President act also the presidents in other countries having both the parliamentary system and the directly elected head of the state. Such is the case with all states originating from the former Yugoslavia except Kosovo, as well as with Bulgaria, Romania, Slovakia, Lithuania, Finland, Portugal, Austria, Island and Ireland. The Constitution of 2007 did not significantly changed the competences of the head of the state, apart from changing his/her title from the President of the Republic to the President of Montenegro, according to the change of the formal name of the Montenegrin state from which the entry "Republic" has been deleted. The Constitution devotes one of its chapters to the Government and its competences, judiciary and prosecution, while the new constitutional-legal framework preserves the institution of the Constitutional Court, established already by the Constitution of 1963. The Constitution of 1992, in difference from previous Constitutions, clearly defines the principle of division of power to the legislative, executive and judicial. The same year when the Constitution of the Republic of Montenegro was adopted saw the adoption of the Constitution of the Federal Republic of Yugoslavia as well. This Constitution was in force until the year 2003, when the Federal Republic of Yugoslavia, pursuant to the Belgrade Agreement of 2002, was reorganized and transformed to the state union under the name of Serbia and Montenegro, which Constitutional Charter was adopted on that occasion. The Constitutions of the member states, however, have never been harmonized with the Charter considering that only three years after i.e. immediately upon the expiry of by the Belgrade Agreement agreed moratorium to carrying out a referendum on the state-legal status, Montenegro held a referendum by which it resumed its international-legal personality, which led to the end of the State Union. The new Constitution was adopted by votes of the Constitutional Assembly by a two-third majority on October 19th, 2007, and was promulgated three days later. This is the first Constitution after the renewal of the Montenegrin statehood, the second in Montenegro as an independent state (after the Constitution of the Principality of Montenegro of 1905), and the sixth Constitution in the Montenegrin history in general (1905, 1946, 1963, 1974, 1992 and 2007, with an addition of the Constitutional Law of 1953).

The Constitution has eight chapters and 158 articles. It defines Montenegro as an independent and sovereign state with the republican form of government. Also, Montenegro is civil, democratic, ecological and the state of social justice, based on the rule of law (the Constitution of 2007, Article 1). The third part

pertains to the organization of government, and it can be said that there are no significant changes in relation to the solutions of 1992, apart from the differences which logically resulted from the change of the state status. Upon adoption of the Constitution, a significant number of laws and bylaws was amended in order to get harmonized with the new state status, with a set of new legal acts being passed, considering that the entire legislative competence is now in the hands of Montenegro.

Electoral systems and elections

Electoral system in Montenegro belongs to the system of party lists, the most often used type of proportional system. Table 1 presents the key elements of the electoral system from which it is seen that there are small variations in relation to the dominantly used system. In the first three electoral cycles, changes occurred which significantly influenced the character of the electoral system[12]. This was particularly obvious by introduction of 14 constituencies instead of 1 (1996), some of which were single- mandate, thus achieving the effects as if the majority system of relative majority have been used in these constituencies. The system has become stabile since 1998. Also, since the election of 1998 there have been specificities pertaining to the representation of national minorities (more precise – Albanians) in the parliament, the so-called affirmative action, which underwent significant changes in 2011. The number of MPs as well, before the adoption of the Constitution in 2007, varied from one election to another. The most recent changes of the electoral system occurred in 2011. Then a differentiated electoral threshold has been introduced, so that besides 3% threshold there are also thresholds for minority parties of 0.7% i.e. 0.35% for the parties representing the Croatian national community. The threshold defined for minority communities can be assessed as a sort of reserved mandate, as passing the threshold

[12] When comparing the legislative frameworks for all eight electoral cycles, the Montenegrin legislator most often opted for the solution that Montenegro is a single constituency. Two electoral cycles are exemptions. These are the elections carried out in 1990 and 1996. At the second parliamentary and first extraordinary election, Montenegro was transformed into a single constituency, whereas already the next election saw a radical change which resulted in transforming Montenegro into 14 constituencies. The changes carried out in 1996 after the call for election were aimed at further strengthening of the chances of the ruling DPS in relation to the newly established People's Unity coalition, which met a significantly stronger support of voters in relation to the independent performances of the parties composing it.

On the next election, i.e. the second extraordinary, held in 1998, the legislator returned the old solution that Montenegro is a single electoral unit. The change of electoral solution was preceded by the dissolution of the ruling party and the creation of "anti-Milošević bloc« by the part of the DPS which was led by Milo Đukanović, and democratic opposition parties, thanking to the support of which the DPS leader triumphed at presidential election of 1997. (Vujović, Tomović, 2010:16)

guarantees winning of the first seat for each of the minorities regardless the size of the D'Hondt quotient and its effect. All the time the legislator opted for closed blocked lists, not allowing voters to have influence on the election of actual representatives from the party lists. In the period from 1996 to 2012, Montenegro was, together with Serbia, characteristic by the use of modified closed blocked list. It is a solution that allowed the political parties the right to change, after the election, the order in the second half of the list of candidates, whereas the first part was blocked. In Serbia the parties could change the entire order. The changes of 2011 abolished this solution, however with preservation of the use of closed blocked lists.

Table 1: Review of the basic structural elements of the electoral system in Montenegro

Election	Size of parliament	Electoral system	Number of constituencies	Size of constituency	Threshold	Type of electoral list	Preferential voting	Electoral formula
1990	125	System of party lists	20	1 – 29	4%	Closed blocked	No	D'Hondt
1992	85	System of party lists	1	85	4%	Closed blocked	No	D'Hondt
1996	71	System of party lists	14	1 – 17	4%	Closed modified blocked list	No	D'Hondt
1998	73	System of party lists	1	1	3%	Closed modified blocked list	No	D'Hondt
2001	77	System of party lists	1	1	3%	Closed modified blocked list	No	D'Hondt
2002	75	System of party lists	1	1	3%	Closed modified blocked list	No	D'Hondt
2006	81	System of party lists	1	1	3%	Closed modified blocked list	No	D'Hondt
2009	81	System of party lists	1	1	3%	Closed modified blocked list	No	D'Hondt
2012	81	System of party lists	1	1	3% 0.7 for minority lists, i.e. 0.35% for minority list of the Croatian minority community	Closed blocked list	No	D'Hondt

The existence of a prohibitive clause and electoral strategies of political parties produced a significant number of dispersed votes. The percentage of dispersed votes was significantly above the average in the first three electoral cycles,

in order to increase in the last one, after a fall. The high level of dispersed votes in 2009 was primarily the consequence of electoral strategy of big opposition parties which wanted to abandon former small coalition partners, expecting long-term benefits from elimination of competition.

Table 2: Review of the relation of threshold, size of constituency and percentage of dispersed votes

	Time of elections	*Size of constituency*	*Prohibitive clause*	*Percentage of dispersed votes*
1.	1990	1 – 29	4%	11.2
2.	1992	85	4%	20.8
3.	1996	1 – 17	4%	20.3
4.	1998	1	3%	5.8
5.	2001	1	3%	6.7
6.	2002	1	3%	5.3
7.	2006	1	3%	2.5
8.	2009	1	3%	12
9.	2012	1	3% 0.7 for minority lists, i.e. 0.35% for minority list of the Croatian minority community	

The first election for the Parliament of Montenegro in the multiparty system was held on December 9th, 1990. 125 MPs were elected under proportional system, and the Republic was divided to as many constituencies as there were municipalities – twenty.[13] The threshold for entering the Parliament was 4%. The following parties entered the Parliament: League of Communists of Montenegro with 83 MPs, the Union of Reform Forces with 17 MPs, the People's Party which won 13 seats and the Democratic Coalition (the alliance of parties of national minorities) which won 12 seats.

In the second election, held in 1992, which were premature as in the meantime Yugoslavia fell apart and a joint state of Serbia and Montenegro entitled the Federal Republic of Yugoslavia was created, Montenegro became a single constituency (proportional system – *at large*). 85 MPs were elected for the Parliament, whereas the threshold remained unchanged – 4%. The following parties

[13] The number of municipalities since then until today has not significantly changed, considering that in 1991 Andrijevica separated from the municipality of Ivangrad (today: Berane) and that, if exempting the establishment of city municipalities Tuzi and Golubovci within the Capital of Podgorica, other requests for the establishment of separate municipalities have hitherto not been adopted.

entered the Parliament: Democratic Party of Socialists (46 MPs), People's Party (14), Serbian Radical Party (8), as well as the parties – former members of the Union of Reform Forces, Liberal Alliance of Montenegro (13) and Social Democratic Party of Reformers (4). This was one of only two (with the one between 2002 and 2006) convocations of the Parliament which lasted for full four years.

The next election was held in 1996. The electoral system was changed in the electoral year, so that, although remaining proportional, it yet underwent significant changes, as instead of one there were fourteen constituencies. 71 MPs was elected to the Parliament, whereas the following parties became represented therein: Democratic Party of Socialists with 45 MPs, People's Unity Coalition (People's Party and Liberal Alliance) with 19, Party of Democratic Action with three and Democratic Alliance in Montenegro and Democratic Union of Albanians with two seats each. Although they would pass the prohibitive clause at the level of the Republic, the Social Democratic Party and the Serbian Radical Party "Dr Vojislav Šešelj" did not enter the Parliament.

The fourth, also premature election, was held in 1998. This time Montenegro was again a single constituency, but by the decision of the Parliament five mandates were distributed to the constituencies with a significant number of Albanian population. Prohibitive clause was decreased to 3%, and 78 MPs were elected to the Parliament. After this election, the Parliament was composed of the coalition "So That We Live Better" (composed of DPS, NS and SDP) with 42, Socialist People's Party (29), Liberal Alliance (5) and Democratic Alliance in Montenegro and DUA with one MP each.

On the fifth parliamentary election that were also premature, the same rules were implemented. At the election, held on 2001, 77 MPs were elected. The threshold was still 3% and the entire republic was a single constituency with the implementation of an affirmative action in respect of the Albanian minority. The highest number of seats was won by the coalition "Victory is of Montenegro" (DPS-SDP) – 36, to be followed by the coalition "Together for Yugoslavia" (SNP-NS-SNS) – 33, while the Liberal Alliance won six and two Albanian parties one seat each.

A year later saw the sixth parliamentary election, again premature. The number of seats elected in "small constituency", i.e. at the polls where significant number of Albanians vote, was reduced to four, and the total number of MPs to 75. The threshold and the number of constituencies remained the same. The highest number of seats was won by the Democratic List for European Montenegro (coalition DPS-SDP) – 39, to be followed by Together for Change (SNP-NS-SNS) – 30, while the Liberal Alliance won four and the Albanians Together coalition (DS-DUA) two seats.

On the seventh parliamentary election since the introduction of multiparty system and the first after holding the referendum which returned to Montenegro its international-legal personality, 81 MPs were elected. As the new Constitution

of 2007 defined that the Parliament has 81 MPs, since than the same number of MPs is elected at all elections, in difference from the previous fifteen years, when at each election it was being changed. At the polls where Albanians make a significant number of population, again five MPs were elected, while there were no other changes whatsoever. The highest number of seats was won by the Coalition for a European Montenegro (DPS-SDP-HGI) – 41, then the Serb List – 12, the SNP-NS-DSS coalition 11, Movement for Changes – 11, coalition of Liberal and Bosniak Party – 3, whereas one seat was won by Democratic Alliance in Montenegro – Party of Democratic Prosperity, Democratic Union of Albanians and Albanian Alternative respectively.

Three years later, election was held for the 24th convocation of the Parliament of Montenegro. There were no changes in relation to the election of 2006, either in respect of constituencies or in respect of the number of seats. The highest number of seats at this election won the Coalition for a European Montenegro (DPS-SDP-BS-HGI), and that was 48, SNP won 16 seats, New Serbian Democracy eight, Movement for Changes five, whereas four Albanian lists – Democratic Union of Albanians, Forza, Albanian list – Democratic Alliance in Montenegro and Albanian Alternative, as well as Albanian Coalition – Perspective won one mandate respectively.

At election of October 14th, 2012 there were also 81 MPs elected, the unchanged threshold and the fact that Montenegro is a single constituency. However, due to the amendments to the Law on Election of MPs there is no "Albanian constituency" anymore. The new law stipulates that the lists of national minorities, unless passing the threshold of 3%, can still enter the Parliament if they win at least 0.7% of votes. In that case, the votes of all lists of certain minority are summed up and they enter into the allocation of seats as a single list which can win three seats at the most. This rule is applicable to all peoples with a share of less than 15% of the population of the state according to the results of the last census. The exemption is the Croatian national minority, which most successful party shall win one seat even if winning only 0.35% of votes[14]. By these amendments, the Law also introduced the obligation for all lists to contain at least 30% of the less represented sex (effectively: women). Besides, it stipulates that the seats are to be allocated to the candidates according to their order on the list, thus excluding the possibility for party authorities to define, after the election, a half of MPs that will represent it regardless their position on the list.

[14] The Law on Amendments and Supplements to the Law on Election of MPs, Article 62, The Official Gazette of Montenegro.

Parties and party system

On July 11th, 1990 the Assembly of the FR Montenegro passed the Law on Association of Citizens, which enabled the legalization of the already existing parties and association and their subordination to the legal regime. The Assembly then, on its sitting of July 30th, 1990, passed the amendments to the Constitution of 1974, No. LXIV to LXXXII. This enabled holding of democratic competitive elections (Pavićević, 2007: 14). Already before, the first parties were formed: December 12th, 1989 – Democratic Alternative, January 26th, 1990 – Liberal Alliance of Montenegro, April 4th – Social Democratic Party of Montenegro, and the People's Party on May 12th (Goati, 2000: 60). Until the end of 1990, there were 20 parties registered in Montenegro, three political associations and one political movement, and until December 1992 that number rose to 27 and around the end of 1996 to 58 (Goati, 2000: 61).

At the first multiparty election, four lists entered the parliament (two parties and two political alliances). At the next election, five parties gained the parliamentary status, and then sequentially 6, 7, 8, 8, 16 (due to the entry of as many as four coalitions to the parliament) and 11 at the last election.

There are four factors being the key ones for the establishment and evolution of the party system of Montenegro: the conflict about the type of political order, controversies between the supporters of independence and federalism, ethnic divisions and the cleavage between the left and the right (Goati, 2008: 295).

By far the most important political party in the multiparty life of Montenegro is the Democratic Party of Socialists. This party won the highest number of votes at all seven parliamentary elections held so far[15]. At the elections of 1990, 1992 and 1996, it independently won the absolute parliamentary majority. Its candidate won all five times at the presidential elections, and it achieved by far the best results at local elections.[16] This party is defined as a European party of left centre. Apart from changing is name, the DPS was significantly changing its political programme – from the leading pro-Serbian and pro- Milošević force, it became, after a tumultuous split, the pillar of anti- Milošević politics, and then the leading party of the movement for independence. This is a civil party, which membership includes the representatives of all peoples living in Montenegro. Although nominally a party of leftist orientation, it profiled itself as a party supporting the politics of economic neoliberalism, while in the cultural sense it fluctuated between cultural liberalism and conservatism.

[15] At the first election of 1990, it still appeared under the name the League of Communists of Montenegro, to change its name in 1991.

[16] At the moment, the DPS is not ruling in only five municipalities (Herceg Novi, Plužine, Pljevlja, Plav and Ulcinj), while it is on power in 15 municipalities, as well as in the Capital and in the both city municipalities.

The Social Democratic Party was established in 1993, by the unification of the Socialist Democratic Party of Reformers and the non-parliamentarian (however represented in the National Assembly) Socialist Party. The SDP remained out of the parliament after the election of 1998, when it run in the coalition with DPS and NS. Since then, it has constantly participated in the executive power and it never run independently at a parliamentary election, nor it had a nominee for the President of Montenegro. It is the only active political party which since its establishment advocated for the independent Montenegro and it is the first party from Montenegro to become a full member of the Socialist International. It is defined as a leftist party which emphasizes its action in fight for social justice and civil state.

The Socialist People's Party was formed in 1998, after the cleavage in the DPS. The defeated presidential candidate at 1997 election Momir Bulatović was at its forehead. Until the referendum, the party advocated the common state with Serbia, and until the fall of Milošević, together with his coalition, it formed the federal-level government. At all elections except in 2006, it was the strongest opposition party. Although it still puts an emphasize on close relations with Serbia and particularly on the protection of rights of Serbs, Serbian language and Serbian Orthodox Church, it more and more profiles itself as a civil party, emphasizing as its main goal the building of civil society and state. As well as the majority of parties in Montenegro, the SNP is defined as a leftist party.

The New Serbian Democracy is the leading national party of Serbs in Montenegro. It emerged by unification of Serbian People's Party which was formed after the cleavage in the People's Party of 1997, and the People's Socialist Party that emerged by the cleavage in the SNP. The SNS gained the parliamentary status in coalition with SNP in 2001. It ran in coalition in 2002, while in 2006 it was on the Serb List. The new party was formed in 2009, while in 2012 with the Movement for Changes, it became the axis of the Democratic Front. It defines itself as a conservative party of the right centre, protecting the interests of Serbian people in Montenegro.

The Movement for Changes is a political party established in 2006, while its predecessor was the NGO Group for Changes. The party did not define itself against the national and state issue, but put an accent to the economic and social issues. At first election in which it participated, it became the opposition party with the highest number of the won seats. By a serial of contradictory political actions which led to the cleavage in the top of the party, it lost a part of supporters so that in the next elections it decreased a number of seats by half. At 2012 election, it participated as a member of the Democratic Front. It is defined as a European rightist centre party.

The People's Party was established in 1990 and it obtained the parliamentary status by independent running at elections of 1990 and 1992, to later become a

member of different coalitions. At the 2009 election it lost the parliamentary status. The party was changing its political attitudes, passing the road from a hard pro-Serbian oriented conservative party, through a pro-democratic ally of the Liberal Alliance, and then a coalition partner of the DPS which put the national issue on the back burner, attempting to redefine itself as a civil party, to again an unionist and pro-Serbian party which defines itself as a European conservative party of Demo-Christian type, however clearly being a Serbian national party, which is proved by its participation in the Serbian Unity coalition at the election of 2012.

The LSCG was the leading independents' party during the 1990s. Since its beginning it consistently advocated the independent and civil Montenegro. It was a full member of the Liberal International and it was defined as a liberal party which acted from the position of the political centre. The last time it participated at the 2001 election, and then on March 24th, 2005, due to the internal party conflicts and poor electoral results the party froze its work which in fact meant its extinction. A part of the officials and members of the Liberal Alliance of Montenegro formed a Liberal Party, which in 2006 won one seat in the parliament and lost its parliamentary status in 2009. This party, to which the continuity with LSCG cannot be recognized, returned to the Parliament after the election of 2012 as a coalition partner of DPS.

Montenegro is a multi-ethnic state in which, apart from Montenegrins, a large share of population belong to the members of Serbian, Bosniak, Muslim, Albanian, Roma and Croatian nationalities. Already in 1990, the Democratic Coalition which encompassed the (then) ruling party of Muslims – the Party of Democratic Action and the first Albanian party – the Democratic Alliance in Montenegro, entered the Parliament. Since then until today, only in the 1992 election no party of national minorities (out of the so-called Orthodox majority) entered the Parliament. The Party of Democratic Action obtained the parliamentary status in 1996 and lost it in 1998. At the constitutive conference of the Bosniak Party of February 26th, 2006 in Rožaje, the SDA joined with the International Democratic Union, the Bosniak Democratic Alliance and the Party of National Equality in order to create the Bosniak Party. At the elections of 2006 and in 2009, this, on the coalition list with LP i.e. DPS-SDP, the BS won 2 i.e. 3 mandates. At the election of 2012 it for the first time decided to run independently. In the focus of the political action of the BS is the improvement of the position of members of Bosniak people in Montenegro and development of the areas within the country in which Bosniaks make an important part of population.

Review of the won seats per political parties

Party	1990		1992		1996		1998		2001		2002		2006		2009	
	No.	(%)	No.	(%)	No.	(%)	No.	(%)	No.	(%)	**No.**	**(%)**	**No.**	**(%)**	**No.**	**(%)**
DPS	83	66.4	46	54.1	45	63.4	32	41.0	30	39.0	31	41.3	32	39.5	35	43,2
SDP							5	6.4	6	7.8	7	9.3	8	9.9	9	11,1
NS	12	9.6	14	16.5	11	15.5	5	6.4	9	11.7	5	6.7	2	2.5		
LSCG			13	15.3	8	11.3	5	6.4	6	7.8	4	5.3				
SRSJ	17															
SDPR			4	4.7												
SRS			8	9.4									1	1.2		
PzP													11	13.6	5	6,2
LP													1	1.2		
SDA					3	4.2										
DUA					2	2.8	1	1.3	1	1.3	1	1.3	1	1.2	1	1,2
DSCG					2	2.8	1	1.3	1	1.3	1	1.3	1	1.2	1[17]	1,2
DK	13	10.4														
SNP							29	37.2	21	27.3	19	25.3	8	9.9	16	19,8
SNS – NOVA[18]									3	3.9	6	8.0	9	11.1	8	9,9
AA													1	1.2	1[19]	1,2
BS													2	2.5	3	3,7
DSS													1	1.2		

[17] The Serbian People's Party changed its name to the New Serbian Democracy (or abbreviated) NOVA.

[18] The Democratic Alliance in Montenegro in the coalition with Albanian Alternative won 1 seat so that the candidate of this party performed the MP function in the first half of the term of office of the Parliament of Montenegro

[19] The Albanian Alternative, in coalition with the DSCG, won seats, so that candidate of this party performed the MP function in the second half of the term of office of the Parliament of Montenegro.

Party	1990		1992		1996		1998		2001		2002		2006		2009	
	No.	(%)	No.	(%)	No.	(%)	No.	(%)	No.	(%)	**No.**	**(%)**	**No.**	**(%)**	**No.**	**(%)**
GPCG											1	1.3				
HGI													1	1.2	1	1,2
DSJ													1	1.2		
NSS													1	1.2		
FORCA															1	1,2
AP															1	1,2
Crna Gora	125		85		71		78		77		75		81		81	

Another important national minority (with a share of about 5% of the population of the country) is Albanian. The first political party formed to advocate Albanians in Montenegro and fight for their rights is the Democratic Alliance in Montenegro. This party was present in the Montenegrin parliament in all convocations except in the period 1992–1996. After the cleavage in the Democratic Alliance, the Democratic Union of Albanians was formed as well. This party gained the parliamentary status in 1996 and since then, independently or in coalition, it always had at least one MP in the Parliament. At the election of 2006, it happened for the first time that another political force advocating the interests of Albanians entered the Parliament – the Albanian Alternative. Finally, at the last election, the Forza party entered the Parliament, as well as the coalition Perspective, which emerged out of cleavage in the Albanian Alternative. When taking into account the existence of some other parties originating from the Democratic Alliance (Party of Democratic Prosperity) or Democratic Union of Albanians (Democratic Party), it can be said that, particularly when taking into account the number of voters, the Albanian electoral body in Montenegro is very fragmentized.

Finally, the least numerous among the peoples in Montenegro mentioned in the preamble, Croats, got their first party which takes a special care of the exercise of rights and freedoms of Croats in Montenegro, the Croatian Civil Initiative, in 2002. At the elections of 2006 and again 2009, this party won one mandate and its MP (since 2009 a lady MP) is a member of the DPS parliamentary club.

Before the election of 2012 a new political party was formed in Montenegro – Positive Montenegro. After a long period of assurance that there is a political space for formation of a new political party that would be "pro-Montenegrin" but also critical against the government, this political party was formed, defining itself as a party of left and civil orientation.

Various authors dealt with the calculation of number of effective parties. In this paper we shall look at the distribution proposed by Jean Blondel[20], with the use of indexes created by the authors Markku Laakso and Rein Taagapera[21].

Table 3 shows that the very beginning of multiparty system was marked by entering of a large number of parties to the parliament, due to the existence of a

[20] In calculating the number of effective parties, this classification takes into account both the size and the number of parties. Blondel makes distinction between two-party system in which the allocation of seats in the parliament closely corresponds to the ratio 55 – 45, the system of two and a half parties to the ratio 45 – 40 – 15, the multiparty system with a dominant party to the ratio 45 – 20 – 15 – 10 – 10 and multiparty system without a dominant party 25 – 25 – 25 – 15 – 10.

[21] Markku Laakso and Rein Taagepera developed an index which can calculate the effective number of political parties: $N = 1/\Sigma si^2$. In this, N is the effective number of parties in the given party system, while *si* is the proportion of seats which that party obtains in the parliament, i.e. the number of won mandates (Vujović, Komar, Bošković, 2006:31).

very numerous SRSJ coalition, composed of 6 parties, as well as of the Democratic Coalition with gathered three minority parties.

Table 3. Review of the ratio of parliamentarian and effective number of parties

Year of election		Number of mandate-winning parties	Effective number of parties
1.	1990	11	2.1
2.	1992	4	2.8
3.	1996	6	2.3
4.	1998	7	3.1
5.	2001	8	3.9
6.	2002.	9	3.9
7.	2006.	16	4.8
8.	2009.	11	3.8

Although the present convocation of the Parliament of Montenegro which passed the decision on dissolution has 11 parties, their effective number if 3.8. In the Blondel's scale, this index would correspond to the multiparty system with a dominant party.

Therefore, under the Blondel's classification, Montenegro would be classified among the party systems of type – multiparty system with a dominant party. In Montenegrin party system, hence, one party dominated over the entire period of multiparty system. The Democratic Party of Socialists independently had absolute power at the elections of 1990, 1992 and 1996. Since then it has never independently won the power, but it had far more MPs than any other party, and was the pillar in formation of every parliamentary majority. It gave all Presidents and Prime Ministers, and until 2001 also the Speakers of the Parliament of Montenegro. The DPS, although not running at elections independently since 1998, with one or two partners always had a majority in the Parliament (in the period 2001–2002 it enjoyed the support of LSCG to the minority government, and in other cases with SDP or earlier with SDP and NS it had absolute majority). The Montenegrin party system was moving towards bipolarization in the time before the solution of the state issue, when two blocs were formed, out of which only the Liberal Alliance remained, as well as minimally represented Albanian parties. Nevertheless, after the solution of the state issue, at election of 2006 a result was reached that was the nearest to the classical example of multiparty system with a dominant party – the DPS (with SDP) won absolute power, while three opposition lists won almost the same number of votes[22]. In the 24th convocation

[22] If referring to the solution of Giovanni Sartori, in definition of the number of parties composing a party system one should not take into account the parties which did not win seats in the parliament, while the relative strength of parties should be counted according to the number of the won seats. In his opinion, party system is composed of those parties

of the Parliament the DPS is again dominant (35 MPs, 41 required for majority), while other four big parties have between five and sixteen MPs). Therefore we can say that in the period until the cleavage in the DPS in 1997, Montenegro had a clear form of party system with a dominant party, which however was much closer to non-democratic or pseudo-democratic regimes in Mexico (1929–2000) and Senegal (1960–2000) then to Sweden (1936–1976) or Japan (1955–1993, 1994–2009) nor even to the Congress Party of India (1947–1975). After this, the DPS has never had an absolute power, but it became the leading member of each ruling coalition and the expected winner of all elections in the system of elections which are significantly more free and fair in relation to elections before 1997. In this sense it is closer to the Israeli Labour Party (Mapai) 1948–1977, which never won a majority, but was first by the number of votes at all elections to the extent that it became the state party and almost a synonym for the state, and which final departure from power brought a huge change in the history of that country.

Structure of the Parliament in the 24th convocation

After the change of the Constitution of the Socialist Republic of Montenegro according to which the Assembly was composed of three chambers – Chamber of Associated Labour, Chamber of Municipalities and Social Political Chamber, the Montenegrin parliament is unicameral. The number of MPs was changeable until the Constitution of 2007, which, instead of defining a number of voters per MP, defined the fixed number of parliamentary seats. In the practice of multi-party system some ideas emerged about the formation of another chamber which would represent national communities of the country, however such ideas were not well received nor were articulated through eventual proposals of Constitutional amendments. Considering the size of Montenegro as well as the examples of the largest number of states in the region (except Bosnia and Herzegovina, Slovenia and Romania), it does not seem realistic that Montenegro shifts to bi-cameral legislative.

After the election of 2009, Montenegrin Parliament is composed of 81 MPs. They are divided into seven parliamentary clubs. The DPS club is composed of 36 MPs, including the lady MP of the Croatian Civil Initiative. The second in size is the SNP club which has 16 MPs, followed by the clubs of SDP with 9, New Serbian Democracy with 8, Movement for Changes with 5, Bosniak party with 3 and the club of Albanian MPs (composed of one MP per each of the Democratic

which have coalition or blackmail potential. The parties with coalition potential are the ones which participated in ruling coalitions, or "the main parties" consider them possible coalition partners. Another are the parties having a capacity for blackmail, i.e. those unacceptable to everybody or to the majority as a coalition partner, but which cannot be ignored because of their size. Of course, such theory has its shortcomings, which we shall not deal with in this text (Vujović, Komar, 2006:16).

Alliance in Montenegro and Albanian Alternative, Forza and Albanian coalition Perspective. Mehmet Zenka from the Democratic Union of Albanians is not a member of any club.

Among the MPs, there are 70 males and 11 females. By the number of women, with 13.5% of the total number of MPs, Montenegro is low on the comparative lists of representation of women in legislative authorities (in executive authorities the situation is even worse, the exemption being the judicial power).

As for their professions, the largest number of MPs are lawyers – 18 (or 22%), then engineers – 16 (19%), economists – 12 (15%), medical doctors – 10 (12%), journalists – 4 (5%), political scientists – 3 (4%), while two MPs are linguists and one is historian. Fifteen MPs work in some other professions. MPs with completed higher education prevail – 56 of them, while there are 13 PhDs, 9 MAs, one MP with college education and two with high school.

If taking into account the years of parliamentary experience, four MPs perform that function for more than fifteen years, while as many as 52 of them are in the Parliament for less than five years.

The next parliamentary election is to be held on October 14th, 2012 under the new electoral law, so that important changes are expected in the structure of the 25th convocation, primarily because of the introduction of a form of reserved mandates for several minority communities, in difference from the earlier electoral model which favoured only the members of the Albanian minority community. This election shall give a clear reply whether the electoral changes have led to the desired effects.

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List of abbreviations:

DPS – Democratic Party of Socialists
SDP – Social Democratic Party
NS – People's Party
LSCG – Liberal Alliance of Montenegro
SRSJ – Union of Reform Forces of Yugoslavia
SDPR – Social Democratic Party of Reformists
SRS – Serbian Radical Party
PzP – Movement for Changes
LP – Liberal Party
SDA – Party of Democratic Action
DUA – Democratic Union of Albanians
DSCG – Democratic Alliance in Montenegro
DK – Democratic Coalition
SNP – Socialist People's Party
SNS – Serbian People's Party
AA – Albanian Alternative
BS – Bosniak Party
DSS – Democratic Serbian Party
GPCG – Civil Party of Montenegro
HGI – Croatian Civil Initiative
DSJ – Democratic Party of Unity
NSS – People's Socialist Party

LEGISLATIVE FUNCTION

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LEGISLATIVE FUNCTION OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

The fundamental competence of the parliaments is to enact the laws, as the most important general legal regulations, and therefore the legislative function is undoubtedly the most important function of the parliament. Namely, exactly because of the dominant role in enacting the laws, the legislative function, the word "legislatures" is frequently used as a synonym for parliaments (Orlović 2007, 146). The constitutional and legislative functions are the two basic functions as well deriving from the constitutional definition of the National Assembly of the RS as the supreme representative body in the Republic, through which the citizens exercise their sovereignty (Art. 98 of the Constitution of the RS, Art. 2 of the Law on the NA).[1] While the Constitution regulates these issues in principle, the Law on the NA and the Rules of Procedure of the NA regulate the manner of their realization in more details.[2]

The National Assembly is the exclusive holder of the legislative function, although the Constitution allows calling the referendum on a law to be decided by the citizens upon the request of the majority of all deputies or at least 100,000

[1] Pursuant to Article 15 of the Law on the NA, the National Assembly as the holder of constitutional and legislative power shall: adopt and amend the Constitution; decide on changes concerning the borders of the Republic of Serbia; call national referendum; ratify international treaties when the obligation of their ratification is stipulated by the law; decide on war and peace and declare states of war and emergency; supervise the work of security services; enact laws and other general acts within the competence of the Republic of Serbia; give previous approval for the Statute of the Autonomous Province; adopt defence strategy; adopt development plan and spatial plan; adopt the budget and financial statement of the Republic of Serbia, under the proposal of the Government; grant amnesty for criminal offences.

[2] The Constitution of the RS in its Article 110 stipulates the enactment of the Law on the National Assembly. One of the guiding ideas for adoption of this law was the enhancement of the legislative branch in the system of division of power. Comparative practice shows that, however, law on the parliament became a rarity in contemporary parliamentary systems and that, because of this, the constitutions regulate in much more details the competences, organization and functioning of the parliaments (Pejić 2011a, 233). Several countries have the Law on the Parliament, like UK, Sweden, Switzerland and until 2000 Finland (Stojiljković, Lončar and Spasojević 2012, 31).

voters (Art. 108 of the Constitution).[3] The National Assembly exercises its legislative function by enacting laws and other general acts from the competence of the Republic. As a directly elected representative body of citizens in the system of division of power, in addition to laws, the National Assembly adopts other normative acts: laws, the budget, final financial statement, development plan, spatial plan, the Rules of Procedure, strategy, declaration, resolution, recommendation, decision, conclusion and authentic interpretation of the law. (Art. 8 of the Law on NA).[4]

The former convocations of the National Assembly of the RS worked very intensively on exercising its legislative function, i.e. passing the key acts from all fields of social life, both by adopting new laws and by improving the existing legal solutions, adopting the amendments and supplements to the laws and other general acts. For example, the last convocation of the NA RS adopted 807 laws and 217 other general acts.[5] Same, the NA RS convocation from January 22nd, 2001 to January 27th, 2004 adopted 142 laws; the convocation from January 27th, 2004 to February 14th, 2007 adopted 260 laws, whereas the convocation from February 14th, 2007 to June 11th, 2008 adopted 72 laws (response to the questionnaire addressed to the NA RS of December 3rd, 2012). Apart from the necessity of their adoption for the functioning of various segments of the society, such dynamic activity contributed the adoption of numerous reformative laws and also the laws which contributed the harmonisation with the EU *Acquis Communautaire*. In addition, the new Constitution, the Law on the NA RS and the new Rules of Procedure have also been adopted.

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[3] For example, in 2002, upon proposal of over 100,000 voters a motion was submitted for calling a referendum for declaration of citizens on the issues of state independence of the RS. The National Assembly did not consider this motion (response to the questionnaire addressed to the NA RS, of December 3, 2012).

[4] This analysis shall deal only with the procedure for enacting the laws; we shall not enter into details of particular parliamentary procedures, pertaining to ratification of international treaties, adoption of the budget and financial statement, adoption of development and spatial plans, giving previous approval on the Statute of the Autonomous Province, adoption of declaration, resolution, recommendation and strategy, adoption of the Rules of Procedure and other general acts, authentic interpretation of laws, i.e. adoption of common methodological rules for creation of regulations.

[5] On the basis of the data on the bills considered by the then Committee on Legislative Issues, this period saw the adoption of 43 systemic laws, 74 being regulated for the first time, while 114 cases pertained to the termination of the hitherto applicable laws, 212 cases pertained to amendments and supplements to the laws, whereas 346 laws were on the ratification of international treaties, and 103 laws were envisaged by the National Programme for Integration of Serbia into the EU (Report on Work of the NA RS in the period from June 11, 2008 to March 13, 2012, 42).

Table No. 1: The number of laws adopted in previous convocations (the data are quoted according to the answers to the questionnaire addressed to the NA RS of December 3rd, 2012)

Convocation	Total number of adopted laws	New laws	Amendments and supplements to the laws
22.1.2001–27.1.2004	142	75	67
27.1.2004–14.2.2007	260	162	98
14.2.2007–11.6.2008	72	47	25
11.6.2008–31.5.2012	806	583	223

The procedure for proposing the bills

The procedure of enacting the laws include: proposal of the bill, consideration of the bill in the plenum, consideration of the bill in the committees, voting on the bill and promulgation of the law (Pejić 2011b, 182). The procedure for adoption of the laws in the NA RS is common, i.e. it is not divided into several "readings" and it is regulated in details by Art. 150–168 of the Rules of Procedure. From the bill to its inclusion onto the agenda, through parliamentary debate in principle and in detail, until the voting on the bill, the legislative procedure unfolds in a continuum.

Pursuant to Article 107 of the Constitution, i.e. Art. 150 of the Rules of Procedure, the right to propose laws in the parliamentary law of the RS belongs to every MP, the Government, assemblies of autonomous provinces or to at least 30,000 voters.[6] The Ombudsman and the Governor of the National Bank of Serbia also have a right to propose bills falling within their competence. The bill has to be submitted in the form in which the law will be adopted, with the rationale which shall contain, among else, the constitutional framework and reasons for adopting the law, explanation of basic legal institutions and particular solutions, an estimate of the funds necessary to implement the law, its grounds in the EU legislation and in the generally accepted rules of international law. If amendments and supplements to the law are proposed, the bill must contain the list of legal provisions being amended or supplemented (Art. 151 of the Rules of Procedure), whereas in the proposal for adopting the bill by urgent procedure the proposer has to indicate detrimental consequences which might arise if the law is not adopted by urgent procedure (Art. 167 of the Rules of Procedure).

[6] In the period from 2000 to 2008, there were fourteen legislative initiatives by citizens, on the grounds of more than 30,000 collected signatures. Four legislative initiatives were considered at the Forth sitting of the first regular session of the NA RS in 2006 and MPs did not accept them, whereas the other legislative initiatives were not considered by the National Assembly (response to the questionnaire addressed to the NA RS of December 3, 2012). Among the actual bills proposed by the voters was the bill amending and supplementing the Constitution in order to reduce the number of MPs in the National Assembly, which was not adopted.

Table No. 2: The number of submitted bills and adopted laws, in the period from January 2005 to April 2010 (the data quoted according to: Pejić 2011b, 322).

Year	Government	MPs	Other proposers	Total of adopted laws	Total of other acts adopted
2005	152 (12)*	73 (4)	65 (6)	120	89
2006	116 (6)	21 (1)	50	52	38
2007	121 (73)	68 (6)	44 (2)	81	46
2008	178 (87)	48 (2)	38	48	48
2009	309 (11)	69 (4)	79 (3)	265	65
2010 (April)	48 (3)	13	8 (1)	122	11

* The figures in brackets indicate the number of withdrawn bills.

When it is about the bills themselves, the statistics based on the Table No. 2 shows that the Government in average proposed about 61.8 % of laws and other acts,[7] MPs 19.56 %, whereas the other proposers used the legislative initiative in 18.4% of cases.[8] In general, although a relatively broad scope of authorized proposers of bills have been envisaged, the largest number of bills being proposed and adopted in fact comes from the Government, which is, however, also a common practice in comparative law (Milanović, Nenadić and Todorić 2012**,** 28, 44).[9] The dominant role of the Government in the legislative initiative should not be surprising, as exactly this trend is present in the majority of countries. Thus, for example, about 80% of the laws considered by the American Congress come from Presidential initiative, while in Germany 75% of legislative initiatives come from the Government, and only 15% from the parliament (Orlović 2007, 147).

The Government as the proposer of bills is in a somewhat specific position in relation to other proposers. Namely, it is always an authorized proposer of bills. Article 123 of the Constitution and Arts. 3 and 34 of the Law on the Government

[7] Procedure of preparation of draft laws in the Government is explained in details in: Law Drafting and Legislative Process in the Republic of Serbia – Assessment, December 2011, 19–20.

[8] According to the available data, the statistics would be as follows: in the year 2005 – in 52.4% of cases the proposer was the Government, in 25.17% of cases the MPs, 22.4 % other proposers; in 2006 – 62% of the bills by the Government, 11.2 % by the MPs, and 26.7% by other proposers; in 2007 – 51.9% proposed by the Government, 18.1 % by the MPs, and 14.3% by other proposers; in 2009 – 67,6 % by the Government, 15% by the MPs, and 17.2% by other proposers; until April 2010 – 69.6 % by the Government, 18.8% by MPs and 11.5% by other proposers. The statistics does not include the number of the withdrawn bills.

[9] Some analyses show that 95% of the proposed and adopted bills come from the Government (Milanović, Nenadić and Todorić 2012**,** 28, 44), i.e. that 97.,81 % of all bills were proposed by the Government, 1.92 % by the National Assembly, and 0.,92 % by the National Bank of Serbia (Law Drafting and Legislative Process in the Republic of Serbia – Assessment, December 2011, 19–20).

explicitly stipulate that the executive power submits to the Assembly the bills and other general acts and gives its opinion thereon when being proposed by another mover. For some laws, such is for example the Law on the Budget, the Government is the sole authorized proposer (Pajvančić 2008, 150). Besides, the bills mostly originate from the Government, which has appropriate organizational, human and financial capacities for that purpose, while all other authorized proposers are perhaps not able to count on the identical kind of support (Pajvančić 2007, 204).

The MPs of the NA RS in the interviews pointed exactly to this aspect, i.e. the lack of time and of professional and financial capacities, the consequence of which is a relatively small number of bills coming from the MPs themselves.[10] Apart from these objective reasons, they state that the subjective reason is the clichéd manner of functioning of the parliament – the ruling parties are there to support the Government's bills, while the opposition MPs are there to criticize the same bills (SRB 10). Besides, the opposition parties' MPs stated the fact that even when they proposed the bills, it happened that they never reached the agenda, as the adoption of draft agenda, i.e. its consideration at the plenum, also requires the votes of the majority of MPs.[11] On the other hand, all interviewed MPs emphasized that during the preparation, i.e. consideration of the bill undergoing the procedure, they consult relevant institutions, representatives of civil society, trade unions, associations and citizens the most directly affected by the particular bill (SRB 01, SRB 02, SRB 10), i.e. they obtain their opinions and attitudes, which can result in submission of appropriate amendments (SRB 06).

The adoption of the Unified Drafting Methodology Rules, adopted by the Committee on Legislative Issues on its sitting of March 30th, 2010, seemingly facilitated to all the proposers, the MPs included, the drafting of bills, i.e. proposals of amendments and supplements to the laws. Besides, the implementation of these rules already showed a significant positive impact to the quality of the enacted laws, in the same time contributing the even more successful work of the NA RS.[12] Namely, the common methodological rules regulate the content, form,

[10] When it is about the capacities of the NA RS Service, it should be noted that 351 employed public servants and appointees of the Service in fact represent 1.4 employees per one MP, whereas, comparatively observed, the average is three employees per one MP (Report on Work of the NA RS in the period from June 11, 2008 to March 13, 2012, 16).

[11] For example, in the period from 2003 to 2006, the NA RS adopted 260 laws and 209 decisions and other acts, while more than 80% of the MPs' bills have never been included onto the agenda of some of the Assembly sittings. The percentage of the adopted laws in relation to the bills submitted by the MPs is extremely low, only 16%. (Orlović 2007, 148).

[12] The assessment is in accordance with the conclusions of the public hearing on the topic "Unified Drafting Methodology Rules", organized by the Committee on Legislative Issues on November 10, 2011 http://www.parlament.rs/Održano_Prvo_javno_slušanje_na_temu_"Jedinstvena_metodološka_pravila_za_izradu_propisa".14350.941.html

language, style and manner of writing for these acts. However, the proposer of the bill is obliged to submit a Statement on Compliance of the bill with the EU regulations (or that there is no obligation of compliance, i.e. that it is not possible for the law to be in compliance with the EU laws), i.e. the table on compliance with the *Acquis Communautaire*,[13] which is indeed a demanding and complex task. In regard to this, the interviewed MPs mostly stated that besides the fact that a large number of MPs carefully considers the EU regulations, particularly in their fields of expertise (SRB 02), and that they follow the publications pertaining to the European legislation (SRB 12), i.e. they consult the relevant institutions or offices (SRB 07), generally speaking, the MPs are not familiar enough with the *Acquis Communautaire* (SRB 06), which, in fact, is not possible entirely nor for all fields (SRB 04). Same, it can be very hard for the MPs to find themselves in the "legal labyrinth" of the applicable laws and bylaws.[14]

When it is about consulting MPs by the proposer (Government) before the bill enters the parliamentary procedure, i.e. holding of public debates, the interviews state that some ministries organize public debates for certain draft laws (they are obliged to organize them for the key laws),[15] and that MPs are in general informed on the organization thereof, however in the same time expressing the desire that this manner of inclusion of MPs, already during the drafting of laws, should be deepened and become a practice (SRB 06, SRB 08). This would for sure contribute a more harmonised and quality legal solution.

Procedure of consideration the bills

Immediately upon the receipt of a bill submitted to the National Assembly, the Speaker of the National Assembly shall communicate the bill to MPs, the competent committee and the Government, if it is not the proposer. The bill is also forwarded to the Ombudsman and to the National Bank of Serbia, if it regulates matters within their scope of work (Art. 152 of the Rules of Procedure). If the text of the bill fulfils the formal criteria, it can be included in the agenda of the sitting, within no less than 15 days from the date of submittal (Art. 154 of the

[13] After the initial postponing of implementation, the statement on compliance and the table of compliance with the EU regulations have since mid-2011 become obligatory for all bylaws as well.

[14] While the NA RS in the period from June 2008 to March 2012 passed over 800 laws, in the same period the Government and the individual ministries passed 7 261 bylaws, whereas the total number of these acts, including the broader circle of the adopters, would amount to 9,324 (Milanović, Nenadić and Todorić 2012, 39).

[15] Namely, the ministries and relevant organizations are obliged to organize a public debate in drafting the laws which significantly change the legal regime in certain field, or regulate the issues of particular interest for the public (Art. 77 of the Law on the Public Administration).

Rules of Procedure), whereas the final decision on the proposed agenda is passed by the plenum.[16]

The legislative activity of the parliament unfolds in two ways – a part of the activities is carried out within the parliamentary working bodies,[17] and a part at the parliament's plenary sitting. Prior to the NA sitting, the bill is considered by the competent committees and the Government, if it is not the proposer (Art. 155 of the Rules of Procedure). The Committees and the Government in their reports propose the National Assembly to accept or not to accept the bill in principle, by rule within no less than five days before the holding of the sitting in which this bill shall be considered.

At least two committees consider the bill – the Committee on Constitutional and Legislative Issues and the competent committee. Namely, the Committee on Constitutional and Legislative Issues considers the harmonisation of the bill with the Constitution and the legal system and the justification of its adoption (Art. 48 of the Rules of Procedure).[18] If they agree on the adoption of the bill in principle, the committees are obliged to state if they accept the bill in full or with amendments.[19] In a certain sense, this is specific for the legislative procedure of the RS, as the committees consider the bill, i.e. they can propose amendments thereto, before it enters the debate in principle. It is possible, namely, that during the debate in principle, the proposer itself offers convincing arguments in favour of the acceptance of a certain provision, on which the committees (primarily the competent one) previously had no relevant knowledge whatsoever.

Afterwards, the bill is first put to a debate in principle, and then to a debate in detail in the plenary sitting (Art. 157 and 158 of the Rules of Procedure),[20] providing that at least 24 hours should pass from the conclusion of the debate in principle to the opening of the debate in detail, although the National Assembly can decide to hold a debate in detail on certain bills immediately upon the conclu-

[16] Before the amendments and supplements to the Rules of Procedure, the longest time for which the law 'laid': in the parliamentary procedure was 15 days, 60 days at the most, and under certain circumstances even 90 days (in the regular procedure).

[17] According to the applicable provisions of the Rules of Procedure, the National Assembly has 19 committees, and the Committee on the Rights of the Child, which is formed as a separate standing working body. All committees comprise of 17 members, except the Committee on the Control of Security Services (9). The former provisions of the Rules of Procedure envisaged 30 standing working bodies.

[18] The Committee on Constitutional and Legislative Issues rejects incomplete amendments and the amendments with an offensive content, after which they cannot be the subject of debate or voting.

[19] The procedure for submission of amendments is regulated in details by the Rules of Procedure (Arts.161–166). Amendments are not submitted to the text of an international treaty (Art. 169 of the Rules of Procedure). .

[20] The debate on the bill on the budget is carried out in such a manner that the debate in detail follows immediately upon the conclusion of the debate in principle.

sion of the debate in principle (Art. 157 of the Rules of Procedure).[21] In difference from other proposers, in the time between the completed debate in principle and the opening of the debate in detail, the competent committee can submit an amendment to the bill (Art. 157 of the Rules of Procedure). The debate in detail is held in relation to the articles of the bill to which the amendments have been submitted and the amendments proposing introduction of new provisions (Art. 158 of the Rules of Procedure). The total time for a debate in detail for a parliamentary group is allocated in proportion to the number of the MPs – members of that particular parliamentary group.[22]

The working bodies are given an important place in the procedure of enacting the laws, by consideration of the bills, as well as the amendments submitted thereto, and also by the possibility to submit amendments themselves. A specificity is that an amendment which is in compliance with the Constitution and the legal system, and which is adopted by the proposer of the bill and the competent committee, becomes a constitutive part of the bill and it is not a subject of a particular debate at the plenum (Art. 164 of the Rules of Procedure). In general, the committees use this opportunity most rarely, while they most often submit amendments before the beginning of the debate in principle (if proposing amendments to the bill pursuant to Art. 155 of the Rules of Procedure), between the concluded debate in principle and the beginning of the debate in detail (Art. 157 of the Rules of Procedure),[23] while occasionally using the provisions of Art. 165 of the Rules of Procedure, according to which the competent committee can submit amendments during the voting in detail, only if such need has arisen due to the prior adoption of some other amendment.[24]

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[21] The National Assembly can decide to carry out a cognate debate on several bills within the agenda of the same sitting, if they are mutually conditioned or their provisions are related, provided that each bill shall be voted on separately (Art. 157 of the Rules of Procedure).

[22] Parliamentary groups are allocated the time for debate in detail which is equal to the time for the debate on the bill in principle. The representatives of parliamentary groups have additional 15 minutes for debate in detail, not included in the time for overall debate in detail (Art. 158 of the Rules of Procedure). Same, each amendment proposer is entitled to substantiate his/her amendment for the duration of two minutes, providing that the total duration of debate in detail on this grounds cannot exceed ten hours. However, one of the interviewed MPs (SRB 03) assessed that the Rules of Procedure limit the MPs to explain the amendments in two minutes, whereas the same limit is not applicable to other proposers, i.e. that it is necessary to harmonize the provisions of the Rules of Procedure in order to equalize the rights of MPs and other proposers (SRB 03).

[23] Namely, amendments can be submitted from the date of receipt of the bill and latest to three days before the date scheduled for the sitting for which the consideration of that bill has been proposed, and only exemptionally, in urgent procedure, until the debate on the bill in detail. (Art. 161 of the Rules of Procedure).

[24] If due to the adoption of one or more amendments the need for legal-technical revision of the text has arisen, the National Assembly can suspend deciding and request the Com-

Table No. 3: The number of submitted amendments per convocations and proposers (data quoted according to the responses to the questionnaire addressed to the NA RS, of December 3rd, 2012).

Proposers	11.01.2001–27.01 2004	27.01.2004-14.02 2007	14.02.2007–11.06.2008	11.06.2008-31.05.2012	Total
Government of the RS	274	160	12	215	661
Committees of the NA RS	107	198	29	516	850
MPs	8.143	6.981	1.464	21.553	38.141
Other proposers	209	96		57	362
Total	8.733	7.435	1.505	22.341	40.014

On the basis of the data from the Table No. 3, the statistics shows that the Government submitted 1.75% of amendments in average, committees 2.02%, MPs 95.15%, while the other proposers submitted 0.96% of the amendments.[25]

When it is about the analysis of the submitted and adopted amendments, the research carried out by Oliver Nikolić, PhD, encompassed three periods from 2007 to 2010, during which 279 laws and 1458 amendments were adopted in total. The analysis show that the largest number of amendments was submitted by the MPs (77.43%), parliamentary committees (17.42%), the Government (4.6%) and the Ombudsman.[26] If we analyse the adopted amendments, a research encompassing the period from 2008 to 2010, when more than 600 laws and about 10000 amendments were adopted, shows that, out of all adopted amendments, 36% were proposed by the MPs, out of which 50% by the representatives of opposition par-

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mittee on Constitutional and Legislative Issues to carry out a legal-technical revision of the bill, and the competent committee to harmonize the adopted amendments among themselves and with the text of the bill.

[25] Statistics per convocations would be as follows: in the convocation from 2001 to 2004 – the Government submitted 3.13% of the amendments, the committees 1.22%, MPs 93.2%, and other proposers 2.3% of the amendments. In convocation from 2004 to 2007, the Government submitted 2.15% of the amendments, the committees 2.66%, MPs 93.8 and other proposers 1.29% of the amendments. During the convocation from 2007 to 2008 – the Government submitted 0.79% of the amendments, the committees 1.92% and MPs 97.2%. In the convocation from 2008 to 2012 – the Government submitted 0.96% amendments, the committees 2.3%, MPs 96.4% and other proposers 0.25% of the amendments.

[26] The 124th sitting of the Committee on Legislative Issues held on June 8, 2011, considered the Analysis of influence of the legislative procedure in the National Assembly to the bills submitted by the Government, with a particular review to the work of the Committee on Legislative Issues,

http://www.parlament.rs/Sto_dvadeset_četvrta_sednica_Zakonodavnog_odbora.13111.941.html

ties and 14.61% by the parliamentary committees (Law Drafting and Legislative Process in the Republic of Serbia – Assessment, December 2011, 50).

Although the Government is the proposer in the majority of cases, the text of the bills is being largely changed in the parliament, which is also confirmed by the number of submitted, i.e. adopted amendments, and particularly by the number of the adopted amendments submitted by the representatives of opposition parties. Namely, the analyses show that the National Assembly essentially influences the final text of the bills submitted by the Government, i.e. that during the parliamentary procedure the bills are being changed and supplemented with the amendments to a large extent, which is in fact contrary to the common opinion that the National Assembly only formally accepts the Government's bills without changing them significantly. For example, in the period from June 2008 to October 2009, the NA RS submitted 979 amendments to almost 70% of the bills, whereas the percentage of adoption is about 11% (Vukadinović 2010, 116–117).[27] In 80% of cases the proposers of the adopted amendments were MPs, out of whom 50.45% the opposition MPs, while in 14.61% the committees were the proposers (Vukadinović 2010, 117).[28] The texts of the bills were amended by more than 15% in relation to the bills submitted to the Assembly (ibid). Same, the Analysis of influence of the legislative procedure in the National Assembly to the bills submitted by the Government shows that the increased number of amendments submitted by the competent parliamentary committees, as well as of the total number of adopted amendments, proves that the parliament is not a simple voting machine.[29]

On the other hand, certain analyses show that the adopted amendments influence the change of the bill in dependence on the field being regulated by that particular bill/law (Stojiljković, Lončar and Spasojević 2012, 20–21).[30] Thus the analysis of laws from the field of environmental protection concluded that out of the adopted amendments 55% were submitted by the MPs of the ruling coali-

[27] The analysis includes the data from June 2008 to October 2009, whereas the bills on ratification of international treaties and other agreements (86), to which amendments were not submitted, have been excluded.

[28] The analysis presented at the 81st sitting of the Committee on Legislative Issues, held on March 18, 2010, quotes the same data: in the period from June 2008 to October 2009, when 215 laws were adopted, 979 amendments were adopted to amend 76 laws. The largest number of the adopted amendments came from the opposition MPs – 392, 385 amendments submitted by the parliamentary majority and 143 amendments submitted by the parliamentary committees, http://www.parlament.rs/Osamdeset_prva_sednica_Zakonodavnog_odbora.4469.941.html

[29] http://www.parlament.rs/Sto_dvadeset_četvrta_sednica_Zakonodavnog_odbora.13111.941.html

[30] This analysis includes the bills in the last convocation of the NA RS in the fields of fight against corruption (9), gender equality (2), environmental protection (21), as well as the Law on the NA and budgetary laws.

tion, and 45% by the opposition MPs (Stojiljković, Lončar and Spasojević 2012, 22–23). However, when this is compared with the total number of amendments, out of 1531 amendments of the opposition MPs totally 71 amendments were adopted, while out of 129 amendments of the MPs of the ruling coalition 86 amendments were adopted. So, 66.67% of the amendments of the MPs of the ruling coalition were adopted and only 4.63% of the amendments of the opposition MPs (Stojiljković, Lončar and Spasojević 2012, 22–23). While in relation to the budgetary laws only 6–7% of the proposed amendments were adopted, the Law on Gender Equality was significantly changed during the legislative procedure (amendments were submitted by MPs, Ombudsman, Committee on Gender Equality), as well as the Anti-Corruption Law to which a large number of amendments was submitted and which had a high level of changes of the text, i.e. also a high level of the adopted amendments proposed by the MPs of the opposition parties.

The interviews with MPs state, on one hand, that the amendments submitted by the position MPs are mostly in fact the amendments of the Government, which representatives subsequently recognized the need for an amendment of certain article of the bill, i.e. the need for rectification of shortcomings and legal gaps or legal-technical shortcomings, and on the other hand they say that the opposition does not use the proposals for changes to the text in a constructive manner, i.e. that their amendments often pertain to the proofreading of the text and grammatical errors in the bill, or they only read "shall be deleted". In that context it is emphasized that the position MPs are relaxed as they rely on the opinion and amendments of the Government, whereas the opposition MPs in fact have to quality prepare for the sittings (SRB 08). It also states that the opposition MPs are not present in the chamber even when it is voted on the bill to which their amendments were adopted (SRB 02), although the opposition MPs state that often only amendments pertaining to correction of grammatical errors are adopted, i.e. not the essential changes of the text (SRB 08). Finally, the motivation both of the MPs of the ruling majority and the opposition MPs in submitting the amendments is to improve a certain bill (SRB 09). Besides, the MPs from all parliamentary groups say that, if they would submit an amendment or vote for some of the submitted bills/amendments contrary to the attitude of their parliamentary group, they wouldn't (didn't) have any political consequences. All interviewed MPs confirmed that party discipline is not strict in this respect.

Besides, when bills and amendments to the bills are considered at a committee's sitting, the proposers, i.e. their authorized representatives, are also invited (Art. 74, Art. 156 of the Rules of Procedure). The interviewed MPs pointed to the fact that it had often happened that the competent ministry did not send the most knowledgeable representatives for certain issue, or contrary, that a State Secretary or Assistant Minister came without professionals who could elaborate the proposed solutions in an adequate manner, i.e. provide the MPs with neces-

sary information (SRB 04). Similar remarks are presented in relation to plenary sittings, stating that it often happened that the bill was "defended" by the Minister whose competences were not in compliance to the bill for which he/she was designated as the representative of the proposer, so that the debate and consideration of the bill could not be constructive. One of proposals is even to amend the Rules of Procedure to define an imperative norm that "the Minister who proposes the bill must defend his/her law, otherwise the sitting shall be terminated without a debate » (SRB 04).

The strengthening of the legislative function of the parliament shall certainly benefit from an innovation in the form of preparation of a reference information, which shall also be a significant input for a proper consideration of bills by the MPs. Namely, the preparation of reference information envisages that MPs/committees can obtain a clear and concise review of key experts' opinions pertaining to the proposals of acts, reports and documents considered at the committee sitting (Report on Work of the NA RS in the period from June 11th, 2008 to March 13th, 2012, 104).[31] The reference information shall, among else, contain a review of the relevant legal framework of the proposed act, introductory information on the proposed act, review of the situation in the field regulated by the proposed act, as well as the purpose and goals of its adoption, summary of the table on compliance with the EU legislation, relation towards strategic documents from the field regulated by the proposal, information on held public hearings, attitudes of professional associations, non-governmental and international organizations and the public, initiatives and petitions, submissions and proposals with regard to the issues from the field regulated by the proposal of the act (Report on Work of the NA RS for the period from June 11th, 2008 to March 13th, 2012, 104).[32]

Urgent procedure

The types of the legislative procedure are regular and urgent, and according to their duration, the debates at the NA sittings can be standard and abbreviated (Art. 94 of the Rules of Procedure). Urgent legislative procedure should by rule be used extraordinarily, most often in a case of important amendments to the laws which do not allow delays. The reasons for which the proposer of the bill requests

[31] The proposed act implies bills, proposals of development plans, spatial plans, rules of procedure, strategy, declaration, resolution, recommendation, decision, conclusion, report, other acts and documents submitted to the NA in accordance with the law and the Rules of Procedure of the NA (Report on Work of the NA RS for the period from June 11, 2008 to March 13, 2012, 104).

[32] The most involved in the procedure of preparation of reference information to be submitted to the Chair, members and deputy members of the committees shall be the European Integration Committee and researchers-analysts in the Library of the NA RS, together with secretaries and employees of the relevant committee.

its adoption by urgent procedure must be particularly specified. In accordance with Art. 167–168 of the Rules of Procedure of the NA on urgent procedure for enacting the laws, the proposer of the bill by urgent procedure is obliged to explain in writing the consequences if the bill should not be adopted by urgent procedure.[33] Detrimental consequences can pertain to life and health of people, national security and work of bodies and organizations. Urgent procedure can be applied for enacting laws regulating the relations which have arisen due to unforeseeable circumstances, as well as the laws having for their subject matter the fulfilment of international obligations and harmonization of the Republic's acts with the EU regulations. The proposal for enacting the bill by urgent procedure is submitted at least 24 hours before the holding of the Assembly sitting (Art. 168 of the Rules of Procedure). In extraordinary circumstances, submission of the same proposal is allowed on the day of holding the sitting, two hours before the beginning of the sitting or during the course of the Assembly sitting, if the Government is the proposer. Acceptance of such request requires the presence of at least 126 MPs.

Table No. 4: Consideration of bills by regular and urgent procedure per convocations (data quoted according to response to the questionnaire addressed to the NA RS, of December 3rd, 2012).

Convocation	Number of adopted laws	Number of laws adopted by regular procedure	Number of laws adopted by urgent procedure
22.1.2001–27.1.2004	142	74	68
27.1.2004–14.2.2007	260	145	115
14.2.2007–11.6.2008	72	26	46
11.6.2008–31.5.2012	806	489	317

In the convocation from January 22nd, 2001 to January 27th, 2004, the National Assembly adopted 47.8% of the laws by urgent procedure; in the convocation from January 27th, 2004 to February 14th, 2007 44.2% of the laws were adopted by urgent procedure; in the convocation of February 14th, 2007-June 11th, 2008 63.8% of the laws were adopted by urgent procedure, while during the last convocation of June 11th, 2008-May 31st, 2012 39.3% of the laws were adopted in this manner. Although this procedure has been envisaged to rather be used as an exception, there is an obvious tendency of consideration of a significant number of laws by urgent procedure (48.5% in average). Also, certain analyses show that the key laws were by rule adopted by urgent procedure, so that neither the MPs

[33] The opinion is, however, that the Rules of Procedure could regulate the urgent legislative procedure in more details (Law Drafting and Legislative Process in the Republic of Serbia – Assessment, December 2011, 35, 46; Pejić 2011b, 323).

nor the public had enough time available for a stronger influence on the Government's proposals. (Stojiljković, Lončar and Spasojević 2012, 21).[34] On the other hand, it is said that the NA RS has a practice of assessment and rejection of adoption of law by urgent procedure if the opinion is that there is no need for it, which contributes the quality of legal solutions (Milanović, Nenadić and Todorić 2012**,** 28, 65).

In the interviews, the MPs particularly pointed to the problem of the lack of time for getting acquainted with the bills arriving by urgent procedure. This was emphasized both by the representatives of the parties of the then ruling coalition and by the opposition MPs. They also stressed the shortcomings of the procedure of a cognate debate on several bills, often being very important,[35] while their thorough analysis and consideration require much more time than they had at their disposal. In fact, the MPs emphasized that it was physically impossible to read the bills, which they sometimes happened to receive only several days before the plenary consideration, particularly when it was about the bill on the budget, i.e. that it was not possible to quality prepare for these "marathon sittings" (SRB 01). The interviews also point out that the Government seldom consults MPs prior to the submission of the bill to the NA RS, as well as that general coordination of activities between the Government and the parliament did not exist, i.e. that it is necessary to harmonize the work plans of the executive and the legislative power.

Having in mind the fact that ministries and special organizations are obliged to create their annual working plans on the basis of which the Government creates its annual plan of work by November 10th of the current year for the next one, including its legislative part (Milanović, Nenadić and Todorić 2012, 45), as well as that this annual plan is submitted to the NA, it is not quite clear why there is a need for a relatively frequent resorting to urgent procedure. According to the everything above, it seems that there is a space for an improvement of harmonization of work between the executive branch and the parliament, primarily in the very process of planning. This will certainly be contributed by the preparation of the

[34] Most often, the need for adoption of laws from the so-called European agenda, i.e. harmonisation of national legislation with *Acquis Communautaire*, is quoted as a rationale for an urgent procedure. The data show that, after the initial 29%, about 70–80% of the laws stipulated by the National Programme for the EU Integration which is revised annually, were adopted per year. A more comprehensive plan of harmonszation with the *Acquis*, i.e. the national plan for the adoption of the EU *Acquis Communautaire*, is expected to be prepared by the Office of European Integration by the end of 2012.

[35] An interviewed MP from the then ruling coalition stated that a cognate debate, i.e. common debate on several bills on the agenda of the same sitting, was organized also in the case of several key laws (SRB 02), while a then opposition MP emphasized that – having in mind the time allocated for a debate – it was a challenge even to read the full titles of all the laws being discussed at the same sitting (SRB 03).

annual work plan of the NA, in accordance with the obligations of the National Assembly itself and the annual plan of the Government (Art. 28 of the Rules of Procedure).

Public hearings

Public hearings are most frequently related to the control procedure, however they can have a far more important role in the legislative process as well. In accordance with Article 83 of the Rules of Procedure, the committees organize public hearings for the purpose of obtaining information or professional opinions on proposed acts undergoing the parliamentary procedure, for clarification of certain provisions from a proposed or existing act, i.e. clarification of issues of importance for preparing the proposals of acts or other issues within the competence of the committee, for monitoring the implementation of legislation, i.e. realization of the oversight function of the parliament. Any member of the committee can submit a proposal with the topic of public hearing and a list of persons who should be invited. After the public hearing, the Chair of the Committee communicates the information on the public hearing to the Speaker of the National Assembly, members of the committee and participants thereto.

The tendency of increase of the number of public hearings is notable in the previous convocation of the NA RS, when the largest number of committees used this possibility (29 times in total) on the topics from the scope of their work (Report on Work of NA RS in the period from June 11th, 2008 to March 13th, 2012, 55).[36] Apart from pointing out that the organization of public hearings became a trend, which is partly encouraged by the international institutions (SRB 08), the MPs agree in the assessment that they can assist in submission of amendments, and that they also contribute a constructive debate on the sittings, as well as the involvement of (expert) public in this process (SRB 08).

Promulgation of the law

The National Assembly decides by voting of MPs, in accordance with the Constitution, law and the Rules of Procedure, whereas MPs vote on the bill in principle, on amendments to the bill and on the bill in its entity on the Voting Day (Art. 160 of the Rules of Procedure).[37] Finally, the law adopted by the NA RS is immediately, or within two days at the latest, submitted to the President of the RS for promulgation. The Speaker of the NA RS immediately, or latest

[36] For comparison, during 2005 and 2006 there were five public hearings.

[37] When a bill contains provisions which envisage retroactive effect, the NA RS separately decides on whether such effect is in the general interest (Art. 160 of the Rules of Procedure).

within two days from the date of voting the law, submits it to the President of the Republic for promulgation (Art. 265 of the Rules of Procedure). If the law has been adopted by regular procedure, the President is obliged to promulgate the law within 15 days, whereas the laws adopted by urgent procedure are promulgated within 7 days from the date of their adoption in the NA RS (Art. 113 of the Constitution). The President of the RS is also entitled the right to a suspensive veto, i.e. he/she can, within the deadline of 15 or 7 days, return the law, with a written explanation, for reconsideration if he/she thinks that the law is not in accordance with the legal system, or that it is in collision with ratified international treaties or generally accepted rules of international law, or that the enacting procedure was not respected, i.e. that the law does not regulate certain field in an appropriate manner.

The President of the Republic cannot, however, return to the National Assembly for reconsideration a law on which the citizens voted on a referendum before its enactment, nor a law which the citizens confirmed in a referendum (Art. 112 and 113 of the Constitution; Art. 19 of the Law on the President of the Republic). If the NA RS decides to vote again on the law which the President of the Republic returned for reconsideration, the law must be voted by the majority of the total number of MPs and in that case the President is obliged to promulgate the newly adopted law (Art. 113 of the Constitution). If the President of the Republic fails to pass a decree on promulgation of the law within the deadline prescribed by the Constitution, nor requires the NA RS to reconsider the law it passed, the law is promulgated by the Speaker of the NA RS (Art. 266 of the Rules of Procedure). Usually, the law enters into force at least eight days from the date of its publishing in the Official Gazette of the RS, and in extraordinary cases if there are particularly justified reasons even before (Art. 194 of the Constitution).[38]

Constitutional function

Apart from the legislative function in its narrow sense, which implies enacting the laws and other general acts, the National Assembly also performs other functions which can be considered subtypes of the legislative function, such is the constitutional function. The procedure for adopting and amending the Constitution is broadly understood as a part of the legislative procedure. Namely, the Constitution prescribes that the National Assembly adopts and amends the Constitution (Art. 99 of the Constitution; Art. 15 of the Law on NA).[39] The National Assembly has the function of a partial or entire framer of the Constitution,

[38] Additionally, Article 206 of the Rules of Procedure, bills and other acts submitted to the NA are by rule published on the NA website, together with the adopted laws.

[39] The Constitution of the Republic of Serbia was adopted in the referendum on September 28 and 29, 2006. The Constitutional Law regulating the deadlines and précising the

depending on the subject matter of the constitutional revision (Pejić 2011a, 237). The National Assembly performs the function of the partial framer of the Constitution in exactly prescribed cases, when together with citizens at the constitutional referendum it decides on the amendment of the preamble of the Constitution, general constitutional provisions, constitutional provisions on human and minority rights and freedoms, on system of authority, declaration of the state of war and emergency, on derogation from human and minority rights and freedoms in the state of emergency and state of war and on the procedure for amending the Constitution (Pejić 2011a).

The NA exercises its constitutional function with the full capacity in all other cases of amending the Constitution, when adopting the act on the amendment of the Constitution by two-third majority of votes of all MPs (Art. 205 of the Constitution.).[40] The proposal for amending the Constitution can be submitted by at least one third of the total number of MPs, the President of the Republic, the Government or at least 150,000 voters (Art. 203 of Constitution).[41] Such proposal must be adopted by a two-third majority of the total number of MPs. If the required majority has not been achieved, the amendment of the Constitution relating to the issues contained in the submitted non-adopted bill cannot be processed during the forthcoming year. In a case that the National Assembly adopts the proposal for amendment to the Constitution, the creation i.e. consideration of the acts for amending the Constitution shall follow.

The National Assembly shall be obliged to put forward the act on amending the Constitution in the republic referendum to have it endorsed, in cases when the amendment of the Constitution pertains to the preamble of the Constitution, principles of the Constitution, human and minority rights and freedoms, the system of authority, proclamation the state of war and emergency, derogation from human and minority rights in the state of emergency or war or the proceedings of amending the Constitution (Art. 203 of the Constitution). When the act on amending the Constitution is put on endorsement, the citizens vote at the referendum latest within 60 days from the date of adoption of the act on amending the Constitution. The amendment of the Constitution is accepted if voted by the majority of the voters who turn out at the referendum. The act on amending the Constitution which is endorsed at the Republic referendum enters into force when proclaimed by the National Assembly. In case that the National Assembly does not decide to put the act on amending the

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harmonization of normative acts in the legal order of the RS was adopted by the National Assembly on November 10, 2006, by a two-third majority of votes.

[40] The Constitution cannot be amended during the state of war or emergency (Art. 204 of the Constitution).

[41] Upon proposal of the group of 232 MPs, in 2006 a motion was submitted for holding a referendum for endorsement of the new Constitution of the RS, whereas the National Assembly adopted the motion on the First special sitting in 2006 after which the referendum was held (response to the questionnaire addressed to the NA RS, of December 3, 2012).

Constitution for endorsement, the amendment of the Constitution is adopted by voting in the National Assembly, and the act on amending the Constitution enters into force upon being proclaimed by the National Assembly.

The procedure for amending the Constitution is also envisaged by Article 53 of the Law on the NA, whereas the Rules of Procedure stipulates this procedure in more details (Art. 142–149 of the Rules of Procedure). The competent parliamentary committee, i.e. the Committee on Constitutional and Legislative Issues, submits the proposal of decision on calling the referendum, in case when the NA is according to the Constitution obliged to put the act on amending the Constitution on the Republic referendum for endorsement, i.e. if the competent Committee assesses that it is necessary that citizens endorse the act on amending the Constitution on a referendum (Art. 145 of the Rules of Procedure). The Committee prepares the proposal of the act on amending the Constitution and the constitutional bill for implementation of the Constitution (Art. 48 of the Rules of Procedure).

Concluding remarks

As we have shown, the National Assembly of the RS in its previous convocations worked extremely intensively on exercising its legislative function. Due to a large number of proposed acts and the speed required for their consideration, the NA MPs were seldom in a possibility to initiate new laws themselves. In the interviews, the MPs, among else, indicate that this practice will be changed not only by the fact that MPs, and not parties, are the owners of the mandates, but also by the fact that the largest number of acts that required harmonization with the *Acquis Communautaire* has already been adopted. Considering that a large number of new, amended and supplemented laws and other general acts has been adopted, it is quite realistic to expect that the focus of work of the NA RS shall in the coming period shift from the adoption towards the implementation of laws in practice, i.e. towards a more dominant control function of the parliament.

The analyses also show that the National Assembly influences to a significant extent the final texts of the bills submitted by the Government, i.e. that, in the parliamentary assembly, the bills are significantly changed and supplemented by amendments, which is in fact contrary to the usual opinion that the National Assembly only formally accepts the Government's bills without changing them significantly. An important number of amendments submitted by MPs and competent parliamentary committees shows that the parliament is not a simple voting machine.

It seems that the imperative of harmonization of national legislation with *Acquis Communautaire* to a significant measure influenced the carrying out of the legislative function of the NA, in the same time imposing a more frequent

use of urgent procedure. This dynamics is very similar to the dynamics of other parliaments during the EU accession process, such were, for example, the cases of Poland, Czech Republic, Hungary and Slovenia. One of proposals is that the parliamentary procedure should enable the bills of higher political and social significance to receive more time for consideration procedure, as well as that the bills which must be adopted by urgent procedure should be adjusted accordingly (Law Drafting and Legislative Process in the Republic of Serbia – Assessment, December 2011, 72). It is absolutely certain that the announced better coordination of executive and legislative power, i.e. timely agreement in relation to the agenda, shall contribute the work of the NA RS to be more relaxed and quality in the legislative procedure itself.

Same, the recommendations of the interviewed MPs are that the Government should consult the MPs before the bill enters the parliamentary procedure, i.e. already in the drafting phase. Exchange of opinions in public debates, public hearings and other expert meetings should certainly contribute the text of the bills to be more quality when coming to the agenda of the NA RS, i.e. to be as much harmonized as possible. Besides, the submission of bills by MPs themselves is not a simple process and it requires an additional expertise. Considering that the MPs emphasize the lack of professional, financial and all other capacities, more work on removal of these shortcomings is certainly required. Increase of the number of employees in the NA RS Service, the cooperation and engagement of experts from relevant fields, provision of financial assets for the work of MPs and strengthening of technical capacities would improve the preparation of bills by MPs, who assessed that they neither had enough capacities nor time for this.

It seems that it is possible to use more advantages which the parliamentary committees can offer in the purpose of a more constructive debate. It remains to be seen whether the announced (television) broadcasting of the sittings of the committees shall contribute the improvement of their work in the legislative procedure. Namely, there are reasons both pro and contra, as the desire to satisfy the interest of the public, and therefore also motivate the MPs for a more active participation in the committee debates, as well as the desire to present to the broadest public this aspect of work of the NA RS, which is often in the background and in fact "invisible", should be reconciled with a potentially more quality and constructive debate which exactly because of the absence of television broadcasting can be carried out at the sittings of parliamentary working bodies.

Finally, the introduction of the system for electronic management of the legislative procedure in the NA RS (e-parliament) shall enable legislative process to be much more efficient and cost-effective, even more because in the largest number of countries this system is implemented mostly to one or more segments of the legislative procedure, whereas the NA RS shall implement a comprehensive electronic parliament system.

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LEGISLATIVE FUNCTION OF THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA

1. Introduction

The Constitution of Bosnia and Herzegovina in its Article IV stipulates that the Parliamentary Assembly of Bosnia and Herzegovina shall carry out the legislative power. The form of the state organization, the form of the state government and the political system of Bosnia and Herzegovina dominantly determine the manner of realization of legislative function of the Parliamentary Assembly. In this context, it is important to analyse several issues: the role of other political institutions, the Council of Ministers and the Presidency of Bosnia and Herzegovina in performing the legislative function; the importance of the federal state system of Bosnia and Herzegovina for performing the legislative function; the influence of the political system of consociative democracy on the performance of legislative power, by the means of specific decision-making mechanisms stipulated by the Constitution.

Apart from these aspects of performing the legislative function, which could be labelled as legal-political, there are political aspects as well, pertaining to the party composition of the houses of the Parliamentary Assembly, the role of national political elites in performing the legislative function, the role of parliamentary committees, certain members/delegates and other issues, which are partially or not at all regulated by legal acts, but which anyway influence the performance of this function.

2. Legal grounds of the legislative function of the Parliamentary Assembly

The Constitution regulates the following issues pertaining to the performance of legislative function: 1) it determines the competence of the Parliamentary Assembly for its performance; 2) stipulates the quorum for work of the Parliamentary Assembly houses;[1] 3) prescribes the procedure of enacting the laws –

[1] This quorum is different in the two houses. The quorum for work of the House of Representatives is made of the majority of the total number of members, which is 22. The quorum

the majority required for their adoption and special mechanisms protecting the interests of the entities, i.e. vital national interests; 4) determinates the relation of houses in performing the legislative power; 5) regulates the entering of law into force.[2]

The constitutional standardization is incomplete, as it does not define whom the right to legislative initiative belongs to, nor it grants an explicit right to citizens to participate in performing the legislative function through the institutions of direct democracy, such are people's initiative and referendum.

Bosnia and Herzegovina has no law on the Parliamentary Assembly. Therefore, after the Constitution, the Rules of Procedure are the most important legal acts regulating the organization and functioning of the Parliamentary Assembly. Here we speak about more than one Rules of Procedure, because the Parliamentary Assembly has a bicameral structure. It does not have its own Rules of Procedure, but its houses – the House of Representatives and the House of Peoples.

In spite of that the Rules of Procedure to a significant extent elaborate numerous issues of performing the legislative function, thus enabling the work of the Parliamentary Assembly, some issues are not regulated in more details or are regulated in an unusual manner. This, for example, pertains to the decision-making procedure in the Parliamentary Assembly. The Constitution itself contain norms which are not entirely clear and which pertain to the fundamental issues of the majority required for decision-making. Thus in theory of constitutional law it is still disputable what majority is required for adopting decisions in the Parliamentary Assembly, including the decisions on adoption of bills. Since decisions are made by use of the mechanism of the so-called entity voting, it is not precisely regulated how many votes a bill has to obtain in order to be adopted. The Constitutional norms regulating this issue have simply been rewritten in the Rules of Procedure.

The Rules of Procedure neither regulate the details of the procedure of adoption of amendments to the Constitution of Bosnia and Herzegovina in the part pertaining to final voting on the amendment proposal, so that they do not offer a clear reply to the disputable issue noticed in theory – does the House of Peoples participate in the decision-making procedure, and if yes, what is the majority required for passing the decision of (non)acceptance of the amendment proposal.

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for work of the House of Peoples is different and is conditioned by the nature of this house. Although the House of Peoples has 15 delegates, the quorum for work is not eight delegates, as it might seem logical at the first glance, but nine, providing that at least three Bosniak, Serbian and Croatian delegates are present. This specific quorum is conditioned by the fact that the House of Peoples serves for the protection of interests of the constituent peoples, so that it cannot work if its sittings are not participated by the majority (three out of five) delegates from each constituent people.

[2] Article IV 3h of the Constitution stipulates that "decisions of the Parliamentary Assembly shall not take effect before publication".

Another example of inadequate solutions of certain issues is the determination of authorized proposers of amendments to the Constitution of Bosnia and Herzegovina. The Rules of Procedure envisage that amendment to the Constitution can be proposal by any member/delegate, which is an unusual solution, having in mind the formal-legal rigidity of the BiH Constitution. For such constitutions it is characteristic that they define a minimum number of MPs entitled the right to propose amendments thereof.

3. Kinds of legislative function

Besides the legislative function in a more narrow sense, which implies enactment of laws, the Parliamentary Assembly performs other functions as well, which can be considered sub-kinds of the legislative function: the constitution-framing function (Marković, 2001: 49–50) and budgetary function, while it is disputable whether, in difference from many countries (Marković, 2001: 340), the function of approving the ratification of international treaties can be included here as well.

3.1. Constitutional function

The constitutional function[3] is basically regulated by Article X of the Constitution of Bosnia and Herzegovina. This article stipulates that the Parliamentary Assembly decides on amendments to the Constitution by implementation of amendment technique. Article X 1 stipulates that this decision is adopted by the Parliamentary Assembly, by the votes of two thirds of those present and voting in the House of Representatives. Such clumsily formulated norm creates doubts about the role of the House of Peoples in the revision procedure. The opinions rank from the one according to which the House of Peoples does not participate in the revision procedure at all (Dmičić, 1999: 142), through the one that it passes the decision on revision of the Constitution by "national consensus", by agreement of caucuses of all three peoples (Trnka, 2006: 42) to the opinion that the House of Peoples decides on the revision of the Constitution in the same procedure as when deciding on the adoption of a bill. In our opinion, the third attitude should be adopted. Since the Constitution says nothing about the majority required for deciding in the House of Peoples, it follows that such decision is made by the majority which is otherwise decisive.

[3] More precisely, this function can be called revisional considering that the Constitution speaks only about its revision by the implementation of the amendment technique, so that the theory posed the question if a total revision can be carried out, i.e. can the applicable Constitution be replaced by the new one (Fira, 2002: 111).

The Constitution does not prescribe to whom belongs the right to propose amendments. This shortcoming has been removed by the Rules of Procedures of the parliamentary chambers, although it is not an adequate solution, since the Constitution is the one to prescribe the general issues of performing the constitution-framing power. Article 132 of the Rules of Procedure of the House of Representatives grants the right of proposing amendments to the Presidency, Council of Ministers, House of Peoples and any member. According to Article 127 of the Rules of Procedure of the House of Peoples, the same right is granted to the Presidency, Council of Ministers, House of Representatives and any delegate.

The Rules of Procedure prescribe that the following procedure is actually accompanying the basic legislative procedure. The difference is that the revision procedure obligatory includes a public debate, carried out by the constitutional-legal committee.

An extraordinary specificity of the Constitution of Bosnia and Herzegovina is that the Parliamentary Assembly can perform constitutional (more precisely, revisional) power not only by formal amendments of the Constitution wording, but also by enacting ordinary laws. It does so in such a manner as by its laws it transfers the competences from the entities to the state, according to Article III5 of the Constitution. The Parliamentary Assembly therefore amends the constitutional subject matter, as it has the right not only to establish new competences of the state, but, according to the need, to establish new state institutions. This is usually done by amendments to the constitutional norms; however, in Bosnia and Herzegovina this is possible to be done by ordinary laws, such was the case with judiciary institutions.

Exactly this specificity, as well as the existence of a non-constitutional actor – the High Representative – caused that the Parliamentary Assembly performed its revision power by passing the amendments only once – in March 2009, when it adopted the first and so far the only amendment to the BiH Constitution, which constitutionally-legally regulated the position of the Brčko District.

3.2. The legislative function in a more narrow sense

Under the legislative function in a more narrow sense we understand the function of enacting laws as general legal acts which in the hierarchy of legal acts fall under the Constitution. This is what is usually named the legislative function. It has been assigned to the PA by Article IV 4, which stipulates that the Parliamentary Assembly shall be empowered for "enacting legislation as necessary to implement decisions of the Presidency or to carry out the responsibilities of the Assembly under this Constitution".

Considering that the BiH Presidency is not empowered with the right to veto and that the Council of Ministers does not have an explicit power to perform the so-called delegated legislation, it can be said that the legislative function, at least

in the formal-legal sense, entirely belongs to the Parliamentary Assembly. The absence of the right to veto is not in accordance with the nature of the state government system, which essentially contains the features of the semi-presidential system, but nevertheless contributing the potential enhancement of the role of the Parliamentary Assembly in the decision-making processes.

The fields in which the Parliamentary Assembly performs the legislative function are defined, in essence, by Article III 1 of the BiH Constitution, which stipulates the powers of the BiH institutions. However, the other parts of the Constitution, as well as the other annexes to the General Framework Agreement for Peace, contain the norms for certain competences of the BiH institutions. In addition, we can make reliable conclusions on the scope and content of the legislative function of the Parliamentary Assembly only on the basis of an insight into the subject matter of the Constitution of the Bosnia and Herzegovina in the material sense, which does not encompass only the text of the Constitution, but a set of other legal acts, above else all laws and decisions of the High Representative which carried out the transfer of competences from the entities to the state, thus expanding the legislative function of the Parliamentary Assembly.

3.3. Budgetary function

Pursuant to Article IV 4 b and c, the Parliamentary Assembly decides upon the sources and amounts of revenues for the operation of the institutions of Bosnia and Herzegovina and for the fulfilment of international obligations of the state, i.e. it adopts a budget for the BiH institutions.

The Council of Ministers submits the draft of the budget to the Presidency of Bosnia and Herzegovina, which forwards the budget proposal to the Parliamentary Assembly. The participation of three institutions, which political composition can be different, in adoption of the budget influences the slowness of the budget adoption procedure, so that it regularly happens that the budget is adopted after the beginning of the new fiscal year.[4] The Constitution contains no norm as a sanction for the delay in budget adoption,[5] nor the Rules of Procedure have

[4] The House of Peoples adopted the budget proposal for 2003 on February 25, 2003, although the House of Representatives adopted it in December 2002. The House of Representatives adopted the budget for 2004 only on April 14, 2004, and the House of Peoples on April 26. The budget for 2005 was adopted on January 12, 2005 in the House of Representatives and on January 26, 2005 in the House of Peoples. The budget for 2006 was adopted on February 14, 2006 in the House of Representatives and on February 21, 2006 in the House of Peoples. In the convocation 2006–2010, the budget was adopted on April 4, 2007, on February 20, i.e. 25, 2008, on January 21, i.e. 29, 2009, while only the budget for the year 2010 was adopted on December 30, 2009.

[5] In difference from this solution, the Constitution of the Federation of Bosnia and Herzegovina in its Article IV A 16 (2) stipulates that the President of the Federation shall

envisaged any, although they made this subject matter more concrete. The Rules of Procedure of the House of Representatives in its Article 128 prescribes that the Presidency submits the bill pertaining to the budget before October 15th of the current year, while the House of Representatives should refer the bill it adopted latest by November 15. To that purpose, the deadlines otherwise envisaged for the ordinary legislative procedure have been shortened, in order for the budget to be adopted prior to the beginning of the fiscal year. However, the Rules of Procedure does not prescribe what will happen if the houses fail to meet these deadlines. That legal emptiness, which should have been regulated by the Constitution, enabled the budget to be regularly adopted after the beginning of the fiscal year.

In spite of that the Parliamentary Assembly is in charge for the budget adoption, an impression is gained that the actual decision is made elsewhere – in non-institutional centres of power, and that members and delegates only formally enact the decision that had been passed in advance.[6]

3.4. Ratification of international treaties

The Parliamentary Assembly does not ratify the international treaties, but approves the ratification performed by the BiH Presidency. Therefore, it is disputable whether this power of hers can be counted into the legislative function. There would be no doubt that this was a part of the legislative function if the Parliamentary Assembly would perform the ratification of international treaties. The Presidency is, however, competent not only to sign but also to ratify the international treaties, which it does in the legal form of a decision, to be confirmed by the Parliamentary Assembly, i.e. to obtain its approval thereupon.

4. Legislative procedure

4.1. The right to legislative initiative

This right belongs to any member/delegate, the committees of the houses, the joint committee, another house, as well as to the Presidency and the Council of Ministers, on the issues from their competence.[7] It can be said that these are the common authorized proposers. The practice shows that the largest number of the adopted laws comes from the Council of Ministers, whereas the Presidency and

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dissolve both houses of the Federation Parliament if they fail to pass the budget before the beginning of the fiscal year.

[6] "The debate on the budget depends on something that was, in advance and with insufficiently elaborated reasons in the parliament, agreed on some other place." –BiH01.

[7] In Republika Srpska, the President and the Government of Republika Srpska have the right to legislative initiative equal to that of the MPs and at least 3000 voters (amendment XXXVIII to the Constitution of Republika Srpska).

individual members/delegates seldom used this right. In the period from 1997 to 2012, 35 bills proposed by the Presidency were adopted, which makes only 6.3% of the laws adopted in the mentioned period. This relatively small number of bills coming from the Presidency is also caused by the fact that its right to legislative initiative is limited. The Presidency most often submitted the bills from the budgetary sphere.

By far the largest number of the adopted laws was proposed by the Council of Ministers of Bosnia and Herzegovina. From 1997 to mid-2012, 371 law proposed by the Council of Ministers were adopted. That is 67 % of the laws adopted in the observed period.[8] From this it can be concluded that the Council of Ministers became the supreme proposer of laws. The executive power won the supremacy over the legislative one, considering that the Council of Ministers, besides the Presidency, carries out the state politics and implements the politics defined by the leadership of the political parties which have their ministers.

A comparative analysis shows that the right to legislative initiative of the Council of Ministers is not as efficient as it is in other states.[9] Not only that the number of laws proposed by this institution is lower in the structure of the adopted laws in comparison to other states, but the higher is the percentage of the bills submitted by the Council of Ministers which were not adopted. In the period 2006–2010, 28 % of bills of the Council of Ministers were rejected. These data do not contest the conclusion that the Council of Ministers dominates the legislative procedure, but only point to the specificities of the decision-making process of the Parliamentary Assembly.

The MPs think that the problem is in the insufficient preparation of bills and in poor communication between the Council of Ministers and the Parliamentary Assembly.[10] Here they primarily mean the communication between the competent minister and the MPs from his/her party, upon which the minister concludes if the bill prepared by his/her ministry can be adopted in the Parliamentary Assembly. Although this reason cannot be considered irrelevant, to us it seems that two other reasons are more decisive. The first of them pertains to the composition and the second one to the decision-making manners of the two institutions.

The Council of Ministers is always a large coalition, as it is composed of national political parties from among the ranks of all three constituent peoples. Such coalition usually has a significant majority of seats in the Parliamentary Assembly, however the attitudes of its members differ in many important political issues. Therefore, such coalitions do not have elaborated programmes and are

[8] Slight deviations from this data are possible, as the statistics provided by the Parliamentary Assembly does not precisely quote the proposers for a few adopted laws.

[9] In the USA, about 80% of the adopted laws came from the President's administration (Vasović, 2008: 182). In Great Britain and France, between 85 and 90 % of the adopted laws were proposed by the Government.

[10] Interviews with MPs BiH02 and BiH04.

not sure in the success of their initiatives in the parliament. This particularly happens when it is about sensitive political issues, as to certain members of the coalition it is more important to preserve their influence on voters than to act as loyal coalition members. It can be said that the classic division to government and opposition is less important than in other states, because parliamentary majority is heterogeneous and unstable. Therefore the Government's politics often faces the opposition among the ranks of the parliamentary majority. In that case, the division to the minority and the majority is not made along the party but along the entity and ethnic lines.[11]

Another reason is the difference in the manner of decision-making in the two institutions. Although the adoption of certain decisions in the Council of Ministers requires the approval of at least one minister from among the ranks of each constituent people, it can happen that the decision is made against the will of the majority of delegates in this body from among the rank of one constituent people.[12] The principle of consensus in decision-making is more weakly implemented in the Council of Ministers than in the Parliamentary Assembly, which creates the possibility for the decisions in the Council of Ministers to be adopted by outvoting.

The decisions in the Parliamentary Assembly are always adopted by a special qualified majority, so that the members/delegates from one entity, i.e. constituent people, can attempt to prevent the adoption of a decision which their ministers opposed to in the Council of Ministers, which they can manage to do relatively easily, particularly those elected in Republika Srpska. The practice shows that very often the bills adopted in the Council of Ministers on the principle of outvoting are later not confirmed in the competent house committee, which, by rule, results in their rejection in the parliamentary houses.

The number of the adopted laws proposed by MPs is very small. From 1997 until mid-2012, 58 bills proposed by MPs were adopted, which is 10.5 % of the total number of adopted laws. The committees proposed only 13 adopted laws. The MPs[13] think that their poor participation in legislative procedure is caused by the impact of several factors: 1) ignoring of the Parliamentary Assembly by other institutions; 2) the lack of democracy in the decision-making process, as the most important decisions are made on meetings of party leaders and party leaderships; 3) insufficient interest of a part of members/delegates to participate in the legislative procedure; 4) insufficient knowledge about the legal system and

[11] "This, among else, often happens in budget adoption." – Interview with MP BiH05.

[12] After the High Representative in October 2007 imposed the Law on Amendments and Supplements to the Law on the Council of Ministers of Bosnia and Herzegovina, decisions in ultimate competence of this institution are made by votes of the majority of present members, providing that at least one member from among the rank of each constituent people vote in favour (Art. 5 of the Law). – *Official Gazette of BiH, No.* 81/07.

[13] Interviews with MPs BiH02, BiH03 and BiH04.

the subject matter regulated by laws; 5) the absence of financial, human resource and infrastructural support to the members/delegates for performing the legislative function.[14]

The Council of Ministers has the right to declare itself about a bill which came from other authorized proposers.[15] Its negative attitude can influence the final destiny of the bill. However, having in mind the complex political relations within the parliamentary majority, it cannot be claimed that it will follow the negative attitude of the Council of Ministers and reject the bill because of it. The Rules of Procedure envisage that bills are submitted to the Presidency as well, which has right to give its opinion thereon. It is not clear why the Presidency is granted the right to opinion on all bills if its right to legislative initiative has previously been limited only to the issues from its competence.

The right to legal initiative is not explicitly granted to citizens by the Constitution nor it is mentioned in the Rules of Procedure.[16] From this we still cannot derive the conclusion that there is no constitutional-legal framework for the recognition of this right, although in theory there is a dispute about this. It would be logical if it had been explicitly prescribed in the normative part of the Constitution. However, since the Constitution in its Article IV does not at all prescribe to whom the right to legislative initiative belongs, it could neither grant it to the citizens. Whether this right of citizens is principally recognized, we conclude from the analysis of the contents of Annex I of the Constitution of Bosnia and Herzegovina. This Annex contains a list of fifteen international instruments for protection of human rights, including the Covenant on Citizens and Political Rights. From Annex I, which is an integral part of the Constitution and has a power of constitutional norm, it derives that these instruments are implemented in Bosnia and Herzegovina. Therefore, the rights contained in these fifteen instruments have the character of constitutional rights. In order for the citizens to exercise the right to legislative initiative, which the Constitution recognized in this manner, it must be envisaged in the normative part of the Constitution, by the law, or at least in the Rules of Procedure of the parliamentary houses. This would precise this right to a level sufficient for the exercise thereof.

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[14] Members and delegates sometime overcome these shortcomings by appearing as formal proposers of bills coming from interested subjects (for example, interest groups) which does not enjoy a formal right to a legislative initiative, but have an interest for the bills to be adopted and the knowledge and information necessary for its drafting. However, it depends on the will of members/delegates and the attitude of their parties if these initiatives will be formalized to bills.

[15] Art. 101, Para. 2 of the Rules of Procedure of the House of Representatives

[16] An opposite solution has been accepted in the Constitution of Republika Srpska, which explicitly grants the right to legislative initiative to voters, providing that the bill is submitted by at least 3000 voters.

4.2. The role of the committees in the legislative procedure

The committees are standing working bodies of the houses and of the Parliamentary Assembly which carry out a significant part of the legislative work. Each house has its own committees; however, there are also joint committees of both houses. The committees are organized in accordance with the competences of the BiH institutions. The smaller number of the committees of the House of Peoples is caused by a small number of its members. The committees give their opinion on the bills, and their report influence the decision-making of members/delegates, both regarding the acceptance of a bill in full and regarding its modifications in the amendment phase.

The bill is submitted to the Constitutional-Legal Committee, which should take attitude on the harmonisation of the bill with the Constitution and the legal system. This should be done within 15 days from the date of receipt of the bill. The bill is also submitted to the competent committee, depending on its content, and the Committee gives an opinion on the principles which the bill rests upon. This phase, therefore, still does not deal with details. It is only determined whether the bill is in compliance with the Constitution and the legal system and whether the general principles it rests upon are correct. Upon receiving the committees' reports, the Collegium of the house convokes a plenary sitting. The opinions of the committees shall be considered at the sitting of the house, and if the house accepts the negative opinion of the committee, the bill shall be rejected. If the house does not accept the opinion, the committee shall be required to make a new report, in accordance with the guidelines to be given by the house.

The composition of the committees is proportional to the party composition of the houses, so that the mood of the committees indicates the mood of the house concerning the bill. This, however, is not necessarily the case, as committees decide in a different manner than the houses. In adopting decisions that are not final, simple majority is required,[17] so that outvoting might occur within the committee.[18] As both houses decide by the implementation of the so-called entity voting, the outcome of voting in the houses can be different than in the committees.

[17] Art. 35 of the Rules of Procedure of the House of Representatives and Art. 39 of the Rules of Procedure of the House of Peoples.

[18] During this research, some members in the House of Representatives pointed to the cases of outvoting in the committees. Thus the member whose code was BiH03 stated an example of two bills which came from the Ministry of Security of Bosnia and Herzegovina which, in opinion of MPs from Republika Srpska, were unconstitutional, which was also the opinion of the members of the Constitutional-Legal Committee from Republika Srpska. However, while MPs from Republika Srpska can prevent enactment of such laws in the House of Representatives, the members of the Constitutional-Legal Committee can be outvoted. Therefore a disagreement between the committee's attitude and the decision made at the plenary sitting can occur.

Factual influence of the committees is reflected also in that the members/delegates rely on the opinion expressed by their party comrades – committee members, so that the voting in the house is a mirror image of voting in the committee. If the final outcome of voting is different, this is only because the committee and the house do not vote under the same rules. In principle, the bill on which the committee renders a negative opinion has little chances to be accepted at the plenary sitting.

A negative opinion of the committee on the bill can be a consequence of a non-harmonised action of the legislative and the executive power, wrong assessment of the proposer whether the bill can obtain support in the house, the origin of the bill and the aim intended to be achieved by its submittal. It seems that two reasons are the key ones among these: 1) that the bill pertains to an issue which the members of the ruling coalition agree about; 2) if the proposer correctly assessed the chances for obtaining the majority for the bill. Members/delegates from the opposition parties propose bills much less often than the members/delegates from the ruling parties,[19] so that the fact that proposals came from the opposition could not influence the attitude of the competent committee in a large number of cases.

The committees participate in the legislative procedure in its so-called second phase as well, when the bill is discussed and the amendments submitted. The committee discusses and votes on the amendments to the bill which came from the proposer, members/delegates, caucuses, a non-competent committee and the Council of Ministers.

According to the Rules of Procedure, the committees are in charge for organizing a public debate on the bill. The committees decide whether a public debate shall be held.[20] Public debate can last up to 15 days, with "interested parties, specialist institutions and individuals" being invited thereto.[21] There are different opinions regarding the level of importance of public debates. Proposers and MPs sometimes adopt the opinions and proposals arising in the public debate.[22] The

[19] In the convocation 2006–2010, members/delegates from the ranks of opposition parties submitted 34 % of the total number of bills submitted by all members/delegates. The reason is to be found both in the fact that the number of opposition members/delegates is significantly lower, as the large coalition is very broad, and in the fact that opposition members/delegates are aware that there is only a minimum chance for their bills to be adopted.

[20] Different solution is envisaged in the entities, where legislative bodies pass decision on organization of public debates. – Art. 204 of the Rules of Procedures of the National Assembly of Republika Srpska; Art. 173 of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina.

[21] Art. 114 of the Rules of Procedure of the House of Representatives.

[22] Thus the convocation 2010–2014 of the Parliamentary Assembly adopted the Law on Amendments and Supplements to the Law on Residence, with amendments which included the proposals presented in public debate and agreed upon by the Ministry of Civil Affairs.

expert public and the civil sector are, in the assessment of the MPs themselves, interested to actively participate in public debates. However, caucuses are mostly not ready to accept proposals different from their attitudes.

The solutions covering public debate in the Rules of Procedure are not adequate. They envisage that public debate can be done before the competent committee starts the debate on the bill and the submitted amendments.[23] This limits the role of public in the legislative procedure, as it cannot express its attitude on the necessity of the bill and on the correctness of the principles it rests upon, but can only propose certain amending of the text which is in principle already accepted. The number of organized public debates is relatively small. In convocation 2006–2010, public debates were organized on 16 bills (8.5 % of the number of laws adopted in this convocation), on the proposal of amendment I to the Constitution of Bosnia and Herzegovina and on several strategies.[24]

The role of the committees is different than in other parliaments in Bosnia and Herzegovina and in other states.[25] The debate on the bill in the so-called first reading is done in the house "according to the opinions of the Constitutional-Legal Committee and the competent committee from the first phase of consideration" (Art. 106 of the Rules of Procedure of the House of Representatives). If the committees take negative opinion on the bill, the houses shall on the plenary sitting discuss and decide on the bill with opinion of competent committees, and shall vote on their negative opinions.[26] Same, if the committee adopts the amendments to the bill, they become a part of the bill and they are discussed on the plenary sitting.[27] As if there is no original text of the bill, without the committee's amendments.

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[23] Art 114 of the Rules of Procedure of the House of Representatives.

[24] The website of the Parliamentary Assembly of Bosnia and Herzegovina, https://www.parlament.ba/sadrzaj/javne_rasprave/odrzane_rasprave/default.aspx?id=20274&langTag=bs-BA&pril=b, 26.08.2012.

[25] The Rules of Procedure of the National Assembly of Republika Srpska in its Article 200 stipulates that at the sittings of the National Assembly the proposer of the bill explains the bill and declares on the presented opinions and attitudes, while the spokesperson of the competent working body presents the attitudes and opinions of that body. Articles 166 and 168 of the Rules of Procedure of the Parliamentary Assembly of the Parliament of the Federation of Bosnia and Herzegovina stipulates that this house discusses the bill, whereas Article 167 stipulates that the competent committee submits the report with its opinion on the bill to the house. Before the debate on the bill, the house declares only about the opinion of the Legislative Committee that the bill is not in compliance with the Constitution and the legal system of the Federation. Article 170 prescribes that the proposer shall, in creating the bill, take into account the attitudes of the competent committee and MPs.

[26] Art. 107 of the Rules of Procedure of the House of Representatives. Article 202 of the Rules of Procedure of the National Assembly of Republika Srpska prescribes that the National Assembly in the Voting Day votes on the draft law, while it can define additional attitudes, proposals and opinions, which the proposer shall take into account in creating the bill.

[27] Art 111 of the Rules of Procedure of the House of Representatives.

This solution made the committees the central points of the legislative process.[28] It enhanced the position of the Parliamentary Assembly in relation to the proposers of laws, including the Council of Ministers. The law proposer got an active role in the legislative procedure as he must defend the proposal before the committee. Thus Art. 108 of the Rules of Procedure of the House of Representatives stipulates the law proposer or his authorized representative to attend the committee sitting. If he fails to attend the next sitting of the committee as well, the bill is considered withdrawn.

4.3. Discussion and voting

Debate on the bill is not carried out only at the sittings of the competent committee, but also at the plenary sittings of the houses. The debate in houses is unfolding in two phases, i.e. two readings – the first and the second reading. In the first reading, the houses at the plenary sittings debate on the principles which the bill rests upon and the necessity of its adoption. The debate is founded on the opinion of the Constitutional Legal Committee and the competent committee and is concluded by adoption or rejection of the bill in the first reading.

After the Speaker of the house accepts the report of the competent committee, starts the debate on the bill in the second reading. In this phase, amendments which contest the amendments adopted by the committee can be submitted. The authorized proposer can again propose amendments which previously were not adopted by the competent committee. The second phase consists of the debate and voting on the amendments. After voting on all proposed amendments, the final text of the bill is put on vote.

Although members and delegates can propose amendments to be debated and voted on, they do it unevenly and for various reasons. They are more often proposed by members and delegates of ruling parties. This is expected, for two reasons. First, parliamentary majority is extremely broad and it encompasses a significant majority of the members. Second, the nature of amendments proposed by these members/delegates is different and enables them to be proposed more often. Namely, these are the amendments proposed with an aim of improving the solutions contained in the bill. Almost never are proposed the amendments changing the essence of the bill, which adoption is indeed more difficult. It is interesting that the members from the ruling parties have different view on action of the opposition members when it is about proposing amendments. Their assessments are in the rank from an assurance that the position and opposition members evenly participate in proposing amendments,[29] to the opinion that the opposition

[28] This role of the committees was in the interview particularly emphasized by the MP BiH02.

[29] MPs BiH02 and BiH04.

members act seldom and mostly in a populist manner.[30] Such impression cannot be accepted as justified, having in mind that the opposition, at least in some convocations, proposed a relatively large number of amendments.[31]

Voting is one of the most sensitive and most specific phases of legislative procedure. Federal state system and consociative political regime have had the largest influence to the determination of the manners of the decision-making procedure in the Parliamentary Assembly.

The quorum for work of the House of Representatives is the majority of the total number of members, which is 22, as this house consists of 42 members. The quorum for work of the House of Peoples is nine members (delegates), three from each of the constituent peoples,[32] since this house is composed of five Bosniak, Serbian and Croatian delegates respectively. Such quorum for the work of the House of Peoples is unnecessary if voting is approached after the debate on all items of the agenda. The Constitution, of course, cannot enter into such procedural details, but it can make the work of the House of Peoples more efficient by not requiring this quorum for work. In that case, the House of Peoples would be forced to organize its work by the Rules of Procedure as to be carried out without such rigid condition regarding the quorum, providing that proposals are voted on after the debate on all items. This solution also has its shortcomings – the delegates who did not participate in the debate are present in voting, so that their role as voting machine becomes entirely exposed. Besides, the specific quorum in the House of Peoples is justified by the nature and function of this house as a representative office of constituent peoples who, in understanding of the Constitution framer, cannot work if the sittings are not attended by the majority of representatives of these peoples.

The decision-making procedure, involving the adoption of laws, is very complicated. The reasons for this are multiple: the need to prevent outvoting by ethnic principle; inapplicability of the majority principle for historical, political and social reasons;[33] the fears of the entities of not being led into an unequal position in the decision-making process which would reduce their autonomy. Such manner of decision-making influences the efficiency of performing the legislative function and a specific role of a non-constitutional factor – the High Representa-

[30] MP BiH03.

[31] According to the available data, in convocation 2006–2010, members of the House of Representatives proposed 550 amendments – *Convocation Report on Monitoring of the Work of the BiH Parliamentary Assembly for the Period November 1, 2006 – September 1, 2010*: 2010, Tuzla – Mostar: Centre for Civil Initiatives, 13. Out of that number, the members from the ruling parties proposed 290 amendments.

[32] Article IV 1 b of the Constitution of Bosnia and Herzegovina.

[33] Under social reasons we understand the nature of society – deeply divided (segmented), with nations as social segments, which required the establishment of political regime of consociative democracy.

tive. The Parliamentary Assembly has problems with the majority required for adoption of the bills, as entity voting prevents many of the bills to be adopted. The reasons are of political, and not professional or legal-technical nature. It is not, therefore, that a significant number of members/delegates think that the bills are not quality, but they are politically unacceptable.

Considering that the Constitution does not prescribe the issues regarding which the entity voting can be resorted to, nor it defines vital national interests, they can be used always, which opens a space for manipulations. Frequent use of the institution of entity voting leads to that a large number of bills was rejected in the House of Representatives so that the House of Peoples does not vote on them. Therefore, the institution of protection of vital national interests is very rarely used. Entity voting replaced and incorporated vital national interest. The largest number of bills which are not adopted in the Parliamentary Assembly does not obtain votes of enough members from one of the entities, mostly from Republika Srpska.[34]

4.4. Relation of houses in the legislative procedure

In the formal legal sense, houses are equal in performing all segments of legislative power, hence not only legislative power in a narrow sense but also the constitution framing, budgetary and international functions.

The Constitution does not prescribe the procedure that will be carried out in case that houses disagree about the bill, but declares the equality of houses only in principle.[35] The Rules of Procedure of the parliamentary houses are left to regulate this issue. The Rules of Procedure of the House of Representatives in its Art. 122 stipulates that a joint committee of the houses shall be formed if the text of the bill adopted by both houses is not identical. From this norm it follows that the bill shall not be considered if adopted only by one house. However, it is not unjustified to form a commission in such cases as well, as the rejection of one house to adopt the bill need not to be the expression of its principal opposition thereto. Perhaps the house opposes the bill due to one or few important solutions which might be modified by efforts of a joint commission, which would make the bill acceptable for both houses.

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[34] According to a study, in the period 1997–2007 the Parliamentary Assembly rejected 260 bills. Out of that number, 156 were not accepted as they were not been voted in favour by a sufficient number of members from one or another entity (in 136 cases from Republika Srpska, and in 20 cases from the Federation of Bosnia and Herzegovina). – Kasim Trnka *et al*.: 2009, 89. To this number we should add 74 bills rejected in the period 2008–2010 due to the lack of votes from the entities, which totally makes 230 bills from 1997 to 2010.

[35] "All legislation shall require the approval of both chambers ." – Art. IV 3 c of the Constitution.

The joint committee has six members, three from each house. It composes a report, which must be adopted by both houses for the consensus on the text of the bill to be considered as reached. The committee decides by the majority of votes of its members, providing that this majority includes the majority of members from both houses and that the constituent peoples are represented therein.

We said that the houses are equal in the formal-legal sense. It is important to emphasise this aspect of their equality because in practice it can occur that one house has advantage in the legislative procedure. By rule, a bill is first considered in the House of Representatives. If it is not adopted there, the House of Peoples will not have an opportunity to vote thereon. Of course, it can happen that the legislative procedure is initiated in the House of Peoples, but that is a more rare case. Thus it happens that the performing of legislative function of the House of Peoples frequently depends on the attitude of the House of Representatives on the bill.

4.5. Abbreviated and urgent procedure

Laws can be adopted by abbreviated and by urgent procedure as well. Upon the proposal of the proposer of the bill, the house decides whether it will debate and decide on the bill by abbreviated procedure. The essence of the abbreviated procedure is that the deadlines prescribed by the parliamentary Rules of Procedure are shortened by half; the Collegium of the House can additionally limit the duration of the debate and define how many times a member/delegate can be given the floor. The Rules of Procedure do not define in what cases the law is adopted by abbreviated procedure – this is to be decided by the house in each actual case.

Urgent procedure is not adequately defined in full. The Rules of Procedure define it as a procedure by which the bills of a high level of urgency are adopted, or the bills which are not so complex and can only be adopted or rejected in full. In that case, the bill shall be considered in only one reading, and amendments to the bill shall not be submitted.

However, it is not clear why the urgent procedure implies the procedures of enacting two kinds of laws – those that should be adopted urgently and those which are not complex, but not necessarily urgent. In other words, the Rules of Procedure mix two reasons for justification of urgent procedure – the urgency of enacting the laws and the complexity of the text of the laws. It is more logical that the laws of lower complexity are enacted in abbreviated procedure, particularly because urgent procedure yet disables the submission of amendments, which is not justified. Because, if a law is not complex, it still does not mean that it is quality and that it is not necessary (not even allowed!) to submit amendments.

5. Conclusion

The Parliamentary Assembly of Bosnia and Herzegovina is a very specific institution by all its features, and so by performing its basic, legislative function. Social-political conditions and aims of passing the Constitution of Bosnia and Herzegovina led to that the legal solutions are not complete, that there are legal emptiness and ambiguities. These shortcomings significantly influence the performance of legislative function, and their negative effect is enhanced by the absence of agreement of political elites on the content and manner of functioning of the legislative function.

The biggest specificities in performing the legislative function pertain, from one hand, to the performance of revision power, as a sub-kind of the legislative function and, on the other hand, to certain phases of the legislative procedure, when it is about the legislative function in a more narrow sense. Certain shortcomings have been removed, by passing relevant procedural norms, or in the practice solved doubts arisen from the unclear norms. Such acting is not always justified, as certain issues must be regulated by the Constitution or the Rules of Procedure (depending on importance of the issue) in an unambiguous manner. This primarily pertains to the procedure of revision of the Constitution, when it is about two questions: who can propose the revision of the Constitution, and if both houses, and with what majority, pass the decision on adoption of amendments. The importance of the legislative procedure requires certain issues to be regulated by the Constitution and not by the Rules of Procedure, such is the question whom the right to legislative initiative belongs to.

There are issues which are a part of the legislative procedure and regulated by the Constitution, but which adequacy is frequently contested. Such question is the manner of decision-making of the Parliamentary Assembly, particularly in the segments pertaining to entity voting and vital national interest. Different political interests of national political elites do not allow the deciding of the Parliamentary Assembly to be regulated in a different manner, so that in that segment as well it will remain a specific institution which will continue to be the feature of the legislative procedure.

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LEGISLATIVE FUNCTION OF THE PARLIAMENT OF MONTENEGRO

When Montenegro entered the union with Serbia under the name of the Federal Republic of Yugoslavia, the new Constitution was adopted in order to reflect the new reality. The former unity of the legislative and executive power prescribed by the Constitution of the Socialist Republic of Montenegro of 1974 was replaced with the principle of the division of power. Article 5 of the 1992 Constitution says: "The government in the Republic of Montenegro shall be regulated according to the principle of the division of powers to the legislative, executive and judicial. The legislative power shall be exercised by the Parliament, the executive by the Government and the judicial by the courts". This established the principle still applicable today, in the independent Montenegro, which Constitution as well stipulates: "The power shall be regulated following the principle of the division of powers into the legislative, executive and judicial. The legislative power shall be exercised by the Parliament, the executive power by the Government, and the judicial by courts" (The Constitution of Montenegro, Art. 11). Therefore both constitutions of Montenegro in the multiparty system stipulates the Parliament to perform the function of legislative power, i.e. enactment of laws (including the ratification of international treaties and other acts with legal force, for example the budget and final statement, and also the amendments to the Constitution, except the articles the amendment to which requires a referendum).

By entering such postulates in its Constitution, Montenegro only took over what is generally accepted in almost all democratic countries of the world – with a well-known exception of Switzerland – and that is the division of power, whereas the representative body elected by the people vote on laws.

The activity of the Parliament of Montenegro is regulated first of all by the Constitution. However, while the Constitution mostly generally defined the field and principles of action, another acts, first of all the Rules of Procedure of the Parliament of Montenegro, elaborated in more details the functioning of the Parliament. As in some other states, in Montenegro there is no special Law on the Parliament.

Normative regulation of the legislative function of the Parliament

Same as in the majority of political systems in the world[1], the supreme legal act in the Montenegrin legal-political system is the Constitution. The first post-communist Constitution was adopted on October 12th, 1992. It had been applicable until the adoption of the Constitution of the independent Montenegrin state, and therefore it is important for our referential period (from 2000 to 2007).

Article 81 Para 2, confirming the norm from the basic provisions on competences of the Parliament, states as its second competence that it enact laws, other regulations and general acts. Only Article 85 also refers to the legislative function, whereas the further elaboration of normative regulation of this (and other) functions of the Parliament is left to other legal acts, primarily the Rules of Procedure.

When the Constitution was adopted in 2007, it took over the Article pertaining to the competence of the Parliament, providing that one paragraph stipulated the Parliament to enact laws (the Constitution of Montenegro, Article 82, Para. 2)., whereas the next paragraph envisaged enactment of other regulations and general acts as well (decisions, conclusions, resolutions, declarations and recommendations) (Constitution of Montenegro, Article 82, Para 3). An important modification stipulated by the Constitution 2007 however was adopted in Article 93, which refers to proposing the bills. While the previous Constitution granted the right to proposing bills to the Government, the MP and at least six thousands voters, the new one in fact significantly restricted that right regarding the initiative of citizens. It is still envisaged that the right to propose bills is granted to the Government and the MP, however this right is restricted to citizens in such a manner as they (same at least 6,000 of them) can propose a bill, but exclusively through an authorized MP. Thus, the proposals of citizens and their organizations depend on an agreement of MPs, i.e. political parties, which now practically have a monopoly to the legislative initiative.

Apart from general principles on constitutionality and legislation, lifespan of laws, the legislative role of the President and the like, the 2007 Constitution does not enter into elaboration of legislative procedure, leaving it to other acts passed by the Parliament.

Parliamentary procedures, as well as the establishment and work of its auxiliary bodies, are in more details regulated by the Rules of Procedure of the Parliament of Montenegro, passed in 2006, and afterwards amended in several occasions, most recently in 2012, when the number and organization of parlia-

[1] With well-known exceptions of the State of Israel, United Kingdom and New Zealand which do not have a common act but a set of acts which all together make Constitution in the material sense, as well as some other countries like the Federal Republic of Germany where there is a supreme legal act, however not under the name of the constitution, but the Basic Law.

mentary committees have been amended. The Rules of Procedure also regulates the manner of exercising the rights and obligations of MPs. Before the actual one, the Rules of Procedure of the Parliament of the Republic of Montenegro had been applicable (the Official Gazette of the Republic of Montenegro, No. 37/96), with amendments and supplements (the Official Gazette of the Republic of Montenegro, No. 16/97 and 24/97). These Rules of Procedure had replaced the even earlier one, passed in 1993 and supplemented in 1994 and 1996. Considering that the Rules of Procedure is an act dealing with parliamentary procedures, it is not unusual that it is often amended or that the new one is adopted, so that we can say that in the referential period, particularly 2000–2006, there were no frequent amendments to this act in the Montenegrin Parliament. The Rules of Procedure adopted in 2006 in significantly more details regulates the work and organization of the Parliament, which is in accordance with the change of the state status of Montenegro which occurred in the meantime. The Rules of Procedure of the Parliament of Montenegro of 2006 is more voluminous (224 Articles) than the Rules of Procedure of Montenegro of 1996 (190 Articles, and an annex with the list of words that must not be used in the Parliament).

By confirming the Constitutional definitions, the Rules of Procedure first states the acts to be adopted by the Parliament (Constitution, law, spatial plans, Rules of Procedure of the Parliament, declaration, resolution, decision, recommendation and conclusion), followed by a detailed regulation of the procedure of their adoption.

The legislative procedure starts with submission of a bill. The form of the bill is the same as the form of the law itself, providing that the bill has to be accompanied by the rationale containing the constitutional grounds, reasons for adoption, harmonization with the EU *Acquies* and ratified international conventions, explanation of basic legal institutions, assessment of financial assets for implementation of the law and, in case of proposing the bill on amendments to the valid law, the text of the provisions being amended. The content of the rationale has been expanded by the new Rules of Procedure, considering that the previous one did not envisage the rationale of harmonization with the EU *Acquies* and the international treaties; however, this is a logical expression of the changed circumstances that Montenegro became a subject of international law and a participant in the European integration process, which in the time of adoption of the Rules of Procedure of 1996 was not the case.

In consideration of the bills, if the Government is the proposer, it appoints at most two representatives for consideration in the Parliament, while when a group of MPs is the proposer, they appoint one representative, of the first signed MP is considered their representative. While until 2007 it could have been concluded that the group of citizens proposing the bill delegates two representatives to the parliamentary debate, in accordance with the amendments introduced by the new Constitution, the Rules of Procedure says that, along the bill, six thousands vot-

ers shall designate the authorized MP to submit it (the Rules of Procedure of the Parliament of Montenegro, 2006, Art. 131).

The Speaker of the Parliament forwards the submitted bill to the MPs and the competent parliamentary committees, and it is also uploaded at the Parliament website. The Rules of Procedure of 1996 did not envisage the uploading of a bill to the website, which is certainly the reflection of the technological development which occurred in the period between the adoption of the two Rules of Procedure.

If the proposer of the bill is not the Government, the Speaker of the Parliament sends it the bill, for it to give its opinion thereon within the 15 days deadline. Before the consideration of the bill at the plenum, it is considered by competent parliamentary bodies, and this is called the *first reading*. The bill is always considered by the parliamentary Committee on Constitutional issues and legislation and the competent Committee, depending on the field the law has to define, and if the law creates a budgetary obligation for Montenegro, it is also considered by the Committee on Economy, Finance and Budget. If a part of the bill refers to some issues from the competence of other committees, then they as well can consider the relevant part and submit their opinion to the competent Committee. Representatives of the proposer of the act and submitters of the amendments to the act to be considered at the sitting participate in the work of the Committee. Representatives of the Government, representatives of scientific and professional institutions, other legal entities and non-governmental organizations, as well as individual professional and scientific workers, shall take part in the work of the Committee, if invited, having no right to decide (Rules of Procedure of the Parliament of Montenegro, 2006, Art. 67). The period from the moment of entering the bill into the parliamentary procedure until its coming to the agenda lasts about twenty to twenty five working days, except in some cases when this period was longer due to the need for harmonization for the provision of adoptability of the law (Interview MNE 04).

Parliamentary committees are formed in order to enable more rational functioning of the Parliament, considering that both from the aspect of time and expertise it would be impossible and insufficient that the bills are considered only by the plenum. The committees' members are appointed by the Parliament, by rule in proportion to the representation of parties therein. The committee has the Chair, as well as the Deputy Chair, and by rule not both of them can be either from the ruling or from the opposition parties. The Parliament can, by a separate decision, establish temporary committees and appoint their members. Standing parliamentary committees are formed by the Rules of Procedure. According to the Rules of Procedure applicable until 2006, the Parliament first had seven committees, being: Committee on Legislation, Committee on Constitutional Issues; on Political System, Judiciary and Government, on Economy, Finance and Environmental Protection; on Education, Science, Culture, Health, Labour and Social

Welfare; on International Relations and on Human Rights and Freedoms. After the Law on the Security Council was adopted in May 1997, stipulating the formation of the parliamentary committee for monitoring the work of the Council, the Committee on the Oversight of the Work of the State Security Service was created (Decision on the Amendments and Supplements to the Rules of Procedure of the Parliament of the Republic of Montenegro, Official Gazette of the Republic of Montenegro, 16/97). Already their very names show that these were the committees dealing with the different fields of activities which were sometimes not closely related. Then followed the formation of the Gender Equality Committee (Decision on the Establishment of the Gender Equality Committee, Official Gazette of the RM, No. 35/01), Committee on European Integration (Decision on the Establishment of the Committee on European Integration, Official Gazette of the RSG, No. 54/03) and the Security and Defence Committee (Decision on the Establishment of the Security and Defence Committee, Official Gazette of the RM, No. 36/05) which replaced the Committee on the Oversight of the Work of the State Security Service. Apart from the committees, the Rules of Procedure envisaged the existence of other working bodies of the Parliament. There were two commissions, the Commission for Elections and Appointments and the Mandate Immunity Commission. The new Rules of Procedure defined that the Parliament has eleven standing committees, being: The Committee on Constitutional Issues and Legislation, on Political System, Judiciary and Administration, on Security and Defence, on International Relations and European Integration, on Economy, Finance and Budget, on Human Rights and Freedoms, on Gender Equality, on Tourism, Agriculture, Environmental Protection and Spatial Planning, on Education, Science, Culture and Sport, on Health, Labour and Social Welfare and the Administrative Committee, which took over the tasks of the two mentioned Commissions.

A MP can be a member of three standing committees at the most, with a right to participate in the work of committees not being a member thereof, but without the right to vote. The Committee is working if the sitting is participated by the majority of members of the Committee, while the decisions are made by the majority of the present members. A member of the Committee who did not support the decision of the majority can request the report of the Committee to state his/her dissenting opinion.

Further changes came when on May 8th, 2012 the Parliament passed the Decision on the Amendments and Supplements to the Rules of Procedure of the Parliament of Montenegro. For the sake of more quality functioning and prevention of accumulation of competences, the Committee on Constitutional Issues and Legislation was divided into two – the Constitutional Committee and the Legislative Committee. Also, the Committee on International Relations was transformed to the Committee on International Relations and Emigrants, while the subject matter of the European integration was separated from its scope of work and fell

under the competence of the newly established European Integration Committee. In addition, the new Anti-Corruption Committee was created (Decision on the Amendments and Supplements to the Rules of Procedure of the Parliament of Montenegro, Official Gazette of Montenego, 25/12). The constitution of the new committees was left to the 25th convocation of the Parliament of Montenegro. The amendments stipulate that each committee, within the scope of its competence, shall monitor and assess the harmonization of laws with the EU A*cquis Communautaire* and monitor the implementation of adopted laws, and particularly those yielding the obligations harmonized with the EU *Acquis*.

One of the innovations introduced by the Rules of Procedure of 2006 is holding of parliamentary hearing and inquiry for collecting information and expert opinions on the bill undergoing the parliamentary procedure and for clarification of certain issues or solutions from the bill. To that end, the parliamentary committee can engage academic and expert consultants, as well as representatives of public authorities and non-governmental organizations. These consultants have no right to vote, and they are granted the reimbursement of costs as well as a remuneration for their work. Parliamentary hearings can also serve for monitoring the work and activities of the Government related to the implementation of laws, which falls under the control function of the Parliament, however being indirectly connected with its legislative function as well.

After the first reading, the competent committee can propose the Parliament to adopt the bill in full, not to adopt it, or to adopt the text of the bill amended in relation to the text of the proposer. If the Legislative Committee proposed the bill (or some other act) not to be adopted due to the non-existence of the constitutional framework for its enacting, the voting on the constitutional grounds is carried out after the additional rationale of the proposer and the Committee's representatives without a debate. If the Parliament decides that there is no constitutional grounds for the given bill, it cannot be discussed.

The submission of the Committee report to the Parliament (which must be made 24 hours at the latest before the beginning of the debate at the parliamentary sitting under the new Rules of Procedure, and at least five days before the beginning of the consideration under the Rules of Procedure of 1996), is followed by the *second reading*. That is a principal debate on the bill at the parliamentary plenum. The debate in principle on the bill means that this part of the legislative procedure discusses the issues pertaining to the constitutional grounds, reasons for enacting the law, its harmonization with the EU *Acquis* and the ratified international treaties, essence and effects of the proposed solutions and assessment of the budgetary assets for implementation of the law. The debate is opened by the proposer with the right to an additional rationale, to be followed by the spokesperson of the Committee, the MP whose opinion was dissented at the Committee sitting, the representative of the Government (if the proposer of the bill is MP), and MPs according to the order in which they applied for speaking. The spokes-

person of the Committee and the representative of the proposer have right to speak several times during the debate. The spokesperson of the Committee is a Committee member appointed by the Chair of the Committee as a spokesperson for the given bill. After the concluded debate on the bill in principle, the Parliament votes and can adopt or not adopt the bill. If the bill is not adopted, further debate on the bill in details shall not be held at all. If, however, the bill is adopted in principle, the Parliament can, if there were no amendments to the bill, or if the proposer adopted the amendments so therefore they have been incorporated in the text of the bill, immediately start the debate on the bill in details. Otherwise, the Speaker of the Parliament once again sends the bill to the competent committees, inviting them to reconsider the text of the bill and the submitted amendments within two days and submit the report thereof.

Upon submission of the Committee report, the Parliament shifts to the bill in details, which means the debate on concrete solutions envisaged by the bill, the debate on amendments as well as on the attitudes and proposals of the Committee, and this is the *third reading*. If a large number of amendments to the bill remained non-harmonized or the opinion is that the bill requires significant amendments in order to be adopted, the Parliament can, in agreement with the proposer, decide the bill to be discussed as a draft law. The debate on the bill can last up to six hours, by rule three hours for the debate in principle and for the debate in details respectively. The Speaker of the Parliament allocates this time to the MPs clubs and the Government, taking care that each MPs club and MPs without a club get time for participation in the debate[2]. Upon proposal by the Speaker of the Parliament, the Collegium of the Speaker of the Parliament[3] or a MP club, the Parliament can decide without debate for a certain debate to last longer or shorter, or make other amendments in respect to the length of presentation of certain participant in the debate, the number of times a participant in the debate can speak, as well as on the number of participants in the debate. After the conclusion of the debate, the Parliament votes first on the amendments that were not incorporated

[2] MP club is composed of at least three MPs of a political party or coalition, as well as of MPs of different political parties which cannot form a MP club independently (e.g. Club of Albanian Parties). The Rules of Procedure of 1996 stipulated the existence of MP clubs, but not a minimum number of MPs to form it. Nevertheless, in a part of our referential period, in which this Rules of Procedure was applicable, there was a condition of at least two MPs to form the MP club, as later the amendments and supplements to the Rules of Procedure were adopted (Decision on the Amendments and Supplements to the Rules of Procedure of the Republic of Montenegro, Official Gazette of the RSG, No. 24/97).

[3] The Collegium of the Speaker of the Parliament was formed by the Rules of Procedure of 2006 and is composed of the Speaker and Deputy Speakers of the Parliament and the Chairs of the MP clubs. The Secretary General of the Parliament also participates in its work, and, in case of need, the Chairs of certain parliamentary Committees. The Collegium meets at least once a week (Interview MNE 08), and when the Parliament works in plenum, every morning before the start of work (Interview MNE 04).

in the text of the bill, and then on the bill in details. All until the end of the debate, the proposer has a possibility to withdraw the bill.

MPs submit proposals for the amendment to the bill the in the form of amendments, latest on the day of conclusion of the debate in principal, while the competent Committee and the proposer can submit them even later, all until the start of the debate of the bill in details. The amendment has to be accompanied by the rationale. The competent Committee considers the amendments and proposes the Parliament which amendments to adopt and which to reject. If the amendment is not included into the text of the bill (it enters the text if it is an amendment of the proposer or an amendment adopted by the proposer), it is put on vote before the voting on the bill in details, in a manner that amendments are discussed according to the order of articles of the bill, and if there are several amendments submitted to one same article, the amendment requesting deleting of that article is discussed first. By adoption of the bill in details, the legislative procedure is concluded, as far as it concerns the Parliament. Within three days from the adoption of the law, the Speaker of the Parliament submits the law to the President of Montenegro. The President promulgates the law by a decree within seven days, and it is then published in the Official Gazette of Montenegro. There is a possibility that the Parliament discusses the law once again: if the President thinks that the law is not in accordance with the Constitution and the existing legislation, s/he has right to return it to the Parliament for reconsideration, however, being obliged to promulgate the readopted law by a decree.

The law can as well be adopted by an abbreviated procedure (under the Rules of Procedure of 1996: urgent procedure). The law is passed by abbreviated procedure when it regulates the issues and relations arose due to the circumstances which could not have been predicted, and when it is necessary to adopt the law for harmonization with the EU *Acquis* and the international law. In case of adoption of the law by abbreviated procedure, the written rationale of the competent Committee is not necessary, and it is even possible to carry out the debate in the Parliament without the opinion of the Committee, if the Committee did not consider the bill in due time. The laws are seldom adopted by abbreviated procedure, and this most often happens with the laws regulating the field of finance (Interview MNE 03).

Adoption of other legal acts

Besides enacting the laws, the legislative function of the Parliament in its broader sense includes the enactment of other legal acts. Procedures applicable for enacting other legal acts are the same as for enacting the laws, providing that there is one debate which can last up to three hours.

International treaties signed by Montenegro are also confirmed in the ratification procedure in the Parliament. International treaty is ratified by enacting

the law on confirmation of that treaty, while the procedure is the same as the procedure for enacting the laws, providing that, as well for adoption of spatial plan and acts pertaining to the budget, there is one debate. According to the Rules of Procedure of 1996 as well as according to the earlier version of the Rules of Procedure of 2006, the Parliament could give authentic interpretations of the laws. The proposer of the law could request authentic interpretation in the form of proposal, stating the provisions of the law for which the interpretation is requested, as well as the reasons for which the interpretation is requested. The proposal was discussed by the Legislative Committee (later: Committee on Constitutional Issues and Legislation) which gave the proposal of authentic interpretation to the Parliament, to declare about it on the plenum, or a report with an assessment that there is no need for giving the authentic interpretation. The rules applicable for the debate on the proposal for authentic interpretation in the Parliament were the same as for the debate on the bill, providing that in this case as well there was one debate. The articles of the Rules of Procedure which pertained to the procedure for giving authentic interpretation were deleted in the year 2010 (Decision on the Amendments and Supplements to the Rules of Procedure of the Parliament of Montenegro, Official Gazette of Montenego, 80/10).

Adoption of the Constitution and the amendments thereto

Beside laws and other similar acts, the Parliament passes the highest legal act in Montenegro – the Constitution, and the amendments thereto according to the procedures stipulated by the Constitution and the Rules of Procedure of the Parliament.

The 1992 Constitution, which was applicable until 2007, deals with amendments to the Constitution in its fifth chapter. The proposal for its amendment could have been submitted by at least ten thousand voters, at least twenty five MPs, President of the Republic or the Government. The proposal should have contained the provisions which amending is required and the rationale. The more detailed procedure was considered by the Rules of Procedure of 1996, and then the actual Rules of Procedure which introduced some minor changes. The Speaker of the Parliament sends the proposal for the amendment to the Constitution to the MPs, the Committee on Legislation and the Government, if it not the proposer. The text of the proposal is then considered by the Committee on Constitutional Affairs, which as well defines the text of the draft and the proposal of the amendment to the Constitution.[4] The proposal cannot be included onto the agenda of the Parliament in the period shorter than thirty days from the date of its submission to the

[4] The Rules of Procedure of 1996 stipulated that the Committee on Legislative Issues considers the amendments to the Constitution of the Federal Repulbic of Yugoslavia to be carried out upon being approved by the parliaments of the republics-members thereof.

MPs. The Parliament first carries out the debate in principle on the proposal of the amendment, in order to, upon eventual acceptance of the amendment to the Constitution in principle, move to the debate in details. The Parliament can adopt the proposal for amendment to the Constitution in full, to amend the proposed text or to reject the proposal. Analogue to the procedure of enacting the laws, the proposer can withdraw (in whole or in part) the proposal as long as the debate thereon is lasting. After that, changes are made through amendments to the Constitution, which requires the votes in favour by the two-third majority of all MPs. If the proposal to amend the Constitution should not be adopted, the same proposal may not be submitted again before one year has elapsed from the day the proposal was refused (Constitution of RM, Article 117). Upon the adoption of the proposal of amendment to the Constitution, the Parliament determines the deadline in which the Committee on Constitutional Issues shall adopt the text of the amendments to the Constitution (with obligatory rationale) and submit it to the Parliament. Upon obtaining the text of the draft of the amendment, the Speaker of the Parliament submits the draft to the MPs and the Government for their opinion. The debate cannot start in less than twenty days since the date of the submittal to the MPs, and there is one debate. After the debate is concluded, the Parliament decides on the text of the draft of the amendment in full. The adopted draft is then published in a daily public newspaper (according to the Rules of Procedure of 2006, in the daily determined by the Collegium of the Speaker of the Parliament and on the Parliament website), after which anyone can give a suggestion, opinion or proposal regarding the draft of the amendment, which are submitted to the Committee on Constitutional Issues, in order to take an attitude thereon. The Committee thereupon composes the proposal of amendment to the Constitution and the constitutional bill for implementation of the amendments, with a rationale, and submits them to the Parliament; after the elapse of at least twenty days since the Speaker of the Parliament submitted the proposal for the amendment to the Government and MPs, the Parliament carried the debate on the amendments in details . Upon the debate and voting on proposals for amendments or supplements to the amendment which can be submitted by the President, the Government or at least 10 MPs, five days before the beginning of the sitting at which the proposals shall be considered at the latest, the Parliament decides on the amendment in full. The debate on proposal of amendment to the Constitution is one of the debates without a time limit.[5] A separate chapter of the Rules of Procedure of 1996 pertained to the procedure of amendment of the Constitution of FR Yugoslavia.

The Constitution stipulated a separate procedure if the proposal for its amendment requested the change of the state status or the form of government, or

[5] With debates on the Prime Minister designate programme and proposal for composition of the Government, motion for no-confidence in the Government and interpellations (Rules of Procedure of the Parliament of Montenegro, Article 99, Para 4).

if it was about restriction of freedoms and rights guaranteed by the Constitution. In that case, the adoption of the proposal is followed by dissolution of the Parliament, with a new one to be convoked within 90 days. The new Parliament decides by the two-third majority on the proposed amendments. The same procedure was stipulated for the adoption of a new Constitution.

The Constitution of 2007 introduced bigger changes in relation to the previous one. Its seventh chapter is devoted to the procedures and rules for amending the Constitution. Same as for the limitations imposed in relation to the legislative initiative of citizens, the amendment to the Constitution as well reduces the number of proposers, as the proposal can be submitted by at least twenty five MPs, the President and the Government, however without a possibility for the initiative to be started by a group of voters. The other rules in relation to the procedure, amendments, two-third majority and one-year limitation for resubmission of the non-adopted proposal have been taken over from the previous Constitution. The Constitution, however, regulates in more details the amending procedure, stipulating that the draft of the act on the amendment should be composed by a competent parliamentary body, that the draft is afterwards put on public debate for the duration of at least one month, after which the competent body composes the proposal of an act on the amendment to the Constitution.

The most important change introduced by the new Constitution pertains to the special request, required for the amendment of certain Articles of the Constitution (Constitution of Montenegro, Article 157). Namely, the change of certain articles is final[6] only after three fifths of all voters vote in favour of the proposed amendment. This procedure pertains to Articles 1, 2, 3, 4, 12, 13, 15, 45 and 157, i.e. the Articles pertaining to the definition of Montenegrin state, sovereignty, territory, state symbols, Montenegrin citizenship, official language, script and languages in official use, as well as to the relations with other states and international organizations. It also pertains to the Article regulating the voting rights, as well as to the very Article prescribing this procedure. This means that the Constitution expands the number of issues requesting a special amending procedure but, on the other hand, this time it does not mention any special condition for the amendment of Articles pertaining to human rights and freedoms (except the voting right). The 2007 Constitution has been enacted by the procedure stipulated by the former Constitution, by the two-third majority of all MPs, after holding the constitutional parliamentary election, and without voting of citizens on a referendum. Considering the Articles which amendment is covered by special rules and the majority requested, the constitution-framer made clear its intention to prevent, in this manner, frequent opening of the issues penetrating into the essence

[6] Which implies that for amendment of these Articles of the Constitution it is necessary to observe the same procedure as for others (two-third majority of all MPs) and that only after the fulfilment of this requirement a referendum is called for.

of the Montenegrin statehood, or challenging its independence and international personality.

The legislative function in practice

In the period 2000–2012, parliamentary elections in Montenegro were held four times. Accordingly, the Parliament had four convocations (21, 22, 23 and 24, providing that the 20th convocation, which started in June 1998, lasted throughout the year 2000 as well as the first half of the year 2001). According to the data of the Parliament Service, the 21st convocation of the Parliament of the Republic of Montenegro held totally 10 regular and 11 extraordinary sittings, and adopted 29 laws and 15 laws on amendments and supplements to the laws. The small number of held sittings and enacted laws is a reflection of the shortness of the term of office of this convocation, which lasted for only sixteen months. After the election which brought a stabile government, the Parliament in its 22nd convocation held 41 regular and 10 extraordinary sittings and adopted 154 laws and 59 laws on amendments and supplements to the laws. This period also saw the adoption of the Rules of Procedure of the Parliament of Montenegro. This is the only Parliament convocation in the referential period (and in the multiparty system in general, with the 18th convocation from 1992 to 1996) which lasted for the full four-year term of office. Nevertheless, although not lasting for the full term of office, the two forthcoming convocations enacted even a larger number of laws. Thus the 23rd convocation of the Parliament adopted, at its 36 regular and 6 extraordinary sittings, 182 laws and 69 laws on amendments and supplements to the laws. Same, in this period (2006–2009) the supreme legal act was adopted by the two-third majority – the Constitution of Montenegro, in 2007. Until July 31st, 2012, the Parliament adopted as many as 306 laws, as well as 159 laws on amendments and supplements to the laws (Open Parliament, No. 18, p. 7). A significant increase in the number of the adopted laws and amendments to the laws, regardless the shorter duration of the term of office, resulted from the development of the European integration process, as Montenegro took over a set of obligations pertaining to the harmonization of its legislation with the European one. In addition, a large number of laws requested technical amendments, having in mind the creation of the independent state and, accordingly, subsequent changes in organisation of some authorities and legal acts, as well as the change of the official name of the state[7] after the adoption of the Constitution.

By years, the largest number of laws was enacted between 2007 and 2011, namely: in 2007 – 72 laws, 2008 – 92, 2009 – 64, 2010 – 106, and in 2011 – 97. Exactly in this period Montenegro signed the Stabilization and Association

[7] The official name until 2007 was the Republic of Montenegro, and since then only Montenegro.

Agreement (on October 15th, 2007), officially applied for the European Union membership (December 15th, 2008), received the European Commission Questionnaire (July 22nd, 2009) and formally became a candidate for the EU membership (December 17th, 2010), which significantly influenced this large number of the adopted acts.

In accordance with the Constitution and the Rules of Procedure of the Parliament, a significant number of amendments was submitted to the bills. The enclosed table shows that the 24th convocation leads per the number of amendments as well. The largest number of amendments was also submitted in the period 2007–2011, the most of them in the year 2011 – as many as 1050 submitted and 723 adopted amendments.

Amendments Per Convocations[8]

	21st CONVOCATION		22nd CONVOCATION		23rd CONVOCATION		24th CONVOCATION	
	submit-tedo	adoptedo	submit-tedo	adoptedo	submit-tedo	adoptedo	submit-tedo	adoptedo
MPs	49	22	543	123	1.646	446	1.957	768
Committees	28	26	289	289	341	337	1.007	1.001
Government	32	32	119	119	156	147	75	74
Citizens (in the capacity of representatives of the proposer)	41	38	9	9	-	-	-	-

A significantly higher number of amendments was submitted by the MPs or parliamentary committees, whereas a smaller number (the highest in 2007 – 89) was submitted by the Government, and while it was allowed by the Constitution, during the 21st and the 22nd convocation, the citizens in the capacity of the proposer submitted fifty amendments in total. From the table, it is obvious that the amendments of the Government, parliamentary committees[9], as well as citizens in the capacity of proposer were adopted by rule, whereas less than a half of MPs amendments in the 21st and the 23rd, less than one fourth in the 22nd and less than one third in the 23rd convocation was adopted. Having in mind that the Government, except in the 21st convocation, had a stabile majority, and that the parliamentary committees reflect the relation in the parliamentary convocation, such large matching of the submitted and adopted amendments is not illogical.

[8] The Table was provided by the Parliament Service.

[9] Amendments are most often submitted by the Committee in charge for legislation. Thus in the period from January 1 to June 30, 2012, 241 amendment sere submitted by the parliamentary working bodies, out of which the Committee on Constitutional Issues and Legislations submitted 223, the Committee on Tourism, Agriculture, Ecology and Spatial Planning eight amendments, the Security and Defence Committee four amendments, and other committees two amendments at the most.

This statistics confirms the high adoptability of the Government's bills in the Parliament, to such extent that the opposition MPs speak about the limitation of the Parliament in relation thereto, and that it only confirms its decisions, "sprinkle with holy water the every decision of the Government, like in the church" (Interview MNE 10).[10] As for the bills, still a much higher number of them is proposed by the Government, however from one year to another the number of bills submitted by the MPs have been increasing, particularly by the opposition MPs, which is natural since the political will of the ruling majority is articulated above else through the Government's proposals (Interview MNE 04). Also, the committees' reports by rule differ from the rationale of the Government in cases when it is the proposer of the bill, and otherwise would show that the bill was not comprehensively considered and that the committee did not do its job thoroughly (Interview MNE 04).

The opposition MPs submit much higher number of amendments than the MPs of the ruling majority. Out of the MPs of the ruling majority, the younger coalition partner, the Social Democratic Party, is significantly more active in the submission of amendments to Government's bills (Interview MNE 01).

By using the possibility from the 1992 Constitution, six thousand voters during the 21st and 22nd convocation of the Parliament submitted bills, as well as proposals of some other acts (declarations and resolutions). The bills on fair restitution, political parties and financing of political parties were adopted, whereas the bills on amendments and supplements to the law on the division of Montenegro to municipalities, election of MPs to the Parliament of Serbia and Montenegro and the protection of households in the energy sector were not adopted, whereas the bills on amendments and supplements to the Labour Law, the Pension and Disability Insurance Law and the Law on Employment were not even put into procedure, with an explanation that they do not fulfil conditions to be sent to the parliamentary procedure. By change of the Constitution, the legislative initiative of citizens practically lost its sense, considering the necessity of an authorized MP to act in their name. Such initiatives were missing, considering that citizens can in agreement with the MP, who has the right to propose bills, reach an agreement without collecting signatures, and, on the other hand, if MPs do not want that, there will be no initiative regardless the collected signatures. Civil initiative is made senseless by the idea of collecting signatures as they are not necessary,

[10] "Constitutional solutions are posed in such a manner that the Government is almost everything in Montenegro." (Interview MNE 09) "The Parliament is mostly reduced to the transmission of the Government... if amendments are coming from among the parliamentary opposition benches, in 99.9% of cases they do not pass, regardless their justification." (Interview MNE 03). The ruling MPs think, however, that the opposition amendments are frequently adopted it they are considered useful and contributing the quality of the offered solutions (Interview MNE 04).

and on the other hand, even if collected, if the MP cannot be found, this is where the initiative ends. (Interview MNE 06).

Laws must be harmonized with the European Union legislation, there are tables of compliance, and the Committee returns the bill to the propose if there is no compliance. The influence of the European Union is also very present when it is about the adoption of new laws, the best example of which was a long work on enacting the Law on Amendments and Supplements to the Law on Election of Councillors and MPs in summer 2011, which was finally adopted by the required majority on September 8th of the same year. Sometimes the EU insists on certain legal solutions which are not best adjusted to the Montenegrin society (Interviews MNE 08 and MNE 10) and the Parliament accelerates the procedures and the "three readings" for acceleration of the European integration (Interview MNE 11).

The existence of party discipline in voting is also obvious from the statistical data on the adoption of laws proposed by the Government, and its presence is also confirmed by MPs, with some of them positively assessing it as a "way towards the political sanity both in institutions and in social life of Montenegro".[11] (Interview MNE 11). The majority of MPs, however, emphasize the freedom which they party allows in voting, no matter if it is voted differently from the party attitude, or if the presence in the hall is intenionally avoided during the voting (Interview MNE 03, Interview MNE 01).

One of the problems present in the work of the parliamentary committees is that sometimes the bills first appear at consideration before the competent committee and only later before the Committee on Constitutional Issues and Legislation. Having in mind that the Committee on Constitutional Issues and Legislation considers the constitutionality and legality, it would be illogical that the competent committee positively assesses the bill which is later find out to be non-constitutional. Besides, the Committee on Constitutional Issues and Legislation is the one which corrects technical, typing and grammatical errors in the text of the bill. (Interview MNE 02), and a large part of this is completed by proofreading services of the Parliament (Interview MNE 01). Although the parliamentary Committee on Constitutional Issues and Legislation is primarily in charge to give its opinion on the legal side of the proposed act and to leave the consideration on its political aspects to the competent committee (and the plenum), still often the MPs in this committee do not divide legal and political opinion (Interview MNE 01).

[11] "See, in almost twenty years or more of my parliamentary practice, I haven't seen a parliament in the world where MPs pretend to be some "Jack of all trades" who puts the Government on the back burner."

Conclusion

The legislative activity of the Parliament is stipulated by the Constitution of Montenegro, whereas its procedures are in details elaborated by the Rules of Procedure of the Parliament of Montenegro. Montenegro has no particular Law on the Parliament. Besides the laws, the Parliament adopts other acts, from the ratification of international treaties, through declarations, to the budget, final statement and the constitutional amendments. The legislative activity of the Parliament became particularly obvious during the last two parliamentary convocations, which accompanied the intensification of development of the Euro-Atlantic integration of the country. Normatively, the Parliament has a broadly posed competences in the legislative field. However, certain solutions, in combination with the Montenegrin practice and the specificities of Montenegrin political system make the Parliament to nevertheless have a weaker role.

The Parliament is limited in several manners. First, as we have seen, the organizations to which membership Montenegro aspires, and above else the European Union, influences the laws to be adopted and the dynamics of the legislative process, regardless their sometimes poor knowledge of the Montenegrin society. Secondly, as obvious from the statistics, having in mind that the government (with a short exemption 2002–2002) had a constantly stabile majority, there is a strong influence of the Government in enacting the parliamentary acts, so that the Government's bills are rejected in very rare situations. In relation thereto, party discipline exists both in the ranks of the position and in the ranks of opposition MPs, although MPs usually, confirming that party discipline is strong in other parties, single out their own party as an exception (although there are positive opinions on party discipline as well). The MP's affiliation to a certain party is a decisive factor in his/her action on the occasion of certain law, and that is to a large extent the reflection of the electoral system in Montenegro which is depersonalised, i.e. citizens vote for party, i.e. party roll, where candidates are elected and ordered at party authorities, and not for a concrete MP. The exclusion of civil legislative initiative in the new Constitution has emphasized the domination of the Government in proposing bills even more.

In addition, the legislative (as well as other activities) of the Parliament is supressed by numerous technical limitations. The Parliament has a very small space. The Parliament building is old and built for the time when MPs came only for voting in the plenary hall, while other premises were used by the Parliament Service (Interview MNE 03). The MPs groups have a very limited space, so that thirty five MPs of the DPS club use the space smaller than one hundred square meters, whereas the club of the New Serbian Democracy has only one room of about twenty square meters to be used by eight MPs and two employees of the club. Only the leadership of the Parliament, the Speaker and two Vice-Speakers, have separate cabinets. In addition, a small number of advisors and technical

persons is employed to assist MP clubs in their work, for example, the largest club, the DPS one, is assisted by only four persons to thirty five MPS, the SDP club which consists of nine MPs by three, and the New Serbian Democracy with eight MPs by two persons. This is a very small number, particularly wheb taking into account that MPs cannot be experts in the most diverse issues encompassed by legal acts, so they need expert consultants, and, same, MPs cannot go through all the material they receive.[12] Some banal issues, for example the lack of parking space for MPs (Interview MNE 02) can also lead to the loss of time envisaged for the parliamentary work.

Hence, numerous factors influence the action of the Parliament and further improvements of its role and functionality are possible through normative changes, through the practice of everyday work in the Parliament and through the quality and quantitative enhancement of technical and professional capacities of the Parliament and its Service.

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CONTROL FUNCTION

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CONTROL FUNCTION OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

This chapter shall deal with the control function of the Serbian parliament, i.e. with the mechanisms of control of executive and other forms of power at the disposal to the most important representative institution. The first part of the chapter shall be devoted to the legal framework of control mechnanicms, wheras its second part shall pay a larger attention to the empirical material, in order to find out the extent to which the legally envisaged functions are being realized. The two main sources of the empirical material consist of the statistical reports on the work of the National Assembly and the data obtained through in-depth interviews with the MPs and the representatives of international organizations. These interviews are a very important insight to the manner in which the MPs understand the control function and its most important mechanisms, while in the same time they offer a significant clarification of the manners of the parliament's functioning in this context, and therefore we shall pay a lot of attention to them.

The control function is specific, as it is the most important mechanism available to the opposition in its parliamentary work. This specificity of the control function is particularly notable in comparison to the legislative function, which is entirely dominated by the ruling majority (see Stojiljković, Lončar, Spasojević 2012). However, this specificity is probably the most important characteristic of the manner in which the National Assembly performs its control function. First of all, the concept of political accountability in new democracies have been hugely neglected, and this is true both for the vertical and the horizontal accountability. As humorously formulated by O'Donel, "the interest in political accountability comes from its absence", whereas the absence of horizontal accountability shows the lack of republican and liberal ideas in new democracies (O Donnell, 1998: 114). The same author notices these characteristics in all transition societies, from Latin America to Eastern Europe.

To put this simply, the opposition is very often faced with ignoration by the ruling majority. However, this attitude is not just a relation towards the opposition, but also towards other political actors who attempt to control or limitate the political power, such are the civil society or international organizations. It is enough to see the reports of independent or regulatory bodies in Serbia, to notice

the numerous examples of disobedinece of the Law on Free Access to informaton of public importance or other regulations. Finally, in a new democracy, in which the culture of dialogue is not on an enviable level and where the affair-based politics is considered a usual phenomenon, the opposition often perceives the control mechanisms as the channels for sending their political messages, and not as an actual control and limitation of the executive power. We shall, of course, return to these topics later on.

However, the control function is not an exclusive right of the opposition actors, but it is righly claimed that the rulling coallition parties are equally, if not even more, interested in use of control mechanisms. The primary reason is the awareness that the results of their rule shall influence the citizens at the forthcoming election, while the secondary reason can be the intra-party struggle for prevailance and positions. In this context, it will be very interesting to see in what manner shall the new convocation of the Serbian Assembly (elected at the 2012 parlamentary election) perform its control function, keeping in mind that a part of the respondents who during our research were the opposition meanwhile came to power. Finally, without any idealism, we should not neglect sincere democratic beliefs of a part of MPs and their awareness that the limitation of political power is a central democratic legacy.

The legislative framework of the control function – from the Constitution to the Law on the National Assembly

The most general legal foundation of the legislative function is founded in the Constitution of Serbia, in its Article 99, which defines the competences of the Assembly where, among else, it says that "Within its election rights, the National Assembly shall: 1. elect the Government, supervise its work and decide on expiry of the term of office of the Government and ministers, 2. appoint and dismiss judges of the Constitutional Court, 3. appoint the President of the Supreme Court of Cassation, presidents of courts, Republic Public Prosecutor, public prosecutors, judges and deputy public prosecutors, in accordance with the Constitution, 4. appoint and dismiss the Governor of the National Bank of Serbia and supervise his/her work, 5. appoint and dismiss the Civic Defender and supervise his/her work, 6. appoint and dismiss other officials stipulated by the Law." Besides, Article 129 defines in more details the interpellation in relation to the work of the government or its particular member, with a prerequisite for it to be initiated by a minimum of 50 MPs, and the obligation of the Government to respond within 30 days (Article 129). Also, it is prescribed that "the National Assembly shall discuss and vote on the response to interpellation submitted by the Government or member of the Government to whom the interpellation is directed", as well as that "the issue which was a subject of interpellation, may not be discussed again

before the expiry of the 90-day deadline." These paragraphs point to the legislator's desire to achieve a balance between the possibilities for opposition to initiate the interpellation and the need to protect the Government from too frequent interpellations that would slow down its work. In further text we shall often return to this issue, as it sublimates one of the most important dilemas in the institutional design of the control function.

In addition, Article 130 defines voting no-confidence to the Government or some of the ministers: "A vote of no confidence in the Government or the particular member of the Government may be requested by at least 60 deputies. The proposal for the vote of no confidence in the Government or the particular member of the Government shall be discussed by the National Assembly at the next first session, not later than five days after the submission of the proposal. After the discussion is concluded, they shall vote on the proposal." Again, as in the case of the interpellation, "if the National Assembly fails to pass a vote of no confidence in the Government or the member of the Government, signatories of the proposal may not submit a new proposal for a vote of no confidence before the expiry of the 180-day deadline."

Of course, the Constitution envisages the adoption of the Law on the National Assembly, which regulates in more details the competences and forms of its action. Thus Article 15 of the Law stipulates that "In performing its control function, the National Assembly shall oversee the work of:

1) the Government and decide on the termination of the term of office of the Government and ministers;
2) the security services;
3) the Governor of the National Bank of Serbia;
4) the Protector of Citizens/Ombudsman;
5) other institutions and bodies in accordance with the law."

As a control mechanism, the Law also envisages temporary working bodies, i.e. inquiry committees and commissions. "The committees shall be established for: consideration of bills and other acts submitted to the National Assembly; carrying out the review of policies pursued by the Government; supervision of the Government's and other state authorities' execution of laws and other general acts, and consideration of other matters falling within the competence of the National Assembly." (Article 27, Para 5, 6 and 7). Besides, the committees monitor the work of the Government and other authorities and bodies the work of which is under the control of the National Assembly and consider their reports sumitted to the Assembly in accordance with the law. Within the scope of their work, the committees can organize public hearings, to which they can invite academics and experts, as well as other representatives of the interested parties.

Rules of Procedure of the National Assembly of the Republic of Serbia

Of course, besides this broader framework, the parliamentary life is most precisely defined by the Rules of Procedure of the National Assembly, which in a much more detailed manner regulates the ways in which the control function can be exercised. Therefore the Rules of Procedure is probably the most important document in this analysis. In the context of the control function, the Rules of Procedure defines the competences of parliamentary committees, inquiry committees and public hearings, as well as the rights and obligations of the MPs.

Parliamentary committees within their scopes of work 1) monitor the implementation of Government policy and 2) monitor the execution of laws and other acts; besides, the Rules of Procedure define competences of each particular committee, so that, for example, it states that the Committee on Finance, State Budget and Control of Public Spending (1) considers the report of the state audit institution on which it submits a report with opinions and recommendation to the National Assembly and (2) controls the execution of republic budget and accompanying financial plans in the sense of legality, purposness and efficiency of expenditure (Article 55, Rules of Procedure).

As we have already mentioned, important mechanisms are inquiry committees (composed of MPs) and commissions (beside MPs, they can include representatives of other bodies and organizations, academics and experts), established "for the purpose of assessment of the situation in a certain area or establishment of facts on certain occurrences or events." (Rules of Procedure, Article 68). These bodies cannot perform investigative actions, but are "entitled to demand data, documents and information from state institutions and organizations and to take statements from individuals which they require" (Article 68, Para 8).

Public hearings are a relatively new mode of work which primarily enhances the legislative process; however, public hearings can be organized "as well as for the purpose of monitoring the implementation and application of legislation, i.e., realisation of the oversight function." Public hearings are organized by parliamentary committees, upon proposal of any member thereof (Article 84, Rules of Procedure). After the public hearing, the Chair of the Committee notify the Speaker of the National Assembly, members of the Committee and participants in the public hearing. The information contains the names of the participants in the public hearing, a short review of presentations, attitudes and suggestions presented at the public hearing.

Finally, the most public part of MPs' oversight competences is defined by Part 14 of the Rules of Procedure, which deals with the procedures of control over the work of the Government. First of all, the Rules of Procedure grants

the right to the MPs to pose *parliamentary questions* to certain ministers or to the Government. These questions "must be formulated clearly" and can be posed in written or verbal form, providing that "address of the MP posing the question may not last more than three minutes" (Article 204, Para 2 and 4). Written questions can be posed on a daily basis (including the period between the two sittings), while written questions are posed to the Government every last Thursday in a month, in the period from 16:00 to 19:00. The obligation of the Government is to inform the parliament three days before the sitting on the ministers prevented from attending the sitting. Also, during extraordinary sessions, questions can be posed in other days, if the proposer of the request for an extraordinary session suggests so.

"The Government, or a Minister, shall immediately reply verbally to a parliamentary question posed. If a certain preparation is required for providing the reply, they shall substantiate it immediately, and provide the reply to the MP, in writing, no later than eight days after the question was posed." (Article 206, Para 1). In an event that it is necessary to collect a large amount of data and carry out a more complex analysis, the time-limit can be extended to 30 days at the most, while the response in writing is submitted to the MPs (regardless the deadline). Upon the minister or some other representative of the Government verbally responds to the question, the MP is entitled to comment to the response for three minutes, or pose a supplementary question, after which the MP has once again the right to comment the minister's response (for the duration of two minutes). The Rules of Procedure stipulates "parliamentary questions relating to the topical subject" to be posed at least once a month, upon proposal of MP groups. The proposal of MP group "must contain a precise specification of the topical subject on which questions will be posed," (Article 210), as well as the name and surname of the competent minister or other official who should respond to these questions and it must be submitted at least three days before the sitting. The reply time to parliamentary questions can last up to three hours (180 minutes) and is carried out regardless the number of the MPs present in the chamber, and in case that not all the questions are responded, the Speaker of the Assembly can determine the date for continuing this activity. The right to participate in this process is granted to all MPs with respect of order defined by the Rules of Procedure (representatives of the proposer first) and limitation of number of questions that an MP can pose to three, as well as their duration to three minutes. The Rules of Procedure also regulates the time at the minister's disposal (5 minutes), as well as the number of associated questions which MPs have right to pose. As we have already mentioned, "during the days when Ministers reply to parliamentary questions, live broadcast shall be provided on television" (Article 215), which largely influences the manner in which the MPs use this mechanism.

The Rules of Procedure also regulate the politically more important mechanisms, such is the *motion of no confidence in the Government or a Government*

member. This procedure can be initiated by at least 60 MPs (Article 217), and the Assembly shall consider it at the first forthcoming session (Article 218). Upon conclusion of the debate, no-confidence in the Government is put on vote, and if no-confidence has not been voted for, the signatories of the motion cannot start the new proposal for voting within the next 6 months. Of course, this mechanism is of less interest for our analysis as it is used very rarely due to relatively stabile ruling coallitions which most often crumble from inside and almost never under a formal pressure of the opposition.

On the other hand, the *interpellation* is submitted in relation to the work of the Government or a particular minister, with an aim to consider a defined, concretely formulated issue (Article 221). The Government is obliged to formulate its response to the interpellation within 30 days, and that reponse is submitted to the MPs. In case that the Assembly accepts the response of the Government, its work shall be continued. In the opposite situation, vote of no-confidence in the Government or the minister shall follow. Also, "debates on the replies to the interpellations must be concluded at the sitting at which they commenced" (Article 227, Para 1).

Unlike the interpellation and parliamentary questions which are extraordinary means for communication with the Government, the regular methods include *Government reporting to the National Assembly on its work* (Article 228) which is organized at least once a year, and informing the parliamentary committees by the competent ministers, organized every three months, on which the committees report to the Assembly through the conclusions (Article 229).

Finally, a particularly important and specific aspect of the control function is the control of work of security services performed directly and through the competent committee. "The National Assembly shall exercise the control by discussing annual reports of the competent committee on the performed control of security services work" (Article 230, Para 2), and the report must be submitted until March of the forthcoming year. The sittings of the committee can be closed for public, while the MPs are obliged to maintaine confidentionality.

When it is about the *oversight over other state institutions*, organizations and bodies, it is mostly conducted through the reports submitted to the Assembly, the MPs and the competent committees. The most important debate is carried out in committes which have 30 days deadline from the acceptance of the report to organize a debate thereon, after which they address a report to the Assembly with draft conclusions, i.e. recommendations. The committee can in fact recommend the Assembly to (1) accept the report of the state institution, body or organization, (2) to oblige the Government and other institutions to take appropriate measures and activities, (3) to request an amendment to the report or 4) to undertake other measures in accordance with the law (Article 237, Para 5).

When it comes to the reports of independent authorities which protect the rights of citizens and control the work of public authorities, provide for the availability of information and protection of personal data, perform the auditing of public revenues etc, these reports are considered by the competent committees. Upon consideration, the committees submit the report to the National Assembly, with a draft conclusion or recommendations for the measures for improvement of the situation, whereas the Assembly considers that report together with the report of the body which work has been overseen and finally renders the decision on recommendations of the committee (Article 239).

Between the rules and the practice – effectiveness of exercising the control function

The actual exercise of control function can be observed from several aspects. For example, we can measure the level of political accountability of the most important actors, or the perception of the Government and other bodies if they feel controlled and to what extent. Our research was oriented towards the two most important sources: the first one is based on statistical results of the work of the National Assembly, which show the frequency of using certain control mechanisms, as well as their direct and indirect results. The second source are in-depth interviews with MPs and representatives of the civil sector and international organizations, through which we tried to study their understanding of political processes carried out in the parliament, as well as the importance they assign to these processes. To make it simple: the statistical analysis can tell that X MPs posed questions to the Government and that the Government responded to Y questions, but the interviews in fact speak if the MPs assigned some importance and expectations to the process, and if the entire process had an impact to the political reality. On the other hand, some future research might also include the perception of ministers or representatives of regulatory or control bodies of the level of the parliamentary control.

Parliamentary questions

The data on MPs questions are publicly available through the Information Booklet on the work of the Assembly. It is interesting to note that the Information Booklet offers the data on the MPs' financial issues for a part of the year 2011, but not the data on the activities in legislative or control function (which most probably speaks about the priorities set to the Assembly Service).

Table 1: The number of posed parliamentary questions and the number of the responded questions

Year	Number of posed questions	Number of responded questions
2001	49	32
2001	14	9
2003	44	26
2004	16	10
2005	64	38
2006	56	51
2007	435	302
2008	-	-
2009	225	191
2010	91	84

Source: Orlović (2007) and the Information Booklet on the work of the National Assembly; data for 2008 were not available in the time of writing this text

Nevertheless, there is an available information on the overall number of posed questions in the last convocation – there were 766 questions posed, whereas 575 have been responded. Besides, 1240 information and explainations were required, with obtained 786 responses (Report on Work of the Service of the NA RS, p. 46). One of the interviewed MPs was interested in the same results: "I asked two years or a year and a half ago for an official information about who posed the questions, and I was told that until then the responds were given to about 40% of these questions, meaning that 60% remained unresponded; however, I got no official response" (SRB 08).

When it is about the control function, the perception of the MPs is rather pesimistic: "our control is entirely formal, there's almost none" (SRB1), and independent experts agree with this as well: "I think that almost none of the parliamentary control functions is being used" (SRB1). In principle, the MPs think that the problem is not in legal regulations and framework, but in practice. "The problem is not in the context of regulations, nor in the competence of the control function of the Assembly, the problem is in us, in an insufficient use of the capacities granted to us by the constitutional position as MPs, that is the problem of integrity of MPs, their knowledge, skills, resolution of ethical dilemmas of MPs between the party, institutional interests and their personal attitudes" (SRB03). Once again, an external view to the MPs sounds similarly: "I have more remarks to them because of the fact that they are not interested in their capacities as MPs, to improve them, and in that aspect to get informed on certain issues as well" (SRB12).

The reasons for this situation are found in the domination of party elites, in a large number of laws to be adopted by the Assembly, which takes the most of the

time, as well as in the assurance that "MPs are subordinated to the ministers, and not otherwise" (SRB04).

When speaking about parliamentary questions, for the majority of the interviewed MPs that is the most interesting mechanism of control of the executive power. In principle, there are differences in understanding this mechanism between the position and opposition MPs. First of all, when it is about the rules for using this mechanism, there are certain remarks. A part of the MPs think that the rules are too rigid and that this contribute that the entire event becomes directed, which disables a real interaction and dialogue. Besides, a part of the MPs pointed to international experiences and solutions which allow the dialogue between ministers and MPs (eg. Great Britain), as well as cutting of the questions and answers time to one minute, which would reduce political speeches at both sides. This leads us to a joint assessment of parliamentary questions – both the position and the opposition believe that questions are posed for voters and TV audience, and not for the control of the executive power. Thus, according to the members of the parliamentary majority, the questions of opposition are "reduced to politicking, political pamflets, critique of the Government" (SRB02). On the other hand, the questions of the majority's MPs are posed according to the system "I praise you, you praise me – not to say arranged" (SRB04), i.e. aimed for the minister to promote certain question, announce an investment or some good result achieved by the ministry. Besides, MPs often pose questions important for voters from their region or constituency.

A particular problem is the presence of ministers to whom the questions are addressed, as the opposition is assured that it often happens that the sitting is attended by politically less important ministers or by those to whom MPs do not want to address questions and "those who can only say: 'this is not in our competence, we shall phone to our colleagues', which makes this instrument of oversight over the work of the Government entirely senseless" (SRB04). Or, as one of our respondents formulated more explicitly, "if you give me the right that I can convoke a sitting on the last Thursday of the month, in which the ministers whom I request shall respond for three hours, on the given topic I requested, then do not send me Sulejman Ugljanin without portfolio who will be silent, or the Minister for Agriculture while I want to talk about Kosovo or about finances" (SRB06).

An important part of evaluation of parliamentary questions are the responds given by the state authorities. Thus, for example, an opposiiton MP thinks that "at least 70% of the questions have never been responded" (SBR08). In this case the position MPs are somewhat more critical against the government: "the problem appears when they do not want to give a true reply, when they know very well what you are asking, but do not respond to that and instead you get some political response. Then it is not easy but it is neither too hard to obtain the accurate information. On the other hand, you can always reach someone from the ministry who will reveal that information to you, not knowing why you need it, but this has to

do with gumption, which unfortunately is not the system" (SRB07). It shold also be emphasized that the majority's MPs often emphasize informal communication channels and influence on ministries as very functional and as a reason for posing less questions to the Government.

An interesting example of gumption is also a simultaneous posing of parliamentary question and submission of request on the basis of the Law on Free Access to Information of Public Importance: "They do not respond me to a parliamentary question, because there is no sanction for them if they fail to do so, but to this one – because of the possibility that the Commissioner calls them out for punishment, they send me a response. In fact, the mechanisms existing in the Rules of Procedure, existing in the Constitituion regarding the National Assembly, are much weaker than the Law on Free Access to Information that is applicable to all the citizens" (SRB08).

Interpellations, submission of reports to committees and control public hearings

In addition, the MPs used the possibility for the interpellation. Six interpellations were initiated during the last convocation (5 submitted by the MPs of the Serbian Radical Party and one by the MPs of the Democratic Party of Serbia), while the debates were carried out only for two of them. The first interpellation pertained to the work of the then Minister of Economy and Regional Development Mlađan Dinkić (submitted by the DSS, 2010), while the other case discussed the legality of work and activities of the Minister of Religion and Diaspora Srđan Srećković (submitted by the SRS, 2011). The MPs carried out a debate, however without declaring about the response of the Government and the Minister Dinkić, which is contrary to the provisions of the Constitution of the Republic of Serbia.

When speaking about the interpellation, the MPs consider it as "a very strong mechanism available to the opposition" (SRB01), but also "very rigidly defined in the Constitution" (SRB09). There are numerous doubts about the functioning of this mechanism. For example: "the provisions of the interpellation imply urgency, and therefore if the Government is given a month to declare itself, to send a response, than the Assembly cannot avoid to discuss it for two months and fail to send it to the Government, which is what happened here" (SRB08). Another (this time an opposition MP) speaks in the same spirit: "Generally, we came to a situation that we know that the Constitution was breached, but the Constituion envisaged no instrument for what to do, except that we called out the Prime Minister" (SRB08).

The MPs have a similar impression about the reports of independent and regulatory bodies submitted to the parliament. The reports of these bodies are adopted "but no one enters into the essence of these reports" (SRB09) – "the majority adopts them, just because it should be done so; it is not some serious de-

bate" (SRB09). The opposition, at least in principle, is very interested in these reports as it sees the independent bodies as an element in its struggle against power. This sometimes produces dissatisfation. "Both Saša Janković (*Ombudsman*) and Rodoljub Šabić (*Commissioner for Information of Public Importance*) do their job correctly and give the recommendations and opinions through these reports. However, only few of these recommendations and opinions we later change and implement through some amendments and supplements to the law" (SRB06). Same, the majority's MPs had remarks as well: "So far, there were often some misunderstandings from the part of the parliamentary groups of the majority when these institutions are concerned, as, seemengly, if we elected independent institutions, why do they criticize and control us so often. That is absurd, but that is in fact the unexperience in creation and governance of institutions" (SRB06). Same, the majority's MPs are dissatisfied both with the media and with the opposition MPs, who are not familiar with competences of independent and control bodies and have too high expectations from them. However, this nothwitstanding, still a large number of our respondents think that the benefit from these bodies will yet to be proven in future and that already now some "signs of progress" can be seen" (SRB04). It should be noted that all these bodies have been established relatively recently and that this is an important element in assessment of their influence.

The MPs have a similar perception regarding the oversight over the security sector, which is extremely important in Serbia, having in mind the influence of the former state security service to the events during the 1990s, as well as the security aspect of Kosovo and Metohia. The MPs are largely divided when it is about the control of security service. The position MPs assess the control as "very good under the given circumstances, however insufficient acording to some highest standards" (SRB05), while the opposition MPs think that the services submit formal reports: "two military services submit us their reports, and even twice a year, and same is done by the BIA... and everything contained in their reports have already been published in press (SRB08)". That there is a certain level of distrust and that the parliament does not exercise the full control is obvious from the words of one majority MP: "most often there were debates on the sittings of the Committee on Security, but the reports themself were so inquality and scarce that in fact they disabled any quality debate, due to the suspicions in the MPs' integrity and that some, let's say, state secret, would immediately be revealed. In the background is the huge lack of confidence in the parliament and in fact a huge inconfidence in the MPs" (SRB04). Also, some MPs believe that services "hide behind the procedure which we never managed to create in all these eight years and that procedure does not exist, and neither exists the control function over the agencies. The worst is that they never oppose: ‚you cannot come, or that is the state security matter, or that is a secret', they are always so open, but doing everything in order to make the entire situation as senseless as possible and to make that control function senseless" (SRB09).

When it is about public hearings, during the work of the last convocation there were 29 public hearings, a smaller number of which was in the purpose of preparation of legal enactments, while the rest dealt with analyses of certain fields and therefore had a control character at least in part. To this groups falls the public hearings of the Committee on Labour, Veterans' and Social Issues, on the topic "Fulfilled Promisses – the Implementation of the UN Convention on the Rights of Persons with Disabilities in Practice", the Committee on Finances on the topic "Internal Audit and Control" or the Working Group for the Rights of the Child on the topic: "Presentation of the Subgroups' Report on the Implementation of the Law on the Fundamentals of Education System in the Segment of Inclusion".

Finally, when it is about the strongest mechanism, the National Assembly of the Republic of Serbia, on its Fourth sitting of the second regular session, in December 2008, discussed the Proposal for the vote of no-confidence in the Government of the Republic of Serbia, submitted by the group of 86 MPs from the parliamentary groups of the Democratic Party of Serbia – Vojislav Koštunica, New Serbia and the Serbian Radical Party, however the Government won the confidence.

Concluding remarks

It is entirely obvious that the supremacy of the executive power reflects also in exercising the control function by the Serbian parliament. The legal framework for this function has certain shortcomings, however the impression is that the biggest shortcoming lays in disrespect of the stipulated rules by the Government and other authorities, as well as by the parliament itself. Unfortunately, political institutions do not differ in this aspect from other parts of the society. Besides, all actors emphasize the importance of informal and discretional channels of influence and communication between the parliament and the executive power. Another level of problems is based on the domination of parties and party elites over the parliament, which limitates the independence of MPs. Abolishment of blank resignations could motivate MPs to be more critical towards the government and to perform their tasks more diligently, using their full capacities. However, the optimism should not be too high and unfounded. As formulated by a respondent, "the MP's integrity is to be won and built, and not automaticaly obtained with the MP status". The third level of problems comes from the parliament's focus on the legislative function, which is almost a regular situation in the parliaments of Eastern European countries in the European integration process. A large number of regulations that should be adopted simply overwhelm the MPs and they actually do not have too much time to deal with control and other functions, having in mind the small capacities and the budget of the parliament. However, this cannot be an excuse for the lack of interest. Finally, probably the broadest framework

is the understanding of the parliament as another stage for political struggle and promotion, and not as an institution of highest importance that should perform very concrete functions (while serving as a performance for voters only secondary). The broader context of specific political positioning of parties and the absence of ideological profiling and competitive public policies only enhance the disfunctionality of the parliament.

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CONTROL FUNCTION OF THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA

1. Introductory notes

Generally observed, one of the fundamental competences of a parliament is the legislative function which implies the adoption, non-adoption, amendments and supplements to the constitution, laws and other general enactments, budget adoption, ratification of international treaties etc. Another fundamental function is the function with the character of control, which assumes "regimentation" of the work of executive authorities by influencing the election and dismissal of holders of executive power, control of public expenditure by the defined obligation of reporting and the right to posing parliamentary questions, initiation of interpellation etc. These two above mentioned functions are in the same time the most important ones, therefore in positive law usually defined among the parliamentary competences. Other functions to a larger extent depend on the organization of state, particularly when it is about the holders of executive power and the constitutional order and constitutional solutions in individual states. In his definition of the types of control functions, Pobrić (2000) says that the means through which a parliament exercises its control over the government can be divided into two groups. One group consists of the means for initiation of political accountability of the government before the parliament, whereas another group is composed of the means through which the parliament is informed on the government's work (including parliamentary questions, interpellation, inquiry committees and parliamentary committes) (230). The paper shall analyse the control functions of the Parliamentary Assembly of Bosnia and Herzegovina in accordance with this classification.

2. On control functions of the Parliamentary Assembly of BiH in general

The normative part of Annex IV of the General Framework Agreement for Peace in BiH[1] (colloquially entitled the Dayton Peace Accords), i.e. the BiH Con-

[1] Note: as in the time of writing of the paper there was no official translation of the Accords, i.e. the BiH Constitution to one of the official languages in the BiH (Bosnian, Cro-

stitution, stipulates the competences of the BiH Parliamentary Assembly which can be defined as common parliamentary competences. As for its control functions, the BiH Parliamentary Assembly has power in deciding upon sources and amounts of revenues for the operation of BiH institutions and approving of the budget thereof. It also stipulates the manner of election and duties of the BiH Council of Ministers in relation to the BiH Parliamentary Assembly. However, it is easy to draw a conclusion that the provisions on control functions of the BiH Parliamentary Assembly are insufficiently elaborated in the BiH Constitution. They are more closely determined only in the Rules of Procedures of both houses of the BiH Parliamentary Assembly, as there is no law on the BiH Parliamentary Assembly. Observing the issue of implementation of control functions of the BiH Parliamentary Assembly from the constitutional-legal aspect, it is difficult to create a clear image thereon. This issue and the issue of possible consequences of implementation are made more complex if we take into account the political turmoil. Therefore, apart from relying on legal-constitutional foundation, we should more profoundly rely on procedural legal definition and analysis of the obtained data on control functions of the BiH Parliamentary Assembly.

3. Legal foundation of the control functions of the BiH Parliamentary Assembly

3.1. Constitutional foundation of the control functions

Control function of the BiH Parliamentary Assembly is partly defined by Article IV4 of the BiH Constitution, specifically in Para b) and c) referring to deciding in adoption of budget, sources and amounts of revenues for the operation of BiH institutions. Thus the Parliamentary Assembly is able to define the dynamics of operation of institution at the BiH state level in fulfilment of their goals and duties. Besides, Article V4a) stipulates the duty of reporting of the BiH Council of Ministers to the BiH Parliamentary Assembly, including at least annually on the BiH expenditures. As the BiH Council of Ministers is responsible for implementation of decisions in institutions at the BiH level, it is obliged to report to the Parliamentary Assembly thereon, including the report on expenditures. Pursuant to Article V4c) of the BiH Constitution, the BiH Council of Ministers is obliged to resign if there is vote of no-confidence by the BiH Parliamentary Assembly at any time whatsoever. Thus the BiH Parliamentary Assembly exercises a permanent and firm impact on the BiH Council of Ministers. Looking at the above mentioned provisions, it is obvious that constitutional functions are incomplete

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atian or Serbian), the author used the Accords, i.e. the Constitution in the English language. This might cause the terminological divergence in relation to the original language of this paper.

in the scope of determination and more detailed definition of control functions of the BiH Parliamentary Assembly. As a consequence, it should be relied upon the procedural foundation of the parliamentary control functions at the BiH state level.

3.2. Procedural foundation of control function

Since in BiH there is no law on the BiH Parliamentary Assembly, the Rules of Procedures of both houses of the BiH Parliamentary Assembly are, after the BiH Constitution, the most important legal acts for a closer definition of organization and functioning of the BiH Parliamentary Assembly. Therefore the Rules of Procedures of both houses define in more details the control functions of the houses, such are the election of and voting of no-confidence to the BiH Council of Ministers, budget adoption, reporting, parliamentary questions, interpellations, inquiry boards, public hearings etc.

4. Kinds of control functions in the BiH Parliamentary Assembly

As it has already been observed, the control functions of the parliament are the most important functions after the legislative one. They are particularly notable when it comes to the parliamentary control of work of the government. Control functions of the BiH Parliamentary Assembly include both the means for election and initiation of political accountability of the BiH Council of Minister and the means by which the Parliamentary Assembly is informed on the work of the BiH Council of Ministers.

4.1. Election of and voting of no-confidence to the BiH Council of Ministers

Generally speaking, control functions are primarily exhausted with the election of government by the parliament, which then, during the electoral period, performs a permanent control of the work of a politically responsible government. Here it is in fact about the electoral function being overlapped with the control functions. It is important in any system; however, it is mostly notable in the parliamentary system of government. The House of Representatives of the BiH Parliamentary Assembly is in charge of approval of appointment of the Chair of the BiH Council of Ministers.[2] Such provision is common considering that it coincides with theoretical concepts according to which in states with a bicameral representative body, the executive authority is by rule confirmed by the lower chamber of the representative authority. When the House of Representa-

[2] In accordance with Article 142 of the Rules of Procedure of the House of Representatives of the BiH Parliamentary Assembly.

tives receives the decision regarding the Chair of the BiH Council of Ministers, the Collegium shall convene a sitting at which the nominated person shall be given the floor to present his/her political programme, that will be followed by a debate and putting up for voting. The same procedure is carried out for other members of the BiH Council of Ministers. This is how the coupling between the BiH Parliamentary Assembly and the BiH Council of Ministers in being created, considering that the Council of Ministers, theoretically, depends on the majority in the Parliamentary Assembly, which members can have a large influence on the functioning of the Council of Ministers. Nevertheless, the fact is that the Council of Ministers is represented by the majority in the BiH Parliamentary Assembly and that therefore the exercising of the control function of dismissal should be in hands of the opposition parties in the Parliamentary Assembly. This is, however, not the case. The reasons shall follow later on.

The traditional manner of parliamentary control of work of the government implies initiating a proposal of a confidence vote regarding the government, initiated by a certain number of the MPs and being voted by a certain number thereof, depending on the constitutional and legislative legal framework. This control mechanism is implemented in both houses of the BiH Assembly in almost the same procedure.[3] A caucus in the House of Representatives, or at least three representatives in the House of Representatives or three delegates in the House of Peoples of the BiH Parliamentary Assembly can initiate a proposal for voting no-confidence or need for reconstitution of the BiH Council of Ministers. The proposal is submitted to the Speaker of the House who further refers is to the BiH Council of Ministers, members i.e. delegates and to the other house. The House of Representatives is obliged to include this proposal into agenda after 20 days and not later than 30 days from the date of its referral to the Council of Ministers, whereas in House of Peoples it shall be included on the agenda within the term defined by the house in its conclusion, and not later than 30 days from the date of its referral to the BiH Council of Ministers. Before the beginning of the sitting on vote of no-confidence, the BiH Council of Ministers can submit to the house which initiated the proposal on voting of no-confidence or demand for re-composition of the Council of Ministers a report with opinion and positions. This report is distributed to the members in the House of Representatives 48 hours before the sitting, and to the delegates in the House of Peoples 24 hours before the session at the latest. Each Speaker has the right to elaborate at the sitting of the houses the proposal for voting no confidence to the BiH Council of Ministers, to which the Council of Ministers has the right to respond and present its position, to be followed by a debate. After the end of the debate, the proposal on no confidence

[3] The procedure for voting no confiidence is defined in details in Articles 143–147 of the Rules of Procedures of the House of Representatives and in Articles 144–149 of the Rules of Procecure of the House of Peoples of the BiH Parliamentary Assembly.

is put on a vote. If it is not adopted, other initiatives related thereto can be voted upon. The Speaker informs the other house, the BiH Council of Ministers and the BiH Presidency on the outcome of voting and on other initiatives, if any.

The current convocation of the BiH Parliamentary Assembly did not initiate a debate on no confidence to the BiH Council of Ministers. However, there were "expressions of dissatisfaction by the manner of work, by the adoption of certain decisions" (BiH01) etc. The only debate carried out was about the decision of the Chair of the BiH Council of Ministers to replace the ministers from the Party of Democratic Action. Due to the lack of the classic division to the ruling and opposition parties, it is difficult to find out on the basis of this research whether in the above mentioned situations the opposition acted as united. For example, "the replacement was supported by the parties having their ministers in the BiH Council of Ministers, and also by the Union for a Better Future which is formally still an opposition party. Another opposition party, the Party for BiH was "restrained'" (BiH03). In the same time, there is an example that the Alliance of Independent Social Democrats and the Serbian Democratic Party act jointly in the BiH institutions, hence as well in the BiH Parliamentary Assembly, while acting separately at the level of entities (BiH01). The conclusion coming with such dissonant behaviour of MPs points to the fact that it is very difficult to speak about eventual initiation of debate on confidence to the BiH Council of Ministers because in the BiH parliamentary facticity there is no parliamentary unity, i.e. united opposition. This is one of the fundamental problems, together with the existing ethnic and entity diversity, because of which debates on confidence have not been initiated.

4.2. Budget adoption

Considering that by the adoption of the budget the parliament defines the government's expenditures, i.e. revenue and expenditures during the fiscal year, the right of the parliament to adopt the budget without which the government cannot perform its function is implicitly one of the particularly efficient manners of its control. In the same time, in a large number of states, in accordance with the constitutional-legal solutions, non-adoption of budget ultimately implies the fall of the government. Finally, by insight in the budget execution, the parliament in the most efficient manner exercises its control function over the government. In BiH, the BiH Presidency, upon recommendation of the BiH Council of Ministers, submits to the House of Representatives of the Parliamentary Assembly a proposed bill which includes the budget for BiH institutions for the forthcoming year. After the consideration and adoption, the House of Representatives shall refer the bill to the House of Peoples for consideration and adoption. The Parliamentary Assembly monitors the budget execution through reports on budget execution submitted by the BiH Presidency upon proposal of the BiH Council of Ministers and the data on realized revenue and expenditures in the fiscal year. If

the houses deem the presented figures incorrect, they can require explanations or corrections from the BiH Council of Ministers.[4]

From the data obtained from the members of the BiH Parliamentary Assembly it is concluded that debates on the budget primarily depend on extra-institutional influences, i.e. the debate depends on the agreements earlier reached out of the Parliamentary Assembly. Members of the Parliamentary Assembly share the opinion that debates on budget are marked by the action of political leaders, and not of the BiH Parliamentary Assembly as a whole (BiH03 and BiH05). They also agree that initiative must or can come from the leaders, but that the BiH Parliamentary Assembly has to be the place where the debates on the budget should be led, and not only the venue for confirmation of the prearranged budget (BiH01). The respondents quoted an example of budget adoption in the current convocation of the Parliamentary Assembly where the adoption procedure was marked exclusively by daily political topics. The most visible was the division into two groups in the BiH Parliamentary Assembly, the one consisting of members from Republika Srpska and the one consisting of members from Federation BiH, whereas the debate on the budget was, roughly speaking, reduced to the question who likes BiH and who does not (BiH03 and BiH05). Although the issue of budget adoption is a manner in which the parliament can easily control the government, that is not a case in BiH.[5] The procedure for budget adoption in the BiH Parliamentary Assembly is not marked by a clear and institutional participation and role of governmental authorities involved in the procedure of adoption of the BiH budget. On the other hand, there is a responsibility of the Parliamentary Assembly to enable and in the same time ensure and control that the BiH Council of Ministers acts clearly, responsibly and justifiably during the budget execution. However, in mostly antagonistic party, ethnic and entity relations among the members of the Parliamentary Assembly there is no feeling of obligation for control over the budget execution regardless a political party and regardless is it a ruling or an opposition party, a party from one or another entity. One of the consequences is also that, although the members of the BiH Parliamentary Assembly have at their disposal the control instruments and mechanisms for the BiH Council of Ministers, their capacity is not proportionally accompanied by the involvement of the Parliamentary Assembly in the practice of control of work.

[4] This procedure is in more details defined in Articles 128–130 of the Rules of Procedure of the House of Representatives and in Articles 123–125 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

[5] For a comparative analysis with more detailed data, see: Bratić, Vjekoslav. "Uloga parlamenta u proračunskom procesu: primjer hrvatskog Sabora" *Financijska teorija i praksa* 28(1) (2004): 7–23.

4.3. Reports

Reports are another manner in which the parliament controls the government. In BiH, there is an obligation of the BiH Council of Ministers to submit reports on all important activities from its scope of work to the House of Representatives of the BiH Parliamentary Assembly, with responsibility of proposing and implementing the policies and implementation of laws, other enactments and provisions which implementation is a part of its constitutional and legal competence, as well as guidelines and coordination of the work of ministries. Apart from being confirmed in the BiH Constitution, this obligation is also confirmed in the Rules of Procedure of the House of Representatives of the BiH Parliamentary Assembly.[6] The BiH Council of Ministers submits the report on its work to the competent house at least once a year. The house considers the report on work of the BiH Council of Ministers within 30 days from the date of its submission and after debate expresses its political view on the submitted report in a resolution.[7]

The BiH Parliamentary Assembly considers the reports of the controlled authorities, initiates debates thereon in order for the reports to be adopted or not adopted. However, when it is about the reports of the BiH Council of Ministers, the research shows that the debate on reports is permeated by party, ethnic and entity colours. "Party representatives in the BiH Parliamentary Assembly who have their ministers in the BiH Council of Ministers will support 'their' minister regardless the content of the report, and will be prone to restrain from discussion about eventual shortcomings of the report" (BiH01). The respondents quote similar examples of problems as in the case of debate and voting on budget, where the debate and adoption or non-adoption of a report is founded on daily-political assessment if somebody likes or dislikes BiH, i.e. on the division by ethnic principle. The problem which appears here is avoiding to perform the role assigned to the members of the BiH Parliamentary Assembly in favour of strengthening party affiliation and loyalty. Therefore the purpose of debate which leads to adoption or non-adoption of a report submitted by the BiH Council of Ministers, i.e. any other control body is not a clear reporting to the Parliamentary Assembly about the performance of the assigned functions and an encouragement of a debate on the existing problems arising from their performance, which is a common parliamentary practice.

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[6] See Article 141 of the Rules of Procedure of the House of Representatives of the Parliamentary Assembly and Article 135 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

[7] This procedure is in more details defined in Article 163 of the Rules of Procedure of the House of Representatives and in Article 156 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

4.4. Parliamentary questions

MPs are entitled the right to raise questions to the government and in that manner perform the control function. With parliamentary questions, a MP raises a question in a concrete situation, either to the government as a whole or to some of its members. The question is posed in oral or written form and it is responded on the same sitting or in the forthcoming one; there is no debate. This right is commonly used by opposition parties. In the BiH Parliamentary Assembly, members/delegates can raise parliamentary questions[8] to the BiH Council of Ministers or to any of its members, to self-governments, institutions, directorates, i.e. to all BiH institutions. According to the Rules of Procedure, members/delegates, can also raise questions to the Office of High Representative in BiH and to the representatives of other international organizations in BiH. The questions can relate to specific facts, situation or a part of information from their competence. They are submitted to the Speaker of the House in written form and the submission must contain the statement if the member/delegate requires verbal or written response. When verbal response is required on the session of the competent House, the written submission is formulated as a single question which the Speaker refers to the subject to whom the question is addressed. The questions are allocated at least one hour at each regular sitting, with provided direct TV broadcasting. The questions are raised in the order in which they had been submitted. The questions can be responded immediately at the sitting if members of the BiH Council of Ministers are present and if they are able to reply. In case they are not, there is a 30 days deadline for preparation of responses. According to the provisions of the Rules of Procedure, a member/delegate raises the question in up to three minutes, and then the BiH Council of Ministers is given the floor for the same duration. Following this, the member can comment the response or raise a new question for a duration of up to two minutes. Finally, the addressee is given the opportunity for a new response, for the same duration, after which the Speaker proclaims the debate concluded and gives the floor to the next authorized person. The BiH Council of Ministers can request postponing of the debate on a question for the forthcoming sitting only once. When it is about questions with responses in written form, they primarily refer to technical issues or to the issues that do not allow simple verbal explanations. The Speaker immediately submits the question to the BiH Council of Ministers which has to respond within 30 days, i.e. can ask for extension of the deadline by 10 days at the most. After the Speaker gets the

[8] This procedure is in more details defined in Articles 151–157 of the Rules of Procedure of the House of Representatives and Articles 150–153 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly. Besides, representatives' questions is the term used in the House of Representatives of the BiH Parliamentary Assembly, while the term delegates' questions is used in the House of Peoples of the BiH Parliamentary Assembly having in mind the nature of mandates of the houses.

response, one copy is sent to the person who posed the question, for his/her consideration. If the member who posed the question is not satisfied by the response, the verbal response to the posed question is required. If the response is not submitted within the deadline, the member who posed the question can require the Collegium to include the question into the agenda for the forthcoming sitting of the competent House. At least once in six months the Collegium organizes a special sitting, i.e. the Joint Collegium organizes a joint sitting of both houses on the topic "Members/delegates ask – BiH Council of Ministers responds". The conditions for direct television and radio broadcasting of these sittings are met, for the sake of transparency of work and informing citizens on all important issues pertaining to the work of the executive branch of power at the BiH level. On this occasion, a member/delegate has the right to pose one question for the duration of up to three minutes and the right to comment the response for the same duration. The question is submitted to the BiH Council of Ministers at least seven days before the sitting. The sitting is convoked 30 days in advance and it can last up to four working hours.

According to the data obtained from the BiH Parliamentary Assembly it is obvious that there is a practice of raising representatives'/delegates' questions. However, "in the current convocation only two ministers accepted to respond to the posed questions at the sitting of the BiH Parliamentary Assembly" (BiH03). In general, the period of waiting for the responds to the posed parliamentary questions is several months long, although the Rules of Procedure of both houses prescribe the 30 days deadline with possible 10 days extension for submitting the responses. In the same time, there are no prescribed instruments and mechanisms by which the BiH Council of Ministers would be compelled to respond to the parliamentary questions. Even when the responds are obtained, the content of the responds to the posed questions is mostly unsatisfactory, as the question is responded only in part. From the above it can be concluded that the BiH Council of Ministers does not take the parliamentary questions seriously. In the BiH Parliamentary Assembly it can hardly be spoken about classic division to the ruling parties and opposition parties, so therefore it is difficult to find out who poses parliamentary questions more frequently. The research shows a balanced ratio among the posed parliamentary questions, although it seems that the ruling parties are in slight advantage in posing parliamentary questions, which can also be concluded from the reports on work of the houses in the previous period. As for the caucuses, there is almost no difference among them in posing parliamentary questions. Finally, respondents agree that in posing parliamentary questions the influence of daily politics is decisive.

4.5. Interpellation

If a parliamentary question initiates a parliamentary debate, this means the interpellation, the formulation of which is equal to parliamentary question, but it opens a debate in which all MPs can participate and not solely the one who posed the question. Interpellation in the BiH Parliamentary Assembly[9] is submitted to the Speaker in written form and it should refer to a situation in an individual field within the competencies of BiH institutions or the BiH Council of Ministers; it should also relate to the implementation of adopted policies and laws. The Collegium considers the interpellation and refers it to the addressee. In an event that the content is inappropriate for interpellation, the Collegium shall inform the proposer thereof, in order to change the interpellation into a question. Interpellation shall be included on the agenda of the sitting within 15 to 60 days from the date of its submission to the BiH Council of Ministers, providing that no more than one interpellation can be included on the agenda. The interpellant is given the floor for the duration of up to 30 minutes for explanation of his/her interpellation, to be followed by the addressee who is given the floor for the same duration. After this, other representatives/delegates ask for an intervention which cannot last more than 10 minutes. The debate is to be concluded by the Speaker when the interpellation has been sufficiently discussed. Within three days from the conclusion of the debate on the interpellation, the representative/ delegate can propose a resolution to be included onto the next agenda, providing that the conditions have been met.

According to the obtained data, the institute of interpellations has not been used at all in the current convocation of the BiH Parliamentary Assembly. The question is why the MPs of the BiH Parliamentary Assembly, since there is an obvious dissatisfaction with the responds obtained through posing parliamentary questions, do not initiate interpellation. It is interesting that one respondent, contrary to the established fact of non-initiation of interpellation in current convocation, confirmed that interpellations had been initiated, but he did not "follow the procedure until the end so he can not enter into analysis" (BiH01). Having in mind the shown ignorance, the MPs of the BiH Parliamentary Assembly are not sufficiently informed on the institute of interpellation and they are not familiar with the procedure enough well to implement it.

4.6. Inquiry committees

Among else, the theory of constitutional law mentions the inquiry committees for examination of certain issues in the work of government as a whole or

[9] This procedure is in more details defined in Articles 158–161 of the Rules of Procedure of the House of Representatives and in Articles 150–153 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

some of its ministries. In the BiH Parliamentary Assembly, the houses establish their standing[10] or temporary committees in the houses, i.e. joint permanent and temporary committees of both of them. The task of the committees is to give opinions, submit proposals and reports and perform other tasks in accordance with the Rules of Procedure. Temporary committees can be established for the needs of examination of implementation or preparation of certain enactment or questions, i.e. as inquiry committees. Thus the committees can conduct public or closed hearings; invite and hear witnesses from any BiH institution whatsoever and request them to respond all questions with presentation of facts and information, even those considered a state secret; request reports from any elected and appointed official, employee or institution; require assistance of auditors and assistance of independent experts outside of institutions at the BiH level. Besides, committees can hold joint public or closed hearings. To that end, the members of the BiH Council of Ministers, upon their own request or upon the request of the competent committee, stand before the committee of any of the houses for an informative session on the submitted question. Apart from this, the committee can, after the concluded debate, adopt resolutions in which it shall present its opinions or guidelines in relation to the relevant policy of a ministry; it can also initiate the procedure for determining liability of the invited member of the BiH Council of Ministers if he/she fails to respond to the invitation of the committee, fails to provide necessary information or provides insufficient or inaccurate information to the committee.[11]

According to the data obtained from the BiH Parliamentary Assembly, there is an established practice of functioning of inquiry committees. The data mention, for example, "the work of the committee for examining the manners of spending the donated funds, which task was to determine the amount of donated funds that

[10] Standing committees of the House of Representatives of the BiH Parliamentary Assembly, according to Article 40 of the Rules of Procedure of the House of Representatives of the BiH Parliamentary Assembly, are: Constitutional-Legal; Foreign Affairs; Foreign Trade and Customs; Finance and Budget; Transport and Communications and Gender Equalty. Standing committees of the House of Peoples of the BiH Parliamentary Assembly, pursuant to Article 25 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly, are: Constitutional-Legal; Foreign Affairs; Foreign Trade and Customs; Finance and Budget; Transport and Communications. Standing joint committees, pursuant to Article 53 of the Rules of Procedure of the House of Representatives and Article 47 of the House of Peoples of the BiH Parliamentary Assembly are: Joint Committee on Defence and Security of BiH; Joint Security and Intelligence Committee on Supervision of the Work of Intelligence and Security Agency of the BiH; Joint Commttee on European Integration; Joint Committee on Administrative Affairs and Joint Committee on Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics.

[11] This procedure is in more details defined in Article 162 of the Rules of Procedure of the House of Representatives and in Article 155 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

entered BiH in the post-war period and the manner of their spending" (BiH03). However, although they are considered good practice, their effects are lacking because in most cases the institutions deny information.

4.7. Public hearings

Public hearings, as a mechanism for collecting information used by parliamentary committees in their work, in the sense of testimonies on committees' sittings, written comments and expert opinions which all give the representatives of committees an opportunity to collect important information, hear expert opinion and experiences from practice (Orlović, 2007: 15), are envisaged, as mentioned above, within the framework of functioning of standing or temporary committees. However, it is good to turn also to the difference between public hearings, public debates and public advocacy. "Public hearings enable broader discussion, more open to public and beyond the circle of experts. Naturally, larger number of people participates in the public debate. They can be organized out of the parliament as well. Sometimes there can be an opportunity for presentation of a bill. Public debate can be more politicized than public hearing. Public advocacy is an act of support to certain issue and assuring the decision makers to act in the purpose of support to the proposal or initiative. Public advocacy is a means of action for the purpose of improvement of the existing rights or creation of new legal frameworks in the interest of those in whose name it is being advocated." (Orlović, 2007: 15–16). Members of the BiH Parliamentary Assembly stated that they use the institution of public hearing on different topics, for example from the fields of security, infrastructure building, European integration. However, by comparing the respondents' replies, it was noted that the members of the BiH Parliamentary Assembly mostly identify public hearings with public debates and public advocacies.

5. Definition of control functions of the BiH Parliamentary Assembly

Although scarcely defined in the Constitution, the control functions of the BiH Parliamentary Assembly are well elaborated in the Rules of Procedure. However, one should note certain disputes arising as a result of divergent relations in governmental institutions, which can be marked as:

1. Transfer of the focus of decision-making from the BiH Parliamentary Assembly to the parties' headquarters – disrespect of the Parliamentary Assembly as a state power authority and institute of parliamentary democracy because of which the parties' human resources are waived from any accountability in their action;

2. Inappropriate structure of human resources – i.e. parties' human resources lacking necessary capacities for performing duties and creation of ambience for performing duties, with an extreme influence of loyalty to their parties;
3. Ethnic and entity fragmentation – in sense of representation of different ethnic and entity interests on the expense of the functions performed by the state-level governmental authorities;
4. Inappropriate mechanisms for fulfilment the implementation of control function in the BiH Parliamentary Assembly – there is no causal relation between the action and consequences yielded as the outcome thereof.

Improvement of the control function of the Parliamentary Assembly is certainly possible and necessary. Such improvement can be carried out through returning of the decision-making system to the BiH Parliamentary Assembly with respect of the prescribed procedures. Then, it is necessary to determine the system of accountability through affiliation to the institution and not to the political party and define causal relation between action and its outcome. Finally, it is necessary to start and continue the political processes stated in the description of functioning of the BiH Parliamentary Assembly and find a common focus independently from party, ethnic or any other affiliation.

5. Control over the defence and security sector[12]

Control over the defence and security sector is extremely important, particularly if taking into account that the defence and security institutions have been assigned with the competences the implementation of which can have impact on limitation of the rights and freedoms of citizens. In general, in performing control over the defence and security sector, parliamentary control overlaps with the control performed by the executive branch of power, bringing them in a direct relation. Reasons for establishing the control over the defence and security sector are multiple, but can be reduced to ensuring "that action of intelligence services be justified and in accordance with the law for the sake of maximum protection of human rights and freedoms" (Musić, 2011: 287).

BiH founded mechanisms of democratic control over the defence and security sector within the BiH Parliamentary Assembly through two joint committees composed of members of both houses of the Parliamentary Assembly. These are

[12] For more detailed information on control over the defence and security sector in general and in the context of BiH see: Rakić, Mile. "Nacionalna bezbednost i parlamentarna kontrola" *Politička revija* 24(2) (2010): 147–168; and Hadžović, Denis, and Emsad Dizdarević. *Nadzor nad obavještajnim sektorom na zapadnom Balkanu, Studija slučaja BiH*. Sarajevo: Centar za sigurnosne studije BiH, 2011.

the Joint Committee on Defence and Security of BiH and the Joint Security and Intelligence Committee on Supervision of the Work of Intelligence and Security Agency of BiH which, in the aspect of control, carry out the control of work and the execution of budget of state-level institutions in the field of security.[13]

When assessing the control of joint committees over the defence and security sector, the research shows that the members of the BiH Parliamentary Assembly agree that this is a kind of control which subject matter, generally observed, is unresolved and unfocused to what it really should be. The opinions are that the committees are useful, but that the control system does not fulfil its tasks, ultimately leading to lacking of effects. This is contributed by the fact that, for example, the Report on Work of the Joint Committee on Defence and Security of BiH for 2011 put focus on, for example, control over workshops, round tables, seminars and conferences, participation in study visits and professional training abroad, bilateral visits, visits to foreign representative offices and diplomatic-consular offices, field visits etc. The data from the competence of the Committee are missing (Joint Committee on Defence and Security of BiH, 2012). Therefore it can very simply be concluded that democratic control over the defence and security department has been established only as a condition for the processes which started after its establishment, here primarily having in mind the Euro-Atlantic integration. In the same time it does not entail the real effect of efficiency. A harmonized and efficient system of parliamentary control, capable to entirely fulfil its purpose, can be established only upon previous foundation of clear legal framework and more efficient mechanisms.

6. Conclusion

In implementation of principles on division of power, the control function, founded on the c*hecks and balances* system which is assigned to the legislative branch, in relation to the executive one, is a guarantee of democratic functioning of public authorities. In the same time this means that in the procedure of creation and implementation of a policy, the control function of the parliament is one of the most important functions. The capacity of a representative body for carrying out an efficient control of executive bodies, of course accompanied with the relevant results, shows the true level of democracy of a certain system.

It is clear that control functions of the BiH Parliamentary Assembly are non-emphasized and hesitant, considering that the functions of the Parliamentary Assembly are exhausted in the legislative function. In the same time, members of

[13] Competences of the joint committees for defence and security and for control over the work of the BiH Intelligence-Security Agency are stated in Articles 54 and 55 of the Rules of Procedure of the House of Representatives of BiH and Articles 48 and 49 of the Rules of Procedure of the House of Peoples of the BiH Parliamentary Assembly.

the BiH Parliamentary Assembly contribute such position of the parliament at the BiH state level. In daily-political topics, members of the Parliamentary Assembly are aware of the values of the party bond, so they will seldom or never interfere in debates tackling their parties' policies. In the same time, there cannot be the need for assessment and judgment of the work of the BiH Ministerial Council when ruling parties in the Parliamentary Assembly are in the same time those which ministers are in the BiH Council of Ministers and when loyalty to the party is so emphasized.

The established parliamentary system which assumes different control functions should be improved and enhanced. Appropriate and strong mechanism that should encourage the application of control functions of the BiH Parliamentary Assembly should be established. Opposition parties must enhance their pressure and coerce the Council of Ministers to clear and transparent action. The Parliamentary Assembly must become much more than the place for certification of agreements made out of institutions, instead of being agreed upon in the representative body. Finally, all this requires permanent and consistent efforts and commitment of the members of the BiH Parliamentary Assembly.

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CONTROL FUNCTION OF THE PARLIAMENT OF MONTENEGRO

1. Introduction

The long domination of one political party, which had the key impact on the functioning of the executive and legislative power in Montenegro since the introduction of the multiparty system, influenced the position of the Parliament to be rather marginalized in relation to the executive power. The Parliament mostly served for confirmation of what had already been decided in the executive branch. Such relation was additionally enhanced by the fact that the DPS was the transformed SKCG, with inherited manners of functioning from the period of monopartism. A particularly hindering factor during the first 14 years of work of the Montenegrin Parliament was the existence of the "bound" parliamentary mandate, where Montenegrin parties entirely controlled the MPs from their lists. Any variation in attitudes in relation to the party leadership would have been sanctioned, as the expellation from the party entailed the loss of MP status.

With establishment of parliamentary majority on the basis of coalition functioning, the position of the Parliament gradually strenghtens as well. The strenghtening of the role of the Parliament corresponds, from one hand, with the emergence of a practice that the leader of the smaller coalition partner in the government becomes the Speaker of the Parliament, and from other hand by increasingly stronger influence of international organizations, above else the EU, under which pressure the functioning of Montenegrin parliamentary chamber is being reformed.

The most recent amendments to the parliamentary Rules of Procedure additionally enhanced the mechanisms for exercising the control function. The Rules of Procedure elaborates in details the instruments and the manners of their use. In fulfilling the control role over the work of the Government, the Parliament of Montenegro has on its disposal various control mechanisms which we will classify to (1) group of mechanisms for collecting information on the work of the Government and (2) group of instruments of effective control of its work. The first group consists of: (a) parliamenary question and the Premier's Hour,

(b) parliamentary inquiry, (c) consultative and control hearing. The second group is made of: (1) procedure of deciding on no-confidence, i.e. confidence to the Government, (b) procedure of considering the interpellation on the Government's work.

2. Instruments for obtaining information on the Government's work

2.1. Parliamentary question and Premier's Hour

The control mechanism of parliamentary question and Premier's Hour were established and elaborated by the Rules of Procedure of the Parliament of Montenegro (Articles 187–193). A Montenegrin MP is entitled the right to pose parliamentary question about certain issues from the work of the Government to the competent minister and to obtain a response, verbally or in writing. Parliamentary question is posed at a special sitting of the Parliament, which is held at least once in two months during the ordinary session. MP can pose two parliamentary questions at the same sitting at the most. MP is obliged to submit them to the Speaker of the Parliament in writing, at least 48 hours before the beginning of the sitting. The Prime Minister and the members of the Government participate in the special sitting of the Parliament on which the parliamentary questions are posed, in order to respond.[1] Written responses to parliamentary questions are given upon an explicit request of the MP who posed the question, or upon the request of the official who responds, if so requested by specific circumstances. After the submitted response, the MP who posed the question has right to comment the response, for the duration of three minutes at the most. The MP can also pose a supplementary question, for the duration of one minute at the most. Parliamentary question is neither debated nor voted on. The Prime Minister of the Government, minister or other authorized representative of the Government responds to the parliamentary question verbally, immediately after the MP finishes posing the question or at the end of the same sitting, for the duration of up to five minutes per question. Written response to parliamentary question is submitted through the Speaker of the Parliament, latest until the date of holding the next sitting scheduled for posing parliamentary questions, i.e. if the Parliament is not in ordinary session, within the 20 days deadline from the date of submittal of the question.[2] Besides parliamentary questions, the Parliament of Montenegro also implements the mechanism of Premier's Hour. Namely, the first part of the special sitting devoted to the parliamentary questions, lasting up to one hour, is scheduled for posing questions

[1] Decree on the Government („Official Gazette of Montenegro", No. 80/08), Article 28

[2] The Rules of Procedure of the Parliament of Montenegro, Article 171

to the Prime Minister and his/her responses about the actual issues from the scope of the Government's work (Premier's Hour). The questions to the Prime Minister can be posed by the Chair, i.e. authorized representative of the parliamentary club, for the duration of five minutes at the most, whereas the Prime Minister has the right to respond for five minutes as well.

Use of parliamenary questions

According to the data presented in Table 1 and Table 2, it is obvious that parliamentary questions are the instrument very extensively used by MPs for the purpose of informing on the Government's work. What is notable in the implementation is that the Government's representatives attempt to avoid submission of written responses. The opposition representatives claim that through avoiding to submit written responses ministers allegedly enhance their position. Very often, the opposition representatives are disabled due to the lack of written response, as they do not have time to prepare, due to a large number of information, that is, waiting for the written response would make both the question and the response obsolete (interview MNE 06). On the other hand, the Government's representatives justify such attitude by short deadlines and low administrative capacities to respond to an increasingly larger volume of requests. However, in analysis of these data it should be kept in mind that parliamentary sittings are directly broadcasted by the public service, and that is the most efficient and the cheapest manner of communication of MPs with their voters. Parliamentary questions are prevailingly used by opposition parties, as a means for running the campaign. Some opposition parliamentary clubs like, for example, the SNP club, introduced the obligation to their MPs to pose parliamentary questions at every sitting, which additionally motivates other parliamentary clubs. When comparing the 23rd and the 24th convocation of Montenegrin Parliament, it is obvious that the implementation of this institution has been significantly expanded. MPs obtain a part of the responses directly during the sitting (about 10% in the 24th convocation), while responses to the remaining questions are obtained in writing. It is important to emphasize that in the 23rd and 24th convocation, the Government's representatives responded to all the posed issues, which is a very encouraging data. The Government's representatives responded to a significant number of questions during the Premier's Hour. For example, the Prime Minister received thirty five questions, five from each of the seven parliamentary clubs[3].

[3] MPs clubs in the actual convocation of the Parliament of Montenegro are: Democratic Party of Socialists, Social Democratic Party, Socialist People's Party, Movement for Changes, New Serbian Democracy, MP club of Albanian parties.

Table 1: Number of posed questions in the 23rd and 24th convocation of the Parliament of Montenegro (review per years)

	PREMIER'S HOUR	PARLIAMENTARY QUESTIONS
2007[4]	24	207 and 36 supplementary
2008	17	149 and 2 supplementary
2009[5]	16 and 1 supplementary	197 and 17 supplementary
2010	18	190 and 38 supplementary
2011	35	358 and 35 supplementary
2012 (until July 1)	14	139 and 17supplementary
Total	124 and 1 supplementary	1,240 and 145 supplementary

Table 2: Number of posed questions in the 23rd and 24th convocation of the Parliament of Montenegro (review per convocations)[6]

	PREMIER'S HOUR	PARLIAMENTARY QUESTIONS
23rd convocation	41	356 and 38 supplementary
24th convocation (until July 1)	83 and 1 supplementary	884 and 107 supplementary
Total	124 and 1 supplementary	1,240 and 145 supplementary

Posing of parliamentary questions was for long linked only to opposition MPs. However, the practice significantly changes, so that the MPs of SDP, one of the ruling parties, became particularly active, using this institution for posing the questions to the DPS ministers. Of course, this became a broad practice so that now we often have situations that coalition partners exchange political "fire" through this institution. In spite of the shortcomings of this institution emphasized by the opposition MPs, among MPs there is a broad opinion that it is one of the most efficient instruments for carrying out the control function of the parliament, which is proved by its extensive use.

[4] Since the constitution of the 23rd convocation until the end of 2006 there was no special sitting devoted to the Premier's Hour and parliamentary questions.

[5] Since the beginning of 2009 until the end of the 23rd convocation there was no special sitting devoted to the Premier's Hour and parliamentary questions.

[6] In the 23rd and 24th convocation, each parliamentary question was responded.

2.2. Parliamentary inquiry

Parliamentary inquiry is a control mechanism envisaged by the Constitution of Montenegro[7] which states that "the Parliament may, at the proposal of at least 27 MPs, establish a Fact-finding Commission in order to collect information and facts about the events related to the work of the state authorities."

The Rules of Procedure of the Parliament of Montenegro[8] regulate the procedure of implementation of this control mechanism. Parliamentary inquiry can be opened for consideration of issues of public importance, analysis of situation in certain field or collecting facts on the work of competent authorities, which may make the grounds for the deciding of the Parliament on political accountability of holders of public functions or taking over other measures from its competence.[9]

For the purpose of carrying out the parliamentary inquiry, an inquiry committee shall be established, chaired by an opposition representative. The inquiry committee is entitled the right to require from state authorities, individuals and certain organizations the data and information, and after completed parliamentary inquiry it submits the report to the Parliament. The report can as well contain a proposal of appropriate measures or acts from the competence of the Parliament.

The Rules of Procedure stipulate that, if about the issue which is the subject of the proposal of the decision for opening a parliamentary inquiry there is a pending court proceeding, the issue shall not be included onto the agenda of the Parliament until the final and binding resolution of the court proceeding.[10]

When the proposal is included onto the agenda of the parliamentary sitting, the deciding on opening of parliamentary inquiry requests the support of the majority of the total number of MPs.

By adoption of the Law on Parliamentary Oversight of Security and Defence Sector in December 2010, parliamentary inquiry is stipulated as one of control mechanisms in carrying out the parliamentary oversight in this field.[11] The Law stipulated that the Security and Defence Committee "shall initiate opening of parliamentary inquiry, if 1) results and conclusions of a consultative or control

[7] Article 109, Constitution of Montenegro, "Official Gazette of Montenegro", No. 01/07 of October 25, 2007. – For the first time the control mechanism of parliamentary inquiry is guaranteed by constitutional provision – the Constitution of Montenegro adopted in 2007.

[8] Article 78–82, the Rules of Procedure of the Parliament of Montenegro "Official Gazette of RM", No. 51/06 of August 4, 2006, 66/06 of November 3, 2006, "Official Gazette of Montenegro ", No. 88/09 of December 31, 2009, 80/10 of December 31,2010, 39/11 of August 4, 011.

[9] The proposal is submitted in written form and contains the title, topic, purpose, goal, task, composition of the inquiry committee and the deadline for completion of the task.

[10] Article 80, Rules of Procedure of the Parliament of Montenegro

[11] Article 10, Para 1, Item 1–3 of the Law on Parliamentary Oversight of Security and Defence Sector, "Official Gazette of Montenegro", No.80/10 of December 31, 2010

hearing show that it is necessary to analyse the situation relating to certain issues in the field of security and defence; 2) it is necessary to consider certain issues of public importance or collect information and facts on phenomena and events relating to the definition and carrying out of politics and work of authorities in the field of security and defence; 3) the results and conclusion might make the grounds for deciding by the Parliament on political accountability of holders of public functions or taking over other procedures from its competence".

The Parliament does not have the tradition of carrying out parliamentary inquiries. The first inquiry since the constitution of multiparty parliament was carried out in 2001 when it examined the accuracy of claims of the Zagreb weekly "*Nacional"* on the so-called tobacco affair[12]. This decision was made during the existence of minority Government DPS-SDP supported by the LSCG. However, although the LSCG supported the minority government, this party was in the Parliament of Montenegro in factual coalition with the then "unionist" parties. As an outcome of existence of such parliamentary majority, several parliamentary inquiries were initiated[13] which have not been completed due to holding of extraordinary parliamentary election and winning of absolute power by the DPS-SDP coalition.

With resuming the majority in the parliament (2002), the ruling DPS-SDP coalition had a clear strategy of blocking proposals for initiating parliamentary inquiries, so that in 2005 three initiatives were rejected[14]. The opposition, on the

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[12] The first sitting of the second regular session in the year 2001 – Decision on amendment to the Decision on establishment of the commission for determination of facts, circumstances and important elements in the text published in Zagreb journal "Nacional" entitled "The Chief Mafia Boss of the Balkans" and other texts published in this journal (adopted) (Source: Communication of the Parliament of Montenegro of July 18, 2012)

[13] The fourth sitting of the first regular session in the year 2002

Decision on amendment to the Decision on establishment of the Commission for determination of facts, circumstances and important elements on statements in the Zagreb journal "Nacional" entitled "The Chief Mafia Boss of the Balkans" and other texts published in this journal (adopted)..

The fifth sitting of the first regular session in the year 2002

Decision on establishment of the Commission for determination of facts on the basis of which the Contract was concluded between the Aluminium Plant Podgorica (KAP) and the Glenkor company and the consequences of implementation of the Contract to the KAP and the Montenegrin economy (adopted).

Decision on adoption of the Report of the Commission for determination of facts, circumstances and important elements on statements in the Zagreb journal "Nacional" entitled "The Chief Mafia Boss of the Balkans" and other texts published in this journal (adopted). (Source: Communication of the Parliament of Montenegro of July 18, 2012)

[14] Sitting of the second extraordinary session in the year 2005

Proposal of the decision on establishment of the Commission for determination of facts and circumstances relating to the assassination of Duško Jovanović, editor-in-chief and the

other hand, although in this 24th convocation[15] it had 29 MPs, which was enough for initiating the parliamentary inquiry, was passive in use of this mechanism. The reason can be searched for in the fact that in spite of being initiating by one third of the MPs, the initiation of the parliamentary inquiry demands the support of the total majority of MPs, and therefore the chances for such development are rather small. From the adoption of the applicable Rules of Procedure of the Parliament in August 2006 to June 1, 2012, the opposition had only two official proposals for opening a parliamentary inquiry.[16] Namely, the proposal of the decision on opening a parliamentary investigation of March 3rd, 2010 was submitted by 28 opposition MPs with an aim of consideration the situation in electro-energetic sector in Montenegro, with a particular review of the tariffs and prices of the electric energy, on the basis of which it would "pass and implement adequate legal and procedural decisions and activities".[17]

Considering the proposal, the competent Committee on Economy, Finance and Budget assessed, among else, that the "issues encompassed by the Proposal for decision have to a certain measure been considered through consultative hearing, held on March 4th, 2010, as well as that some issues shall be considered during the consideration of the Bill on Energy which is in the parliamentary procedure.[18] In voting on opening a parliamentary inquiry, 57 MPs voted against the inquiry and 23 voted in favour. Five MPs who proposed the inquiry did not vote for the conducting thereof.

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director of the "Dan" daily, with the Proposal of the decision on election of Chair and members of the Commission (not considered);

Proposal of the decision on establishment of the Commission on determination of facts and circumstances relating to the investigation in the case of "Moldavian girl S.Č.", with the proposal of decision on election of president and members of the Commission (not considered);

Proposal of the decision on establishment of the Commission on examination of facts and circumstances of bankruptcy of AD AD "Jugooceanija" Kotor, with the proposal of the decision on election of president and members of the commission (not considered). (Source: Communication of the Parliament of Montenegro of July 18, 2012)

[15] 2009–2013

[16] Ruling upon the request of the Institute of Alternatives: the Parliament of Montenegro, No. 00–41/II-159/3, Podgorica, December 20, 2011. In 2012 another proposal was initiated, the second since the adoption of the applicable Rules of Procedure of the Parliament, for opening of parliamentary inquiry. Twenty nine MPs initiated on Janary 20, 2012 the proposal for establishing an inquiry committee for collecting information and facts on corruption in privatization of Telekom of Monteengro.

[17] Parliament of Montenegro, March 2, 2010. Su-Sk Br.01–114, EPA: 240-XXIV

Fifth sitting of the first regular session in the year 2010

Proposal of the decision on opening of parliamentary inquiry aimed at consideration of situation in electro-energetic sector in Montenegro (not adopted).

[18] Parliament of Montenegro, Committee on Economy, Finance and Budget, Su-Sk Br. 06–114/Podgorica, March 18, 2010

The absence of the proposal for initiating a parliamentary inquiry can be linked with non-existence of political will of the ruling majority to use this mechanism as an efficient instrument of oversight in relation to the Government's activities. Parliamentary inquiry most often "investigates" certain illegal and "improper" acting of the Government, and therefore the position MPs do not want their party colleagues to be exposed to such process nor to be called out for political accountability. However, by such (non)action the ruling coalition MPs do not contribute strengthening the entire role of the Parliament, and particularly not its control function. The picture presented to the public in that way cannot be a foundation for strengthening of citizens' trust in the parliament.

Opposition MPs seldom propose opening of parliamentary inquiry as they do not have trust in the possibility to obtain the necessary majority of votes in the parliament, which implies votes of a part of the parties creating the parliamentary majority. However, it is necessary to add that the provision of the Constitution under which one third (27) of the total number of MPs must support the initiation of proposal for opening of the parliamentary inquiry falls into the group of sharp criteria for its proposing. This condition is not in compliance with good examples of international practice where the number of MPs necessary for initiation of the proposal most often ranks between one MP to one fifth of the total number of MPs.[19]

Although the passivity of opposition in initiating parliamentary inquiries, and in accordance with the hitherto "practice" can partly be "justified" by the lack of confidence in the possibility of their realization, the MPs of the opposition parliamentary parties should by common initiatives continually pursuit the availability of information on the work of the Government. Also, it is necessary to carefully access the selection of issues, i.e. problems which would be an "appropriate" subject of parliamentary inquiry, in order to corroborate the explanation of the actual contribution which can be achieved by its implementation in relation to other control mechanisms.

July 2012 saw the adoption of the Law on Parliamentary Inquiry[20]. The composition of the inquiry committee is defined in such a manner as it consists of an equal number of MPs from parliamentary majority and the opposition, in which the chair of the inquiry committee is from the opposition and the deputy from

[19] A comparative study which encompassed the analysis of 88 national parliaments states that in the majority of the total number of analyzed parliaments one MP can start the initiative, whereas the majority in the parliamentary chamber can decide on starting the inquiry. In seven out of the total number of countries – the number of required signatures rank from one eight to one fifth, with examples that a parliamentary club can initiate the inquiry, as well as a standing working body of the parliament. (Yamamoto Hironary, *Tools for parliamentary oversight – A comparative study of 88 national parliament*, Inter-parliamentary Union, 2007, p. 41)

[20] Official Gazette of Montenegro No.

the ranks of parliamentary majority. The decision-making procedure in the committee is solved in such a manner that the decisions are passed "by majority of votes". This solution in the situation when there is an equal number of members of the committee from the parliamentary majority and minority, particularly in a sharply divided Parliament, can lead to blockade, obstruction of decision-making. The Law also defined the issue of access to information held by public and other authorities and legal entities. The inquiry committee is "authorized to request from all state authorities, local self-governance authorities, institutions and legal entities to put all documents at its disposal"[21] which might be of interest for the work of the committee. On the other hand, the mentioned persons are obliged to "act upon the request of the inquiry committee in the shortest possible period of time and provide accurate documents, data and information."

One of the most important questions and potential problems in the work of the inquiry committee can be the limitation in provision of presence and active testimony before the committee by certain persons from whom it is necessary to obtain certain information on the subject of the parliamentary inquiry. The Law defined the rank of persons obliged to answer the invitation by the committee. These persons are specified as management staff, officials and employees in public authorities, local governance authorities, institutions, legal entities, former holders of state functions in executive and legislative power (Prime Minister, Speaker of the Parliament, minister, MP), former and actual officials of local self-governments"[22]. They are obliged to "provide statements and replies to questions by the members of the committee on the facts known to them in relation to the subject of the parliamentary inquiry".

When it is about the publicity of the work of the inquiry committee, the Law determines that the sittings of the committee are open for public, while as exception it stipulated the possibility that certain sittings can be closed for public upon the decision of the committee.[23] The Law determines that financial and other assets for the work of the inquiry committee shall be provided in the budget of the Parliament of Montenegro.[24] In accordance with this law, in further course the parliamentary inquiry on the case of Telekom[25] shall be carried out, to be concluded before October 2012.

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[21] Article, Law on the Parliamentary Inquiry

[22] Article, Law on the Parliamentary Inquiry

[23] Article, Law on Parliamenary Inquiry

[24] Article 17, Law on parliamentary Inquiry

[25] Sitting of the third extraordinary session in the year 2012

Proposal of the decision on opening the parliamentary inquiry and establishment of the inquiry committee for collecting information and facts on corruption in privatization of the Telekom of Montenegro (adopted).

2.3. Control and consultative hearings

For obtaining information, i.e. expert opinions on the proposal of act undergoing the parliamentary procedure, clarification of certain solutions from the proposed or existing act, clarification of issues important for preparation of proposal of act, as well as for more successful exercise of the control function of the Parliament, the competent (home) committees of the Parliament can, in accordance with the Rules of Procedure on the work of the Parliament of Montenegro, organize parliamentary hearings and inquiries. The Rules of Procedure stipulate two kinds of hearings, consultative and control hearings. Consultative hearings imply the hearings carried out "for realization of tasks from its scope of activities (consideration of proposal of act, preparation of proposal of act or consideration of certain issues), and with an aim of obtaining necessary information and expert opinions, particularly on proposals of solutions and other issues of particular interest for citizens and public". Consultative hearing is carried out in parliamentary committee. The Committee can, according to the need or for a certain period "engage academics and professionals for certain fields, representatives of state authorities and non-governmental organizations, without the right to vote".

Control hearing implies the hearing for the purpose of collecting information and opinions both from "own scope of work, and about certain issues of definition and implementation of politics and laws or other activities of the Government and state administration authorities, which cause ambiguities, dilemmas or principal disputes, with an aim of resolving these issues"[26].The competent committee has the right to invite to the sitting the responsible representative of the Government or other state administration authority and request him/her to declare about these issues. On that occasion, the members of the parliamentary committee can pose questions only within the framework of the subject of the hearing. The Committee is obliged to submit to the Parliament a report on control hearing, containing the summary of the presentation, and it can also propose appropriate conclusion or some other act.

During 2011 there were twenty eight consultative and seven control hearings[27]. However, the largest number of consultative hearings was held in the Committee on International Relations and European Integration. Namely, it is a committee which, among else, perform consultative hearings of candidates for diplomatic-consular representatives of Montenegro, so that these specific hearings are also counted into the above mentioned figure.

On the other hand, control hearings were during 2011 held in the Committee on Defence and Security (two), Committee on Economy, Finance and Budget (one) and Committee on Human Rights and Freedoms (two), the Commission for monitoring and control of the privatization process (two).

[26] The Rules of Procedure of the Parliament of Montenegro, Article 75.

[27] Report on the Work of the Parliament of Montenegro for 2011, p. 25

Table 3: Review of consultative and control hearings per convocations

	CONSULTATIVE HEARINGS	CONTROL HEARINGS
23rd convocation	4	2
24th convocation	70	15

Table 4: Review of held consultative and control hearings per working bodies of the Parliament[28]

WORKING BODY OF THE PARLIAMENT	CONSULTATIVE HEARINGS		CONTROL HEARINGS	
	23rd convocation	24th convocation	23rd convocation	24th convocation
Committee on Constitutional Issues and Legislation	–	–	–	–
Committee on Political System, Judiciary and Administration	–	1	–	1
Committee on Security and Defence	2	3	2	6
Committee on International Relations and European Integration	2	49	–	–
Committee on Economy, Finance and Budget	–	7	–	1
Committee on Human Rights and Freedoms	–	2	–	4
Committee on Gender Equality	–	–	–	–
Committee on Tourism, Agriculture, Environmental Protection and Spatial Planning	–	–	–	–
Committee on Education, Science, Culture and Sport	–	–	–	1
Committee on Health, Labour and Social Care	–	5	–	–
Administrative Committee	–	3	–	–
Commission for monitoring and control of the privatization procedure	–	–	–	2
Total	4	70	2	15

What is concluded upon looking at the review given in Table 5 is that there was a significant increase of use of institutions of control, i.e. consultative hearings. Thus the number of hearings in 2011 is more than two times higher in relation to the year before. Such trend shall be slightly lower in 2012, but again significantly higher in comparison to 2010.

[28] Review of the held consultative and control hearings in the 23rd and 24th convocation of the Parliament of Montenegro until July 1, 2012.

Table 5: Review of consultative and control hearings per years

YEAR	CONSULTATIVE HEARINGS	CONTROL HEARINGS
October 2006 – December 2007	2	1
2008	2	1
2009	12	2
2010	13	2
2011	28	7
2012 (until July 1)	17	4

Table 6: Review of held consultative and control hearings in working bodies of the Parliament per years[29]

WORKING BODY OF THE PARLIAMENT	Oct 2006-Dec 2007	2008	2009	2010	2011	2012 (until July 1)
Committee on Constitutional Issues and Legislation			–	–	–	–
Committee on Political System, Judiciary and Administration			–	1 control	1 consultative	–
Committee on Security and Defence	2 consultative 1 control	1 control	1 control	1 control	2 consultative 2 control	1 consultative 2 control
Committee on International Relations and European Integration		2 consultative	7 consultative	12 consultative	21 consultative	9 consultative
Committee on Economy, Finance and Budget			–	1consultantive	2 consultative 1 control	4 consultative
Committee on Human Rights and Freedoms			1 consultative	–	1 consultative 2 control	2 control
Committee on Gender Equality			–	–	–	–
Committee on Tourism, Agriculture, Environmental Protection and Spatial Planning			–	–	–	–
Committee on Education, Science, Culture and Sport			1 control	–	–	–
Committee on Health, Labour and Social Care			3 consultative	–	–	2 consultative
Administrative Committee			1 consultative	–	1 consultative	1 consultative
Commission for monitoring and control of the privatization procedure			–	–	2 control	–
Total	2 consultative 1 control	2 consultative 1 control	12 consultative 2 control	13 consultative 2 control	28 consultative 7 control	17 consultative 4 control

[29] Review of the held consultative and control hearings in the 23rd and 24th convocation of the Parliament of Montenegro until July 1, 2012

3. Instruments of effective control of the work of the Government

3.1. Procedure on voting confidence to the Government

The Constitution of Montenegro defines that "the Government can pose the issue of its confidence in the Parliament"[30], as well as that "the Parliament can vote no-confidence to the Government." The proposal to vote no-confidence to the Government can be submitted by at least 27 MPs. If the Government won confidence, the signatories of the proposal cannot submit a new proposal for vote no-confidence before the expiry of 90 days.

The Rules of Procedure of the Parliament of Montenegro define that "proposal for voting no-confidence to the Government must contain reasons for proposing the voting on no-confidence." The Speaker of the Parliament is obliged to immediately submit the proposal to vote no-confidence to the MPs and the Prime Minister. On proposal to vote no-confidence to the Government, debate is opened at the sitting. In the beginning of the debate the representative of the proposers has the right to elaborate the proposal, while the Prime Minister has the right to reply. The concluded debate is followed by voting on no-confidence to the Government. The Government poses the issue of its confidence in the Parliament in written form. The issue of confidence in the name of the Government is posed by the Prime Minister who has the right to elaborate it. Debate is opened on the posed issue, to be followed by voting on confidence. Voting no-confidence, i.e. confidence to the Government is carried out by public voting. Voting on no-confidence is carried out in such a manner that the MPs declare "for no-confidence" or "against no-confidence". Voting on confidence is carried out in such a manner that the MPs declare "for confidence" or "against confidence". If the Government loses confidence, the Speaker of the Parliament shall immediately inform the President of Montenegro accordingly.

So far there were several initiatives for replacement of the Government, of which only one ended with the change thereof[31].

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[30] Constitution of Montenegro, Article 106

[31] PROPOSALS FOR VOTING CONFIDENCE, I.E. NO-CONFIDENCE TO THE GOVERNMENT

2002 – Third sitting of the first regular session in 2001**:** Proposal to vote no-confidence to the Government of the Republic of Montenegro –adopted on May 22, 2002 (the Parliament voted no-confidence to the Government of the Republic of Montenegro).

2005 – Second sitting of the first ordinary session in 2005**:** Proposal to vote no-confidence to the Government of the Republic of Montenegro (the Parliament did not adopt no-confidence)

Sitting of the first extraordinary session in 2005: Proposal to vote no-confidence to the Government of the Republic of Montenegro (not considered – no conditions to continue the sitting)

2010 – Fifth sitting of the first ordinary session in 2010: Proposal to vote no-confidence to the 38th Government of Montenegro (the Parliament did not adopt no-confidence).

INTERPELLATIONS ON THE GOVERNMENT'S WORK

2001

First sitting of the second ordinary session in 2001:

1. Interpellation for consideration of issues in carrying out the interior policy of the Government of the Republic of Montenegro in the field of finances (adopted Proposal of conclusions).

2005

First sitting of the first ordinary session in 2005:

2. Interpellation for consideration of issues in carrying out the interior policy of the Government of the Republic of Montenegro in the field of pension and disability insurance – submitted proposal on voting no-confidence to the Government (no-confidence not adopted);
3. Interpellation for consideration of issues in carrying out the interior policy of the Government of the Republic of Montenegro in the field of education – submitted proposal for voting no-confidence to the Government (no-confidence not adopted).

Sitting of the second extraordinary session in 2005;

Fourth sitting of the first ordinary session in 2005;

Third sitting of the second ordinary session in 2005

4. Interpellation for consideration of issues in carrying out interior policy of the Government of the Republic of Montenegro in the field of privatization (not considered);
5. Interpellation for consideration of issues in carrying out interior policy of the Government of the Republic of Montenegro in the field of exercising property rights and authorization to property of the Republic of Montenegro in the field of spatial regulation (not considered);
6. Interpellation for consideration of issues in carrying out the interior policy of the Government of the Republic of Montenegro in the field of environmental protection (not considered);
7. Interpellation for consideration of issues in carrying out the interior policy of the Government, and particularly the legality and quality of work of the MoI in the field of unresolved cases of assassinations, as well as impeded overall security of citizens in Montenegro (not considered)

2007

Fourth sitting of the first ordinary session in 2007

8. Interpellation for consideration of issues in carrying out interior policy of the Government of the Republic of Montenegro in the field of energy (adopted Proposal of conclusions);
9. Interpellation for consideration of issues in carrying out interior policy of the Government of the Republic of Montenegro in the field of privatization (adopted Proposal of conclusions)

Second sitting of the second ordinary session in 2007

10. Interpellation for consideration of issues in carrying out interior policy of the Government of Montenegro in the field of telecommunications (Proposal of conclusions not adopted).

2008

Seventh sitting of the first ordinary session in 2008

11. Interpellation for consideration of issues in carrying out interior policy of the Government of Montenegro in the field of transportation and maritime – 30 opposition MPs submitted the Proposal of conclusions with the interpellation (Proposal of conclusions not adopted)

2010

Eight sitting of the first ordinary session in 2010

12. Interpellation for consideration of issues in carrying out interior policy of the Government of Montenegro in the field of local self-governmet – submitters of the interpellation submitted the Proposal of conclusions (Proposal of conclusions not adopted)

2012 – Seventh sitting of the first ordinary session in 2012 – underway

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2012 – Sitting of the sixth extraordinary session in 2012: Proposal to vote no-confidence to the Government of Montenegro (the Parliament did not adopt no-confidence)

3.2. Procedure for consideration the intepellation on the work of the Government

The Rules of Procedure of the Parliament of Montengro regulate the procedure for consideration of interpellation on the work of the Government. The interpellation for discussing certain issues about the work of the Government is submitted to the Speaker of the Parliament in written form, whereas the issue which should be considered must be clearly formulated and rationalized. The Speaker of the Parliament immediately forwards the interpellation to the MPs and the Government to be able to consider the interpellation and submit to the Parliament a written report with its opinion and attitudes thereof, within 30 days from the date of receipt of the interpellation at the latest. The Government's report on the occasion of intepelation is forwarded to the MPs by the Speaker of the Parliament.[32] Interpellation is put onto the agenda of the first forthcoming sitting of the Parliament to be held after the submission of the Government's report. If the Government did not submit the report, the interpellation is put onto the agenda of the first forthcoming sitting of the Parliament upon the expiry of the deadline for submission of the Government's report.[33]

4. Concusion

Carrying out of control function of the Montenegrin parliament is significantly burdened by the fact that one political party dominates the executive power since the beginning of parliamentarism. The significant progress in strenghtening of control function nothwitstanding, primarily through the adoption of new parliamentary Rules of Procedure and the Law on parliamentary inquiry, there are visible in-built mechanisms for limitation of effects of control instruments. The basic problem is the condition that the initiation of majority of control procedures requires support of the parliamentary majority (control hearing, parliamenary inquiry). In spite of numerous limitations, the MPs' work in exercising the control function of the parliament contributed enlightment of significant issues which burdened the Montenegrin society. Unfortunately, in performing control function the Montenegrin parliament, in spite of using these mechanisms, does not manage to define the accountability of public officials and sanction their behavior. And the last case of parliamentary inquiry[34], where inquiry committee only prepared technical report without determination of the situation and adoption of recommendations, speaks that the parliament is not able to perform the control function in full capacity. The MPs in the Parliament of Montenegro do not manage to use mechanisms put at their disposal by the Rules of Procedure and relevant laws

[32] Article 109 of the Rules of Procedure of the Parliament of Montenegro

[33] Article 200 of the Rules of Procedure of te Parliament of Montenegro

[34] The "Telekom" case.

dominantly due to the fact that MPs are under strong control of the parties, so that it is almost impossible to expect that the MPs of the ruling coallition shall support the opposition ones, or vice versa. Exemptions are possible only in cases of conflicts within the ruling coalition, such was the case of the parliamentary inquiry "Telekom". Strenghtening of control function of the parliament besides additional amendments to the Rules of Procedure shall require the amendments of the electoral law which shall enhance the position of MPs and make them less dependant from their parties. Only responsible MPs which in deciding have not been controled by the party can make the control function instruments efficient.

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Interview with MP MNE 05
Interview with MP MNE 06
Interview with MP MNE 07

TRANSPARENCY OF THE PARLIAMENT

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TRANSPARENCY OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

Transparency is the word in such an extensive use during the last two decades that in the year 2003 the Webster's New World College Dictionary proclaimed it "the word of the year". There are several arguments most often stated in favour of transparency. First, transparency is considered a strong anti-corruptive mechanism and a key element of effective and efficient public policies. Second, free access to information of public importance is an important criterion of the level of democracy in a society. Third, the right to the access to information of public importance is a fundamental human right and it necessarily accompanies all other rights. Without access to information, it is not possible to exercise other social and economic rights and justice (Florini, 2007: 1–4, Hood and Heald, 2006).

The aim of this paper is to examine to what extent the National Assembly of the Republic of Serbia is a transparent institution and in what way that transparency is provided for. We are particularly interested in the openness of the legislation process, as well as in the openness of the parliament and the MPs towards citizens, citizens' associations and media. The analysis of the openness of the parliament and public accessibility of information on its work are in the same time an important component in understanding the role of the parliament and the development of a democratic parliamentary practice. The possibility for the citizens to monitor and control the work of the parliament is a strong mechanism of accountability and an incentive for better working results.

Numerous research show that the parliament is one of the most transparent public authorities. This is confirmed by the awards for contribution to exercising the right of the public to know, which the parliament for already several years in a row has been receiving on the occasion of the International Right to Know Day from the Commissioner for Information of Public Importance and Personal Data Protection Rodoljub Šabić and the organizations Transparency of Serbia, OSCE, UNDP, Coalition of non-governmental organizations for freedom of access to information and journalist associations – NUNS and UNS.

This paper, however, shows that it nevertheless cannot be claimed that the parliament is transparent enough, although it recognizes the large efforts which this institution has made in its modernization and opening to the public. While, on one hand, the basic legal framework regulating the transparency of this insti-

tution is solidly established and a large number of diverse and useful information is publicly accessible (first of all on the website), a proactive role of MPs is missing, both in taking and in justifying the attitudes and policy proposals. This in the same time partly explains the already for years low trust of citizens in this institution.

The research used the analysis of the contents of basic legal norms and documents regulating the work of the National Assembly, and the analysis of available communication means. As a supplementary method of data collection, 10 in-depth interviews were carried out with MPs and 5 interviews with representatives of non-governmental organizations cooperating with the parliament or particularly interested in its work. The in-depth interviews particularly show the manner in which MPs and civil sector representatives perceive the openness and transparency of the parliament.

1. Basic legal framework

1.1. Law on Free Access to Information of Public Importance

The right of citizens to access to information of public importance is guaranteed by the Constitution of the Republic of Serbia (Article 51), and in more details regulated by the Law on Free Access to Information of Public Importance. "This Law regulates the rights to access information of public importance held by public authority bodies, with the purpose of the fulfillment and protection of the public interest to know and attain a free democratic order and an open society" (Art. 1). Information of public importance according to this Law is an information held by a public authority body, related to everything that the public has a justified interest to know. The Law prohibits discrimination of citizens and journalists and guarantees the equality of citizens in access to information of public importance (Articles 5–7, see Textbox). The public authority shall not allow the applicant to exercise the right to access to information of public importance if it would thereby expose to risk the life, health safety or privacy of a person, judicial procedure, national defence, national and public security, national economic interests, state, official or business secret, then if information is already accessible to the public or in case of abuse of information (Articles 9–15). Upon written request, the public authority is obliged to free of charge and within 15 days deadline[1] issue a copy of the requested information i.e. document; on the contrary, the

[1] If the request regards information, which is presumed to be of relevance to the protection of a person's life or freedom, i.e. to the protection of public health and the environment, the public authority must inform the applicant it holds such information, allow insight in the document containing the requested information i.e. issue a copy of the document to the applicant within 48 hours upon receipt of the request. (Art. 16, Para 2).

requesting party can lodge a complaint to the Commissioner for Information of Public Importance and Personal Data Protection.

> Content of the Right to Access the Information of Public Importance
>
> Article 5
>
> Everyone shall have the right to be informed whether a public authority holds specific information of public importance, i.e. whether it is otherwise accessible.
>
> Everyone shall have the right to access the information of public importance by being allowed insight in a document containing information of public importance, the right to a copy of that document, and the right to receive a copy of the document upon request, by mail, fax, electronic mail, or in another way.

1.2. The Law on the National Assembly and the Rules of Procedure of the National Assembly

The transparency of work of the National Assembly is additionally regulated by the Law on the National Assembly (Art. 11) and the Rules of Procedure of the National Assembly (Art. 254–260).

Pursuant to Article 11 of the Law on the National Assembly, the transparency of work of the National Assembly is provided through: creation of conditions for TV and internet broadcast of the sessions of the National Assembly, press conferences, issuance of official statements, enabling the following of the work of the National Assembly by the representatives of mass media, observes from domestic and international associations and organizations and interested citizens, access to documents and archives of the National Assembly, access to stenographic transcripts and minutes from the sessions of the National Assembly, a website of the National Assembly and other means, in accordance with the Law and the Rules of Procedure.

The National Assembly is obliged to inform the public on the draft agenda, date, time and venue of its sitting. The sittings of the National Assembly are in principle open for public, with provided TV broadcast of the plenary sittings.

Sittings of the National Assembly may be closed to the public upon reasoned proposal by the Government, or at least 20 MPs, on which the National Assembly shall decide without a debate. Sittings of the working bodies can also be closed for public on the basis of a reasoned proposal of at least one third of the total number of members of the working body, and upon the decision of the majority in that body (Art. 255.).

The National Assembly has provided seats for journalists, observers from national and international associations and organizations and interested citizens, enabling them to follow the work of the sittings of the National Assembly and its working bodies[2]. According to the Rules of Procedure, the journalists accredited to cover the work of the National Assembly shall have access to stenographic transcripts, bills and other general enactments, informative and documentary material relating to the issues from the scope of work of the National Assembly and its working bodies (Art. 258).

The Public Relations Department is in charge for annual and daily accreditation of media representatives[3]. This Department also prepares official statements for the public to be approved by the Speaker of the National Assembly or a person authorized by him/her (Art. 261) and gives information to the media representatives on the work of the National Assembly, its working bodies, international activities, activities of the MPs and other events organized by the National Assembly.

In order to provide the transparency, the National Assembly uses numerous communication means, among them TV broadcasts of the sittings via the RTS – public broadcasting service, website and profiles on Facebook and Twitter social networks. In difference from the profiles on social networks which, although created in June 2011, are still entirely inactive, the website is extremely well equipped and informative.

2. Transparency in practice

At the normative level, the parliament shows a high level of openness and transparency. On the other hand, research shows that the trust of citizens in this institution is very low.

On the basis of the research carried out in 2010, Slavujević points out that "citizens' trust in the institutions of political system is at the lowest level since the introduction of the multiparty system, whereas distrust is twice as emphasized as the trust, and therefore the institutions of political system are facing the deepest crisis of legitimacy ever, deeper than the one which affected them in the time of the lowest popularity of the regime of S. Milošević – in the second half of the 1990s" (Slavujević, 2010: 62). According to this research, as many as 53% of citizens of Serbia show distrust in the National Assembly of Serbia. As for the

[2] Visits to the building and premises of the National Assembly and stay of journalists are regulated by the Decision on Internal Order in the building of the National Assembly of the Republic of Serbia and the Instructions for implementation of the Decision on Internal Order in the building of the National Assembly of the Republic Serbia of 1994.

[3] http://www.parlament.rs/narodna-skupstina-/organizacija-i-strucna-sluzba/odeljenje-za-odnose-sa-javnoscu.934.html

convocation of 2008, the trust in the parliament is the lowest since the beginning of the 1990s (Slavujević, 2010: 63).

In order to define to what extent the transparency of the parliament influences its legitimacy, it is necessary to pose the question to what extent and in what manner the legal provisions and provisions of the Rules of Procedure are implemented in practice. Two segments of transparency are of our particular interest: first, to what extent the information on the work of the parliament are publicly available and second, to what extent the National Assembly and MPs act proactively in justification of their attitudes and policy proposals to the citizens.

For replies to these issues I primarily rely on the information from the website of the National Assembly and the findings of in-depth interviews.

2.1. Information Booklet

In accordance with the Law on Free Access to Information of Public Importance (Art. 39–40), the National Assembly published in 2010 the Information Booklet which is updated once a year and which is available at the website of the National Assembly. The most recent changes were included into the Information Booklet on September 6th, 2012. The Information Booklet is well equipped, it contains voluminous, useful and accurate information and is easily available. The Information Booklet contains basic data on the National Assembly, organizational structure and composition of the National Assembly, transparency of work, information of public importance, competences of the National Assembly, basic activities and rules regulating the work of the National Assembly. It also offers the data on revenue and expenditures of the National Assembly, public procurements, salaries and other remunerations of the MPs, as well as the data on real estate of the National Assembly. In addition, the Information Booklet also gives an instruction for submitting a request for access to information of public importance.

2.2. The National Assembly Service

The biggest steps towards providing transparency have been made by the National Assembly Service, which during the last few years became extremely modernized and open to the citizens. In July 2011, the Service adopted a long-term plan for development of communications of the National Assembly Service, and in mid-2012 a Report on work of the National Assembly Service in the period from June 11th, 2008 to March 13th, 2012. The long-term plan for development of communications presents an analysis of the existing situation and goals of internal and external communication. The Report presents: 1. structure, goals and competences of the Service, 2. tasks and activities of the Service in the previous convocation, 3. reorganization, improvement and modernization of the work of the Service.

In general, the MPs themselves positively evaluated the work of the Assembly Service, first of all when it is about the distribution of various materials to the MPs, such is daily sending of press-clipping (SRB02). It is indicative, however, that some MPs were not familiar with other activities of the Service. An impression could have been acquired from the interviews with MPs that there was no sufficient communication between the Assembly services and MPs, that MPs are not familiar enough with their work and the opportunities for citizens to address them. In the time when this research was carried out, two months after the publication of the Report on work of the National Assembly Service in the period from June 11th, 2008 to March 13th, 2012, many of the interviewed MPs were not aware even of its existence, and not to mention its contents.

When asked if the Assembly Service and committees create reports on their work, a MP not only did not know the answer, but even asked what was the purpose of a report if there was a direct broadcast and if every second of the parliamentary work was broadcasted (SRB 01).

2.3. Transparency of the committees

Sittings of the committees are formally public, but – same as in the case of plenary sittings – the agenda of a committee's sitting is known only a day or two in advance. The interpretation of the majority of the interviewed MPs is that publicity pertains to the possibility for journalists to attend the sittings upon invitation, in a part open for public.

Another indicative data is that the majority of the interviewed MPs was not familiar with the procedure for attending the committees' sittings, however they assumed that such information can be found at the website of the National Assembly.

The website of the National Assembly offers only short reports from the committees' sittings, prepared by the Assembly Service. The MPs assessed these reports as incomplete and expressed the attitude that it would be desirable to upload complete reports to the website. In words of one of the opposition MPs: "The nature of these reports is formal and in fact from these reports you will understand that the committees mainly consider the laws and vote on amendments" (SRB 03).

If they require an information or have proposals and initiatives, citizens can address the committees in writing. In the parliamentary convocation of 2008–2012, the largest number of submissions and proposals of the citizens and their associations was received by the Committee on the Judiciary and Government, and the smallest by the Committee on the Reduction of Poverty and the Working Group on the Rights of the Child (see Table 1).

Table 1. The number of submissions and proposals by citizens and their associations addressed to individual committees in the National Assembly convocation 2008–2012[4]

Committee on the Judiciary and Government	915
Committee on Privatization	217
Health and Family Committee	190
Committee on Labour, Veterans' and Social Issues	99
Committee on Agriculture	25
Environmental Protection Committee	19
Committee on Industry	5
Committee on Local Self-Government	4
Committee on Finances	4
Urban Planning and Civil Engineering Committee	3
Committee on Gender Equality	2
Committee on the Reduction of Poverty	1
Working Group on the Rights of the Child	1

2.4. The access of the citizens to the National Assembly

The citizens can get more acquainted with the National Assembly during organized visits. The visits to the National Assembly are organized upon an invitation of the Speaker, i.e. Secretary General of the National Assembly, or upon request of citizens' associations, organizations or other organized groups. The persons in visit to the National Assembly and those allowed to attend the National Assembly sittings monitor the work of the sitting from the gallery. Although in practice it is often emphasized that the citizens as well can attend the sittings from the gallery, that practice has not been in use so far, nor we managed to obtain an information in what way this is possible. The interviewed MPs have neither been acquainted with this possibility.

Under the title the Open Door Day, the National Assembly organizes visits to the buildings used by the National Assembly, every day from 9:00 to 16:00, when the visitors can learn about the history of the National Assembly and its buildings. For individual visits of citizens, the programme "Bringing Institutions and Citizens Closer Together" has been created. The programme includes visits to the National Assembly, the buildings of the President of the Republic, the Government of the Republic of Serbia, and the Assembly of the City of Belgrade. The programme is realized first Saturday of each month, for two groups of 40 visitors each.

[4] Data obtained from answers to the questionnaire sent to the National Assembly Service.

2.5. The website

A large number of information and documents about the structure, composition, work and results of the National Assembly is publicly accessible at the website of the National Assembly (www.parlament.rs). Since its creation in June 2011 with the financial support of the United States Agency for International Development (USAID), the new website of the National Assembly got a modern appearance, visibility and possibility for faster and easier search.

According to the Rules of Procedure of the National Assembly, the following information are published at the website of the National Assembly: draft agendas and adopted agendas of the sittings of the National Assembly and its working bodies, approved minutes of the sittings of the National Assembly and its working bodies, bills and proposals of other acts submitted to the National Assembly, laws and other acts of the National Assembly, amendments to the bills and proposals of other acts, computer printouts of the vote taken in the National Assembly, time and agenda of the Collegium meeting, Information Booklet on the work of the National Assembly, daily information on the work of the National Assembly and its working bodies, report on the work of the committees, other information and documents created as a result of or in the relation to the work of the National Assembly of significance for public information (Article 260).

The General Affairs Sector (the Electronics, Telecommunication and IT Department) and the Public Relations Department are in charge for uploading the material to the website and the maintenance thereof.

2.5.1. Access to information on the sittings of the National Assembly, bills, amendments and the adopted laws

The website contains bills in the procedure, adopted laws, while the practice since the last year is to upload the bill together with the adopted law[5]. The amendments are not available yet, although this was planned after the creation of the website. An obstacle for uploading the amendments is that MPs are not obliged to submit amendments in electronic form, so that many of them are available in hardcopy only. A positive improvement in this sense was made only by the Committee on Administrative Issues which keeps all the materials exclusively in electronic form and practically does not use paper any longer (SRB 04).

A particular progress was made in mid-2012, when stenographic transcripts and printouts on the vote from the sittings of the National Assembly started to be published. The website, however, still does not contain minutes, stenographic transcripts and printouts on the vote from the sittings of the National Assembly held before mid-2012.

[5] The website contains bills of all laws adopted from May 2011 until today.

An important information is that a small number of interviewed MPs was not acquainted with the kinds of information available at the website of the Assembly. When asked if amendments were available at the website of the National Assembly, a MP replied: "I don't know if there are amendments at the Assembly website, but they probably can be required. I assume that you submit a request to the Registry, or talk like this to a MP and he will give it to you through his administration... This hasn't crossed my mind, but in the direct broadcast all amendments are there, all those which were not rejected as incomplete." (SRB 01).

From the perspective of the MPs' responsibility and understanding of importance of transparency, this attitude can be very problematic. Apart from not knowing what information are available at the website, this MP has neither been acquainted with the procedure of obtaining information of public importance, with an impression that a direct TV broadcast is a sufficient mode for informing the citizens.

2.5.2. Agenda of sittings

According to the Rules of Procedure, the National Assembly is obliged to inform the public on the draft agenda, date, time and venue of the sitting of the National Assembly. The National Assembly fulfils this obligation by uploading the information on its website. The sittings are, however, summoned only few days in advance, whereas the agenda is frequently not known until the time of holding the sitting. This practice essentially prevents the interested persons and citizens' associations to get adequately prepared for monitoring the sittings and to request, in case of interest, to attend a sitting or to send their submissions.

2.6. Direct television broadcast

In interviews with MPs, the issue of direct television broadcast of the Assembly sittings took a special place. While a number of MPs praised the television broadcasts as a democratic heritage which makes the parliament entirely transparent, some MPs were extremely critical against it.

Direct television broadcasts were introduced in Serbia on May 28th, 1991. Since then there have been several attempts and requests for their termination. Already in 1992 the Government of Serbia proposed the introduction of special assembly chronicles instead of direct broadcasting. Even with the broadcasts, the public did not always had the opportunity to hear the attitudes of the opposition MPs as, by rule, in the time of their speeches the RTS reporters used to break into the broadcast retelling the hitherto course of the sitting. Direct broadcasts were for the first time terminated in July 1995, by majority decision of the SPS MPs in the Assembly, with an explanation that due to the TV broadcasts the floor was abused. In response to this decision, the opposition MPs decided not to partici-

pate in the parliamentary work until the annulment of the decision on prohibition of broadcasting. Zoran Đinđić then said that the termination of television broadcasting is an "unprecedented violence which has symbolically terminated the opposition in Serbia as well.. as by closing the only window to the public, the opposition parties are left without the last residue of political equality at the position-opposition relation" (according to Grujić, 2009). Direct broadcasts were resumed only in December 1997, to be again terminated in the period March 2003-October 2003. From September 2007 to February 2009, the RTS occasionally terminated the broadcasts for technical reasons, due to broadcasts of sport events which it had the exclusive rights to, etc. In February 2009, a working group was formed for consideration of the manner of TV broadcasts of the parliamentary sittings, composed of representatives of the National Assembly and the RTS management, which agreed that the public service should continue to broadcast parliamentary sittings until October 1st, 2009, when the opening of a special assembly channel was planned[6]. It was planned that the Assembly TV channel broadcasts the sittings of the Assembly committees as well. Until now, however, the special Assembly channel has not been opened, while direct broadcasts of the Assembly sittings are carried out by the RTS Republic public service, on its second channel, according to the annual agreement concluded between the two institutions in July 2011.

In this research, the majority of MPs agreed with the need for introduction of a special Assembly channel. In the same time, MPs emphasized that more important than direct broadcasting would be broadcasts with summaries of the conclusions of plenary and committees' sittings, comparison of attitudes of MPs and parliamentary groups and their critical analyses. General remarks to direct television broadcasting of parliamentary sitting pertain from one hand to the fact that the employed citizens are not able to watch them as parliamentary sittings are held in working hours, so that the monitoring of parliamentary work if in fact enabled only to retired and unemployed persons and the youth, while on the other hand the remarks are addressed to the MPs who focus more on the audience then on the agenda, i.e. who make political speeches in order to impress the voters.

2.7. The role of the media

Statements of the majority of the interviewed MPs show that media bear a part of responsibility for insufficient knowledge of citizens and poor image of the parliament. This is clearly reflected in the statement of one of the respondents: "The work of the parliament, i.e. what is good in that work, have never been affirmatively presented in public. In eight years, I have never heard an affirmative

[6] http://www.b92.net/info/vesti/index.php?yyyy=2009&mm=02&dd=09&nav_category= 11&nav_id=343960

comment about what had been done in the parliament, absolutely everything was black and always the examples of dishonesty and bad behaviour were favoured while the examples of good work and good behaviour were amortized. It is media flirting, through cheap and easily digestible information, flirting with people in an intention to increase the circulation of their newspapers, so that now, when it is about the parliament and MPs, we can learn if somebody hit somebody by a shoe, if somebody got married, who from the parliament etc. (SRB 04).

In words of another MP, the explanation of journalists with whom he was in contact is that they report on intrigues and negative events from the parliament because it is interesting for the citizens, and MPs are particularly interesting as citizens recognize them from television broadcasts of the Assembly sittings (SRB 06). The next respondent emphasized that in past "the best journalistic pieces were reserved for the reports from the Assembly. Today there are many journalists in the Assembly and for some of them that is practically their first meeting and they send their first reports from the Assembly. The question is whether this is good. Serious reporters should be in the Assembly. I even had remarks to the RTS cameramen shooting the Assembly, I say that journalists and MPs and cameramen, all of them must protect the authority of the Assembly, as, after all, they all work here." (SRB 08).

The MPs particularly pointed out that today the majority of the reporters from the Assembly is not even acquainted with the agenda of the sitting, although they spend entire days in the National Assembly.

The question is what is the of role and responsibility of the media. McQuail (2007) selects four specific roles of the media: monitorial, facilitative, collaborative and radical or critical role. For us here, the first two functions are particularly interesting. The monitorial role implies "permanent monitoring of social, direct and broader environment that is relevant for the audience of certain media; finding, procession and publication of objective and reliable news and information; provision of a channel for flow of information and opinions of other actors in the society; pointing to the events and setting the "agenda" of public debate" (McQuail, 2007: 14). The facilitative role pertains to facilitation of democratic action in a broader public sphere of civil society, support to formation of communities and participation of citizens and provision of a communication channel between the citizens and the government. In Serbia, this function is performed by the internet portal "Otvoreni parlament" /*Open Parliament*/ launched in 2011 as a project of several organizations of civil society[7] with an aim to publish transcripts of the Assembly meetings, analyses of laws and amendments, recommendations for im-

[7] CRTA – Center for Research, Transparency and Accountability, National Coalition for Decentralization with the seat in Niš, YUCOM – Lawyers' Committee for Human Rights from Belgrade, SeConS – The Development Initiative Group from Belgrade and Zaječar Initiative from Zaječar.

provement of publicity of parliamentary work and improvement of communication between citizens and their representatives (www.otvoreniparlament.rs).

2.8. The role of MPs in provision of transparency

The National Assembly has several offices for communication of MPs with citizens at the local level. These offices started to open in 2009 with the support of the National Democratic Institute (NDI) with an aim that citizens, in direct communication with MPs, get informed, present their opinions and proposals. According to the website of the National Assembly, so far the offices were opened in Leskovac, Novi Pazar, Belgrade, Valjevo and Zrenjanin. The website of the National Assembly, however, does not provide contact telephone numbers or addresses of these offices, nor it is easy to contact them in any other way. The internet search does not give (or at least not easily) anything more than the information on their existence.

Some MPs emphasized that the best manner of informing citizens is a direct contact with MPs. The website, however, not even provide contact email addresses of MPs, and not to mention the information on parliamentary speeches, submitted amendments etc. Only available information about MPs are those on their political party, place of residence and year of birth. Only about 30 MPs can be contacted through the Assembly website.

More detailed data on MPs are available at the website of the Anti-Corruption Agency, including the data on their incomes from budgetary and other public sources, possession of real estate and movables in the country and abroad, if the officer has deposit or savings bank accounts and the right to use the official apartment (www.acas.rs).

What is particularly worrying is the impression that not all MPs are aware of the importance of public availability of their work. The majority of the interviewed MPs do not have their own website, blog or profile on social networks. The attitude of a MP shows this clearly: “I don’t like social networks, I think that is a kind of showing off and development of an image which is not such and that virtual communication is somewhat odd to me, not because I don’t use internet, I use internet; its better more directly, in person, so to say, we have local community offices in Belgrade too” (SRB 02).

The interviewed MPs pointed out that citizens most often contact them by telephone, personally in their places of residence or directly in the premises or in front of the building of the National Assembly. Only one interviewed MP said that he has his MP office out of the National Assembly. From the interviews with MPs it is concluded that citizens first try to make a direct contact with MPs and only in the end resort to the electronic communication means. Another impression gained is that citizens more frequently address MPs of the ruling coalition then the opposition MPs as they think that the opposition has no possibility of

influence. The questions posed by the citizens primarily pertain to assistance in solving personal problems, particularly assistance in finding a job.

Apart from answering to citizens' questions, only few MPs inform citizens on their attitudes, activities in the National Assembly, proposals, amendments. When a bill is on the agenda, it is not a practice that MPs appear in media, elaborate the bill, their attitudes, amendments or reasons for voting in favour or against the bill. MPs neither inform the public if and in what manner they exercise the monitoring and control over the work of the Government, which results they gained, if they got their parliamentary questions answered, and the like. As a reason for this, MPs most often pointed out the lack of time for these activities.

3. Conclusion

As a conclusion we can point out that the National Assembly made significant steps in its opening to the public. On one hand, the legal framework requires high transparency of this institution. On the other hand, the website of the National Assembly, the parliamentary Information Booklet, transparency of the Service and openness to the media can be highly evaluated. What is still missing is the transparency of the working bodies of the National Assembly and timely scheduling of sittings and informing the public on the topics that shall be on the agenda. The biggest shortcoming certainly is the insufficient interaction of MPs and citizens. It is of key importance that MPs become more open towards the citizens and aware that it is the citizens to whom they are primarily accountable.

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TRANSPARENCY OF WORK OF THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA

1. Transparency as a public corrective of the parliamentary work?

Transparency is usually defined as an approach enabling the public to acquire information on the structure and operations of the given "entity". It is often perceived as a synonym for openness and reveal, although subtle differences can be found among these concepts. In the public discourse, transparency is observed as a public good similar to the rights to public speech and privacy (Etzioni, 2010: 389). Transparency of work of the government is today connected with types of political systems. Are democratic systems more transparent than others? In many opinions, the existence of elections is not sufficient for a certain political system to be defined as democratic, but the transparency must be included in the definition of the type of political system. Also, at the theoretical realm, there are connections between the type of regime and the will of policy creators to make available the variables important for creation of policies in a credible manner. At the empirical realm, that relation between visibility (i.e. absence) of relevant data for creation of policies is connected with the type of regime, i.e. with the definition of political system (Hollyer, Rosendorff and Vreeland, 2011: 1191–1205). The development of new communication technologies and their broad use and the actual influence of the public to the government create new forms and means of governance, which further influence the increase of level of transparency (Pollo, 2012: 35–40). However, some authors think that transparency has been overvalued as an instrument and that a sociological analysis of transparency shows that it cannot fulfil the tasks assigned thereto, although it can play a limited role which it should have to. (Etzioni, 2010: 389–404). On the practical realm, transparency of work of an authority means its relations with media, non-governmental organizations and interested citizens, and the manners and possibilities for access to information held by that authority, either through media or through some other forms of modern communication channels.

The aim of this paper is to present the level of transparency of work of the state parliament through an analysis of its normative framework, perception of

civil society sector through their analyses and reports on the work of the parliament, analysis of 4 interviews with members of the Parliamentary Assembly and 3 interviews with representatives of international organizations in BiH, plus the website as a medium through which the interested persons can obtain information on the parliament. In addition, transparency is manifested through the possibilities for access to information on the work of the parliament as an institution (which is usually carried out through supporting services), and through the openness of the MPs towards citizens, associations and media.

2. Legal standardization of the institution of transparency in the positive law of Bosnia and Herzegovina

The Freedom of Access to Information Act for Bosnia and Herzegovina was adopted in autumn 2000.[1] This Act establishes information under the control of a public authority as a *public resource* the access to which (Article 1):

a) Promotes greater transparency and accountability of the authorities;
b) Enables democratic processes in a society.

This Act establishes as the principle the right of every person to access an information, and the obligation of public authority to disclose that information to the interested person (Article 1, Item b). In the spirit of this Act, information is understood as *any material which communicates facts, opinions, data or any other content, including any copy or portion thereof, regardless of form, characteristics, when it was created and how it is classified* (Article 3, Item 1). A public authority holding the information under its control in this Act means: *executive, legislative, administrative and judicial authority; a legal person carrying out a public function, and a legal person either owned or controlled by a public authority* (Article 3, Item 2).

A request for access to information is submitted to an authority the requester believes is the competent authority. The request for access to information should be in writing, in the language and script in the official use in Bosnia and Herzegovina; it should provide sufficient details as to the nature and/or contents of the information sought so as to enable the public authority to exercising effort to locate the requested information. At the end, the request should contain the name and surname and the address of the requester (Article 11). Where the competent authority grants access to the information, the requester is notified on the

[1] The Presidency of Bosnia and Herzegovina. "Freedom of Access to Information Act for Bosnia and Herzegovina." Last time visited on September 10, 2012. http://www.predsjednistvobih.ba/o-bih/pdf/zakon_bs.pdf. "Act on Amendments and Supplements to the Freedom of Access to Information Act of Bosnia and Herzegovina". Last time visited on: September 10, 2012. http://www.predsjednistvobih.ba/o-bih/pdf/zakon_bs.pdf.

possibility of access in person to the information in the premises of the public authority, i.e. on the possibility of duplication, and on the costs of duplicating the information, i.e. the duplication of the requested information is enclosed. If the request is denied, the requester shall be notified on the reasons for denial, legal grounds, public interest, and instructed on the right to appeal and the relevant deadlines (Art. 14).

Each public authority is obliged to assist any natural or legal person in the procedure of requesting an information, and it is obliged to appoint an Information Officer for processing the requests for access to information (Articles 18 and 19). Besides, public authority gives a guide to each person requesting an information, on the actions that should be taken in order to acquire the information, a sample request, information on categories of exemptions, data on legal remedies, deadlines and the like. The guide should also refer to index, registry of the kinds of information under the control of the public authority, form in which the information are available as well as the data on where the information can be accessed (Article 20).

3. Standardization of the institution of transparency in the Rules of Procedure of the houses of the Parliamentary Assembly of Bosnia and Herzegovina

The Rules of Procedure of both houses of the Parliamentary Assembly of Bosnia and Herzegovina regulate the issue of publicity of work, i.e. the possibility for access the information on the work of the houses. In that sense, the Rules of Procedure of the House of Representatives of the BiH Parliamentary Assembly[2] devoted a special chapter to the publicity of work (Chapter IV, Section H). The House of Representatives works publicly and it informs the public on its work objectively and in full. Also, in accordance with the Freedom of Access to Information Act, it shall enable every interested person the access to information held with this house. The complete minutes of discussions from the sittings of the house, as well as the most significant activities related to the work of the house and its committees are available to the public in electronic form, or in hardcopy if possible (Article 90, Para 2). Exemptions from the above stated rule are the cases in which the disclosure of the data would influence the issues of foreign policy, defence and security, interests of monetary policy, prevention and detection of crime, as well as other cases stipulated by the Rules of Procedure and the Freedom of Access to Information Act (Article 90, Para 3). Propos-

[2] The Parliamentary Assembly of Bosnia and Herzegovina. "Rules of Procedure of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina". Last time visited on September 17, 2012. Available at: https://www.parlament.ba/sadrzaj/about/ustav/docs/default.aspx?id=32309&langTag=bs-BA&pril=b

als and acts adopted in the House can (but not need to) be published in press and public information media (Article 91). Citizens and media representatives have ensured access to the sittings of the house in a specially reserved space. Besides, the committees' sittings are open for public, unless otherwise decided by the committee (Article 92). Minutes from the sittings of the House are published in full (Article 87). The sittings of the House are audio recorded, whereas additional notes can also be made for the purpose of creating a final transcript of the sitting. The Rules of Procedure also regulates the manner of electronic voting (as a more transparent manner of voting than the one by raising the voting card or by call). The House uses the electronic voting system which registers and presents the total number of votes *in favour*, the number of votes *against* and the number of *abstained* votes (Article 82). The screen presents the vote of each representative in green (*in favour*), red (*against*) and white colour (*abstained*), with the grey colour for the vacant seats of the representatives not attending the sitting. The electronic voting system registers if there is a quorum and if the majority, if it exists, includes at least one third of the votes from the territory of each of the entities. Upon voting, the results are displayed on the screen (Article 82, Para 1). In an event of voting on amendments to the BiH Constitution, confirmation of appointment of the Chair of the BiH Council of Ministers or when required by one third of the representatives in the House, the electronic voting system registers also the manner in which each of the representatives voted and this information is made public. It is also necessary to mention that the electronic system enables secret voting, with prior approval of the house (Article 82, Para 3). The Rules of Procedure of the House of Peoples of the Parliamentary Assembly[3] in almost an identical manner regulates the issue of publicity of the work of this house, availability of information in relation to its work (Chapter IV, Section H), and electronic voting (Article 76) which started to be used only since 2011 and thus contributed the increase of transparency of the work of the House of Peoples.

4. Presentation of the work of the Parliamentary Assembly of Bosnia and Herzegovina

While the media are more focused on certain issues, the best medium for the presentation of work of the National Assembly proved to be its website (www.parlament.ba), which, according to the assessment not only of the MPs, but also of international organizations, is one of the best in the region. The web-

[3] Parliamentary Assembly of Bosnia and Herzegovina. "Rules of Procedure of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina". Last time visited on September 22, 2012. Available at: https://www.parlament.ba/sadrzaj/about/ustav/docs/default.aspx?id=18782&langTag=bs-BA&pril=b

site contains data on the parliament, the House of Representatives, the House of Peoples, joint bodies, sittings, Secretariat and international activities, in Bosnian, Croatian, Serbian and English language; in Latin and Cyrillic script. Besides, the website offers the bills undergoing the procedure, the adopted laws, rejected, withdrawn, suspended and held bills, as well as a review of the legislative procedure. In addition to the laws, here one can find annual reports, resolutions, strategies and declarations. The website offers the option for registration to a *newsletter* with information on news, legislative procedure and calls for applications, and RSS which publishes, in chronological order of the events, the news from the parliament and the calendar of its activities. In addition to these sources, the Secretariat publishes a bulletin on the most important news in the parliament. The website also provides audio and video live stream of the plenary sittings, and only audio record after their end, reports from the sittings of the committees, report on voting at the plenary sittings etc. The website publishes the calendar of activities, the agenda of the forthcoming sitting of a house, the legal framework for access the information, form, guide and the Press corner, intended for the media who would like to monitor the work of the state parliament. The website also enables a virtual visit to the parliament, and informs on the manner in which visits can be organized. The website contains data on members and delegates, their constituencies, e-mail addresses, party affiliation and other information.

5. Monitoring of the work of the National Assembly by the civil sector – the Centre for Civil Initiatives

The Centre for Civil Initiatives is a non-governmental organization which, so far, is the only one that monitors in a thorough and empirical manner the work of the state, entity and cantonal legislative authorities and governments in Bosnia and Herzegovina, and hence of the state parliament, and submits annual and convocation reports on their work, with a particular accent on monitoring the institutional and individual accountability of the MPs in the parliaments and the ministers in the governments. This chapter shall offer an analysis of reports, in a part pertaining to the transparency of work of the Parliamentary Assembly of Bosnia and Herzegovina. The review of the periodical report in this part of the paper shall enable an insight to the course of development of the transparency of the Parliamentary Assembly (true, from the period when the periodical reports on work of this legislative authority started, and not for the period from the year 2000 which is a referential period for this paper).

5.1. Convocation report of the Parliamentary Assembly for the period November 1st, 2006 to September 1st, 2010

According to the convocation report for the period from 2006 to 2010, this period was one of the positive segments in the work of the highest legislative authority, which resulted in good cooperation with media, non-governmental organizations and interested citizens, and permanent upgrading of the parliament's website.[4] Same, the BiH Parliament is opened for interested institutions and citizens who expressed their desire to get acquainted with its work, as well as for the citizens, i.e. representatives of non-governmental organizations, who wish to actively follow the plenary sittings of the PABiH[5].

According to this report, during its term of office the PABiH launched a so-called *Open Room*, used by the reporters from the BiH Parliamentary Assembly, as it meets the technical requirements for work and quality information of the public on all segments of work of this legislative authority. The mentioned room is equipped with a 6 computers with permanent internet connection, it has about 20 seats and it fulfils all necessary technical requirements for *ad hoc* addressing to public by the members or the delegates of the PABiH.[6]

Nevertheless, there is still a problem of the lack of the electronic voting system in the House of Peoples of the PABiH; however, it should be mentioned in the White Hall of the PABiH was improved and upgraded during the year 2008, which enabled the members/delegates of both houses of the PABiH, as well as media representatives and other guests at the plenary sittings, for a quality monitoring of the number of members who applied for discussion and responses, the length of discussion, as well as the duration of responding thereto, procedural interventions, and, very important, a quality monitoring of individual voting of members of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, in difference from the House of Peoples of the Parliamentary Assembly which still has no technical capacities for monitoring the individual voting of the delegates of that House.[7]

The regular audio recording of *plenary* sittings still functions successfully in both houses of the PABiH, and the audio records of all sittings are uploaded at the website of this legislative authority, enabling the interested citizens to obtain the information on work of members and delegates in a fast and simple manner. Besides, the sittings, can be monitored at the internet (with an exception that

[4] Centre for Civil Initiatives. "Convocation Report on Monitoring of the Work of the Parliamentary Assembly of BiH for the Period from November 1, 2006 to September 1, 2010". Last time visited on August 8, 2012. http://www.cci.ba/, 26.

[5] Ibid.

[6] Ibid., 27.

[7] Ibid.

voting in the House of Peoples cannot be followed due to the lack of electronic voting).[8]

The year 2009 saw the ceremonial opening of the *Visitors Centre*, with the financial assistance of the United States Agency for International Development – the state-of-the-art centre which enabled more than 50 visitors to attend presentations of the work of the BiH National Assembly and thus gather interesting and useful information on the working processes carried out within the legislative authority.[9] Also worth mentioning is the implementation of the *Open Parliament* project (originally supported by the OSCE), through which from May 25th, 2005 to the end of 2009 the Parliamentary Assembly of Bosnia and Herzegovina was visited by more than 5,200 young people from entire Bosnia and Herzegovina and 29 from other states, through 57 *Open Parliament* TV debates.[10]

It should be noted that the direct broadcast system of plenary sittings of the both houses of PABiH is still not in function, which makes the legislative authority of Bosnia and Herzegovina the only one in the region which sittings are not directly broadcasted by public TV service (with an exemption of broadcasts of plenary sittings of both houses when the agenda contained particularly interesting topics, or when the Parliament hosted some of the high EU or US officials).

5.2. Annual Report on Monitoring of the Work of the BiH Parliamentary Assembly for the period from January 1st, 2011 to December 31st, 2011

The last annual report of the Centre of Civil Initiatives for the year 2011 states that the transparency of the work of the BiH Parliamentary Assembly is among the positive aspects of this legislative authority which continued during the year 2011.[11]

The new and more comprehensive website provides for better information on the work of the PABiH, and facilitates the access to information which are otherwise hard to be reached to the citizens, media and non-governmental organizations.[12]

The data from the plenary sittings of the PABiH are indeed promptly uploaded to the Assembly website (www.parlament.ba), particularly the first reports from the held sittings and the results of individual voting of members/delegates

[8] Ibid.

[9] Ibid.

[10] Ibid., 28.

[11] Centre for Civil Initiatives. "Annual Report on Monitoring of the Work of the BiH Parliamentary Assembly for the Period from January 1, 2011 to December 31, 2011". Last time visited on August 8, 2012. http://www.cci.ba/, 46.

[12] Ibid., 47.

of the PABiH, information from the held sittings, minutes, audio records, parliamentary questions, stenographic transcripts of the sittings, and addressing of the guests to the BiH Parliamentary Assembly.[13]

Within the framework of the *Open Parliament* programme, which has been realized since 2005, totally 10,188 guests visited the building of the BiH Parliament where they could get acquainted with the manner of work of this legislative authority and pose questions to its members and delegates. The total number of visitors in 2011 exceeded 3,000. Such enhanced interest in the work of the parliament is a result of the work of the Secretariat of the BiH Parliament[14] which placed the transparency of work of this legislative authority among its strategic goals.[15]

The BiH Parliament has been visited by students, high school and elementary school pupils, and representatives of non-governmental organizations from BiH, the USA, Germany, Croatia, Netherlands, Denmark, Scotland, Norway, Italy, Austria and Slovenia. The programmes of visits to the BiH Parliament have also been organized for the children from kindergartens, children with special needs, as well as the visit programme for the representatives of national minorities in BiH.[16]

In 2011, the electronic voting system has finally been implemented in the House of Peoples of BiH, enabling an insight into the manner of voting of delegates on bills, reports, declarations, resolutions, appointments, treaties, decisions etc. to the present citizens, media and representatives of non-governmental organizations.[17]

The conclusion of the House of Representatives on direct broadcast of the plenary sittings of both houses of the BiH Parliament, which would increase the transparency of work of this legislative authority, has not yet been implemented.[18]

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[13] Ibid.

[14] In fact, one of the tasks assigned to the Secretariat of the BiH Parliamentary Assembly are public relations and information of public on the work of the Parliamentary Assembly, as well as publication of complete transcripts of work of both houses. More on: Parliamentary Assembly. Last time visited on September 22, 2012. Available at: https://www.parlament.ba/sekretarijat/default.aspx?id=19207&langTag=bs-BA&pril=b

[15] Ibid.

[16] Ibid., 48.

[17] Ibid., 47.

[18] Ibid.

6. Analyses of responses of the MPs and representatives of international organizations in BiH concerning the transparency of work of the state parliament

According to the data obtained through an interview with a member of the House of Representatives of the Parliamentary Assembly (BIH04) it can be seen that the citizens are not sufficiently informed on the work of the BiH Parliamentary Assembly, but that there is a possibility for them to get informed through the Public Relations Sector, statements of the PABiH MPs, media, Visitors' Centre, through organization of panel discussions and public debates on important issues. Generally, there is a negative public image about the work of the PABiH. Documents are made available to the citizens, either published on the parliament's website or printed, or available inside the parliament on the basis of the Freedom of Access to Information Act. According to the statements of this representative, there is a general interest of citizens in the work of the state parliament, however that interest is more directed towards the entity parliaments dealing with the issues of everyday life. Also, more should be done on the transparency of the work of legislative authorities at all levels. The public perceives a high level of distrust among the MPs; however, the actual readiness for reaching a constructive solution and exit from the conflict is more present than it is visible in the media. The MPs attempt to express a strong line in public, which creates an assurance that they do not communicate. That openness to a compromise depends also on the issues being discussed, so it is lower when it is about more sensitive issues, such are war crimes, BiH Court, BiH Constitutional Court etc. This member in his interview confirmed the fact that the sittings of the house are not broadcasted directly, but that the clips are published at the parliamentary website. In his opinion, the broadcast would not contribute higher confidence of citizens in the PABiH, having in mind the manner of conducting the debates. The citizens can get acquainted with the work of the parliamentary committees through the website, statements, statements of parties' representatives in the committees, and in a direct manner – at the sittings of the committees which they sometimes can attend. Same, the citizens can get acquainted with the manner of voting of each representative as there is a voting registry. A negative attitude of the public regarding the transparency of spending the public money is very frequent, as there is an opinion that this money is being spent in an irrational manner. According to the Member, there is no general attitude that everybody is the same and *greedy*, but this should be demystified, and it is necessary to introduce the procedures which would assure the citizens in justification of expenses.

From the data obtained from a lady member in the House of Representatives (BiH01) it can be concluded that she is very satisfied with the web presentation of the Parliamentary Assembly which uploads the data hour by hour, and she thinks that *all this is absolutely always updated and well presented*, but nevertheless

thinking that citizens are not well informed on the work of the parliament because the majority still does not use the internet, and that media are sensationalist and yellow, because of which the dissemination of good news from the parliament is not possible. The member also praised the work of the Information Service and the fact that they obtain press clippings from five or six sources on a daily base, so that if somebody is not satisfied with information or have certain remarks or requests and the like, they can be addressed through the Information Service. Besides, although there is a conclusion on broadcast of plenary sittings of the Parliamentary Assembly, according to this member, only the sittings interesting for public are broadcasted, like the sittings which decided on budget, inauguration or dismissal of ministers. Journalists are, regardless the cameras, present at every sitting. This lady thinks that it is very important that the citizens are acquainted with the work of the parliamentary committees. The citizens usually contact members individually, either through the mailing lists of the Parliamentary Assembly or to their individual e-mail addresses. At the individual level, there is an excellent cooperation with the non-governmental sector. The voting results are also available as there is a printout and the video cameras mounted in the halls for recording the voting results. In her opinion, the image of the parliamentary assembly is very poor and there is a dedicated work on devastation of the importance of the institutions. The transparency of the Parliamentary Assembly depends on the level of transparency being requested from the parliament. Each of the members at least once a week meets a group of citizens (students, pupils, seminar attendants or groups from certain parts of BiH), talk to them and exchange information, respond to questions and the like.

According to the data obtained through an interview with the a member of the House of Representatives (BiH05), similar to the responses of the previous two members, the best source of information is the Parliamentary Assembly website. The member also stated that the information obtained by the citizens are often *filtered.* He thinks that citizens are not well informed on the parliamentary work and that the Information Service is not active enough in rendering information to the citizens and other interested persons. There is no direct broadcasting of the sittings, except in extraordinary cases, so that these responds match the claims of the other two members. Besides, in opinion of this member, the citizens are not sufficiently acquainted with the work of the parliamentary committees, which should be very important. Citizens make contacts most often through e-mail, with various questions and problems, and most often there are non-governmental organizations with various initiatives. Citizens have opportunity for an insight in voting of each representative as a registry is being kept. The image of the Parliamentary Assembly in public is very bad.

The lady member BiH03 did not respond to the questions on transparency of parliamentary work in her interview, whereas the member BiH02 responded to the questions on transparency identically as the member BiH04.

According to the data obtained through an interview with the representative of the European Police Mission to Bosnia and Herzegovina (EUPM) (BiH06), in theory, the work of the parliament can be easily followed at the level of parliamentary sittings, however it lacks the information on the work of the committees. The dominating reports in the media cover the *big* political issues, agreed outside the parliament, whereas the actual legislative procedure remains hidden. Information are available through the website, although it seldom contains draft documents – for example, *it was not possible to find a preliminary draft of the budget*. The perception of the state parliament in public is bad. *The public perceives the MPs as passive marionettes of their political parties and leaders*. *Since parliamentary activity is law, the transparency is not a real problem, but rather it is the functionality.*

Through the interviews with representatives of the OSCE, the organization which supported the parliamentary development projects (BiH07), it can be concluded that in respect to the electronic access to the data, the Parliamentary Assembly has one of the most developed websites in the region, offering information available in BCS and English language, and also adjusted to visually impaired persons. Information are also available through the Freedom of Access to Information Act, and the request form can be downloaded from the website. Citizens can obtain the information on the work of the parliament through media reports, as journalists often report on the work of the parliament. In that sense, it can be said that there is an established manner of informing citizens. The *Open Parliament* project had since 2005 been implemented with the support of the OSCE, and since July 2009 independently by the parliament, and within its framework the citizens, associations and particularly young people can request to visit the parliament. The request for visit can be downloaded from the website, and the guided visit includes presentation of the structure of the parliament, its functioning, competences and work in general, and the discussion with MPs. The work of the parliament is particularly promoted through a special TV broadcast at BHT. In opinion of the interviewed representatives of the OSCE, citizens are well informed on the work of the parliament, although, however, there are to main issues influencing the perception of transparency of the parliament: a) the low level of interest of citizens in the work of the state parliament, as the largest portion of the legislative procedure of interest for citizens is carried out in the parliaments at lower levels; b) negative publicity of the parliament, channelled through the media which focus their attention to the issues of salaries and remunerations, and not to the quality of legislative debate and other important issues. Apart from publishing all parliamentary enactments at the website, the Information Service has a proactive role in informing the public through weekly newsletter which briefly describes past and future events and is distributed to over 1000 e–mail addresses. Same, this Service regularly reports on all parliamentary committees, plenary sittings and all other important events. Depending on the agenda, plenary

sittings are directly broadcasted. The BiH parliament offers a live video stream of plenary sittings and public debates through its website. After the sitting, the records of the sitting are available in audio version. The fact on the electronic registration of voting has been confirmed. The Parliamentary Assembly publishes a monthly bulletin available in electronic form at the parliament's website. Also, the parliament publishes relevant publications on its work and the work of committees. Presently, with the support of the OSCE, the parliament works on the brochure entitled "Who is Who?" covering the 2010–2014 convocation, in BHS and English language. Nevertheless, in any case, the MPs could do more in improving communication with electoral body. The Parliamentary Assembly was the first in the region to develop and adopt the *Communication Strategy*. One of important parts of this strategy is the promotion of positive achievements of the parliament and strengthening of its positive role in public. The current image of the parliament in public is solid, however it remains to be worked on its improvement. The Secretariat of the Parliamentary Assembly is very close to achieving the majority of standards of parliamentary transparency.

The data from an interview with the lady-representative of the Konrad Adenauer Foundation in BiH (BiH08) in respect to the transparency of the state parliament do not differ from other international organizations in Bosnia and Herzegovina, with an addition that although there is a good website with a live video stream, citizens are not sufficiently informed on the work of the parliament. Also, although the parliament doesn't have a spokesperson, she deems it unnecessary as the parliament has collegiums as well as politicians within them who are publicly visible. Citizens do not show an excessive interest in the work of the parliament, while the situation with the non-governmental sector is opposite, as it is entirely devoted to the monitoring of the parliamentary work. Similar to other political institutions in BiH, the state parliament has a poor image in public.

6. Conclusion

Without entering into theoretical debates on functionality of mechanisms of transparency as a manner of insight into the work of state authorities, represented in theory and practice of governance, this part of the paper shall give a review of the instrument of transparency of the work of the state parliament.

Observed from the normative point of view, through the Freedom of Access to Information Act and the Rules of Procedure of both houses of the state parliament, the field of free access to information is well regulated. A relatively good normative framework but a weak implementation is an often illness of the societies in transition, so it can be expected that such is the case also in the example of Bosnia and Herzegovina. Observed through statements given by the MPs and the representatives of international organizations, reports of non-governmental sec-

tor and individual research, it can be concluded that from 2000 until today (2012) a lot has been done about the access to information on the work of the state parliament. To that end, it is necessary to emphasize the existence of a good website of the state parliament (www.parlament.ba), with available information on the work of the state parliament; possibilities to follow the sittings via internet; the work of the Secretariat of the parliament as an administrative authority in charge for rendering information on work; the implementation of the *Open Parliament* projects, and the existence of special premises for media which from the technical aspect meet all requirements for timely reporting; the introduced system of electronic voting in both houses of the state parliament, enabling the insight to individual voting of members and delegates, and a possibility for attending plenary sittings of the state parliament and committees (when possible); possibilities for impaired vision persons to follow the work of the parliament through the website; the fact that the state parliament is the only one in the region to have adopted the *Communication Strategy*, and the like. At a negative side, there is a fact that the sittings of both houses are not broadcasted in media, although there is a conclusion of the House of Representatives on the need for public services to broadcast the sittings. Also, there is still a negative public image of the Parliamentary Assembly, which is attributed to often sensationalist reporting by the media. Keeping in mind all the facts obtained through the research and observing the parameters which must be fulfilled, the state parliament can be positively assessed from the aspect of transparency and availability of information. Finally, on the grounds of the available data, it can be concluded that there is no sufficient communication of MPs themselves with the electoral body; it depends on the will of MPs if they will respond to the inquiries of citizens and non-governmental sector, which was particularly obvious in this research when the MPs did not reply on inquiries for holding an interview through official channels, but only through personal and direct contacts. That is, the very conducting of the interviews depended on personal acquaintances of researchers with MPs.

7. Literature

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TRANSPARENCY OF THE PARLIAMENT OF MONTENEGRO

Introduction

History proved that already the first rulers attempted to rule the citizens by using different communication means. Understanding the importance of the communication, Gaius Julius Caesar established the first wallpaper *Acta Senatus* with an aim to inform the public on the work and the decisions of the Senate. The need for informing the citizens and for control of work of political institutions has only increased during the course of the time. Thus in mid-17th century the first political weeklies appeared in England, not only reporting on the work of the parliament, but also criticizing the parliamentary debates. More precisely, since November 1641, reports on the parliamentary debates have been published and, depending on the topic of the debate, entitled *Diurnal Occurrences*, *A Perfect Diurnal of the Passages in Parliament*. The Diurnals in fact published unofficial information obtained from the MPs. The innovation was that in the weeklies one could read the interparty debates of the parliamentary houses (Gocini, 2001:51). John Birkenhead went a step further and established the *Mercurius Aulicus* weekly, for attacks against the leaders of the parliamentary movement. In a desire to fight with political opponents, he sometimes even used slanders. Later on, political journals started to be established, primarily for the fight against the power and for the freedom of press.

With the technological development, politicians got a mighty ally in realization of their goals – radio, television, and then the internet. Americans were constantly experimenting when it is about the political communication. Thus Franklin Roosevelt was the first American president who used the radio for a self-promotion. In early 1933, a week after entering into duty, he introduced the "discussions by the fireplace" broadcast, where in a very simple manner he spoke about his political programme and the problems that should be solved. Voters were gaining an impression that the President was consulting them, while Roosevelt in this manner requested the people's approval for his political decisions (Федотова, 2004:116).

The time brought new manners of communication with citizens, we well as new sources of political informing. When in 1945 Franklin Roosevelt died, the citizens learnt of his death from the radio, which in that time was the main source of information. When in 1957 the President Dwight Eisenhower suffered a brain insult, the primary source of information was the television (Yardi, Danah, 2010:317) .

In the 21st century, in developed countries, political communication is realized through the internet. Today people use social networks for disseminating information. Yardi Sarita and Boyd Danah emphasize that social networks not only serve the informing people, but also enable their association on the basis of common values and interests.

There is no doubt that the television, in spite of the emergence of new media, still remains the dominant source of political information. However, some research envisage that the television shall in future lose the battle with the internet. This, of course, will not happen in a near future, having in mind that out of seven billion people at the planet only two billions use digital media.

American politicians immediately used the advantages of the new media and transferred the political communication to the internet. Thus Stanley Woody and Weare Christopher write that with the development of the new media in America, federal, state and local authorities shifted the political communication to the internet. All governmental authorities launched their websites, considering that in that manner the government shall become more efficient, accountable and that in the same time the interest of citizens for political events shall be increased (Woody, Weare, 2004:504). However, the aim of web presentation is not only to inform, but to establish a two-way communication. During the presidential campaign of 2004, American politicians also began an experiment with blogs as a new means of political communication. Thus the Democratic nominee Howard Dean entered the history as the first American politician raising funds for his campaign through a blog. The actual US President Barack Obama also used the internet for financing his electoral campaign.

Media has a key role in informing citizens and exactly for that reason every company, and particularly politicians and state authorities, take a lot of care about the image and the manner of launching an information to public. The Public Relations Departments and the PR officers became an integral and necessary part of the structure of various institutions. However, PR managers often gain a bad reputation, as they consciously introduce the society into a fallacy.

Today's politicians use blogs, websites and social networks in an aim for establishing a closer relation with citizens. A research of the Pew Internet and American Life Project, carried out in 2008, showed that the percentage of voters using the internet as the basic source of political information during the presidential electoral campaign increased by 23% in comparison to the year 2004. The research found out that although the internet is dominated by an information taken from the global media, the citizens nevertheless opt for a political infor-

mation through blogs, government's websites, political candidates' websites. In Britain, Tom Watson, Minister for Transformation of the Government stated that "the challenge for the elected representatives is to follow their voters in this new world" (Gurevitch, Coleman, Blumler,2009:167). One of the advantages of the internet is the possibility for attracting new young voters who are not interested in politics. Quintelier Ellen and Vissers Sara, referring to the cyber optimists, claim that the internet is a tool for stimulation of political participation. (This is contributed by the Facebook protests in Arab countries).

And while Western politicians for long use the advantages of new technologies, in Montenegro, due to a relatively small number of internet users, politicians still favour the traditional means of communication, and communicate with the citizens through personal contacts. The interested persons can address the parliament, parliamentary club or directly an MP. The largest number of Montenegrin politicians have their Facebook profiles, but the psychologist and communication expert Radoje Cerović thinks that social networks are still not used in a right manner (www.vijesti.me). Tench Ralph and Yeomans Liz emphasize that: "Successful democratic government maintains an active communication with its citizens, based on mutual understanding and two-way communication. Democracy requires an open government and a freedom of information, which opens large possibilities, in the same time creating certain problems to the persons dealing with public relations" (Tench, Yeomans, 2009:102).

The Prime Minister Igor Lukšić is one of "modern" politicians who tried to inform citizens on his every step through the Facebook[1], which caused mocking and sarcastic comments by the opposition and some people. Thus, during the protest of dissatisfied workers because of the economic situation in the country, the President of the Main Board of the Free Trade Unions Federation of Montenegro Janko Vučinić criticized the Prime Minister for his Facebook status that he understands the protest and dissatisfaction of public. "Let people see what our "Facebook Prime Minister" has to tell them. While people are on the streets, he is on the Facebook, so that this speaks enough for itself." (www.dan.co.me).

Legal regulation and communication means of the Parliament

Article 51 of the Constitution of Montenegro stipulates that everyone has the right to free access to information held by public authorities.

The transparency of the parliament is also envisaged by the Rules of Procedure of the Parliament of Montenegro.

The Montenegrin Parliament is a good example of successful cooperation and communication with media, non-governmental sector and citizens. The par-

[1] Having in mind that in Montenegro more than 300,000 citizens have Facebook profile, this step is entirely logical.

liament uses various communication means for informing the public. It has an excellent website which is regularly updated and which has all the data available.[2] Calendar of the parliamentary activities, CVs of MPs with their fixed telephone numbers, minutes from the sittings, authorized phonographic records of the sittings of ordinary and extraordinary sessions are only some of the information available at the website. The website as well hosts all laws adopted since 2010. Moreover, not only texts of the laws are available, but also the printouts of voting.

The Parliament does not have a spokesperson, but this function is successfully performed by the Secretary General Damir Davidović. Besides the Secretary, within the Parliament there is a Department for Public Relations, International Affairs and Protocol, with a task to inform the public on the work of the Parliament, its Speaker, Deputy Speaker, MPs and different working bodies. This service is also in charge of organizing press conferences, publication of informative and educational bulletins, etc.

The transparency of the Parliament is regulated by a set of documents. The work of the PR service is regulated by the Rules of Procedure of the Parliament, i.e. Articles 211, 212, 213, 214, 215, 216, 217.

Article 211 guarantees the publicity of the work of the Parliament and its committees. Only in cases when considering an act or material designated as a "state secret", or upon proposal of the Government, i.e. ten MPs, the sitting of the Parliament (or a part thereof) can be closed for public.

Article 212 prescribes the publication of data and information on the work of the Parliament at the Parliament's website.

Article 213 obliges the Parliament to inform the public on its work, by publications in the media or by printing in separate publications, the proposals of the acts discussed, together with the adopted decisions.

Articles 214, 215 and 216 define the obligations of the Parliament towards journalists reporting about the work of this political institution. Above else, the Parliament is obliged to provide the journalists all conditions for work.

Article 214 allows the TV stations and other electronic media a direct broadcasting of the sittings of the Parliament and its committees.

Article 215 prescribes that only the journalist accredited by competent authorities can report on the work of the Parliament and its committees.

Article 216 enables journalists for an access to the materials considered at the sittings of the Parliament and its committees. Exception are the materials classified as the state secret.

Article 217 commits the Parliament to inform the public on its work, by an official statement or through a press conference. The press conference can be held by a parliamentary club or an MP, while "the wording for official statements for

[2] Website of the Parliament: www.skupstina.me

the Parliament or Committee shall be drawn up by relevant service of the Parliament, and approved by the President of the Parliament or the Chair of the Committee or authorised person". (www.skupstina.me).

Article 126 of the same Rules of Procedure allows journalists to use audio records, unless they pertain to the state secret or confidential documents. In case of using the audio records, the journalists are obliged to indicate, when quoting, whether the presentation has been authorized.

The office of the Secretary General of the Parliament takes care for the full implementation of the Law on Free Access to Information which was adopted in 2005. Nevertheless, the media in Montenegro often claim that journalists cannot reach the information, as numerous institutions do not observe this Law. However, this is not the case with the Montenegrin Parliament.

For acquaintance with the procedure of access to information, the parliament's website hosts the Guide for Free Access to Information. The Department for Public Relations, International Affairs and Protocol strictly observes the Law on Free Access to Information, i.e. its Articles 11, 12 and 13. The mentioned articles explain the process of submission a request in details.

Article 11 stipulates the submission of a request to the competent governmental authority in writing, directly, by mail or e-mail.

Article 12 stipulates that within the request the person should specify the information required, the form in which it is required, and to present basic personal data (name, surname, place of residence, name of the company and its seat).

Article 13 defines the manner of obtaining information. That is, the governmental authorities are obliged to enable the requester the access to information by direct insight or by transcribing the information or its photocopying and translation by the authorities. Public authorities are obliged to deliver the translated, photocopied information by e-mail or mail. The same article enables the access to an information which is partly restricted. After deleting the restricted part, a separate note should indicate the volume of deletion. (www.skupstina.me).

However, Article 9 of the Law on Free Access to Information prescribed that the public authority can under certain circumstances restrict the access to information. That is, the government is not obliged to render the information pertaining to national and public security, commercial and other economic private and public interests, economic, monetary and foreign exchange policy of the state, investigation of and proceedings upon criminal matters, privacy and other personal rights of individuals,[3] procedure of procession and enactment of official acts.

According to the data obtained from the Department for Public Relations, International Affairs and Protocol, so far no regular request of media or individuals have been rejected. Exception are the cases when the Parliament was not

[3] Except for the purpose of court or administrative procedures.

competent for such kind of information. Thus in 2011 39 requests were rejected because the Parliament did not hold the requested information.

During the year 2011, the Parliament received 162 requests for access to information which contained 529 items, i.e. sub-requests. "The Parliament of Montenegro responded to all submitted requests, by a resolution (114), notification (46) and conclusion (2)".[4] By a resolution, the request can be adopted or rejected. In accordance with Article 18 of the Law on Free Access to Information, if the resolution adopts the request and enables the access to information, it also decides about the manner of its disclosure. In 75 cases the access was allowed by direct insight, by transcribing or photocopying the information in accordance with Article 13 of the Law on Free Access to Information. If the requested information is already available to public, the requesters were informed according to Article 14 of the same Law. The number of such cases in year 2011 was 46. During the mentioned period, the Parliament responded to two requests by conclusion as the decision thereof had already been made.

Most frequently, media address the Department for Public Relations, International Affairs and Protocol for issuing accreditations and with questions related to parliamentary activities and announcements of events.

In order to improve the cooperation with NGO sector, on March 30th, 2011 a Memorandum on Cooperation was signed between the Parliament and the Network for organization of civil society for democracy and human rights. The Memorandum stipulates the improvement of cooperation for contribution to the development of democracy and democratic society, respect of human rights and freedoms, raising of civil awareness and activism. Representatives of non-governmental sector address the Secretary General office. "The requests mostly pertain to the access to information on financial activities, i.e. copies of MPs' salary slips, copies of documents containing information on the amounts spent from the Parliament budget for payment of transportation and accommodation costs, copies of voting printouts, then the data on implementation of the Action Plan of Strengthening the Legislative and Oversight Role of the Parliament for the period from December 2010 to November 2011".[5]

In addition, the NGO sector can directly contact the working bodies of the Parliament through the website i.e. through the form for submission of opinions of civil society representatives.

However, the Parliament is not open only for media and non-governmental sector. The Public Relations Department organizes the visits of interested citizens.

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[4] Department for Public Relations, International Affairs and Protocol, responses by e-mail (June 28, 2012)

[5] Department for Public Relations, International Affairs and Protocol, responses by e-mail (June 28, 2012)

Since 2001, in cooperation with the Centre for Democratic Transition and the National Democratic Institute, the Parliament realizes the "Open Parliament" programme, enabling citizens or certain institutions to get better acquainted with the work of this public authority, its manner of organization and functioning. In order for someone to visit the parliament, he/she should send a request seven days at the earliest or two days before the visit at the latest. The request should include data such are the name, family name and personal ID number. Most often the citizens address with request to visit the parliament building, to meet the MPs. In year 2011, three citizens requested the access to data pertaining to financial operation. "The number of citizens requesting information on the Parliament would be much higher if there was not the parliamentary website which is regularly updated and contains all relevant information pertaining to the legislative activity of the Parliament, including the results of voting".[6]

During 2012, the Parliament was visited by the representatives of numerous academic and educational institutions. Among them are the Montenegrin association of students of political sciences, 2nd year students of the UDG Faculty of Law, pupils from the high school for economics "Mirko Vešović" and elementary schools "Maksim Gorki" and "Savo Pejanović". These are just some of the institutions which used this opportunity.

Transparency of the Parliament is at its best reflected in the "Children's Parliament" and "Women's Parliament" programmes. Besides, the Parliament hosts the internship programme for students of the final years of the faculties.

Within the "Open Parliament" programme, the website www.skupstina.me offers the electronic bulletin "Open Parliament", published once a month. The Bulletin, edited by the Parliament Service, informs the public on the adopted laws and considered bills. All the above mentioned lead to the conclusion that the Montenegrin Parliament is undoubtedly the most transparent institution in Montenegro, however still with some problems pointed to by the non-governmental sector and certain MPs.

Exactly through its remarks, the non-governmental sector gives its contribution to the improvement of the transparency of the Parliament. MANS is one the non-governmental organizations monitoring the parliamentary work since February 2007, pointing to its shortcomings through the reports published at its website www.mans.co.me. This non-governmental organization so far published eleven reports on transparency of the parliament. Since 2010, MANS first addressed the requests for submission of printouts of reports from all sittings. In the same year, the organization started to work on the project under the auspices of the European Union. Within the project, the organization requested data on salary slips, per diems, business trips, i.e. they exercised the control of budgetary spending of

[6] The Department for Public Relations, International Affairs and Protocol, responses by e-mail (June 28, 2012).

the Parliament. One of the main remarks of the non-governmental sector is that the reports on business trips of MPs are not available to public. "MPs still do not submit their travel reports. That is a huge problem not only for us, who observe from outside, but many MPs protest as well. There is a certain number of MPs who travel everywhere, among them first of all the Chair the Committee on International Relations and European Integration Mr. Vuković and the Deputy Chair Lalošević. The highest interest, primarily of opposition and position MPs, is what they exactly did on these trips, did they attend the sittings, or participate in round tables, seminars" (MNE 12).

In words of a NGO sector representative, one of the problems was the behaviour of Secretary General Milan Radović. The replacement of the Secretary General brought changes for better to the Parliament. "The actual Speaker of the Parliament rendered a decision to replace the Secretary General after the election, in March 2009, which was a big step forward. Since 2009, by appointment of Mr. Davidović, the things really began to change" (MNE 12). However, a member of a non-governmental organization claims that the parliament website sometimes publishes unimportant information, such are the data on different visits of the Speaker the Parliament, which more resemble an electoral campaign than an objective information.

A lady – opposition party MP thinks that the website offers general information on committees' sittings. Without reporting on key topics on which the debate was held, only a general information is given (MNE 06).

Media also do not contribute better informing of citizens on the work of the Parliament, and particularly of its committees.

A minority party MP is convinced that the citizens should be informed on work of the committees, where the most important part of debate is carried out. "You have several very important committees such are the Committee on Economy, Finance and Budget, and the Committee on International Relations and European Integration. These are two very important committees. Unfortunately, the public is not well informed on all this exactly because the media, i.e. journalists, stay in the realm of some sensationalism. And reporting from the committees is reduced to a bare information. And what is worst, the journalists stay for the first half an hour, and then you can't find them anywhere, while the committees last for several hours, three hours, so that the only right way is the introduction of direct broadcasting of committees' sittings and all parliamentary sessions whatsoever, through a special parliamentary channel" (MNE 08).

The role of media in informing the public on the parliamentary work

Politicians excellently understand that media can be their allies in gaining voters, but that they can as well destroy them very easily (the best confirmed by the Watergate scandal)

The cooperation between political organizations, media and citizens is the key for a successful political communication. Brian McNair states that all political actors must have access to media. Media has an important role in political processes if they transfer an accurate and relevant information.

The function of media in democratic process is multiple:

1. Oversight function reflecting in informing citizens on political processes.
2. Education of citizens in the sense of clarification of importance of certain processes
3. Building of platform for political discourse and shaping of public opinion.
4. Offering publicity to public and political institutions.
5. Assuring citizens in certain political ideas.

Each media has its advantages and shortcomings when it comes to political communication. Michael Gurevitch, Stephen Coleman and Jay Blumler mention the advantages of television in political communication.

1. Television transformed from a spectator of events into the media defining and constructing the political reality.
2. Television became an integral part of political processes.
3. Television brought politics into our living room (Gurevitch, Coleman, Blumler,2009:166)

"In past, numerous social problems were attributed to the development of technology. For example, television was accused for destruction of identity of community, reduction of trust in government and destruction of social capital" (Zuniga, Abril, Rojas, 2009:557). However, research showed that informative programme influences the political engagement of citizens, dependant on other factors as well.

Apart from this, it is clear that objective reporting on political processes is impossible as the editorial policies of media are guided by interests of owners, and not citizens.

In his book "Medijski prijepori" Stjepan Malović, commenting journalism in Croatia, writes: "Our journalism still does not cultivate professional standards, so that reports are very different from one media to another and it is obvious who

supports whom, and who is targeted for destruction" (Malović,2004:92). This is a characteristic for Montenegrin media as well.

The influence of editorial policy to Montenegrin media is more than obvious. State-owned media present the situation better than it is, whereas the opposition ones, calling themselves independent, present it in the worst possible light. In order to get informed, Montenegrin citizens must follow different media and draw their own conclusions, as one and the same even is interpreted in different manners. Although the journalists' task is to inform the public with respect of professional standards such are objectivity and impartiality, media often surrender under various pressures.

Regardless the high level of transparency of the parliament, media in Montenegro do not report objectively on the parliamentary work. Therefore there is a danger that citizens can gain a wrong impression about the Parliament through informative programme of certain media.

A minority party MP criticizes Montenegrin media for a tabloid manner of reporting on the work of the Parliament: "Journalists report on the parliamentary work very superficially. They often remain in the sphere of sensationalism, incident and other marginal matters inclining to incident. If somebody quarrelled with someone, raised voice or said something off the record, that is a front page news for journalists... Very often the Parliament is without a reason under attacks regarding spending of money, imprudent behaviour, salaries. Much more is believed to newspaper titles which are often tabloid and a picture is created, a stereotype about the Parliament, as an institution which doesn't do anything, but spending money" (MNE 08). A lady – opposition MP also thinks that media create a negative image in public. "They intentionally create a bad image of the parliament through some media quotes, from that about the prices of food in the restaurant." Besides, the MP claims that media, by presenting pure statistics, leave an impression that MPs are classic drones (MNE 06). However, in opinion of the MP the poor image is also a consequence of the fact that there are colleagues who have never said a word in the Parliament.

Another opposition MP also criticizes media for non-objective reporting on the parliamentary work. He is assured that "only direct broadcasting of committees and sittings provide for full interaction of citizens and the Parliament or destroys some myths on incompetence or competence or anything else in the Parliament. That is what we require and we think that in that manner we will simply stop any possibility for the media to – by censorship and distortion of words heard in the Parliament – in fact serve to citizens what has not been said in the Parliament but what media themselves want to say. In this manner the negative influence of certain media which want to entirely neutralize and devaluate the Parliament will be lost as well" (MNE 05).

Another problem is that citizens can get acquainted with the work of the parliamentary committees only through informative broadcasts. A MP of another

opposition party thinks that journalists of electronic media superficially report on the work of certain committees. "Electronic media have their editorial policy, not to broadcast certain MPs and their attitudes, while printed media are somewhat more correct. And what the journalists miss in all this is the expertise and knowledge while reporting on economic topics" (MNE 10). In his opinion, the best manner of informing the citizens reflects in direct broadcasting of parliamentary sittings, as well as of committees' sittings. "I think that it would be good that committees' sittings are also directly broadcasted, for example of the Committee on Economy, which decisions directly influence the standard of citizens, or all groups or some of them" (MNE 10).

On the other hand, media also have remarks regarding the conditions in which they report from the Parliament. The main problem is that journalists in fact do not know the subject of voting until seeing the material, as only the number of amendment which is voted on is being presented in voting. One of the problems is the spatial capacity, as well as limited movement of journalists and photojournalists, i.e. informal communication between journalists and MPs is not possible. These problems notwithstanding, the transparency of the Parliament is highly assessed by the opposition media as well.

Parliamentary channel – the best solution for informing the citizens

The parliamentary channel earlier functioned within RTCG, however it was closed in 2003 for political reasons. In June 2010, the Parliament of Montenegro decided to offer live stream of plenary sittings at the internet. However, this was not an ideal solution as the number of internet users in that period was still relatively low. The Director of the MANS monitoring programme Vuk Maraš also pointed to this shortcoming. It should be said that the situation did not significantly changed either in 2012. Internet has not yet become the most available medium among Montenegrin citizens, and therefore the introduction of parliamentary television would solve the problem of informing the society.

In July 2012, MPs unanimously agreed that for better informing of citizens it is necessary to introduce parliamentary television which would broadcast sittings and work of committees. The amendment to the Law on Radio Broadcasting Services was proposed by MPs of all parties: Branko Radulović (PzP), Goran Danilović (NOVA), Aleksandar Damjanović (SNP), Raško Konjević (SDP), Milutin Simović (DPS), Amer Halilović (BS), Genci Nimanbegu (FORCA) (www.vijesti.me). One of the initiators of the law, former MP of the New Serbian Democracy Goran Danilović, proposed the broadcasting of parliamentary television through cable operators, which would release citizens from additional taxation burden. However, the radio broadcasting centre clarified that the broadcasting of

the channel through cable operators is not a good solution "as 80% of consumers of radio-television signal of public service do not have a cable but are using land transmitters" (www.vijesti.me). Therefore the radio broadcasting centre proposed it to bear the costs of broadcasting through land transmitters, and that public service pays 900,000 EUR per year to the RDC. The parliament pays this amount for public service at the annual level. The General Director of the public service Rade Vojvodić said that the new channel would cost the public service between 800,000 and one million EUR, as it is necessary to carry out additional systematization and create a special editorial board and team of journalists that would manage the parliamentary channel.

A minority party MP proposes the following solution for the problem about the broadcasting of the sittings: "The Parliament must have its channel, and then the interested televisions can broadcast parliamentary sittings. We are much dependant on television, for example if the time is exceeded, they will immediately stop broadcasting".(MNE 09)

Conclusion

The transparency of the Parliament of Montenegro is at a high level. Different communication means are used for informing the public. However, each of these means has its advantages and shortcomings.

Table 1. Advantages and shortcomings of communication means

Advantages	Shortcomings
Website with updated data	Small number of internet users
Broadcasting the parliamentary sittings by public service	Partial broadcast Influence of editorial policy Sittings of the committees are not broadcasted
Informative programme	Non-objective, sensationalist reporting

On one hand, the Parliament has an excellent web presentation which largely facilitate the access to data. However, on the other hand, in Montenegro there is still a relatively low number of internet users. According to Monstat research on presence and usage of information-communication technologies, only 51.4 % of citizens have internet access from their homes (www.vijesti.me). With increase of number of internet users, political communication shall certainly shift to another medium and citizens will be more informed on the parliamentary work.

The public service broadcasts parliamentary sittings, but there are two problems evident: partial broadcasting and influence of editorial policy. A problem appears with the duration of sittings longer than the scheduled time, and therefore they are not broadcasted in full. The Television of Montenegro broadcasts

exclusively the sittings which, in opinion of management of this media, are of the public interest. Besides, television does not broadcast at all or reports very superficially on the committees' work. Opposition media most often opt for sensationalist reporting on parliamentary work. Media are more focused on scandals than on information of public interest and thus form certain prejudice and stereotypes against the Parliament.

Exactly for that reason and for better informing of citizens it is necessary to introduce a parliamentary channel which would give a complete picture of developments in this political institution. Broadcasting of sittings through cable operators is an ideal solution, having in mind the fact that Montenegro is obliged to digitalize its media latest by the year 2015. With assistance of parliamentary channel and internet, all interested citizens would be able to follow the parliamentary work. The Parliament did its best to inform the citizens, but the progress in this field largely depend on the speed of development of technology.

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INFLUENCE OF INTERNATIONAL ACTORS

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INFLUENCE OF INTERNATIONAL ACTORS ON THE WORK OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA

The role of national parliaments of the candidate countries for the EU membership has significantly changed during the last two decades. While before the 1990s the parliaments were mostly inefficient and uninterested in the European integration issue, during the last decade of the 20th century the parliaments have started to get more and more interested in European issues, establishing the European integration committees and starting to control their governments' progress in the European integration process (Raunio, 2009). The European integration particularly contributed the development of different forms of inter-parliamentary cooperation, which enabled the exchange of experience and knowledge among MPs of different states, particularly contributing the development of the control function of the parliaments. Besides, the parliaments are also considered to be the most important actors in the process of adoption of the European legislation (Raunio, 1999).

The aim of this paper is to contribute the understanding of the relations of national parliaments of the candidate countries and the EU and other international actors through the case study of the Republic of Serbia. The paper examines the connection of the European integration process with the work of the National Assembly of the Republic of Serbia and the capacities at the disposal to the parliament and the MPs in the European integration process. Besides, a particular attention is paid to the role of international organizations in the process of improvement of the parliamentary work.

The analysis is based on two fundamental sources of data. The first source are the reports on the work of the parliament and the reports of its committees, offering statistic data on, for example, the number of committees' sittings, considered bills, the number of international visits, formed friendship groups or visits by foreign delegations. Another source are the semi-structured interviews with MPs and representatives of international organizations. The focus of the analysis is placed on the perception of MPs, i.e. on the manner in which MPs understand the international cooperation of the National Assembly and the actual influence of European integration and other international actors, because of which the data

obtained through the interviews are the basic data source. The paper covers a broad scope of issues pertaining to the influence of international actors, which is an advantage for a broader and more comprehensive understanding of the problems; however, the limitations accompanying such approach should also be kept in mind.

The first part of the paper considers the legal framework regulating the international cooperation of the National Assembly. The second part of the paper deals with the influence of the European integration to the parliamentary work through the European Integration Committee, the EU influence to the process of adoption of laws and harmonization of legislation, the influence of the Report of the European Commission and the relation of the National Assembly with the European Parliament. The third part of the paper is devoted to the consideration of international cooperation and influence of international organizations on the parliamentary work through an analysis of work of the Foreign Affairs Committee of the National Assembly, analysis of participation of the National Assembly's delegations in the international parliamentary institutions and organizations, membership in parliamentary groups of friendship, as well as through an analysis of cooperation with numerous governmental and non-governmental organizations.

1. Legal framework

The international cooperation of the National Assembly of the Republic of Serbia is regulated by Articles 59–61 of the Law on the National Assembly and the Rules of Procedure of the National Assembly. According to Article 59 of the Law on the National Assembly, the National Assembly establishes international cooperation within its competences with the aim of preserving and promoting peace, good neighbourly relations and cooperation on the basis on equality with all the nations and countries of the world.

The international cooperation is realized by "delegating standing delegations to the parliamentary assemblies of international organizations; by exchanging delegations with international organizations; by participation of MPs at conferences and other forms of meetings; through the inter-parliamentary dialogue and other forms of cooperation with the European Parliament; through forming and participating in joint projects with the representative institutions of other states, parliamentary assemblies and international organizations; by referring delegations of the National Assembly, the Speaker of the National Assembly or individual MPs to the representative bodies of other states and by welcoming delegations of representative bodies of other states; by exchange of information, other materials and publications, as well as through other forms of cooperation with the representative bodies of other states; by forming parliamentary friendship groups.

The composition of standing delegations shall be determined by the National Assembly, and the composition of other delegations and the aims and assignments of the visiting delegations of the National Assembly shall be determined by the Speaker of the National Assembly or the competent committee of the National Assembly." (Article 60 of the Law on the National Assembly). The National Assembly can as well establish parliamentary friendship groups for the sake of improvement of relations and cooperation with the representative bodies of other states.

The delegating of standing delegations to the parliamentary assemblies of international organizations is in more details regulated by the Rules of Procedure of the National Assembly. The National Assembly has standing delegations in the Parliamentary Assembly of the Council of Europe and in the Parliamentary Assembly of the Organization for the Security and Cooperation in Europe (OSCE).

On the other hand, presidents of foreign states, prime ministers and members of foreign governments, delegations of representative bodies of foreign states, representatives of international organizations, heads of diplomatic missions and other guest can upon the invitation of the Speaker of the National Assembly participate in the sittings of the National Assembly (Article 89, Para 2 of the Rules of Procedure). Observers of international associations and organizations are provided with special seats for monitoring the work of the sitting of the National Assembly and its working bodies (Article 259 Para 1 of the Rules of Procedure).

The Rules of Procedure of the National Assembly

Article 167, Para 2

Only a law regulating issues and relations with arose under unforeseeable circumstances, where the non-adoption of such a law by urgent procedure could cause detrimental consequences for human lives and health, the country's security and the work of institutions and organisations, as well as for the purpose of fulfillment of international obligations and harmonisation of legislation with the European Union *Acquis* may be adopted by urgent procedure.

For the sake of development and more quality performance of international cooperation the *International Relations Sector* was established within the Secretariat General of the National Assembly. The competences of this Sector include: preparation of enactments and realization of activities in the field of foreign political relations and parliamentary cooperation; activities related to participation of standing and other delegations of the National Assembly in the work of international and regional organizations; preparation of visits of study groups to representative bodies of other states and reception of delegations; preparation of

material for visits of delegations of the National Assembly and its working bodies to representative bodies of other states, international and regional organizations; translation, as well as other services for the needs of the National Assembly, its working bodies, parliamentary groups and MPs from the field of international relations. The International Relations Sector has the Foreign Affairs Department and the Translation Services Section.

The Rules of Procedure of the National Assembly regulates also the obligation of harmonization of bills with the European regulations. According to Article 151 Para 4 of the Rules of Procedure, together with the bill the proposer is obliged to attach the Statement of Compliance of the bill with the European Union *Acquis*, or the statement confirming that there is no obligation for such compliance, or that there is no possibility to harmonise the bill with the European Union *Acquis,* and the Table of Compliance of the bill with the European Union regulations. For the sake of fulfilment of international regulations and harmonisation of regulations with the *Acquis*, the Rules of Procedure enables passing the laws by urgent procedure (see the Text box).

In order for a more quality harmonisation of the regulations with the European Union *Acquis*, in 2006 the European Integration Department was established within the Legislation Sector of the National Assembly. The competences of the Department are analyses of bills and other general enactments from the aspect of their harmonisation with the *Acquis*; creation of the Table on Compliance of bills and other general enactments proposed by the MPs in the National Assembly with the *Acquis*; preparation of opinion on justification of summary procedure for adopting the laws; preparation of analyses, information and reports in relation to documents considered by the European Integration Committee; preparation of comparative reviews of the European Union *Acquis* and information on the need of harmonisation of applicable regulations with the *Acquis*; establishment of communication with competent services of European institutions and parliaments of the European Union member states as well as with the parliaments of the states in the region, for the purpose of improvement of the European integration process.

The Rules of Procedure also defines the competences of working bodies of the Assembly, from which, for the analysis of the relation between the European integration process and the parliamentary work and the role of international organizations in the process of improvement of the parliamentary work, the European Integration Committee and the Foreign Affairs Committee are particularly important.

2. European integration and the National Assembly of the Republic of Serbia

After the ratification of the Stabilization and Association Agreement by the European Parliament in 2011, Serbia applied for the EU membership, and was granted the status of candidate country on March 1st, 2012.

The analysis of the influence of European integration to the parliamentary work is multilayer: the first layer presents the EU influence on the process of adopting laws and harmonisation of legislation; the second one pertains to the analysis of work of the European Integration Committee, the parliamentary working body in charge for dealing with the European integration issues; the third layer is composed of analysis of the Reports of the European Commission, an undoubtedly important source of influence on the parliamentary work; and finally; the relation with the European Parliament and European MPs is important for the work of the National Assembly.

2.1. Harmonisation of legislation

When speaking about the concrete influence of European integration on the parliamentary work, it can be said that it is the most visible in the process of harmonisation of legislation with the *Acquis*. In other fields the parliament has not been that much in the focus of the EU institutions, primarily of the European Commission that supervises the association process. The first activities on systematic harmonisation of legislation with the *Acquis* started in 2003, when the Government of Serbia passed the Action Plan for harmonisation of local legislation with the *Acquis*, to be followed by the Resolution on the EU Association, which the National Assembly adopted in October 2004.

From the interviews with MPs and representatives of international organizations, it can be concluded that the harmonisation of legislation with the *Acquis* was among the top priorities of the National Assembly in the convocation of 2008–2012. The agenda of the National Assembly in the said convocation most frequently contained the bills from the so-called "European Agenda". It is interesting that during the research almost all respondents, in elaboration of their attitudes, referred to the European standards, including those from political parties which are explicitly against the European integration. The same was noticed by the representatives of international organizations: "I think that our MPs, at least in their public appearances, seldom criticize the European Union, and in fact for every law adopted it is first said that it is an European law, and then everything else, that it is entirely in accordance with European standards, etc. It doesn't matter if essentially it is so or not, but that is a mantra that has been repeated and thus I think that they, in fact, has no desire to resist anything coming from the EU" (SRB 14).

On the other hand, there is an impression that MPs themselves are not familiar enough with the *Acquis Communautaire.* The same conclusion can be derived from an analysis of interviews with representatives of international organizations. "I think that some of them absolutely do not enter into that topic, but leave it to those who know a little more about it. From our experience we can say that that is less in their field of interest, i.e. those MPs who work on some additional matters or who deal with some activities, know a bit more, however there are MPs for whom I absolutely think that they are entirely ignorant about this, or maybe they have just heard something... depending on the committee, how many staff members they have, to what extent somebody gets prepared by somebody else for a meeting, so that sometimes it can seem that somebody really knows something and is familiar with the topic, but then when you ask a question you see that that person does not know this subject matter entirely and that he/she simply doesn't even know what you are talking about" (SRB 13).

Besides, additional concerns are brought by the conclusion that the process of harmonisation of legislation with the *Acquis* is in the parliament considered as something coming from the Government and something which should be accepted (SRB 05).

In words of a representative of an IO which cooperates with the parliament for years "the question is to what extent the parliament essentially influences the European integration process in comparison to other public authorities. I am speaking from the aspect of who is the proposer of the majority of bills to be adopted, providing that they are on the European agenda, and about the fact to what extent are these bills adjusted to the context in Serbia, to what extent they – while passing through the parliament – actually refer if and to what extent these bills support some attitudes, needs and opinions of citizens who elected these very MPs in the Assembly. How many laws, are, in fact, adopted by urgent procedure without real debates and how much, indeed, it is justified to use that unfortunate expression "the flow boiler" for the Assembly?!" (SRB 11).

A representative of another IO continues: "there is a strong pressure from the side of international public for achieving a certain level of standardization, first of all in the field of legislation, to pass the largest possible number of laws corresponding with European laws, without in fact taking care that it is impossible to adopt that number of laws and in the same time to have a quality parliamentary debate, or even any at all, i.e. it very often happens, the MPs complained in public about this as well, that bills are submitted to the opposition in the last moment, that is in the eve of or a day before the debate, and they indeed cannot manage to lead a serious debate or eventually write some amendment to the bill" (SRB 12).

Some opposition MPs drew attention to certain manipulation in the process of harmonisation of legislation, when the Government or some ministry has an interest for adoption of a law, so they justify the proposal by the European integration in order for the law to get adopted fast, often by urgent procedure: "If

you want to put something through quickly, just say: this has just come from the European Union, do as you like, but it must be adopted by urgent procedure, and then everybody vote." (SRB 07).

2.2. The European Integration Committee

The European Integration Committee was established by the amendments to the Rules of Procedure in May 2003. The competences of the European Integration Committee are to consider the bills and other general acts from the aspect of their conformity with the EU *Acquis* and the Council of Europe legislation and issue preliminary opinion on justification of the abbreviated procedure; consider plans, programmes, reports and information on the EU Stabilisation and Association Process; monitor the implementation of the Association Strategy, propose measures and launch initiatives for accelerating the realization of the Association Strategy within the competences of the National Assembly; propose measures for the establishment of a general, national agreement on Serbia's association with the European institutions; develop international cooperation with parliamentary committees of other countries and parliamentary institutions of the European Union (Art. 64 of the Rules of Procedure).

Debates on issues pertaining to the European integration process in the National Assembly are primarily carried out within this Committee. In the convocation of the National Assembly 2008–2012, the European Integration Committee held 56 sittings in total. Thirty sittings of the Committee were devoted to consideration of 103 bills and amendments of MPs, whereas twelve sittings were devoted to the exercise of control over the Government's activities in the European integration process. At four meetings, the EU representatives presented the EU priorities and informed the Committee's members on the progress of Serbia in the European integration process, whereas the European Commission's Questionnaire and proposals for the answers thereto were considered at four sittings as well. Besides, the Committee held four public hearings: "Challenges of Forced Migrations in Serbia" (May 18th, 2011), "Bill on Public Property" (September 16th, 2011), "National Assembly on the Road to the EU" (January 30th, 2012) and "Use of the EU Instrument for Pre-Accession Assistance" (March 6th, 2012).

The Committee participated in the work of two Conferences of Parliamentary Committees on European Integration/Affairs of the States Participating in the Stabilisation and Association Process in South East Europe (COSAP), at four inter-parliamentary meetings with the delegation of the European Parliament, eight round tables in the European Parliament and in the countries of the region, at the constitutive meeting of the informal group "Friends of Serbia" in the European Parliament, at 24 meetings with delegations of the EU institutions, the EU member states and countries from the region. The members of the Committee visited seven European affairs committees of the EU member states (Report

on Work of the National Assembly Service in the period from June 11th, 2008 to March 13th, 2012, 2012: 62).

2.3. The European Commission's Reports

Progress of Serbia in the EU association process is monitored by the European Commission which creates and submits annual reports to the European Parliament and the Council of Europe. In the Progress Report for Serbia until 2010 and in the Analytical Report of October 12th, 2011, the Commission, among else, briefly analyses the work of the parliament and positively evaluates the progress in improvement of its work. The Commission's reports focus on several issues: elections and electoral legislation, quality of legislative process and exercise of control function.

All reports emphasize that elections are carried out in accordance with international standards. On the other hand, all three Progress Reports criticise electoral legislation, primarily the control of political parties over MPs' mandates and blank resignations. The 2011 Analytical Report points out that the electoral legislation is harmonised with the European standards thanking to the amendments to the Law on Election of MPs and Law on Local Elections and adoption of the Law on Financing Political Activities of 2011. The adoption of the Law on a Single Electoral Roll of 2009 was positively assessed as well. The Reports positively assess the adoption of large number of laws, however the remarks pertain to the insufficient quality of the legislative process, the enactment of laws by urgent procedure, the insufficient activity of the committees and the limitation of public debates. Although during the course of time the improvements in the development of control function have become notable, remarks to the National Assembly refers to the unsatisfactory use of its competences in control of the executive power and in control of implementation of laws.

2.4. Cooperation with the European Parliament

The cooperation of the National Assembly with the European Parliament was formalized in 2004 with the establishment of regular annual inter-parliamentary meetings. The delegation of the Assembly of Serbia is composed of the members of the European Integration Committee, whereas the European Parliament is represented by the Delegation for Cooperation with Albania, Bosnia and Herzegovina, Serbia, Montenegro and Kosovo (former Delegation for Cooperation with South East European Countries).

In addition, in the European Parliament there is the Group for Western Balkans and the informal parliamentary group "Friends of Serbia". Visits of Serbian MPs to the European Parliament and vice versa are more and more frequent, and our MPs participate in seminars organized by the European Parliament for the Western Balkan MPs.

According to assessments of the interviewed MPs, the cooperation of the National Assembly with the European Parliament is at a high level. In words of a MP, "it is carried out both institutionally and through some meetings of informal character. That is, the presence of the Serbian Assembly MPs in various international parliamentary organizations is institutional, and another manner is that we have an entire set of seminars, round tables, international conferences in which we participate, as representatives of the Parliament and representatives of our Committee, where we communicate with colleagues from other parliaments... Plus, very often we have working visits. MPs participate in visits to the parliaments of the European Union member states, where they talk, exchange experiences" (SRB 02).

On the other hand, on the basis of the interviews with representatives of international organizations, it can be concluded that, although there is a certain, more informal communication between MPs from the European Parliament and the National Assembly of Serbia, formal cooperation between the two institutions is still at a very low level, primarily because Serbia is still not far ahead in the European integration process.

3. International cooperation

International cooperation of the National Assembly of the Republic of Serbia is carried out through participation of delegations of the National Assembly in international parliamentary institutions and organizations, through parliamentary friendship groups, for improvement of relations and cooperation with representative bodies of certain states, as well as through cooperation with a large number of governmental and non-governmental international organizations, most often in a form of project cooperation. The Foreign Affairs Committee of the National Assembly performs basic competences in the field of international cooperation and foreign affairs.

3.1. The Foreign Affairs Committee

Competences of the Foreign Affairs Committee include consideration of bills and other general acts, issues from the fields of: foreign policy; relations with other countries, international organizations and institutions; ratification of international treaties in the area of foreign-policy relations; regulation of procedure of concluding and enforcing treaties; protection of rights and interests of the Republic of Serbia and its citizens and national legal entities abroad. The Committee also designates heads and members of parliamentary friendship groups, approves decisions on exchange of visits with parliamentary friendship groups of representative bodies of other states and keeps records on membership in par-

liamentary friendship groups. Finally, the Committee is obliged to submit to the National Assembly annual reports on realized international cooperation of the National Assembly (Art. 50 of the Rules of Procedure).

In the last convocation of the National Assembly, 2008–2012, the Foreign Affairs Committee[1] was among less active boards. In this convocation, the Committee held 23 sittings, which is twice less than the average for all committees[2]. The Committee paid the most attention to the talks with newly appointed ambassadors, decisions on the composition of parliamentary friendship groups, as well as the composition of delegations of the National Assembly. The Committee also considered and accepted a significant number of initiatives for participation of delegations of the National Assembly in the work of international organizations and delegations for interstate visits. In convocation 2008–2012 the Committee held no public hearings.

In the same convocation, the Foreign Affairs Committee adopted four annual reports on the international cooperation of the National Assembly and 128 reports on realized international parliamentary visits and participation of representatives of the National Assembly in the work of international organizations and parliamentary forums, 124 visits of Committees' members to other parliaments or participation at international conferences and 51 return visit of foreign parliamentary delegations, 23 talks of the Chair of the Committee or its members with foreign parliamentary delegations and MPs, 35 talks of the Chair and members of the Committee with foreign state officials and representatives of international organizations and other international partners and 63 talks with representatives of diplomatic corps in Belgrade (Report on Work of the National Assembly Service in the period from June 11th, 2008 to March 13th, 2012, 2012: 62).

3.2. Delegations of the National Assembly and parliamentary friendship groups

The most intensive mode of international cooperation of the National Assembly is the participation in multilateral parliamentary institutions and organizations. The National Assembly has its delegations in nine multilateral parliamentary institutions, being: Inter-Parliamentary Assembly on Orthodoxy, Inter-Parliamen-

[1] In convocation 2008–2012, the name of the Foreign Affairs Committee was International Affairs Committee.

[2] All 28 committees of the National Assembly held in the period from June 11th, 2008 to March 13th, 2012 totally 1271 sittings. Out of 28 committees, the largest number of sittings was held by the Legislative Committee (156 sittings) and Administrative Committee (110 sittings), whereas the Committee on Economic Reforms did not hold a single sitting and the Committee on Development and Foreign Economic Relations held 8 sittings only (Report on Work of the National Assembly Service in the period from June 11, 2008 to March 13, 2012, 2012: 37).

tary Union, Parliamentary Dimension of the Central-European Initiative, Parliamentary Assembly of the Mediterranean, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, Parliamentary Assembly of the Council of Europe, Parliamentary Assembly of La Francophonie and Parliamentary Assembly of the Black Sea Economic Cooperation.

The National Assembly as well participates in the work of regional multilateral initiatives: Adriatic Ionian Initiative, the South East European Cooperation Process, the Regional Cooperation Council in South East Europe. The regional parliamentary cooperation is particularly carried out through the Regional Secretariat for Parliamentary Cooperation in South East Europe, the Regional Cooperation Council and the Conferences of Parliamentary Committees on European Integration/Affairs of the States Participating in the Stabilisation and Association Process in South East Europe (COSAP). Regional parliamentary cooperation is particularly important, primarily for the exchange of experience between MPs who, in a certain manner, passed through the same process in development of parliamentarism and the EU accession.

Within bilateral cooperation, mutual parliamentary visits are organized, whereas the Assembly as well formed separate parliamentary bodies for improvement of relations and cooperation with other states – the parliamentary friendship groups. In the National Assembly's convocation 2008–2012 there were 35 parliamentary friendship groups, out of which 24 were with European countries. The friendship group with the USA had the highest number of members, then the one with Russia – 27 members, while the friendship group with Poland had the lowest number of members (4). An opposition MP however particularly referred to that, in practice, these friendship groups do not function with the countries not having "a pro-Western and pro-European orientation" (SRB 08).

3.3. Cooperation with international governmental and non-governmental organizations

The National Assembly cooperates with a large number of governmental and non-governmental international organizations. They can roughly be classified according to the approach to cooperation and interests they advocate. On one hand, there are organizations the mandate of which has been entrusted by a multilateral institution (like the UNDP, OSCE) and which attempt to be neutral, and on the other, there are bilateral partners who come to Serbia with a certain political agenda (like the USAID) and representatives of interests of certain political options (like German KAS and FES foundations).

Undoubtedly the most important is the influence of organizations and their specialized departments like OSCE, OSCE-ODIHR, Council of Europe and the Venice Commission, which exercise primarily the oversight role. The Office for Democratic Institutions and Human Rights (ODIHR), the Venice Commission

and the Council of Europe make a special kind of triumvirate within which they jointly give recommendations and control the fundamental laws in the field of the rule of law and democracy. The oversight is performed upon an official invitation of the Serbian state, sometimes through the OSCE or the Council of Europe offices in Serbia, and sometimes directly through MPs which themselves ask for an opinion, often for the reasons of precaution, in order to avoid the situation that something negative later appear in the Council of Europe's report on the honouring of obligations, or in the report of the European Commission. In the same time, the OSCE directly assists the parliament in carrying out certain development projects, such is the introduction of a system for electronic management of the legislative procedure in the National Assembly (e-parliament).

Secondly, the representatives of the National Assembly as well participate in parliamentary meetings held during the United Nations conferences, and in other forums organized by the UN. The Assembly cooperates with the United Nations agencies in Serbia: the United Nations Children's Fund (UNICEF), for improvement of which a Working Group on the Rights of a Child was established in 2009 (since 2012: Committee on the Rights of a Child). In November 2008, the National Assembly signed the Memorandum of Understanding with the UNICEF within the framework of which it was agreed to carry out analyses of laws, monitoring of policies and strategies, budget analysis, education of MPs and implementation of best international practice aimed at protection of rights of children and youth.

Also intensive is the cooperation with the United Nations Development Program (UNDP). The cooperation between the Assembly and the UNDP has been existing since the year 2004, being primarily focused on launching public hearings, reduction of poverty and organization of seminars and study visits on the topic of poverty in Serbia. The UNDP projects are aimed at improvement of personal capacities of MPs through, for example, engagement of experts and consultants for certain topics, who do analyses which can later serve as the source for MPs when changing the laws, proposing the amendments or creating activity strategies. In February 2009, an agreement was signed with the UNDP on rendering support services within the project on enhancement of the accountability of the National Assembly, within which the analyses of legislative activities were carried out in the fields of corruption, gender equality and environmental protection. In cooperation with the UNDP and the Embassy of the Swiss Confederation, the project on enhancement of control function and publicity of work of the National Assembly was launched in September 2012.

In addition, the National Assembly cooperates with other international organizations and civil society foundations and organizations in the country and abroad, including the Westminster Foundation for Democracy, the United States Agency for International Development (USAID), the National Democratic Institute (NDI), the Konrad Adenauer Foundation, Friedrich Ebert Foundation. The projects which these organizations carry out in the Assembly are aimed at con-

tributing improvement of the parliamentary work. For example, the creation of the new website of the National Assembly is the result of cooperation with the SUAID. The opening of the communication offices of MPs with citizens is an outcome of the NDI project. Out of the civil society organizations in Serbia, the National Assembly intensively cooperates with the European Movement in Serbia through the projects Meet your Neighbour – European Parliamentarian, National Convention about the EU, Share Your Knowledge – Become a Mentor, Support to the Parliament of Serbia in the European Integration Process, Cooperation of National Parliaments and Independent Bodies in South East Europe and strengthening the professional capacities of the Republic of Serbia dealing with the European integration process, and with Belgrade Fund for Political Excellence which organizes parliamentary visits to the EU institutions.

In general, the MPs assessed the cooperation with international organizations very positively. In words of a MP: "without their assistance no dialogue within the Assembly would be started, without their presence some people would never sit around the table to discuss the functioning of the institution, without their efforts you would not save time which you must spend for a house to really become the house in which a dialogue is unfolding, constitutional and legal obligations are fulfilled, control, legislative functions of the parliament are exercised, so, I do not have any international organization, institution whatsoever for which I have anything but the words of praise" (SRB 09).

In respect of initiatives and ideas what is to be done and what is to be improved, the attitudes of the MPs and the IO representatives are different. According to the MPs, the initiative for cooperation with international organizations mostly comes from the organizations themselves, whereas MPs do not submit project proposals alone. On the other hand, according to an IO representative: "The National Assembly is on the side of, a recipient, in the sense of identification and needs for certain projects and the like, and now it is simply an expectation that certain actors, working with the Assembly, have projects. There are demands and now there is more a kind of talk with different actors in the Assembly, collection of data at various places, and then identification by our side of a certain proposal and tool, how to meet these demands, so that I can say that the process is mutual, although only since recently. Maybe it was not like that in the beginning, we initiated more, and came with some proposals, projects, but now I can freely say that the process is very harmonised and that it is difficult for me to say who is initiating something, i.e. because maybe I initiate some ideas, but the demand, clear, with an idea how to meet it, comes, for some other activity, from somebody else, I don't know, from the Secretariat or a MP" (SRB 11).

The fact that most often the same groups of MPs, primarily young ones, participate in meetings and study visits organized by international organizations can be assessed negatively. Some MPs negatively assessed the participation of our delegations at various international conferences, thinking that the MPs miss

"culture and statehood attitude" and that they often go unprepared or talk against the politics of their own state (SRB 02).

Attention was also drawn to the insufficient implementation of project results in subsequent behaviour of MPs: "it is not projects that are important, when you look, there are many projects from different fields, depending on who were the associates, what were the experts like. It often happens, it most often happens that these projects have excellent conclusions, but that the application of these projects changes nothing, the things remain to function in the same manner" (SRB 03).

At the end it is nevertheless important to emphasize that in relation to cooperation with the IO there is no significant difference between MPs of the ruling coalition and the opposition MPs. An impression is gained that MPs recognized the importance of cooperation and benefits they can draw out of it. Therefore, in difference from before, the quality of cooperation is increasing.

4. Conclusion

The influence of international actors to the work of the National Assembly is the most visible in the process of harmonisation of legal regulations with the EU A*cquis.* The previous convocation of the National Assembly adopted 807 laws, the majority of which is the reflection of harmonisation with the European legislation. In spite of a significant number of the adopted laws, an insufficient space is left for a quality debate on bills, while MPs themselves are not enough familiar with *Acquis Communautaire.* While the plenary sittings are mostly reserved for legislative process, the debate on the issues of European integration and control of work of the Government in the EU accession process is mostly carried out on the sittings of the European Integration Committee.

When it is about the cooperation of MPs of the National Assembly with MPs of the European Parliament and the parliaments of other European states, it can be concluded that a formal cooperation with MPs of the European Parliament has not been sufficiently developed, while the most intensive and beneficial exchange of experiences is with MPs from the countries of the region. The regional parliamentary cooperation is particularly important, first of all because of exchange of experiences between MPs who, in a certain way, passed through the same process in development of parliamentarism and the EU association. The cooperation with international governmental and non-governmental organizations is carried out through control function of certain organizations, however above else through joint projects on building of capacities of the National Assembly. The conclusion is that MPs recognized the importance of international cooperation, but that the results in implementation and self-sustainability of the projects are still unsatisfactory.

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INFLUENCE OF INTERNATIONAL ACTORS ON THE WORK OF THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA

1. Introduction: international actors within the BiH political system

Bosnia and Herzegovina (BiH) is one of the few states in the world with a such emphasized concentration of international actors. Of course, this situation derives from the very structure of the political system. The international actors are not external actors influencing the political system itself, and hence the Parliamentary Assembly of Bosnia and Herzegovina (PA BiH) as the highest legislative body, but they are integrated into the political structure of the state.

After the break out of war conflicts in 1992 in BiH, international actors took over the role of mediator. However, several peace plans failed due to the fact that at least one of the confronted parties did not accept the offered solutions (Gromes, 2007: 142–170).

One of the results of the action of international community and the peace negotiations in Vienna is the conclusion of the Washington Agreement in 1994, which established the *Federation of Bosnia and Herzegovina* (the Federation). This was another attempt for solving, through implementation of a complex federal system, the conflict of interests of two constituent peoples, in this case Bosniaks and Croats, and to transform the hitherto unitary state, i.e. the Republic of BiH, to a sustainable federation, however only in one part of the BiH state territory (Omerović, 2011a: 460–462). The pressure by international actors continued, particularly after the genocide in Srebrenica in July 1995 and the loss of a significant part of the territory being under the control of Serbs in BiH, which created the conditions to completely stop the war. The signing of the *General Agreement for Peace* (the Dayton Accords; Gromes, 2011: 38) in December 1995 in Paris finally marked the end of the war, while the integration of the hitherto unrecognized, para-state formation of Republika Srpska (RS) meant the establishment of the final federal structure within BiH, with *different international actors* becoming an *integral part* thereof.

The Dayton Accords envisaged that the international factors take over important positions in the BiH institutions. Thus, for example, the Organization for

Security and Cooperation in Europe (OSCE) was assigned the task to establish a Provisional Election Commission and conduct the election (Annex 3 of the General Agreement for Peace, Article II[1]). Bosnian-Herzegovinian (bh.) institutions took over the full responsibility for elections only in the year 2002, through the Central Election Commission (Gromes, 2007: 282). In many other cases as well, the international actors under the Dayton Accords took over active roles in political system (Gromes, 2011). The further part of this text shall present the manner and framework of action of the international actors which work was or still is important for the BiH Parliamentary Assembly[2].

2. External legislator: The Office of the High Representative in Bosnia and Herzegovina

One of the central elements of the Dayton political system is the Office of the High Representative (OHR), an ad-hoc international organization (Omerović, 2011b: 136). The OHR is headed by the High Representative, appointed by the UN Security Council. At the disposal of the High Representative there are certain non-democratic methods, for the sake of efficient implementation of the peace accords. Thus, the competences of the High Representative derive from the Annex 10 to the General Agreement for Peace and move within the scope of the civilian aspect of its implementation, in the sense that the High Representative is ultimately competent for its interpretation in the part pertaining to its civilian aspects. The concept of "civilian aspects" covers a broad scope of activities, with the Accords quoting only some of them, being: continuation of a humanitarian aid effort, rehabilitation of infrastructure and economic reconstruction, establishment of political and constitutional institutions in BiH, promotion and protection of human rights, return of refugees and the like. (Annex 10, Article 1(1)). To put it simple, the duty of the High Representative is to enable an undisturbed implementation of the General Agreement for Peace.

The mandate of the High Representative is not entirely defined by the Peace Accords, and in its initial phase (until the year 1997), the High Representative did

[1] For more on all post-Dayton elections, see: Arnautović, Suad: *Političko predstavljanje i izborni sistemi u Bosni i Hercegovini u XX stoljeću*. Sarajevo: Promocult, 2009.

[2] On the work of international organizations in Bosnia and Herzegovina in general, see the text by Smailagić, Nedžad: *Međunarodne organizacije*, pp. 546–571, in Banović, Damir and Saša Gavrić, 2011): *Država, politika i društvo u Bosni i Hercegovini. Analiza postdejtonskog političkog sistema*. Sarajevo: University Press-Magistrat, and in Laudes, Walter: *Der Hohe Repräsentant für Bosnien und Herzegowina. Der Vertreter der Internationalen Gemeinschaft – eine Bilanz des Amtes*. Wuerzburg: Ergon Verlag, 2009. For critical analysis of effects of work of international community, see the volume of papers from the conference (2007): *Example of Bosnia and Herzegovina: Sustainable Concepts or Sidetracks of the International Community?* Sarajevo: Heinrich Boell Foundation.

not use the legally binding means, which proved to be insufficient for a successful implementation of the peace process. The competences of the High Representative were, however, interpreted in more details at the conference of the Peace Implementation Council, held in Bonn (FR Germany) in December 1997, the outcome of which is known to a broader public as the so-called "Bonn powers" of the High Representative (Omerović, 2011: 148). Namely, the OHR's further powers in the part of civilian implementation of the Accords implies making binding decisions "as deemed appropriate by the OHR" on the following issues, which as such have been stated in the conclusions from the Conference: time, place and chairing of the sittings of joint institutions; adoption of provisional measures entering into force when the parties are unable to reach an agreement, which remain applicable until the adoption of a decision by the BiH Presidency or the BiH Council of Ministers on the subject issue in accordance with the Peace Accords: other measures for ensuring the implementation of the Peace Accords in entire BiH and in its entities, and an undisturbed work of joint institutions. These powers, therefore, imply the *imposing of legally binding acts* at all levels of power in BiH, including laws at the different levels of power and amendments to the entities' Constitutions, as well as dismissal of state officials or elected public officials who obstruct the peace process.

In the context of our research, the fact must be emphasized that the High Representative, only in the period from 1996 to 2007,[3] within the legislative competences of the BiH Parliamentary Assembly imposed 112 laws in total, the highest number of which in the years 2000 (20) and 2002 (24 laws) (Trnka et.al., 2009: 94–98). These interventions have mostly pertained to the field of judiciary reform, followed by the fields of citizenship, personal and travel documents, public property, privatization, electoral system, telecommunication and the like. (Trnka et al., 2009: 97).

The year 2006 saw the adoption of a strategic decision of withdrawal of the High Representative from the BiH political system (International Crisis Group 2009). Although the closure of the OHR was expected much earlier, this has not yet happened.

It can be concluded that the High Representative acted as a *legislator* in those fields where there was no consensus of political parties within Bosnia and Herzegovina, but which nevertheless were under the competence of the BiH state. On the other hand, the High Representative acted as the *constitution framer*, as he imposed the laws pertaining to the transfer of competences from the entities to the BiH state itself. An obvious example is the establishment of judicial institutions (the BiH Court and the Prosecutor's Office), although the

[3] An interesting fact is that from 1997 to August 2012 the High Representative dismissed over 200 officials and entirely used the Bonn powers in around 900 cases, more in: http://www.ohr.int/decisions/archive.asp. (last time visited on September 23, 2012)

Constitution itself does not envisage the judicial power at the state level. By his decisions, the High Representative has been changing the constitutional-legal system (Marković, 2011: 85), and according to many authors exactly these decisions created the minimum grounds for a functional and still highly decentralized state (Gromes, 2007).

3. The reform of the Parliamentary Assembly and the international community

Already in the aftermath of the adoption of the Dayton Peace Accords it was concluded that the new federal structure is a good solution for ending of war and for survival of the BiH state, however that intensive reforms are important as well. It was frequently being spoken about the transition from the Dayton to Brussels phase. However, the expectations of the three BiH political elites (Marković, 2012; Marković, 2011: 74) and of the international actors differed to a significant extent.

The international community, therefore, particularly through two packages of constitutional amendments, the so-called *April Package* of 2006 and the *Butmir Process* of 2009, attempted to strengthen certain issues of constitutional reforms, which included also the reforms and strengthening of the Parliamentary Assembly.

The famous package of amendments to the BiH Constitution of April 2006 which was established and even created on the grounds of pressures and with participation of the US and European administration has not been adopted at the sitting of the House of Representatives of the BiH Parliamentary Assembly, when twenty six out of forty two members voted in favour of its adoption. The amendments were adopted by the representatives of the most important political parties, except the Bosniak Party for BiH and several Croatian representatives, who exactly in the aftermath thereof established a new Croatian party – the Croatian Democratic Union 1990.

What did the amendments of the *April Package* contain? Two groups of issues were crucial – the division of competences and the organization and functioning of the BiH institutions. In addition to the existing state competences, BiH should have obtained an exclusive competence for defence and security, and for the Court and the Prosecutor's Office of BiH (Krause 2006). In this manner the text of the Constitution should have confirmed what had already existed at the state level, through the transfer of competences from the entities to the state, i.e. the imposing of decisions by the High Representative. Same, the April package envisaged an innovation in the BiH political system – the so-called *shared competences of entities and the state*: taxation system, electoral process, judiciary, agriculture, science and technology, environmental protection and local self-

government. Such solutions would have significantly expanded the legislative competence of the BiH Parliamentary Assembly.

Apart from the issue of competences, this package of amendments envisaged the *institutional enhancement of the BiH Parliamentary Assembly*. The Parliament should have get two times larger House of Representatives (87 instead of 42 members), which would have, together with the House of Peoples that should have also been increased to 21 delegate, equally adopted constitutional amendments and elect the *three-member BiH Presidency*. These two houses would not any longer be equal in the legislative process, as the House of Peoples, in difference from the actual situation, should exclusively have had the role of the authority for the *protection of vital national interests* (Marković, 2011: 100). Already the numerical enlargement of the House of Representatives is of large importance, as in the actual mini-parliament, one of the smallest in Europe, the parliamentary work is significantly hampered. One should not overvalue the significance and grasp of the compromise which national political elites achieved by adopting these amendments, as they did not agree about a radical revision of the Dayton constitutional concept, but on its moderate change. A significant expansion of competences envisaged by this package is nothing more than the recognition of the constitutional-legal situation, i.e. the harmonization of the normative with the actual. It is important to point out that the *April Package* envisaged the abolishment of discriminatory provisions of the Constitution by which only Serbs from RS and Croats and Bosniaks from the Federation can be elected to the Presidency and the House of Peoples, in such a manner as to allow the representatives of constituent peoples to come from either of the entities. The discrimination of the national minorities and the citizens who do not declare themselves ethnically would have been preserved.

In the post-war history of BiH, the most important and the most interesting attempt for change was the so-called Butmir Process of October 2009. The leading European politicians, headed by Carl Bildt (the then President of the European Council) and Olli Rehn (the then EU Commissioner for Enlargement), together with American diplomat James Steinberg (the U.S. Deputy Minister of Foreign Affairs) invited the most important political leaders of three national political elites to a meeting in the EUFOR military base in Butmir (Sarajevo). The meeting was a response of the international community to the aggravated political situation in the state, particularly on the relation Milorad Dodik (the then Prime Minister of RS) – Valentin Inzko (OHR) (Wölkner 2009a). The European and American diplomats presented a package of proposals for amendments to the Constitution, composed of several aspects. First, the hitherto transferred competences should have been incorporated in the Constitution (e.g. defence), and the state, as envisaged by the *April Package* as well, should have obtained *additional and shared competences* between the state and the entities. In this solution as

well, the Parliamentary Assembly should have had an expanded legislative competence which would enhance its position.

The House of Peoples should in future decide only on the issues of *vital national interest*, while the opposition period should clearly be limited to 15 days. The delegates of the House of Peoples should have been elected from the composition of the House of Representatives, and not from the entity parliaments, that had hitherto been the case (Marković, 2011: 102). This solution, as well as in the case of the *April Package*, envisaged the enlargement of the more dominant House of Representatives from 42 to 87 members. Certain solutions pertained also to the Presidency and the Council of Ministers. In spite of two organized meetings and high expectations of BiH public, the package of proposals suffered a clear debacle as all political parties except the Bosniak Party of Democratic Action refused the proposed package. Many experts thought that by this defeat the international community lost on its authority – "High price for no gain" (Wölkner 2009b), in these words the "European Voice" described the Butmir results.

4. Influence of the Council of Europe through the action of the Venice Commission

The Venice Commission, as one of the most important legal bodies in Europe and a body of the Council of Europe, dealt with the BiH Parliamentary Assembly in a serial of its opinions. These were the opinions dealing with the following issues: *discrimination in election of delegates* in the House of Peoples, veto-mechanisms through *vital national interest* in the House of Peoples and through the so-called *entity majority* in the House of Representatives, and the issue of the *nature of bicameralism* of the Parliamentary Assembly in general. Particularly in the *Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative* (number CDL-AD (2005)004 of March 11th, 2005) and the *Opinion on the Draft Amendments to the Constitution of Bosnia and Herzegovina* (number CDL-AD(2006)019 of June 12th, 2006) the Venice Commission have rendered very direct and open recommendations pertaining to the Parliamentary Assembly.

Thus the Venice Commission, in the above quoted opinion of 2005, also confirmed the *discrimination in election of delegates* of the House of Peoples of the BiH Parliamentary Assembly:

"With respect to the right to stand for election, as in the case of the BiH Presidency, persons not identifying themselves as Bosniak, Croat or Serb are completely excluded. In addition, entity and ethnicity are linked and only Serbs from the RS and Croats and Bosniaks from the Federation may be elected. No Serb from the Federation and no Croat or Bosniak from the RS may sit in the House

of Peoples, which is a chamber with full legislative powers. A significant part of the population of BiH therefore does not have the right to stand for elections to the House of Peoples."

Exactly this discrimination later became the subject of the judgement of the European Court of Human Rights (see the following chapter). The Venice Commission in its opinions very clearly expressed its opposition to both *parliamentary veto mechanisms*. Thus in its opinion of 2005 it states:

"Under present conditions within BiH, it seems unrealistic to ask for a complete abolition of the *vital interest veto*. The Commission nevertheless considers that it would be important and urgent to provide a clear definition of the vital interest in the text of the Constitution".

Same, on the *entity veto*:

"In addition to the vital interest veto, Art. IV.3.d) of the Constitution provides for a veto by two-thirds of the delegation from either Entity. This veto, which in practice seems potentially relevant only for the RS, appears redundant having regard to the existence of the vital interest veto".

Based on the critiques of the veto mechanism within the legislative process and the discriminatory structure, the Venice Commission was free to realistically express its attitude against *ethnic bicameralism*:

"The drawback of this arrangement is that the House of Representatives becomes the chamber where legislative work is done and necessary compromises are made in order to achieve a majority. The role of the House of Peoples is only negative as a veto chamber, where members see as their task to exclusively defend the interests of their people without having a stake in the success of the legislative process. It would therefore seem preferable to move the exercise of the vital interest veto to the House of Representatives and abolish the House of Peoples. This would streamline procedures and facilitate the adoption of legislation without endangering the legitimate interests of any people. It would also solve the problem of the discriminatory composition of the House of Peoples."

Although legally logical and entirely doubtless, the Council of Europe's recommendations remained at the level of recommendations. Even the strong actors such is the High Representative did not take any significant measures when speaking about carrying out of institutional reforms, through reorganization of relation of houses, abolishment or reform of veto mechanisms and abolishment of the discriminatory structure within the House of Peoples.

5. The influence of the Council of Europe through the action of the European Court of Human Rights: the judgement Sejdić and Finci v. Bosnia and Herzegovina

By adoption of the judgement in case of Sejdić and Finci v. BiH, the European Court of Human Rights, as a body of the Council of Europe, adopted the judgement that shall have incredible consequences not only to the structure and composition of the Presidency and the Parliamentary Assembly, but in the same time to the pillars of ethno-national democracy in BiH.

The BiH citizens Dervo Sejdić and Jakob Finci, who lodged the applications, complained that, in spite of having an experience comparable to that of the highest elected officials, the BiH Constitution and the relevant provisions of the BiH Election Law of 2001 prevent them from standing for elections to the Presidency and the House of Peoples of the BiH Parliamentary Assembly only on the grounds of their ethnic origin.

When BiH became a member of the Council of Europe in 2002, measures were taken for considering electoral legislation within one-year term and BiH signed the Convention and Protocols, without limitations. By signing the Stabilization and Association Agreement with the EU in 2008, BiH committed itself to amending and supplementing the electoral legislation regarding the members of the BiH Presidency and the delegates in the House of Peoples, in order to ensure full conformity with the European Convention on Human Rights and the Council of Europe post-accession obligations within one or two years at the latest.

As a result, the Court concluded, by fourteen votes to three, that further illegibility of the applicants for standing for the elections to the House of Peoples does not have an objective and reasonable justification and that there has been a violation of Article 14, taken in conjunction with Article 3 of Protocol 1.

Regarding the eligibility for standing for election to the BiH Presidency, the applicants only referred to Article 1 of Protocol 12. The Court noticed that, while Article 14 of the Convention prohibits discrimination in enjoyment of "the rights and freedoms set forth in the Convention", Article 1 of Protocol 12 expands the scope of protection to "any right set forth by law". This, therefore, introduced the general prohibition of discrimination. The applicants refuted the Constitutional provisions which make them illegible for standing for the election to the BiH Presidency. From this it derives that, regardless the fact that the election for Presidency falls under Article 3 of Protocol 1, their application pertains to the "right set forth by law", so that Article 1 of Protocol 12 is applicable.

The Court emphasized that the concept of discrimination should be interpreted in the same manner in relation to Article 14 and in the context of Article 1 of Protocol 12, although the latter provision has a different scope. From this it can be concluded that, due to the reasons presented in relation to the election for the House of Peoples and Constitutional provisions according to which the appli-

cants are illegible for standing for election for the Presidency, they, as well, must be considered discriminatory. In accordance thereto, the Court with 16 votes to 1 agreed that there was a violation of Article 1 of Protocol 12. The Court, as well, unanimously considered that there is no need to examine the same complaint under Article 3 of Protocol No. 1 taken alone or in conjunction with Article 1 of Protocol No. 12.

Although the judgement was adopted in December 2009, it has not been implemented ever since. Numerous attempts and deadlines from the side of the European Union did not result in abolishment of discrimination. Bosnian-Herzegovinian national political elites disagree about the future system. Although the Venice Commission proposed complete abolishment of the House of Peoples, BiH parties are not ready for such radical changes and they advocate for cosmetic changes, directed to an introduction of delegates of the "Others" to the House of Peoples without a significant participation of the right to vital national interest veto.

6. Parliamentary Assembly in the context of the EU integration[4]

When it is about the integration to the European Union, BiH is in a difficult position. In spite of the achieved "progress in four fields: reform of police, cooperation with international criminal tribunal, public broadcasters and public administration reform" (BiH07) the European Union requests further reforms, particularly "amendment of Constitution in compliance with the European Convention on Human Rights" (BiH07). However, the general election of 2010 did not yield the creation of a stabile governmental majority, ready for coping not only with constitutional amendments but also with "creation of political environment open to the European Union" (BiH07).

Although declaratively in favour of the EU integration, BiH MPs did not show that in practice. The laws such are the Law on State Assistance or the Census Law were adopted after a long delay. In other fields, such is the military/state property, no progress is obvious. According to the data from the report of the BiH non-governmental organization Centre for Civil Initiatives on Monitoring of the Work of the BiH Parliamentary Assembly for the period 2006–2010, the Parliamentary Assembly in its first four-year term of office (the convocation 2002–2006) adopted 47 laws per year, whereas the convocation 2006–2010 adopted totally 170 laws out of the planned 506. According to the data quoted in the Annual Report of the Centre for Civil Initiatives on the Work of the BiH Parliamentary Assembly for the year 2011, the Parliamentary Assembly in that year

[4] Due to the lack of space and the priority for processing substantial results of influence of international actors to the parliament, here we shall not enter into the issue of structure of international relations of the Parliamentary Assembly itself.

adopted only 12, while rejecting 15 laws. Out of the 15 rejected laws, 10 were rejected due to entity voting, whereas 5 laws were rejected by simple majority. On the grounds of these data only it can be concluded that BiH is in a deep governmental blockade.

For the sake of fulfilment of its leading role in the process of association to the Union, the Parliamentary Assembly has to work on *increase of its capacities* (BiH06), i.e. on increase of the number of employees and their advanced training. In principle, public institutions are the ones which should employ the most educated and most capable human resources, however without neglecting their in-service training. The Parliamentary Assembly currently employs 85 public officials, which means that 1.4 employees in average are in service of one member/delegate. Out of these 85, only three are in charge for the Joint Committee on European Integration.

When speaking about *Aquis Communautaire*, it is unknown to what extent the MPs are familiar with this subject matter. Having in mind that the MPs have only one or none associate/advisor, it is doubtful to which extent they in general can deal with individual policies in details. Therefore, "the number of laws proposed by the MPs remains quite low" (BiH07). However, "the Council of Ministers checks the draft laws and checks its harmonization with the EU *Acquis*, prior to sending the bill to the parliament" (BiH07).

Out of all parliamentary committees, the supreme driving force in the process of a country's accession to the European Union membership should certainly be the one dealing with the European integration issues. Accordingly, only since the former convocation of the BiH Parliamentary Assembly (2006–2010) a body was established which should, in fact, be the main holder of the majority of activities or play a vital role in the process of accession to the Union (Szalay, 2005.: 113). This body is the *Joint Committee on European Integration of the Parliamentary Assembly*. Thus, for example, according to the Report on work of the Joint Committee on European integration, in the period from January 1st to December 31st, 2008, only ten sittings were held, and only *one bill* was considered (the Bill on Classification of Activities). The Report on work of the Committee for the period January 1st-December 31st, 2009 contains similar data, also quoting that in that year totally ten sitting were held, however that no bill for which this Joint Committee would be competent had been submitted into the procedure. As for the year 2010, the Committee held five sittings (the constitutional sitting for the 2010–2014 convocation was, due to the late formation of the House of Peoples, held only on July 7th, 2011) so that in the reporting period no bill in charge of the Joint Committee on European Integration has been submitted into the procedure.

It can be concluded that the Parliamentary Assembly has neither the structure nor the results that would confirm an active participation of the parliament in the EU integration. "The role of the parliament is to confirm the legislation prepared by the ministries and international consultants" (BiH06). The parliament shall be

able to take a more active role in the EU integration once when there is a political will of leaders of key national political actors for genuine desire to work on the integration providing that in this process the state level is granted a free hand without further blockade from the side of the entities.

7. Strengthening of capacities of the Parliamentary Assembly through project support: the OSCE and USAID missions to BiH[5]

Since the moment when BiH signed the Stabilization and Association Agreement with the European Union, in June 2008, the Parliament has obtained a central role in leading BIH towards a successful fulfilment of the association requirements, particularly regarding the process of harmonisation of legislation, when the national legislation shall become coherent with the EU standards. With increase of the state-level competences in this process, the competences of the BiH Parliamentary Assembly are increasing as well.

Since the launching of the *Parliamentary Support Project* in 2001, the OSCE Mission works with the state parliament in order to enhance the institutional capacity of the BiH PA and in order to increase the public awareness of and participation in the legislative process. Together with the Parliamentary Support Project, in the period from 2005 to 2008 the OSCE Mission implemented an additional project, the *Legislative Strengthening Programme*, (LSP), with an aim to improve the legislative capacities and equip the PA institution with technical and professional expertise, necessary for modern and efficient work. The Parliamentary Support Project was in January 2010 merged with the Parliamentary Monitoring Unit, to form the Parliamentary Support and Monitoring Section within the OSCE Mission to BiH. Unfortunately, the amount of funds the OSCE invested into these activities is unknown.

From 2001 to 2011, the OSCE Mission worked with the PA BiH in a large number of fields and assisted in the adoption of the Rules of Procedure, the Code of Conduct and the Unified Rules for Legislation Drafting; establishment of a reading room/library (which was later transformed to the Research Service); establishment of joint committees; digitalization of the Registry; development of new strategies of information-communication technology (ICT) and installation of the necessary equipment for audio recording of the committees' sittings, as well as video recording of plenary sittings and public debates. The project was also successful in increase of citizens' participation in work of parliamentary services, including the participation of over 3,600 young people in visits to the Parliament and televised debates with MPs, , and enhancement of infrastructure

[5] Due to the lack of space, unfortunately here we shall not speak about the influence of various international non-governmental organizations, such are the Konrad Adenauer Foundation, the Friedrich Ebert Foundation, the National Democratic Institute etc.

and capacities of information technology of the Parliament. Within the Parliamentary Support Project, a large number of trainings, conferences and workshops was organized in order to improve the work of the PA BiH.

The Parliamentary Support and Monitoring Section is currently focused on: improvement of efficiency of parliamentary services, increase of participation of citizens in parliamentary processes, increase of the PA BiH capacities in the Euro-Atlantic integration processes and monitoring of the sittings and of the PA BiH committees. The OSCE Mission also gave a strong support in creation of various publications pertaining to the work of the parliament.[6].

Besides the OSCE, the USAID has also been implementing a development project (March 2009 to March 2013) aimed at enhancement of the BiH parliament and worth USD 4,157,602. The project deals with the issues of technical support, training, communication, policy development and law drafting, and strengthening of parliamentary functions[7].

8. Conclusion

From 1996 to 2009, the primary focus of work was on the establishment of basic structures and procedures. The High Representative particularly influenced the Parliamentary Assembly to take over its mandate as the *legislator*. He summoned the parliamentary sittings and as well imposed the laws (which in the subsequent parliamentary procedure had to be confirmed by the Assembly itself).

Different international development projects supported the establishment of administrative and professional structures within the newly established parliament. In this period the conclusion was made that BiH has to move from its so-called Dayton phase to the new Brussels phase, i.e. that public institutions and the parliament itself should strengthen further. The April Package and the Butmir Process amendments, attempted to realize these changes in 2006 and 2009 respectively. The lack of consensus on reforms resulted in rejection of these proposals.

The year 2009, upon rendering the decision of the European Court on Human Rights in the case of Sejdić and Finci v. BiH, saw the establishment of the judicial obligation of abolishment of discrimination in the BiH parliament. The judgement also has potential to entirely "democratize" the parliament, providing that the BiH political elites are ready to do so. Exactly this action of international factor imposed the obligation for BiH to reach a broader consensus on future general systemic reforms, including the state parliamentary reforms as well.

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[6] See: http://www.oscebih.org/Default.aspx?id=4&lang=EN (last time visited on September 12, 2012)

[7] See: http://transition.usaid.gov/ba/demo/parliamentary_strength.htm (last time visited on September 12, 2012)

The actions of international organizations, international non-governmental organizations and various development programmes of international actors are largely important for the Parliamentary Assembly, particularly in the context of the Euro-Atlantic integration of Bosnia and Herzegovina. However, as long as BiH political elites remain without a consensus about the future "road map" of development of the state, it is not possible to expect further enhancement of the work of the parliament and its independent, proactive participation in the EU integration.

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INFLUENCE OF INTERNATIONAL ACTORS ON THE WORK OF THE PARLIAMENT OF MONTENEGRO

International cooperation

The Rules of Procedure of the Parliament of Montenegro define that the competence for regulation of international relations of the Parliament of Montenegro belongs to the Committee on International Relations and European Integration. This Committee shall monitor and, if required, initiate harmonization of the legal system of Montenegro with *Acquis Communaitaire*; monitor exercise of rights and obligations of Montenegro arising from international treaties and acts of the Council of Europe; consider EU assistance and cooperation programmes; consider other acts and issues under the responsibility of the Parliament in this area; consider Bills on confirmation (ratification) of international treaties; propose platforms for debates with foreign delegations and consider reports on visits paid, participation in international gatherings and study visits under its responsibility; issue opinions on ambassador candidates and heads of other diplomatic representative offices abroad; adopt annual programme and three-month detailed international cooperation programmes; cooperate and exchange experiences with relevant working bodies in other parliaments and international integrations, through establishing of joint bodies, friendship groups, undertaking joint actions, agreeing positions on issues of joint interest.[1]

However, by adopting the Proposal of the decision on amendments and supplements to the Rules of Procedure in July 2012, the Parliament of Montenegro divided the former Committee on International Relations and European Integration into two standing working bodies: the Committee on International Relations and Emigrants and the Committee on European Integration.

The Parliament's cooperation with the parliaments of other states and their corresponding working bodies is carried out at the bilateral and multilateral level. It is realized through visits of the delegation or individual MPs, or reception of

[1] Art. 42 of the Rules of Procedure of the Parliament of Montenegro, "Official Gazette RM", No. 51/06 of August 4,2006, 66/06 of November 3, 2006, "Official Gazette of Montenegro", No. 88/09 of December 31, 2009, 80/10 of December 31, 2010.

parliamentary delegations and foreign members of parliaments, participation in international gatherings, exchange of information and other forms of cooperation (Art. 208 of the Rules of Procedure).

Same as other state structures, the Parliament is involved into the process of European and Euro-Atlantic integration. With an aim of fulfilment various requirements posed by the EU, the Parliament and the standing committees cooperate with parliamentary assemblies, i.e. relevant working bodies of the parliamentary assemblies of international organizations and other international structures.

The Rules of Procedure of the Parliament define that parliamentary cooperation shall be exercised based on the rules on carrying out international activities of the Parliament, which are adopted by the Collegium of the President of the Parliament and cooperation programme which is adopted by the Parliament on proposal of the Committee on International Relations and European Integration. The head and members of the delegation of the Parliament, goals and tasks of visits to foreign countries, parliamentary assemblies and other international structures and platform for debates shall be established by the Collegium of the President of the Parliament. The head of the delegation of the Parliament or individual MPs paying a visit shall be obliged to submit a report on the visit i.e. discussions to the Committee on International Relations and European Integration within 10 days from the completion of the visit. (Art. 210 of the Rules of Procedure).

Parliament of Montenegro is a member of the most significant European and international parliamentary associations – The Parliamentary Assembly of the Council of Europe (PACE), Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE PA), Inter-Parliamentary Union (IPU), United Nations Parliamentary Association, NATO Parliamentary Assembly (NATO PA), Parliamentary Assembly of the Mediterranean – PAM and the Euro-Mediterranean Parliamentary Assembly (EMPA). The Parliament of Montenegro also has a good cooperation with parliaments of the countries of the EU, region and others, through standing parliamentary friendship groups, as well as other forms of bilateral cooperation.[2]

Very active cooperation with other parliaments is developed through regional initiatives – Central European Initiative, South-East European Cooperation Process and Adriatic-Ionian initiative, the member of which is the Parliament of Montenegro, which held the presidency over its parliamentary dimensions in the period 2010–2011.

Influence of international actors – the European Union

Although the carrying out of foreign policy and representation of the state fall under the competence of executive authorities, the Government and the President, the role of the Parliament in the European integration process is crucial.

[2] The Parliament

The European integration process, among else, implies a harmonized activity of all segments of the state. Particular responsibility lays on the Parliament, through harmonization of national legislation of the member state with the so-called *Acquis Communutaire*, i.e. legal heritage of the EU, consisting of treaties and other legal acts passed by the EU institutions. There are other fields as well in which the European integration process can be related to the parliamentary work, carried out "through direct contacts with European institutions and national parliaments of the EU member states, then through the regional initiatives participated by international subjects, as well as through the SAPC[3] – the joint delegation of the Montenegrin and European Parliament".[4]

One of the most important features of the Montenegrin society is a broad consensus, not only of political parties but also of other actors, when it is about if Montenegro should join the European Union or not. The public opinion researches, which for years have been carried out by the Centre for Democracy and Human Rights (CEDEM) and some other similar research showed that the issue of accession of Montenegro to the European Union enjoys more than fifty percent support of the population.

In the light thereof, it should be emphasized that the Parliament, same as other state institutions, mostly regularly fulfilled all the commitments towards the EU. As we were told by a ruling party MP, "it cannot be said that the Parliament entirely (fulfilled its commitments) because, as an institution, it is in many aspects limited to fulfil its obligations in full"[5]. Having in mind the importance of this topic for the overall prosperity of the state and the citizens, we can certainly emphasize that the topics from the "European agenda" were treated with absolute priority. Hence, there were cases that the Parliament adopted a regulation the enactment of which is requested for the success of the European integration. So, "...everything that was for the purpose of acceleration, but careful acceleration of the European integration, and what pertained to the regulations – passed through the Parliament; all three readings, debate in the competent Committee on the European integration and finally at the plenum"[6].

The opinions are, however, different. The Parliament did fulfil its obligations. "... voted in favour of tons of laws; to what extent this is harmonized, how much capacities do we have to implement it, that is an entirely different story"[7]. Also, in the opinion of the opposition MPs, there were situations that the parliamentary majority rejected to put onto agenda a certain issue proposed by opposition. "It

[3] The European Union-Montenegro Stabilization and Association Parlaimentary Committee, formed in 2010.

[4] Interview with a MP of the Parliament of Montenegro MNE11, June 14, 2012.

[5] Ibid

[6] Ibid

[7] Interview with the opposition MP MNE10, June 14, 2012.

happened, in principle, that what Europe requests – they put (onto the agenda), they have to do so ...“[8]

Since 2003, the Parliament has a specialized working body, the Committee on International Relations and European Integration which, among else : “monitor and, if required, initiate harmonization of the legal system of Montenegro with *Acquis Communaitaire*; monitor exercise of rights and obligations of Montenegro arising from international treaties and acts of the Council of Europe; consider EU assistance and cooperation programmes and other acts and issues under the responsibility of the Parliament in this area.”[9]

The capacity of MPs and the Parliament in general for harmonization with the European legislation has been questionable since the very beginning, which the European Commission several times stated in its progress reports. An additional burden is the politicising while considering certain issues, in words of a ruling party MP. What should be enhanced, in the MP’s opinion, are the professional capacities of the Parliament Service.[10]

There is a system of verification of harmonization of the new legislation with the *Acquis Communautaire* at the parliamentary level. Before and after the signing of the SAA in 2007, the Parliament adopted different documents[11], which, among else, stipulate the need for a closer cooperation between the Government and the Parliament regarding the procedure for adoption of new legislation. First voluntarily, and after the signing of the SAA obligatory (Article 72), the Government of Montenegro with each bill has to submit to the Parliament the statement on compliance of the proposed act (bill) with primary and secondary law of the European Union. However, as it has already been mentioned, partly due to the weak capacities and partly to politicizing, it can be said that the Parliament rather performed political than professional oversight over the Government’s acts.[12]

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[8] Ibid

[9] Rules of Procedure of the Parliament of Montenegro, “Official Gazette RM“, No. 51/06 of August 4, 2006, 66/06 of November 3, 2006, “Official Gazette of Montenegro“, No. 88/09 of December 31, 2009, 80/10 of December 31, 2010,

[10] Interview with the MP of the Parliament of Montenegro MNE11, June 14, 2012.

[11] These are: Declaration on Association to the European Union (2005), Resolution on Fulfilment of Obligations of Montenegro in the framework of Stabilization and Association Agreement (2007) and Resolution on Acceleration of Montenegro’s Integration into the EU and Euro-Atlantic Structures (2009).

[12] Such concern existed even before. Read more in the article by Dragana Đurić on the occasion of establishment of the National Council for European Integration: *Gdje su im kapaciteti?(August 19, 2008)*

http://www.ceap-montenegro.com/readarticle.php?article_id=138

The National Council for European Integration

With an aim of better coordination and oversight over the implementation of the Stabilization and Association Agreement, as well as monitoring the negotiations on the accession of Montenegro to the European Union, the Parliament in March 2008 established the National Council for European Integration. The Council has been envisaged as the "strategic council body of high participation of Montenegrin society"[13], composed of MPs, representatives of non-governmental organizations (2 members), Social Council (2), as well as representatives being appointed by: the President of Montenegro, the University of Montenegro, the Montenegrin Academy of Sciences and Arts, the Judicial Council and the Prosecutorial Council[14].

The President of this body is elected from among the ranks of opposition parties, and the Vice-President from among the ranks of the parliamentary majority[15].

Since the very beginning, the work of this body was accompanied by numerous issues, such are the manner of filling of membership (particularly from NGOs), perspectives of this body, considering the weakness of the existing parliamentary capacities, but also its advisory role, etc. During its short existence, this body did not manage to fulfil its mission, i.e. to impose itself as a credible support to the representative body of the Montenegrin citizens. Irregular meetings, a passive and marginalized role, weak administrative capacities, failure to use all budgetary assets, marked the work of this body.

According to the Proposal of the decision on amendments and supplements to the Rules of Procedure of the Parliament, adopted in July 2012, however not being enforced yet, the key competences of the National Council for European Integration shall be performed by the new Committee on European Integration, whereas the above mentioned Council shall be dissolved.

Stabilization and Association Parlaimentary Committee (SAPC)

After the Stabilization and Association Agreement between the European Union and Montenegro entered into force[16], and in accordance with Article 125 of the Agreement, the Collegium of the Speaker of the Parliament, at the sitting held on June 1st, 2010, rendered the decision on appointment of members of the Parliament of Montenegro in the European Union-Montenegro Stabilization and Association Parliamentary Committee. For professional and technical support to

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[13] *Decision on the establishment of the National Council for European Integration,* Article 1 ("Official Gazette of Montenegro" No. 22/08 of April 2, 2008).

[14] Ibid, Article 2.

[15] Ibid, Article 3.

[16] SAA entered into force on May 1, 2010

the Montenegrin part of the Committee[17], as well as provision of communication with the European Parliament, the Secretariat has been established.[18]

This body was envisaged as a forum for exchange of opinions, and it is composed of fourteen MPs from the Parliament of Montenegro and the European Parliament respectively. The Parliamentary Committee meets twice a year, in Podgorica and in Brussels. So far four such meetings were held, with the common Declaration and Recommendations passed at the end of each of them.

The first meeting was held in September 2010. It had a constitutive character, and the Rules of Procedure of this body were adopted, as stipulated by Article 125 of the SAA. The topics of the first meeting were diverse, considering, among else, the issues of strengthening of control functions of the Parliament of Montenegro, improvement of implementation of the rule of law, including the judiciary reform of and the fight against corruption and organized crime,[19] regional cooperation, protection of human rights and the economic development in Montenegro.

The second meeting was held in May 2011[20]. As in the first meeting, the central topics were the rule of law and regional cooperation, with particular praises addressed to the Cetinje Parliamentary Forum, as a "native regional initiative of parliamentary cooperation among the countries of Southeast Europe on their path to European integration, created and initiated by the Parliament of Montenegro".[21]

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[17] "Members of the Stabilization and Association Parliamentary Committee from the Parliament of Montenegro are: Ranko Krivokapić (Chair), dr Miodrag Vuković, Predrag Sekulić, Mevludin Nuhodžić, Aleksandar Bogdanović, Raško Konjević, Suljo Mustafić, Nada Drobnjak, Vasilije Lalošević, Predrag Bulatović, Slaven Radunović, Dr Branko Radulović, Genci Nimanbegu and Goran Danilović." *Decision on appointment of members of the Parliament of Montenegro in the European Union-Montenegro Stabilization and Association Parliamentary Committee,* Article 2, SU-SK No. 01–390/2, Podgorica, June 1, 2010.

[18] Parliament of Montenegro, *Stabilization and Association Parliamentary Committee* [online]. [Accessed on September 20, 2012]. Available at: http://www.skupstina.me/index.php?strana=fiksna&id=5001

[19] The President of the Supreme Court of Montenegro, Vesna Medenica, was a guest at the first sitting of this body.

[20] The following persons participated at the meeting and exchanged their experiences: Milan Roćen, Minister of Foreign Affairs and European Integration, in the name of the Government of Montenegro; Stefano Sannino, Deputy Director General for Enlargement, in the name of the European Commission; Leopold Maurer, Ambassador of the EU to Montenegro, in the name of the High Representative of the European Union for Foreign Affairs and Security Policy, and Ranka Čarapić, the Supreme Public Prosecutor of Montenegro. Declaration and recommendations from the Second meeting of the SAPC of Montenegro [Access on September 21, 2012] Available at: http://www.skupstina.me/cms/site_data/Deklaracija_final_MN2.pdf

[21] *Eduard Kukan,* President of the European Parliament delegation for relations with Albania, Bosnia and Herzegovina, Serbia, Montenegro and Kosovo, speaking about the role of Montenegro in the regional framework, referred to the importance of the Cetinje Parli-

The central topics of the Third and Forth meeting, held in October 2011 i.e. April 2012 respectively, were mostly the same: monitoring of economics developments, analyses of the obtained results in the field of fight against corruption and organized crime, then human rights (with an accent on the legal framework in the field of anti-discrimination), monitoring of the judiciary reform, freedom of expression etc.

In short, the essence of these meetings were the issues of key importance for further democratization of Montenegro, and therefore for a successful fulfilment of its obligations on the road towards the European Union membership. The formation of such body raised the relations between the two parliaments to a higher institutional level, whereas the Montenegrin MPs were given a change to discuss, on equal basis, all aspects relevant for the future of the state.

Cooperation with the civil society

The civil society in Montenegro gave a significant contribution to the activities of the Parliament carried out hitherto in the field of European integration. The activity of non-governmental organizations has mostly been composed of organization of expert, educative activities, intended for MPs and for the Parliamentary Service. Apart from different projects organized and supported by international institutions and organizations, the Parliament enjoyed an additional support in the field of enhancement of its overall capacities organized by national organizations. Such activities definitely brought an added value, considering the necessary component of knowledge of "local context".

As for the relation of the Parliament towards the civil sector, it must be admitted that it is on a significantly higher level than before. Monitoring of the sittings, writing of various reports on the work of the Parliament, organization of different debates and the like, more and more meets not only the acceptance, but also an active contribution of the MPs. Of course, these changes must be interpreted as a response to unfavourable assessments pronounced by the European Commission in its "progress reports".

The most important contribution in this field is the signing of the *Memorandum of Cooperation between the Parliament of Montenegro and the Network of Civil Society Organizations for Democracy and Human Rights*, supported by the Delegation of the European Union in Podgorica. The key aim of this document is the enhancement of involvement of civil society organizations in the parliamentary work, primarily through regular monitoring of the sittings of different working bodies of the Parliament of Montenegro.

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manetary Forum. The statement of the Parliament of Montenegro, *"Concluded meeting of the European Union-Montenegro Stabilization and Association Parliamentary Committee* [online] [Accessed on September 21, 2012] Available at: http://www.skupstina.me/index.php?strana=saopstenja&id=2790

Activities of international organizations directed at enhancement of capacities of the Parliament of Montenegro

Since Montenegro resumed its independence on the 2006 Referendum, and the Government had set its foreign-political priorities even before – the integration to the European Union and the NATO – the entire institutional system started the process of reform and harmonization of its acts and activities with the European and international standards. The Parliament of Montenegro is not an exception. With an aim of improving its work, particularly in the aspect of transparency, the Parliament realizes cooperation with different subjects of international relations. In the first years after the resuming of independence, numerous international organizations opened their representation offices in Montenegro with an aim to assist the reform process and give their contribution to strengthening of institutional capacities of the Parliament. The following organizations were the most active in that field: Konrad Adenauer Foundation, National Democratic Institute for International Affairs, OSCE, UNDP and the Westminster Foundation for Democracy.

The rest of the text shall present some of the projects and programmes which the above mentioned organizations implemented in Montenegro, directed at the establishment of democratic governance. In order to obtain a better insight in the goals and importance of such activities, the representatives of these organizations submitted their responses to a questionnaire, specifically designed for the purpose of this project.

The German Konrad Adenauer Foundation **(KAS)** cooperates with the Parliament ever since 2003. The cooperation has primarily been carried out in the form of study programmes, round tables, lectures and bilateral discussions with MPs. In this way, through comparative experiences, the KAS attempted to provide Montenegrin MPs with an insight into the work of the German Bundestag and in that manner contribute the improvement of their work. The KAS experience from the project cooperation with the Montenegrin parliament is very positive. "For example, one of our goals was to improve the work of the parliamentary committees and this field really saw a notable progress in relation to the period when our cooperation had been commenced."[22] Within numerous joint activities, the Montenegrin MPs had opportunities to obtain useful recommendations by visiting lecturers/German MPs and high state officials, in an advisory form.

So far, KAS realized numerous activities in cooperation with the Parliament of Montenegro:

1) Study visits: several visits of Montenegrin MPs to the Bundestag, visit of a group of MPs of the parliament of Hither Pomerania to Montenegro,

[22] Information from the Questionnaire, Konrad Adenauer Foundation (KAS), September 17, 2012.

visit of Norbert Rethhmann, the Chairman of the Supervisory Board of the Rethmann AG&Co. KG[23]

2) Symposiums: in the Montenegrin parliament, in cooperation with the Committee on Legislation, then within the visit to Montenegro with Wolfgang Everdt, Director of Police Directorate for Seashore Security in the German province the Hither Pomerania, with German MPs in Montenegro, on the topics "Parliamentary Immunity", "Parliamentary Hearing" and "Relation of Legislative and Executive Power";
3) Round tables: "Position and Role of the Church and Religious Communities in the Civil Society"; "Parliament as the Foundation of Democratic Development"; "Rules of Procedure as an Instrument for Provision of More Quality Work of the Parliament"; "Rights and Obligations of MPs"; "Influence of the Parliament on Even Development of Infrastructure in Montenegro"; "Budget and Parliamentary Control of the Budget"; "Efficient Committees as an Assumption of an Efficient Parliament", in cooperation with the Committee on Economy, Finance and Budget; "Parliament and Social Policy – Actual Challenges of Social Policy in Montenegro and Germany" in cooperation with the Committee on Health, Labour and Social Welfare; "Role and tasks of the Parliament in the European Integration Process" in cooperation with the Committee on International Relations and European Integration.[24]

National Democratic Institute for International Affairs **(NDI)** with the seat in Washington, has been active in Montenegro even since 1997, when it, with the financial assistance of the United States Agency for International Development (USAID), commenced the realization of its activities in cooperation with political parties, the Parliament and some non-governmental organizations. The work of this organization, until the closure of its Montenegro office in 2011, was focused on:

- Strengthening of multiparty democracy and civil society in Montenegro
- Rendering support to the enhancement of legislative, oversight and representative capacity of the Montenegrin Parliament with an aim of rationalization of legislative process, promotion of the role and importance of parliamentary committees and clubs, strengthening of the control role of the Parliament and enhancement of cooperation and communication between the Parliament and the citizens of Montenegro.

[23] The Rethmann company deals with environmental protection activities. During the visit of its Chair, talks at the highest level were held with collocutors in Montenegro.

[24] Parliament of Montenegro, *Parliamentary cooperation,* Review of realized activities <http://skupstina.me/cms/site_data/AKTI2010-2/kas%20aktivnosti.pdf>

Relying on the network of experts in the filed of parliamentary practice across Europe, the NDI was, through consultancies, seminars, study visits and publications, consistently providing advisory assistance to the state leaders, MPs and employees in the Parliament. The experts from the NDI network also rendered assistance to the working group in charge for creating the Rules of Procedure of the Parliament of Montenegro, after the first parliamentary election in the independent Montenegro. Besides numerous seminars on communication and organization techniques, study visits to the parliaments of various states as well as creation of individual manuals for each parliamentary group, the NDI organized numerous training programmes for the development of public policies. In cooperation with the Netherlands Embassy in Montenegro, the NDI equipped the Parliament with computer equipment in order to enhance the communication with citizens provide a better insight to the citizens of the parliamentary work. The experts from this organization offered IT assistance in redesign of the official website of the Parliament of Montenegro. A particularly important outcome of the work of this organization was the launch of the internship programme in state institutions. This programme was commenced in cooperation with the Centre for Democratic Transition (CDT) and the University of Montenegro with an aim to enable the students of the final year to obtain knowledge and practice through the work in state institutions, where the particular emphasize had been put on the Parliament.

After several years of working with the MPs in Montenegro, the NDI in early October 2006 published the report on the work of the Parliament of Montenegro entitled "New Challenges for a New Mandate". More about this report shall follow later on. The long-term cooperation with the National Democratic Institute was finished in early 2011, upon the completion of the programme in Montenegro.[25]

Mission of the Organization for Security and Cooperation in Europe to Montenegro (OSCE) also devotes a part of its activities to strengthening of capacities of the Parliament of Montenegro, particularly to the enhancement of capacities of parliamentary committees for revision of legislation and carrying out the oversight over the Government and other state institutions. One of the goals is the enhancement of the overall transparency of work of the Parliament. The Mission supports the development of local self-governments through organization of long-term oriented trainings and offering assistance in governing the city municipalities. One of the results of the activity of this organization is the establishment of the Information and Training Centre for citizens, aimed at increase of participation in the municipal decision-making process by their inhabitants.

The democratization programme of the OSCE Mission implemented a capacity building project with the Parliament of Montenegro in the period from

[25] Parliament of Montenegro, *Report on work for the year 2011,* Pogorica, 2012.

2007 to 2011. The volume of current activities of this organization has been reduced and it mostly refers to offering support to the Parliament to fulfil its defined development goals. From the Questionnaire submitted to the OSCE office, we learnt that the OSCE team, composed of one foreign expert and two local employees, realized some activities in monitoring the sittings of the Parliament. The Mission had a standing office in the Parliament, in accordance with the agreement reached with its administration, which provided good two-way communication. Also, the Mission assisted the Parliament in respect to improvement of certain activities in the field, in order for making a more direct contact with citizens, which was achieved through panel discussions of parliamentary committees in local communities. This improved the transparency of work of the Parliament. "For example, by raising awareness that, besides supporting and carrying out the politics of their political parties, the MPs are also the representatives of local communities."[26]

Office of the UN Development Programme (UNDP) currently has two initiatives in Montenegro for improvement of the work of the Parliament. Through the Capacity Development Programme (CDP), the UNDP implemented a project pertaining to the enhancement of capacities of two parliamentary committees: (1) on international cooperation and European integration and (2) on constitutional issues and legislation. The project was implemented in 2007–2008 in relation to the strengthening of capacities of these two committees for implementation of the Stabilization and Association Agreement. The Gender Programme works on improvement of position and involvement of women in the work of political parties, in which the Gender Equality Committee of the Parliament is also a prominent partner, besides political parties. The activities are directed to improvement of work of this Committee though gender-aware policies and laws enacted, i.e. monitored, through its mandate. This builds the capacities and improves the knowledge of representatives of political parties working in this Committee. The three-year programme realized by the UNDP, in partnership with the Gender Equality Department of the Ministry of Justice and Human Rights and the Delegation of the European Union to Montenegro, allocated about 250,000 EUR for these activities.

The UNDP office in several occasions rendered recommendations for improvement of the parliamentary work. Within the previously mentioned project, recommendations were prepared (in a form of report) on the role of the Parliament in the process of implementation of the Stabilization and Association Agreement. On the basis of that report, two parliamentary committees adopted the conclusions with the recommendations from the report included. In the CEDAW reporting process, a lot of discussions were carried out in this direction and some of

[26] Information from the Questionnaire, Organization for Security and Cooperation in Europe (OSCE), September 19, 2012.

the recommendations were given for improvement of the effects of mechanisms for achieving gender equality. Other examples include initiatives and work on introduction of affirmative actions for women in parties and within the electoral law. Although international organizations have no right of rendering obligatory recommendations to the Parliament of Montenegro, the UNDP Office proposed certain measures directed to the reduction of gender inequality. The proposed measures were later adopted within the provisions of the Law on Labour and the Law on Protection against Family Violence.

The UNDP does not have a formal role of participation in public debates or public meetings. However, if the Government, i.e. some of its ministries organizes a public debate on draft or bill of some legal act or strategic document, the UNDP can provide expert support in drafting, giving comments as well as offering assistance in carrying out the entire process, organization of participation of all relevant actors in the debates and exchange of opinions, as well as in organization of public debates themselves.[27]

Westminster Foundation for Democracy (WFD) started with parliamentary activities in Montenegro in September 2010. Currently, in cooperation with the British Council, it implements a project aimed at enhancement of the human capacities and the oversight role of the Montenegrin Parliament. This joint project of WFD and British Council, which shall last until 2013, currently offers the only comprehensive training programme for the Parliament, designed in such a manner as to contribute building of highly professional and efficient staff that will be capable to efficiently perform the tasks posed by the EU institutions. What is important is that this project should leave long-term results, such is the expert network for performing tasks from the field of the cooperation with the EU, and also a set of concrete outcomes, such are:

1. Human capacities development strategy, guidelines and management development programme,
2. Communication strategy, where more than 40 employees in the Parliament shall obtain the skills of communication with the EU structures,
3. Guide for monitoring and oversight of the parliamentary procedures and budget of the Parliament.

Soon after the start of this programme, a Memorandum of Understanding was signed in November 2011 between the Parliament of Montenegro, WFD and the British Council. The programme is also aimed at strengthening of regional cooperation, considering that the same programmes are implemented in Serbia, Macedonia and Albania.

[27] Information from the Questionnaire, the UN Development Programme (UNDP), September 14, 2012.

New Challenges for a New Mandate: Report on the Work of the Parliament of the Independent Montenegro (NDI) and Changes on its Road to Europe

With the decision of the Council of the EU of July 2006 to start separate negotiations with the Republic of Montenegro within the Stabilization and Association Process, the ruling elite of this country unavoidably entered the process of strengthening their capacities in order to be able to meet complicated requirements on the European integration road. Montenegro had to prove itself as an efficient state, in democratic and in economic sense. To that end, strengthening of capacities of the Parliament of Montenegro, i.e. its representative, legislative and control function, became the priority in the process of meeting the goals and conditions of harmonization of Montenegrin legislation with the European legal order, i.e. *Acquis Communautaire*.

Having in mind the new dimension in the work of the Parliament of Montenegro in that time, and relying on its years long involvement in the parliamentary practice in Montenegro, the National Institute for Democracy (NDI) created a report which analyzed the main challenges before the Parliament and gave concrete recommendations for positioning the Parliament as the key institution in the EU integration process. The NDI team for assessment of the work of the Montenegrin Parliament organized a set of meetings with different subjects involved in the parliamentary work. The NDI published preliminary findings of the report soon after the first parliamentary elections in independent Montenegro, i.e. in September 2006.

According to this report, the results of the May 2006 referendum on state status demonstrated that the population is politically polarized, yet public opinion polls consistently show that there is enormous support (80 %) for EU accession.[28] With the issue of state status resolved, the focus of the policy agenda will shift to economic, social, and legal issues. Thus, there is a significant need to establish a consensus between governing and opposition parties around strategic development issues in Montenegro – and the place to do that is in the Parliament.

After presentation of the findings from the field, the NDI team started its work on rendering concrete recommendations for improvement of the work of the Parliament of Montenegro. Key recommendations, deriving from this report, are the following:

- To establish a more efficient legislative process, i.e.:

1. Making the position of MP professional;
2. Making a firm political commitment to respect the Rules of Procedure;
3. Planning and organizing Parliament's work by establishing an annual work plan and standardized schedule, as well as a detailed two-month work plan, that is shared with MPs and the public;

[28] National Democratic Institute for International Affairs, *New Challenges for a New Mandate: The Parliament of the Republic of Montenegro,* Podgorica, 2006, p. 5.

4. Giving Parliament's standing committees a stronger role;
5. Giving Parliament and party caucuses the expert and administrative assistance needed to fulfill their roles and responsibilities.

- To improve the representative and oversight functions of Parliament, which require:

1. Strengthening the operation of party caucuses;
2. Establishing MP offices throughout Montenegro;
3. Improving the legal framework for effective control of state and independent institutions funded by the state budget;
4. Employing effectively the oversight functions provided by the new Rules of Procedure; and,
5. Improving the transparency of parliamentary operations.

- to develop the human and capital resources of Parliament, which necessitates:

1. Establishing the regulatory, financial, administrative, and security autonomy of Parliament;
2. Hiring new employees and providing training for MPs and staff, alike; and,
3. Providing sufficient working conditions for MPs and staff.

Finally, with the key goal of helping to build governing institutions in Montenegro, the European Agency for Reconstruction should define a special Twinning Program between the Montenegrin Parliament and the parliament of a new EU member state that would oblige the Parliament to hire additional staff, would oblige the EU to provide funds for education of the Parliament's staff, and would oblige both institutions to secure over time the necessary activities for the Parliament to truly respond to the requirements of the European integration process.[29]

The majority of recommendations defined by this report was accepted, so that the NDI, after the publication of the first report in October 2006, published also the second one, three years later. That report focused on the success of implementation of the previously defined recommendations.

The Parliament has, for the sake of fulfilment of these recommendations which mostly overlap with the assessments of the European Union, made decisive steps on numerous fields.

The Parliament is, above else, considered the one of the most transparent state authorities[30]. Also, by the Decision on Amendments and Supplements to the Rules

[29] Ibid, p. 7.

[30] Montenegro 2012 Progress Report, p. 5;Final report on implementation of the Law on Free Access to Information for the period January 2011 – June 2012, p. 11, NGO MANS;

of Procedure, "directed towards enhancement of the role of the Parliament in the European integration process and its control role"[31], adopted in early May 2012, changes occurred in the organization and the manner of work of the Parliament.

First of all, there was an increase of the number of working bodies and an expansion of competences of the existing ones. Instead of the existing 11, the Parliament shall have 14 working bodies. Constitutional and legislative activities are now divided, so that instead of the Committee on Constitutional Issues and Legislation we have the Constitutional and the Legislative Committee. The new Anti-Corruption Committee was established, to monitor the work of state authorities in the fight against corruption and organized crime. We have already mentioned the data that the Committee on International Relations and European Integration has been divided to the Committee on International Relations and Emigrants and the Committee on European Integration, by which the Parliament shall try to adequately respond to the next steps in the European integration, and also to the critiques according to which its influence was marginalized in relation to the Government.

Same, the oversight mechanisms have been improved, such are parliamentary hearing and parliamentary questions, while the parliamentary minority was by the "new" Rules of Procedure granted easier mobility of proposals of acts to the agenda.

As for the administrative capacities, in the last few years the Parliament has been intensively working on employment of qualified personnel and organization of different trainings. The most recent data show that only last year, i.e. in the period October 2011–August 2012, the number of employees grew from 100 to 122.[32]

The question of spatial and technical capacities remain one of the problems to which the Parliament will have to pay larger attention, particularly in respect of provision of adequate space for work of parliamentary clubs. The establishment of MPs offices throughout Montenegro, which was one of the NDI recommendations, has not happened.

Instead of a conclusion: next steps?

The Parliament of Montenegro, by adoption of proposal of the decision on amendments and supplements to the Rules of Procedure, divided the former Committee on International Relations and European Integration into two standing working bodies: the Committee on International Relations and Emigrants and the Committee on European Integration. Considering that the National Council shall

[31] Parliament of Montenegro. 2012. *Semi-annual report on the work of the Parliament of Montenegro January 1 – June 30, 2012*, [online], [Accessed on November 26, 2012]. Available at: http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/OSTALO/publikacije/polugodisnji_izvjestaj_o_radu_skupstine.pdf

[32] Montenegro 2012 Progress Report, accompanying the document Communication from the Commission to the European Parliament and the Council, p. 6

cease to exist, the Committee on European Integration shall take over its role as well, whereas seven parliamentary committees shall take over the monitoring and assessment of harmonization of Montenegrin legislation with the *Acquis*.

Expectations are big and diverse. The largest challenges for the Committee shall be: strengthening of professional and oversight capacities; reduction of the level of politicization (which characterizes and burdens the work of the Parliament as a whole); giving more space for action of opposition, which hitherto was rather marginalized, as well as larger space for the contribution by civil sector.

Special expectations refer to the work of the SAPC, considering that the coming phase of the EU integration – negotiation – requests permanent oversight over the Government, not only by the Committee on European Integration but by the Parliament as a whole.

International parliamentary cooperation, as well as the cooperation of the Parliament with international organizations, has a particular importance and extremely large influence to creation of clearer image of democratic standards, and expectations from Montenegro in the process of building full democratic capacity of public administration. Particularly important process coming from this mode of cooperation is accelerated informing and education of MPs of the Montenegrin Parliament about certain issues from the field of parliamentary practice. In that respect, additional efforts must be put for deepening of cooperation with the most prestigious international organizations and organization of additional trainings, and implementation of specially defined activities that will contribute building of highly professional and efficient representative body of the citizens of Montenegro.

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CONCLUDING REMARKS

Serbia, Bosnia and Herzegovina and Montenegro share a common past in the sense that all three states originated from the former SFRY (Socialist Federal Republic of Yugoslavia, 1941–1992, the Second Yugoslavia). After the disintegration of the SFRY, Serbia and Montenegro for some time continued together within the FRY (Federal Republic of Yugoslavia, 1992–2002, the Third Yugoslavia) and in the State Union SCG (Serbia and Montenegro, 2002–2006). All three of them are now independent states, all of them aspiring to the EU membership, all are unconsolidated democracies, however each of them having its own specificities. After the referendum on independence of Montenegro (2006), Serbia continued as an independent state and the legal successor of the State Union. By the Constitution of 2006, Serbia is a unitary state, with two autonomous provinces: Vojvodina and Kosovo and Metohija. Serbia as a whole, as well as its parliament, is burdened by a disharmony between the constitutional and the factual status of Kosovo. Namely, after 1999, the sovereignty of Serbia over Kosovo has in fact been suspended. This has been particularly enhanced after the unilateral proclamation of the Kosovo independence, of February 17th, 2008. The problem of Kosovo reflects both to the issue of "unfinished" and non-comprehensive state as well as to the representativeness of the parliament. The National Assembly of the Republic of Serbia is a unicameral parliament with two hundred fifty MPs.

Bosnia and Herzegovina is a complex state of three constituent peoples (Bosniaks, Serbs and Croats), two entities – Federation of Bosnia and Herzegovina and Republika Srpska (whereas the Federation consists of ten cantons) and a separate administrative unit of Brčko District. The institutions in Bosnia and Herzegovina have primarily been the result and consequence of conflict resolution (*Building Democracy After Conflict*). After the "war in Bosnia and Herzegovina" or the "war for Bosnia and Herzegovina", the Constitution, which is the Annex 4 to the peace accords – the Dayton Agreement of 1995 (signed in Paris), fulfilled its purpose of durable peace, however its other performances remained

quite questionable. In Bosnia and Herzegovina an innovation with three-member Presidency has been implemented – one member is elected from Republika Srpska while the citizens of the Federation of Bosnia and Herzegovina elect one Croat and one Bosniak. The BiH Constitution, neither by its origin nor by its content, enabled the identification with the polity in the form of "Constitutional patriotism" but it legalized national divisions of "constituent peoples". This unusual political construction is rather stuck, while the desire for change is supressed by the fear from disturbance of already fragile outcomes of the existing solutions. "Ethnification of politics" (Offe) has not been stopped, but deepened. This is a kind of "ethno-democracy". The key component of the political life is distrust and closeness into the ethnic parishes of the constituent peoples. Constitutionality, representativeness, legitimacy and voting are all derived from one principle – the ethnic one. Ethnic divisions are accompanied by the religious ones, which all has synergic effects and aggravate the cleavages. Each community has the right to veto to the laws which "violate national interests". Institutional engineering of the Dayton architects left the "anchored" democracy, dysfunctional and inefficient states which institutions are under the latent threat, pressure and blockade of ethnic veto actors. The BiH Parliamentary Assembly is a specific institution by all its features, and therefore by exercising its legislative and control function, including the issues of transparency and influence of international actors on its work. The social-political conditions and the goals of enacting the BiH Constitution led to that the legal solutions are not complete, that there are legal ambiguities. That is, the constitutionally-legally established consociative model still finds the ways of its social implementation, which reflects to the state parliament as the common authority of ethnic segments. BiH has an extremely fragmented party system, which influences the fragmentation of the Parliamentary Assembly. These shortcomings particularly influence the legislative and control competence of the parliament, as well as its central functions. The BiH Parliamentary Assembly consists of two equal houses and with 57 members/delegates it is one of the smallest parliaments in Europe. It has two unique veto-mechanisms: entity voting and vital interest of constituent peoples. Its discriminatory structure, when it is about the composition of the House of Peoples, resulted in 2009 by the decision of the European Court of Human Rights in the case Sejdić and Finci v. BiH which implementation, with long-term consequences for the entire BiH political system, has still been expected. The Constitutional standardization in all four research areas (legislative function, control function, transparency, influence of international actors) is incomplete. In BiH there is no law on the Parliamentary Assembly, and therefore the Rules of Procedure of the houses are the most important legal acts.

After the dissolution of the SFRY, Montenegro continued to be a part of the union, however this time only with Serbia. Although it was not a direct party in war, its influence did not pass it by. The events in Serbia had a strong echo in Montenegro as well, and Slobodan Milošević, the then president of Serbia, had a

large impact on the decisions passed by the Montenegrin leadership, which came in 1989 on the wave of "anti-bureaucratic revolution" that was unfolding upon the initiative and with control of Slobodan Milošević and the official Belgrade. Such relation influenced the very process of democratic transition, which unfolded in two phases, so that political scientists distinguish the first democratic transition of 1989–1997 and the second one, of 1997–2000 (Darmanović, 2006).

The key moment was certainly the obtaining of state independence after the referendum of May 21st, 2006. This event significantly accelerated the strengthening of public institutions and importantly influenced the enhancement of the position of the Montenegrin parliament.

Legislative activity

Legislative activity is differently regulated in Serbia, Bosnia and Herzegovina and Montenegro. In Serbia, the legislative activity has in principle been regulated by the Constitution, whereas the Law on the National Assembly of the RS and the Rules of Procedure of the NA regulate in more details the manners of its exercise. The specificity of the parliamentary law in Serbia is that there is the Law on the National Assembly, whereas Bosnia and Herzegovina and Montenegro have no similar law, but the Rules of Procedure are the supreme legal acts, after the Constitution, regulating the organization and functioning of the parliaments. The legislative function of the Assembly of Serbia derives from the Constitutional definition of the National Assembly as the supreme representative body in the Republic, through which citizens exercise their sovereignty (Art. 98 of the Constitution of RS, Art. 2 of the Law on the NA). The Constitution of Montenegro also stipulates that the legislative power is exercised by the Parliament. On the other hand, exercise of the legislative power in Bosnia and Herzegovina was not explicitly granted to the Parliamentary Assembly, as did many constitutions, envisaging that the parliament or the assembly perform legislative power, but such conclusion is derived from the competences of the Parliamentary Assembly, contained in Item 4 Article IV of the BiH Constitution. The importance of legislative procedure in BiH requires certain issues to be regulated by the Constitution and not the Rules of Procedure, such is the issue to whom belongs the right to legislative initiative.

Regarding the legislative procedure, it is necessary to emphasize the general difference between the countries in which the research was carried out. BiH Parliament is bicameral, while the parliaments of Serbia and Montenegro are unicameral, which reflects to the procedure of enactment of laws. The specificity of Bosnia and Herzegovina is, therefore, the existence of the bicameral parliament, i.e. the Parliamentary Assembly – the House of Representatives and the House of Peoples. The BiH Constitution stipulates that the houses are equal in performing the legislative function, as they have to adopt each law in the identical text. The

legislative procedure is also different. The legislative procedure in Serbia is single, i.e. it is not divided into several "readings", but from proposing the bill to its posing onto the agenda, through parliamentary debate in principle and in details, to the voting on the bill, the legislative procedure is carried out in a continuum. In Bosnia and Herzegovina, there are two readings of the bill, although it could be assessed that this procedure essentially resembles the procedure of consideration of the bill in principle and in details. In Montenegro, however, there are "three readings" of the bill.

In respect of the right to the legislative initiative, i.e. authorized proposers of the bills, there are certain differences. For example, only Serbia recognizes the right to legislative initiative exercised directly by the citizens. In Serbia, the right to legislative initiative is very precisely defined by the Constitution, above else by its Article 107, so that the right to propose laws belongs to any MP, the Government, Assembly, autonomous provinces and at least 30,000 voters, i.e. the Ombudsman and the Governor of the National Bank, within their fields of competences. After the amendments to the Constitution of 2007, in Montenegro the right to propose laws belongs to the Government, MP, but not anymore to 6,000 voters directly, since they can do it through an authorized representative, by which the right of citizens to initiate the legislative procedure has largely been limited. In Bosnia and Herzegovina, the constitutional standardization is incomplete, as it does not define whom the right to legislative initiative belongs to, and not does recognize the institution of people's initiative or referendum. In BiH, the right to legislative initiative is prescribed by the Rules of Procedure of parliamentary houses, which stipulate that this law belongs to each member/delegate, committees of the houses, joint committees, other house, as well as to the Presidency and the Council of Ministers, about the issues from their competence.[1] Therefore, the specificity of BiH here as well is that the right to propose laws belongs to the committees, i.e. joint committees, which however, seldom use it, and certainly to the other house of the Parliamentary Assembly. On the other hand, in BiH the right to legislative initiative is not explicitly granted to citizens by the Constitution, nor it is mentioned in the Rules of Procedure In Serbia and Montenegro, the bill has to contain the rationale on compliance with the EU *Acquis Communautaire*, i.e. the table on compliance. Only Serbia has common methodological rules, which assist proposers (above else, the MPs themselves), the implementation of which has already shown a significant positive influence to the quality of adopted laws and contributed the more successful work of the Assembly.

[1] In Republika Srpska, President of the Republic and the Government of the Republika Spska have right to legislative initiative equal to the one belonging to the MPs and at least 3,000 voters (amendment XXXVIII to the Constitution of Republika Srpska).

In Serbia, the Government proposed about 61.8% of laws and other acts in average, MPs 19.56%, while other proposers appeared in 18.4% .[2] Although the Government had a dominant role in proposing the majority of primary legislation, in Serbia, in fact, the texts of proposed bills are changed to a large extent, which is proven by a large number of submitted, i.e. adopted amendments, and particularly a large number of the adopted amendments submitted by the representatives of opposition parties. In difference from the formal aspect, the practice, however, shows that in BiH the largest number of the adopted laws comes from the Council of Ministers, whereas the Presidency and individual members/delegates seldom used this right. This relatively small number of bills which came from the Presidency is caused also by the fact that its right to legislative initiative is limited. The BiH MPs seldom used the right to legislative initiative, as well as the committees. Participation of citizens is minimal, as there is no civil legal initiative, and so is the number of public debates. The High Representative particularly influenced that the Parliamentary Assembly entirely takes over its mandate of legislator. He convoked the Assembly sittings, but also imposed laws (which in subsequent parliamentary procedure had to be confirmed by the Assembly itself). In Montenegro, a significantly higher number of bills comes from the Government, in spite of the existing trend of increase of the bills coming from the MPs, particularly the opposition MPs.

The Assembly of Serbia in its previous convocations worked very intensively on exercising its legislative function. Serbia and Montenegro register a significant increase of the adopted laws and amendments to the laws, seemingly as a trend derived from the need for harmonization of national legislation with the EU *Acquis*. In Montenegro it is specific that citizens in the capacity of proposer submitted fifty amendments in total. The analyses show that the Assembly of Serbia largely influences the final texts of the bills submitted by the Government, i.e. that the bills undergo significant volume of changes and supplements through amendments in the parliamentary procedure, which is in fact contrary to the common opinion that the National Assembly only formally adopts the Government's bills without changing them significantly. The analysis of the impact of the legislative procedure in the National Assembly to the bills submitted by the Government shows that the increased number of amendments submitted by the competent parliamentary committees as well as the total number of adopted amendments prove that the parliament is not a simple voting machine. In Serbia,

[2] According to the available data, the statistics would be as follows: in the year 2005 – in 52.4% of cases the proposer was the Government, in 25.17% of cases the MPs, 22.4 % other proposers; in 2006 – 62% of the bills by the Government, 11.2 % by the MPs, and 26.7% by other proposers; in 2007 – 51.9% proposed by the Government, 18.1 % by the MPs, and 14.3% by other proposers; in 2009 – 67,6 % by the Government, 15% by the MPs, and 17.2% by other proposers; until April 2010 – 69.6 % by the Government, 18.8% by MPs and 11.5% by other proposers. The statistics does not include the number of the withdrawn bills.

the interviewed MPs insisted that in the preparation, i.e. consideration of bills in procedure they consult relevant institutions, representatives of civil society, trade unions, associations, as well as citizens most directly influenced by the bills, i.e. they obtain their opinions and attitudes. Same, the interviewed MPs in Serbia assess that they had no consequences if/when they vote contrary to the attitude of their parliamentary group. In Montenegro, the interviewed MPs also emphasized the freedom which their party allowed in voting. In BiH, the House of Representatives dominates over the House of Peoples, while the decisions are often previously made in the non-parliamentary procedure. The domination of the House of Representatives is not of formal-legal nature, since the houses are equal in performing the largest number of competences of the Parliamentary Assembly. The exemption is the procedure of appointment of the Chair and the members of the Council of Ministers, implemented only in the House of Representatives. The domination of the House of Representatives is of factual nature, since the legislative procedure mostly originates in this house. As in the decision-making process in lot of cases a sufficient number of votes cannot be provided from one of the entities, the House of Peoples does not debate on bills at all. Besides, in Bosnia and Herzegovina there is a broadly spread mechanism of agreement of party leaders at their meetings on the most important decisions that have to be adopted, and which the Parliamentary Assembly only confirms.

Regarding the procedure of adoption of laws, there are certain specificities. Working bodies according to normative-legal regulation have a significant place in the procedure of enacting the laws, consideration of bills, as well as amendments submitted to the bill, however with possibility to submit amendments themselves (in BiH also to propose laws). Specificity of the legislative procedure in Serbia is that an amendment in compliance with the Constitution and the legal system and adopted by the proposer of the bill and the competent committee, becomes an integral part of the bill without specific deciding thereon at the plenum (Art. 164 of the Rules of Procedure). Similarly to BiH – if the committee adopts amendments to the bill, they become a part of the bill being debated on the plenary sitting (as if the original text of the bill, without the committee's amendments, does not exist). Specificity of the work of the committees in BiH is that if the proposer of the law or its authorized representative does not attend the committee sitting two times in a row, it is considered that the bill has been withdrawn. In Serbia, intensive work of the committees is notable, for example, parliamentary committees during the convocation – 2008–2012 considered totally 28,731 amendments submitted to the bills by the authorized proposers, out of which 502 amendments submitted by the committees based on Articles 155, 157 and 165 of the Rules of Procedure. The manner of deciding in BiH is specific in comparison to other parliaments. Besides that the decisions in the Parliamentary Assembly are always passed by a specific qualified majority, there is also the so-called entity voting, which is particularly present in practice (it could not be said that the entities are

entitled to the right to veto, as MPs formally decide independently, not being, either formally or factually, under the control and influence of entity institutions). In theory of constitutional law it is still disputable what majority is required for the decisions passed in the Parliamentary Assembly, including the decisions on adoption of bills. In BiH, public debate is organized and carried out by the competent committee. Public debate is participated by interested bodies, institutions and individuals, who can give opinions and proposals on the bill. After carrying out of debate, the competent committee systematizes the results of public debate and can adopt some of the presented opinions and proposals.

The Assembly of Serbia has 19 standing committees, the Parliament of Montenegro 11, whereas the House of Representatives of the BiH Parliamentary Assembly has seven standing committees, and the House of Peoples three. In addition, there are six joint committees of the both houses of the Parliamentary Assembly.

In Serbia, the President of the Republic has a deadline of 15 days at the latest from the date of the adoption of the law, i.e. seven days if the law was voted by urgent procedure, to promulgate the law or to return it to the Assembly for reconsideration. In that case the Assembly adopts the law by the majority of the total number of MPs. In Montenegro, the President promulgates the law by a decree within seven days, and it is published in the Official Gazette of Montenegro. The BiH Constitution contains no norm on the right of the Presidency or the Council of Ministers to sign the laws adopted in the Parliamentary Assembly, nor are such norms contained in the Rules of Procedure of the parliamentary houses.

In Serbia, 48.5% of the laws are adopted by urgent procedure. In BiH, laws can be enacted by urgent procedure as well. This shall be the case when the bill, having in mind its complexity, can be enacted after only one reading, i.e. when it can be adopted or rejected in full. Another case in which it is possible to adopt the law by urgent procedure is if the Assembly assesses that the bill is of a high level of urgency. In Montenegro, the law can be adopted by *abbreviated procedure* (in the Rules of Procedure of 1996: urgent procedure). The law is adopted by abbreviated procedure when it regulates the issues and relations which occurred due to unpredictable circumstances, and when it is necessary to enact the law for harmonization with the *Acquis Communitauire* and international law. In case of adoption of the law by abbreviated procedure, the written rationale of the competent committee is not required, and it is even possible to carry out the Assembly debate without the opinion of the Committee, if the Committee did not consider the bill in a timely manner. The laws are seldom adopted by urgent procedure, and this is most often happening with the laws regulating the field of finance. In Serbia, a trend of consideration of a significant number of bills by urgent procedure is quite notable.

While the constitution-framing function is clearly prescribed in the parliamentary law of Serbia, first of all by the Constitution, the Law on the National

Assembly and the Rules of Procedure as well, BiH has only scarce constitutional norms on exercising the constitution-framing function, particularly in relation of who can initiate the procedure of constitutional amendment, the phases of constitution-framing procedure, whereas two issues are regulated in an ambiguous manner – if only partial or total revision of the Constitution is allowed and if both houses participate in the Constitution amendment (and if the House of Peoples participates in the revision procedure, by what majority it decides); the Rules of Procedure neither regulate in more details the procedure of adoption of amendments to the Constitution of Bosnia and Herzegovina, in a part pertaining to the final voting on proposal of amendments. The remarkable specificity of the Constitution of Bosnia and Herzegovina is in that the Parliamentary Assembly can perform the constitution-framing (i.e. revision) power not only by formal amendments to the Constitution text, but also by enacting ordinary laws. In Montenegro, the amendments of 2007 reduced the number of proposers necessary for amendment to the Constitution, since the proposal can be submitted by at least twenty five MPs, President and the Government, however, without a possibility for an initiative to be started by a group of voters. In the Republic of Serbia, the proposal for amendment to the Constitution can be submitted by at least one third of the total number of MPs, President of the Republic, Government and at least 150,000 voters (Art. 203 of the Constitution).

Serbia and Montenegro require a special majority, i.e. citizens' endorsement on referendum, for amendment to certain parts of the Constitution. In Montenegro, the Parliament decides on amendments to the Constitution, which requires a two-third majority, and in certain cases, under the new Constitution, also the deciding by at least three fifths of all voters at the referendum (mostly the Constitutional articles pertaining to the so-called identity issues).

In the period 2000–2012, the Assembly of Serbia had four convocations; 2000–2004; 2004–2007; 2007–2008; 2008–2012, and the fifth convocation elected in 2012. The BiH Parliamentary Assembly so far had six convocations (1996–1998; 1998–2000; 2000–2002; 2002–2006; 2006–2010 and the actual convocation in the mandatory period 2010–2014). In the referential period (2000–2012) the Parliament of Montenegro had four convocations (21st to 24th convocation, with the 25th convocation of the Parliament of Montenegro elected in October 2012). Only two convocations in the multiparty system lasted the full four-year term of office (1992–1996 and 2002–2006). Legislative function of the parliaments of Serbia and Montenegro is conditioned by the procedure of application for the EU membership, i.e. the harmonization procedure. BiH expects the shift from the so-called Dayton phase to the new Brussels phase, i.e. the necessary strengthening of state institutions, including the parliament.

There are issues which consist a part of the legislative procedure and are regulated by the Constitution, the adequacy of which is often challenged. Such issues include the manner of deciding of the Parliamentary Assembly, particularly

in the segments pertaining to entity voting and vital national interest. Different political interests of national political elites do not enable different regulation of the decision-manner of the Parliamentary Assembly so that in this segment it will remain a specific institution, which shall further characterize the legislative procedure. Parliaments of these states suffer common illnesses, such are party fragmentation, trapping into party, and in BiH also in entity ethnical trenches. The weak technical, human resources and financial capacities available to the MPs is also a common point.

Control function

Legal foundations of the control function of the parliament can be found in constitutional documents of all three countries, while their effective mechanisms have additionally been elaborated in the parliamentary Rules of Procedure.

The Constitution of Serbia defines the most general and the most important control mechanisms and envisages enactment of the Law on the National Assembly for closer regulation of these competences. Article 99 of the Constitution defines the competences of the Assembly: "within its election rights, the National Assembly shall: 1. elect the Government, supervise its work and decide on expiry of the term of office of the Government and ministers, 4. appoint and dismiss the Governor of the National Bank of Serbia and supervise his/her work, appoint and dismiss the Civic Defender and supervise his/her work". In addition, the Constitution regulates the process of interpellation. It also envisages that "the National Assembly shall discuss and vote on the response to interpellation submitted by the Government or member of the Government to whom the interpellation is directed"

The normative part of Annex IV to the General Framework Agreement on Peace in BiH (colloquially called the Dayton Accords), i.e. in the BiH Constitution, stipulates the competences of the Parliamentary Assembly which can be defined as common control competences of the parliament. The control function of the BiH Parliamentary Assembly is partly defined by Article IV4 of the BiH Constitution, more precisely in items b) and c) pertaining to the deciding on adoption of the budget, sources and amount of assets for the BiH institutions. Besides, Article V4a stipulates the obligation of submission of reports to the BiH Parliamentary Assembly by the BiH Council of Ministers, including at least one report per year on the BiH expenditures. Constitutional provisions are defective in the scope of determination and more detailed definition of control functions of the BiH Parliamentary Assembly. Consequently, one should rely on the procedural foundation of the control functions of the parliament at the BiH state level. Thus the Rules of Procedure of both houses define in details the control activities of the houses, such are election and voting no-confidence to the BiH Council of

Ministers, adoption of budget, submission of reports, parliamentary questions, interpellation, inquiry committees, public hearings and the like.

The House of Representatives of the BiH Parliamentary Assembly is competent for confirmation of appointment of the Chair of the BiH Council of Ministers. When the House of Representatives receives the decision on appointment of the Chair of the Council of Ministers, the Collegium convokes a sitting to give the floor to the appointee, for presentation of his/her political programme, which is followed by a debate and voting. The control mechanism of no-confidence is implemented in both houses of the BiH Parliamentary Assembly, in almost the same procedure.

In BiH, the BiH Presidency, upon recommendation of the BiH Council of Ministers, submits to the House of Representatives of the Parliamentary Assembly the bill containing the budget of BiH institutions for the forthcoming year. Upon being considered and adopted, the bill is submitted to the House of Peoples for consideration and adoption. The Parliamentary Assembly monitors the implementation of the budget through reports on exercise of the budget submitted by the BiH Presidency upon proposal of the BiH Council of Ministers and the data on realized revenues and expenditures in the fiscal year. If having doubts regarding the correctness of the figures, the houses can request explanations or corrections from the BiH Council of Ministers. However, in mostly antagonistic party, ethnic and entity relations of the members of the Parliamentary Assembly, there is no feeling of obligation for carrying out the oversight over the exercise of the budget, regardless the political party and whether these are the ruling or opposition parties, i.e. parties from one or another entity. The consequence is that – although the members of the BiH Parliamentary Assembly have at their disposal instruments and mechanisms of control of the BiH Council of Ministers – their scope is not proportionally accompanied with the inclusion of the Parliamentary Assembly into the practice of control of work.

In BiH, there is an obligation of the BiH Council of Ministers to submit information on all important activities from its scope of work to the House of Representatives of the BiH Parliamentary Assembly, with responsibility of proposing the implementation of politics and implementation of laws, other acts and provisions the implementation of which makes a part of its constitutional and legal competence, as well as guiding and harmonization of the work of ministries. Except in the BiH Constitution, this obligation has also been confirmed in the Rules of Procedure of the House of Representatives of the BiH Parliamentary Assembly. The respondents state similar examples of problems as with debate and voting on the budget, where debate and adoption or non-adoption of the report are based on daily-political assessment if someone likes or dislikes the BiH, i.e. on ethnic-based division.

In Montenego, similar to Serbia and Bosnia and Herzegovin, the key control functions are defined by the Constitution of Montenegro. The most recent changes of the parliamentary Rules of Procedure additionally enhanced the mecha-

nisms of exercising the control function. The Rules of Procedure elaborates in more details the instruments and manners of their use. In fulfilment of the control role in relation to the work of the Government, the Parliament of Montenegro has various control mechanisms at its disposal, which can be classified into (1) group of mechanisms for collecting information on the work of the Government, and (2) group of instruments of effective control of its work. The first group includes: (a) parliamentary question and Prime Minister's Hour, (b) parliamentary inquiry, (c) consulting and control hearing. The other group is composed of: (a) procedure of deciding on no-confidence, i.e. confidence to the Government, (b) procedure on consideration of interpelation on the Government's work.

In Serbia, the Rules of Procedure grants MPs the right to pose parliamentary questions to certain minister or the Government. This questions "must be clearly formulated" and can be posed in writing or verbally, providing that "the address of the MP posing the question may not last more than three minutes" (Article 204, Para 2 and 4). Written questions can be posed on daily basis (including the period between two sittings), whereas verbal questions can be posed to the Government every last Thursday in the month, in the period from 16:00 to 19:00. The Government's obligation is to notify the parliament three days before the holding of the sittings on the prevention of ministers from attending the sitting.

"The Government or a Minister shall immediately reply verbally to the parliamentary question posed. If a certain preparation is required for providing the reply, they shall substantiate it immediately, and provide the reply to the MP, in writing, no later than eight days after the question was posed" (Article 206, Para 1). In an event of necessity for collection of a larger number of data and a more complex analysis, this deadline can maximally be prolonged to 30 days, whereas the written report shall be submitted to the MPs (regardless the response deadline). After the Minister or another representative of the Government verbally responds to the question, the MP is entitled to a three-minute comment to the response, or posing of supplementary question, after which the MP has the right to once again comment the Minister's response (for the duration of two minutes).

The Rules of Procedure of the Assembly of Serbia stipulates "parliamentary questions in relation to the actual topic" to be posed at least once a month, upon proposal of the parliamentary groups. The proposal of the parliamentary group "must contain a precise specification of the topical subject" (Article 210), as well as the name and family name of the competent minister or other official who should respond to these questions and it must be submitted at least three days before the holding of the sitting. Responding to the parliamentary questions can last for up to three hours (180 minutes) and is carried out regardless the number of present MPs in the chamber. As we have already mentioned, "during the days when Ministers reply to parliamentary questions, live broadcast shall be provided on television" (Article 215), which largely influences the total number of posed questions in the last convocation – 766 of questions, with 575 of them being

responded. Same, 1,240 information and explanations were requested, with obtained 786 responses (Report on Work of the NA RS Service – in the period from June 11th, 2008 to March 13th, 2012, p. 46). One of the interviewed MPs was interested in the same results: "I asked two years or a year and a half ago for an official information about who posed the questions, and I was told that until then the responds were given to about 40% of these questions, meaning that 60% remained unresponded; however, I got no official response" (SRB 08). Thus, according to the members of the parliamentary majority, the opposition questions are "reduced to politicking, political pamflets, critique of the Government" (SRB02). On the other hand, majority MPs' questions are posed by the system "I praise you, you praise me – not to say arranged" (SRB04), i.e. aimed for the minister to promote certain question, announce an investment or some good result achieved by the ministry. Same, MPs often ask questions important for voters from their region or constituency. Particular problem is the presence of ministers to whom questions are posed, as opposition is sure that it often happens that the sitting is attended by politically less important ministers or those to whom MPs do not want to pose questions and "they can only say 'this is not in our competence, we shall phone to our colleagues' which makes this instrument of oversight over the work of the Government entirely senseless" (SRB04).

In the BiH Parliamentary Assembly, members/delegates can pose members/delegates' questions to the BiH Council of Ministers or any of its members, self-governments, institutes, directorates, i.e. all BiH institutions. Research shows a balanced relation of posed parliamentary questions among them, although it seems that ruling parties are in slight advantage in raising parliamentary questions, which can be confirmed also by the reports on the work of houses in the previous period. In posing parliamentary questions there is almost no difference among clubs. At the end, the respondents agree that in posing parliamentary questions the influence of daily politics is decisive.

In Montenegro, in addition to the parliamentary questions, Prime Minister's Hour is used as well. Both mechanisms are established and elaborated by the Rules of Procedure of the Parliament of Montenegro (Articles 187–193). Special sitting of the Parliament, for posing parliamentary questions, is held at least once in two month during the ordinary session. At the same sitting, MP can pose two parliamentary questions at the most. MP is obliged to submit them to the Speaker of the Parliament, in writing, at least 48 hours before the beginning of the sitting. Prime Minister and members of the Government attend a special sitting of the Parliament devoted to parliamentary questions, in order to give responses. Written response is not obligatory, but is given upon an explicit request of the MP who posed the question or upon the request of the official responding, if required by special circumstances, After the submitted response, the MP has possibility to comment on the response, for the duration of up to three minutes. The MP can also pose supplementary question, for no longer than one minute. Parliamentary

question is neither debated nor voted on. Prime Minister, Minister or other authorized representative of the Government responds to the parliamentary question verbally, immediately after the MP finishes posing the question or at the end of the same sitting, for the duration of up to five minute per one question. Written response to parliamentary question, if there is an interested thereon, is submitted through the Speaker of the Parliament, latest by the holding of the next sitting devoted to parliamentary questions, i.e. if the Parliament is not in ordinary session, latest within 20 days from the day of submission of the question. Besides parliamentary questions, the Parliament of Montenegro uses the so-called mechanism of Prime Minister's (Premier's) Hour. The first part of the special sitting devoted to parliamentary questions, lasting up to one hour, is scheduled for posing questions to the Prime Minister and his/her responses on the actual issues from the work of the Government (Premier's Hour). Questions to the Prime Minister can be posed by the Chair/authorized representative of the parliamentary club, for the duration of up to five minutes, whereas the Prime Minister has the right to respond for the duration of up to five minutes.

When it is about the interpellation in Serbia, as claimed by one of the interviewed MPs "the provisions of the interpellation imply urgency, and therefore if the Government is given a month to declare itself, to send a response, than the Assembly cannot avoid to discuss it for two months and fail to send it to the Government, which is what happened here" (SRB08). Another (this time an opposition MP) speaks in the same spirit: "Generally, we came to a situation that we know that the Constitution was breached, but the Constituion envisaged no instrument for what to do, except that we called out the Prime Minister" (SRB09) .

MPs have a similar picture about the reports of independent and regulatory bodies submitted to the Parliament. Reports of these bodies are adopted "but no one enters into the essence of these reports" (SRB09). Opposition is at least in principal very interested in these reports as it sees independent bodies as an element in its struggle against power. Sometimes this produces dissatisfaction. "Both Saša Janković (*Ombudsman*) and Rodoljub Šabić (*Commissioner for Information of Public Importance*) do their job correctly and give the recommendations and opinions through these reports. However, only few of these recommendations and opinions we later change and implement through some amendments and supplements to the law" (SRB06). The majority MPs had remarks as well: "So far, there were often some misunderstandings from the part of the parliamentary groups of the majority when these institutions are concerned, as, seemengly, if we elected independent institutions, why do they criticize and control us so often. That is absurd, but that is in fact the unexperience in creation and governance of institutions. I believe that in the coming period these two institutions and the Anti-Corruption Agency shall be allies to all of us in building a better society. As for that someone does not like them doing their job – well, I'm not particularly interested in that" (SRB06).

In the BiH interpellation is submitted to the Speaker, in writing, and pertains to the situation in certain fields from the competence of institutions at the BiH level, i.e. the BiH Council of Ministers, regarding implementation of defined politics and laws. Pursuant to the collected data, the institution of interpellation has not been used at all in the actual convocation of the BiH Parliamentary Assembly. Having in mind the shown ignorance, the members of the BiH Parliamentary Assembly are not familiar enough with the institution of interpellation and do not know the procedure well enough to implement it.

In the BiH Parliamentary Assembly, the houses establish their standing or temporary committees with the houses, i.e. joint standing and temporary committees of both houses. According to the data obtained from the BiH Parliamentary Assembly, there is an established practice of functioning of inquiry committees. Nevertheless, although they are considered good practice, their effects are lacking since the institutions mostly deny information.

The procedure of consideration of interpellation is regulated by the Rules of Procedure of the Parliament of Montenegro. Interpellation for treatment of certain issues on the work of the Government is submitted to the Speaker of the Parliament in writing, while the question to be considered should be clearly formulated and elaborated. The Speaker of the Parliament is obliged to immediately forward to interpellation to the MPs and the Government. The Government considers the interpellation and submits to the Parliament the written report with its opinions and attitudes latest 30 days from the date of receipt of the interpellation. The Speaker of the Parliament forwards the Government's report on the interpellation to the MPs. Interpellation is put onto the agenda of the first forthcoming sitting of the Parliament held after the submission of the Government's report. If the Government submitted no report, the interpellation is put onto the agenda of the first forthcoming sitting of the Parliament after the expiration of the deadline for submission of the Government's report.

When it is about the control function, perception of the MPs in Serbia is rather pessimistic: "our control is entirely formal, there's almost none" (SRB1), and this is confirmed by independent experts: "I think that almost none of the parliamentary control functions is being used" (SRB1). Generally speaking, MPs think that the problem is not in legal regulation and framework, but in practice. "The problem is not in the context of regulations, nor in the competence of the control function of the Assembly, the problem is in us, in an insufficient use of the capacities granted to us by the constitutional position as MPs, that is the problem of integrity of MPs, their knowledge, skills, resolution of ethical dilemmas of MPs between the party, institutional interests and their personal attitudes" (SRB03)

It is entirely obvious that the supremacy of executive power is reflecting to exercise of control function by the parliament in Serbia. Legal framework for this function has certain shortcomings, but the impression is gained that the biggest shortcoming is in the disrespect of the envisaged rules by the Government

and other authorities, as well as by the parliament itself. Unfortunately, political institutions in this do not differ from the other parts of the society. Also, all actors state the importance of informal and discretional channels of influence and communication between the parliament and the executive power. Another level of problems is based on domination of parties and party elites over the parliament, which limits MPs' independence. Abolishment of blank resignations could motivate MPs to be more critical towards the government and perform their duties more diligently, with using their full capacity. However, optimism should not be too strong and unfounded. As formulated by a respondent, "the MP's integrity is to be won and built, and not automaticaly obtained with the MP status ". The third level of problems derives from focusing of the parliament to the legislative function, which is almost a regular situation in the parliaments of Eastern-European countries in the European integration process. The large number of regulations that should be adopted simply overwhelm the MPs and they actually do not have too much time to deal with control and other functions, having in mind low capacities and budget of the parliament. However, this cannot be an excuse for the lack of interest. Finally, probably the broadest framework is the understanding of the parliament as another stage for political struggle and promotion, and not as an institution of highest importance that should perform very concrete functions (while serving as a performance for voters only secondary). Broader context of specific political positioning of parties and absence of ideological profiling and competitive public policies only enhance dysfunction of the parliament.

When it is about Bosnia and Herzegovina, certain misunderstandings should be noted, arising as the results of divergent relations in governmental institutions which can be denominated as: the transfer of focus of decision-making from the BiH Parliamentary Assembly to party headquarters; inappropriate structure of human resources; ethnic and entity fragmentation; inappropriate mechanisms for fulfilment of implementation of control function of the BiH Parliamentary Assembly.

Oversight of the defence and security sector is extremely important, particularly if taking into account that institutions for defence and security have been assigned the competences which implementation can influence restriction of rights and freedoms of citizens. Generally, in performing oversight over the defence and security sector, parliamentary oversight overlaps with the oversight exercised by the executive branch, which puts them into direct relation. However, democratic oversight over the sector of security and defence has been established only as a condition for the processes started to unfold after its establishment, having in mind primarily the Euro-Atlantic integration. In the same time it does not contain the actual effect. Only the establishment of a clear legal framework and efficient mechanisms can establish a balanced and efficient system of parliamentary oversight that will be capable to entirely fulfil the purpose of its creation.

In the implementation of principles of division of power, the control function, founded on the checks and balances system and assigned to the legislative in

relation to the executive, represents a guarantee of democratic action of governmental authorities. This in the same time means that in the procedure of creation and implementation of politics, control function of the parliament is one of the most important functions. Possibility for a representative body to perform effective control of executive authorities, of course with successful results in performing the control, points to the true level of democratization of certain society.

It is clear that the character of the control functions of the BiH Parliamentary Assembly is non-emphasized and hesitant, considering that the functions of the Parliamentary Assembly exhaust in its legislative function. In the same time, members of the BiH Parliamentary Assembly contribute this position of the parliament at the BiH state level. In daily-political topics, members of the Parliamentary Assembly are aware of the value of the party bond, so they will seldom or never interfere into debates tackling politics of their parties. In the same time, there cannot be an initiative for assessment and judgement of the work of the BiH Council of Ministers when the ruling parties in the Parliamentary Assembly are in the same time those which ministers are in the BiH Council of Ministers and when the loyalty to the party is emphasized.

The established parliamentary system, which envisages different control functions, should be improved and enhanced. Appropriate and strong mechanisms which will encourage the implementation of control functions of the BiH Parliamentary Assembly should be established. Opposition parties must strengthen their pressure and coerce the Council of Ministers on clear and open action. The Parliamentary Assembly must become much more than the venue for certification of the agreements reached outside the institution, whereas these agreements should have been achieved in the representative body. At the end, all this requires permanent and consistent efforts and commitment of the members of the BiH Parliamentary Assembly.

Long rule of one political party, in spite of the fact that elections are free, jeopardizes the efficient use of instruments of control functions of the Montenegrin Parliament. Permanent improvements of legal framework despite significant progress in strengthening the control function, primarily through the adoption of new parliamentary Rules of Procedure and the Law on Parliamentary Inquiry, cannot prevent limitative effects of the use of control instruments. The basic problem in efficient implementation of a part of control mechanisms is the condition that the initiation of majority of control procedures requires support of the parliamentary majority (control hearing, parliamentary inquiry). Numerous limitations notwithstanding, the MPs' work in exercising control function of the parliament contributed enlightening of important issues that burdened the Montenegrin society. However, it is necessary to state that, in spite of performing the control function, the Montenegrin Parliament did not manage to define the accountability of public officials and sanctions for their behaviour. Montenegrin MPs do not manage to use available mechanisms. Primarily, for the reason that

MPs are under a strong party control, in spite of the existence of free mandate. For strengthening of control function of the parliament, besides additional amendments to the Rules of Procedure, it is necessary to enhance the position of MPs through amendments to the electoral law and making them less dependant on their parties. Only the MPs with full integrity can make instruments of control function efficient.

Transparency of the parliamentary work

Normative regulation of the transparency of the parliament does not significantly differ in case of these three states. Freedom of access to information is a Constitutionally guaranteed right; all three states has laws on free access to information of public importance, and the Rules of Procedure which in more details regulate the issue of access to information and work of the parliaments. In that sense, we can conclude that there is a legal framework of freedom to access to information on the parliamentary work and that it is posed relatively well. The laws define the concept of public information, and the procedure, i.e. form of request that should be submitted in order for the information to get obtained. Besides, they define the obligation of public authority to publish a guide for freedom of access to public information. All three laws in different formulations envisage exemptions from the rule of freedom of access to public information like the issues of foreign policy, defence and security, interests of monetary policy, prevention and reveal of crime, commercial and other private and public interests and right to privacy. In more details, access to public information is regulated by the Rules of Procedure of the parliamentary work. Rules of Procedure of the work of the Parliament of Montenegro and Serbia envisage possibilities for restriction of public from the Parliament's sittings in some occasions, while such possibility is not envisaged by the Rules of Procedure of the BiH Parliamentary Assembly. Basic sources for informing the public on the work of all three parliaments are websites and information booklets, i.e. parliamentary bulletins. Websites of all three parliaments are well equipped, it is possible to find the majority of relevant documents on the structure and composition of the parliament, course of legislative procedure and reports. Websites publish draft agendas and adopted agendas of plenary sittings and working bodies, minutes from the sittings, bills and proposals of other acts, laws and other acts, printouts of voting, daily information on the work of the parliament and its working bodies and other information and documents related to the parliamentary work. A step forward has been made by the website of the BiH Parliamentary Assembly which publishes the audio records of all sittings, enabling interested citizens to quickly and efficiently obtain information on work of members and delegates. The biggest remark to websites of all three parliaments is the lack of quality information on the work of working bodies, primarily parliamentary committees. Additional source of information is

information booklet, i.e. bulletin through which parliamentary services inform the public on parliamentary activities. The National Assembly of the Republic of Serbia published its Information Booklet in 2010, which has been regularly updated ever since. The Information Booklet is well equipped, it contains broad, useful and accurate information and is easily available. It contains basic data on the National Assembly, organizational structure and composition of the National Assembly, publicity of work, information of public importance, competences of the National Assembly, basic activities and regulations of the work of the National Assembly. The data on revenues and expenditures of the National Assembly are also available, together with the data on public procurements, salaries and other remunerations of the MPs, as well as the data on real estate of the National Assembly. On the other hand, the Parliamentary Assembly of Bosnia and Herzegovina and the Parliament of Montenegro publish monthly bulletins which are also available in electronic form on their websites. The bulletin of the Parliament of Montenegro is published within the "Open Parliament" programme and is edited by the Parliament Service. The bulletin informs the public on adopted laws and considered bills. Besides a monthly bulletin which informs on parliamentary activities, the Information Service of the BiH Parliamentary Assembly publishes weekly *newsletter* which briefly describes past and future events and is sent to over 1,000 mail addresses.

Particular steps in opening towards the citizens in all three states have been made by the parliamentary Services. The Information Service of the BiH Parliament regularly reports on all parliamentary committees, plenary sittings and all other important events, while being also in charge for informing public through the weekly *newsletter*. Same, this service of the Parliamentary Assembly was the first in the region to develop and adopt its communication strategy. One of important parts of this strategy is the promotion of positive achievements of the parliament and strengthening the positive role in public. In Serbia, as well, the Service of the National Assembly in recent few years became extremely modernized and open towards citizens. It is important to mention that in July 2011 the Service adopted a long-term plan of development of communication of the National Assembly Service, while in mid-2012 it adopted the Report on work of the National Assembly Service in the period from June 11th, 2008 to March 13th, 2012.

An innovation in the Assembly of Serbia is that its website already publishes shorthand transcripts from the plenary sittings, as well as details on voting. The introduction of television broadcasting of committees' sittings has also been announced, i.e. the introduction of the electronic management of the legislative procedure (e-parliament) is in the final phase, which shall enable the entire legislative procedure to be more easily accessible to the public.

When it is about the transparency of parliaments in the region (Serbia, BiH and Montenegro), the comparison of responds of MPs can indicate identical advantages and problems. In all three countries MPs are generally satisfied by the

work of the Public Relations Departments. In Montenegro, Department for Public Relations, International Relations and Protocol attempts to meet all requirements of citizens and institutions in accordance with the Law on Free Access to Information. In Serbia, the National Assembly Service and the Public Relations Department regularly update the data, however MPs are not entirely familiar with the work of the parliamentary services. However, in Bosnia and Herzegovina, in spite of an excellent website, MPs emphasize the inactivity of the Information Service when it is about informing citizens and interested persons. Citizens in Bosnia and Herzegovina and Montenegro are interested in the parliamentary work. The difference is that BiH citizens are more interested in life issues, whereas in Montenegro citizens are mostly interested in visiting the Parliament building, acquaintance with the manner of functioning and work of this political institution, while some people asked for the data on financial operation. In Serbia, parliamentary tours are organized every first Saturday in a month, for getting citizens acquainted with the work of this institution.

Serbia and Montenegro provide direct broadcast of sittings through public service. In BiH, parliamentary sittings are not broadcasted, although journalists are present at every sitting, however the video record of the sitting can be found at the website.

MPs in the region are united in their attitude regarding media. Without exception, all object for sensationalist reporting of media on the parliamentary work. In MPs' opinion, media publish exclusively negative information and influence the creation of a poor image of the parliament in public. In reporting, media are mostly focused on scandals and inappropriate behaviour of certain MPs. Besides, Montenegrin MPs' remark to journalists pertains to superficial reporting on work of different committees as in such manner the media do not contribute informing the citizens on parliamentary work. In BiH, citizens are not sufficiently informed on work of the parliamentary committees. Representatives of the BIH Parliamentary Assembly consider the Assembly's website as the best source of information of citizens, although the information on the site are filtered. Montenegrin MPs claim that certain information at the site are very scarce and general, i.e. they represent a sort of advertisement of certain politicians. MPs in Serbia and Montenegro are united in their attitude on the necessity of introduction of a parliamentary channel. In opinion of Montenegrin MPs, only direct broadcast of sittings and committees can improve informing citizens. The best solution is the parliamentary channel as citizens are not enough informed on the work of different committees. MPs in Serbia think that it is necessary to introduce parliamentary channel as sittings are broadcasted in working hours, when only unemployed and retired citizens can watch them. In BiH, the House of Representatives adopted the conclusion that it is necessary to broadcast parliamentary sittings through public service. MPs in the analysed region do not use advantages of social networks and new technology. MPs use social networks only in private communication. In

Montenegro, a number of politicians have their blogs, profiles at social networks, and some of them even inform the citizens through social networks on their every step.

In all three countries, internet is not the most popular medium, and therefore, for now, direct contacts with MPs are still the best manner for informing citizens. Citizens most often address MPs directly or by e-mail.

Influence of international actors on parliamentary work

Comparative analysis of influence of international actors on the work of parliaments of Serbia, Bosnia and Herzegovina and Montenegro point to a significant number of similarities. A parallel between the influence of different international actors on the work of three parliaments is possible to be drawn first of all when observing the influence of European integration, cooperation with international parliamentary institutions and organizations, as well as cooperation of these parliaments with numerous governmental and non-governmental international organizations in the projects aimed at enhancing the capacities of parliaments and MPs. In the same time, there are significant differences between the parliaments of Serbia and Montenegro on one hand and parliaments of Bosnia and Herzegovina on the other. Differences are visible first of all in the legal framework regulating the international cooperation and in the autonomy of parliaments. The Parliamentary Assembly of Bosnia and Herzegovina is specific by that the international actors do not have a role of external actors, but are integrated into the political structure of the state. The General Framework Agreement on Peace, i.e. the Dayton Accords, which was signed in December 1995 and which led to the final end of the war, in the same time stipulated that international actors take over important positions in BiH institutions. One of the central elements of the Dayton political system is the Office of High Representative (OHR). The OHR is headed by a High Representative appointed by the UN Security Council. The competences of the High Representative derive from Annex 10 to the General Framework Agreement on Peace. The High Representative had the competence to enable undisturbed implementation of the General Peace Agreement, i.e. the competence of final interpretation of "civilian aspects" of this agreement which imply continuation of humanitarian aid effort, rehabilitation of infrastructure and economic reconstruction, the establishment of political and constitutional institutions in Bosnia and Herzegovina, promotion of respect of human rights and the return of refugees etc. (Annex 10, Article 1(1)). Competences of the High Representative, however, were in more details interpreted at the session of the Peace Implementation Council held in Bonn in December 1997. The OHR's final powers in the part of civil implementation of the agreement implied passing binding decisions "at own discretion" on the following issues, which have as such been stated in the conclusions from the Council's session: time, place and chairing of

sittings of joint institutions; passing of temporary measures entering into force when parties are unable to reach an agreement and valid until the BiH Presidency or the BiH Council of Ministers adopt the decision pertaining to this issue in accordance with the Peace Accords; other measures in assuring the implementation of the Peace Accords in entire BiH and its entities, as well as an undisturbed work of joint institutions. These powers meant imposing of legally binding acts at all levels of power in BiH, including the laws at different levels of power and amendments to the entity Constitutions and dismissal of public officials or elected public officials who obstruct the peace process. Since 2006, the Parliamentary Assembly of Bosnia and Herzegovina works independently, without the influence of the High Representative.

On the other hand, the parliaments of Serbia and Montenegro act independently from international control. International cooperation of the National Assembly of the Republic of Serbia is regulated by Articles 59–61 of the Law on the National Assembly and the Rules of Procedure of the National Assembly. Similarly, international cooperation of the Parliament of Montenegro has been regulated by the Rules of Procedure of the Parliament of Montenegro. The Rules of Procedure of the National Assembly of the Republic of Serbia and the Parliament of Montenegro define that the competence for regulation of international relations and issues of European integration belongs to the Committee of Foreign Affairs in Serbia, i.e. the Committee on International Relations and Emigrants in Montenegro and the Committee on European Integration. The Committee on European Integration considers proposals of general acts from the point of their harmonization with the regulations of the European Union and the Council of Europe; performs oversight over the activities of executive public authorities in the European integration process, considers reports of the EU institutions and considers other acts and issues from the competence of the Parliament in this field. The Committee on Foreign Affairs, i.e. the Committee on international Relations and Emigrants, considers bills on confirmation (ratification) of international treaties; proposes platforms for discussions with foreign delegations and considers reports on visits paid, participation in international meetings and study visits from its competence; defines the composition of non-standing delegations; gives opinion on candidates for ambassadors and heads of other diplomatic offices abroad; adopts the programme of international cooperation; cooperates and exchanges opinions with similar working bodies in other parliaments and international integrations, by establishment of joint bodies, friendship groups, taking of joint actions, harmonization of attitudes on issues of common interest.

Cooperation with parliaments of other states and their relevant working bodies at bilateral and multilateral level is almost equally developed in Serbia, Bosnia and Herzegovina and Montenegro. This cooperation reflects in visits of delegation or individual MPs, i.e. receiving of parliamentary delegations and foreign parliamentarians, participation in international meetings, exchange of infor-

mation, as well as through other forms of cooperation. The National Assembly of the Republic of Serbia and the Parliament of Montenegro and the Parliamentary Assembly of Bosnia and Herzegovina and their standing committees cooperate with parliamentary assemblies of international organizations and other international structures.

Since BiH, Montenegro and Serbia passed through different transformations due to newly established state systems, thus their parliaments were changing as well. International organizations proved to be highly important, among them intestate organizations, international non-governmental organizations and international support programmes. All three states during the research period (from the year 2000 until today) expanded their international cooperation, particularly with the Parliamentary Assembly of the Council of Europe, Parliamentary Assembly of the OSCE, Parliamentary Assembly of the North Atlantic Alliance (NATO) and Inter-Parliamentary Union. Parliamentary cooperation was as well realized through different regional initiatives, such is: the Central-European Initiative, the Southeast European Cooperation Process and the Adriatic-Ionian Initiative.

International partners are of high importance when it is about strengthening of capacities and structures in these three parliaments. These activities rank from study visits, joint meetings (round tables, conferences, trainings, workshops etc.) through counselling, establishment of new organizational units, creation of studies, up to the programme of direct financial assistance. Activities involve MPs, but also the professional staff working in parliamentary committees and/or administration. Important partners are the US Agency for Development – USAID, German foundations Friedrich Ebert (FES) and Konrad Adenauer (KAS), American National Democratic Institute (NDI). OSCE missions to these three countries also realized different projects, pertaining to monitoring, and rendered direct assistance in the context of capacity building. As the MPs themselves emphasized, some of these actors were important when it was about establishment of dialogue within the very institutions.

The strongest influence to the parliamentary work of all three states is, nevertheless, performed by the EU, i.e. the European integration process. The European integration process means a harmonized activity of all segments of the state. Although conducting of foreign policy and presenting the state falls under the competence of the executive public authorities, the Government and the President, the role of the parliament in the European integration process is crucial. This is realized through harmonization of national legislation of the country aspiring to the EU membership with the so-called *Acquis Communautaire*, i.e. the EU legal heritage composed of treaties and other legal acts passed by the EU institutions.

All three states established Committees on European Integration. In case of BiH, that is a joint Committee on European Integration of both houses. The progress of these three states in the EU accession process is monitored by the

European Commission which comprises and submits annual progress reports to the European Parliament and the European Council. The influence of European integration on the parliamentary work is dual. On one side is the influence on the manner of work of the parliament, i.e. increase of administrative capacities in accordance with European standards. On the other hand, the influence reflects in the process of harmonization of legislation with the EU legal regulations. Harmonization of national legislation with the EU regulations was high among the priorities of national parliaments in all three states. Having in mind the importance of EU integration for overall prosperity of states and citizens of the region, the bills from the so-called "European agenda" enjoyed absolute priority. On the other hand, an impression is gained that MPs themselves are not well acquainted with the *Acquis Communautaire*. The capacity of MPs and the parliament in general, for harmonization with European legislation, is questionable from the very beginning, which the European Commission stated several times in its progress reports. For the sake of fulfilment of the leading role in the process of accession to the Union, national parliaments must work on enhancement of capacities, i.e. increase of number of employees and their training. There are other fields in which the European integration process can be connected with the parliamentary work, and that is carried out through direct contacts with European institutions and national parliaments of the EU member states, then through regional initiatives participated by international subjects, joint delegations of national parliaments and the European Parliament. Cooperation with the European Parliament is carried out through the Committee on European Integration, whereas the European Parliament is represented by the Delegation for Cooperation with Albania, Bosnia and Herzegovina, Montenegro, Kosovo and Serbia (former Delegation for Cooperation with the South-Eastern European Countries). Besides, the European Parliament has a Group for the Western Balkans as well.

European integration also strengthened the regional cooperation of parliaments of the Western Balkan states. One of successful examples is Cetinje Parliamentary Forum, as a "genuine regional initiative of parliamentary cooperation of countries of South-Eastern Europe being on the road to European integration, created and initiated by the Parliament of Montenegro".[3]

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In almost all democratic states parliament is an institution with high dignity and respect. In new democracies, parliament is strong only in the Constitu-

[3] *Eduard Kukan,* President of the Delegation of the European Parliament for Relations with Albania, Bosnia and Herzegvoina, Serbia, Montenegro and Kosovo, speaking about the role of Montenegro in regional framework, referred to the importance of the Cetinje Parliamentary Forum. http://www.skupstina.me/index.php?strana=saopstenja&id=2790

tion, however emptied from actual power. Constitutional and actual power of the parliament do not correspond. It is particularly important for democratization of post-communist societies. As emphasized by Sartori: "States that get out from the dictatorship can have few choice apart the parliamentary one" (Sartori, 2003: 132).

At the Balkans, there are weak, unfinished states and unconsolidated democracies. For example, laws are often harmonized with the *Acquis Communautaire,* army is reformed in cooperation with the NATO, budget adopted in agreement with the IMF. All three states aspire to the EU membership. Montenegro got the date for starting negotiations, Serbia expects this in 2013, while BiH signed the SAA. Europeanization and democratization are complementary processes to the extent in which both processes require respect of certain standards and realization of certain criteria. The European Union membership is possible only with functional states. In that respect, democracy can have both internal and external incentive. This process, among else, carries out stabilization of the region and Europeanization of the Balkans which was and still is the synonym for a non-European road. The Western Balkans is the expression which the EU uses for Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia (FYRM), Serbia, Montenegro and Albania (or former Yugoslavia, minus Slovenia, plus Albania). The European Council in 2003 at the Thessaloniki Summit clearly opened the perspective to this region: "The future of the Balkans is in the EU ".[4]

Parliament is the place where the procedures alleviate the tensions. Parliament is the place where system is changing, but also preserved. In relation to the Brussels requests, national parliaments have reactive politics. Through an insight in performing their basic activities, it can again be defined that the parliament loses control over its own agenda and that there is a strong tendency of supremacy of the executive. Parties, and not MPs are main actors, both in shaping the parliament and in its work. Parliaments of the states in which research was done are encountering a huge job regarding harmonization of a large number of legal regulations as a prerequisite in the European Union accession process. Between external imperative and their internal controversies, parliaments will have to simultaneously improve their work and take care of interests of those who elected them, in order to avoid sinking into the service of the Governments and the ruling parties. Performance and internal capacities of the parliaments mostly depend on external stability of the system they act in. In the same time, without autonomy of MPs and dignity of the Parliament, the entire idea of representative democracy becomes senseless, and therefore the meaning of parties and elections. This task is not easy at all, particularly in circumstances when in processes of globalization

[4] EU Western Balkans Summit, Thessaloniki, June 21, 2003; Declaration?, http://www.europa.eu.int/comm/external_relations/see/sum_o8_03/decl.htm

and shared sovereignties, a part of state and therefore parliamentary power overlaps with the super-state and sub-state institutions, under external and internal imperatives.

In order for the parliament to successfully perform its basic duties, it is necessary that it enjoys full legitimacy and is composed of honourable and prominent persons, as eyes of public are directed onto it as a mirror of power. As Jeremy Pope emphasizes: "If public watches MPs as deceivers who by trading, bribing, flattering or in similar manners provided themselves with powerful positions, the parliament shall lose respect and be practically disabled to promote the system of good governance and reduce corruption in the society, even if sincerely aspiring thereto".[5]

For a strong parliament to promote and improve democratic processes, it is necessary that it is, above else, efficient, transparent and accountable. The strength of national parliaments is the institutional key of democratization.[6] Consensus on strengthening the parliament is equal to the consensus on future of the state and democracy.

[5] Džeremi Poup, (2004), Antikorupcijski priručnik, Suprostavljanje korupciji kroz sistem društvenog integriteta, Transparentnost Srbija i OSCE Misija u SiCG, Belgrade, p. 45

[6] Steven M. Fish, Stronger Legislatures, Stronger Democracies, Journal of Democracy Volume 17, Number 1 January 2006. p. 18

BIOGRAPHIES
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Slaviša Orlović (1966), Associate Professor at the University of Belgrade – Faculty of Political Sciences. Deals with political sociology and political theory (political parties, elections and democracy). Teaches the courses in Political Sociology, Parties and Party Systems, Political parties and Elections, Political Life of Serbia, Parliamentarism and Theories and Models of Democracy. Published over thirty texts and articles in national and foreign journals and volumes of papers. Published the books: *Političke partije i moć /Political Parties and Power/* (2002), *Politički život Srbije – između partokratije i demokratije /Political Life of Serbia – between Partocracy and Democracy/* (2008), *Politikološki ogledi, politička teorija i politička sociologija /Political Essays, Political Theory and Political Sociology/* (2010). Co-editor of the books *Dileme i izazovi parlamentarizma /Dilemmas and Challenges of Parliamentarism/* (2007) and *Beograd – demokratska metropola /Belgrade – the Metropolis of Democracy/* (2009). Editor of the volumes *Partije i izbori u Srbiji – dvadeset godina /Parties and Elections in Serbia – Twenty Years/* (2011) and *Izbori i formiranje vlade u Srbiji 2012 /Elections and Formation of the Government in Serbia 2012/* (2012). Editor of the journal *Politički život /Political Life/*. Spent several study periods abroad: at the University of Westminster in London (2003), University of Kansas 2004/2005, University College London (2006), Nuffield College, University of Oxford (2009).

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Damir Banović (1983, Sarajevo) graduated from Law at the University of Sarajevo (2006) and holds a LLM (2012). Since 2007 he is working as a teaching assistant and lectures State and Legal Theory. At the Sarajevo Open Centre he is involved into the scientific programmes in the field of social sciences and minority rights. He is part of the european research projects, one of them related to constitutional policies in Eastern Europe. Research areas: identity politics, multicultural legal theories, political systems and minority rights.

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Most important publications: monography *Perspektive participativne demokratije /Perspectives of Participative Democracy/*, Stockholm: Left International Forum, 2007; monography *Bosanskohercegovački federalizam /Bosnian-Herzegovinian Federalism/*, Beograd/Sarajevo: Službeni glasnik/University Press, 2012; textbook *Ustavno pravo /Constitutional Law/*, co-author together with Nedim Ademović and Joseph Marko, Sarajevo: Fondacija Konrad Adenauer, 2012.

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Most important publications: articles *Priroda političkog sistema Bosne i Hercegovine /Nature of the Political System of Bosnia and Herzegovina/, Vanjska politika i međunarodni odnosi Bosne i Hercegovine /Foreign Policy and International Relations of Bosnia and Herzegovina/* and *Izbori i izborni sistem Bosne i Hercegovine /Elections and Electoral System of Bosnia and Herzegovina/*, in the collection of papers *Država, društvo i politika u Bosni i Hercegovini /State, Society and Politics in Bosnia and Herzegovina/*, editors Damir Banović and Saša Gavrić, Sarajevo: University Press-Magistrat; chapter *Odlučivanje u Parlamentu Kraljevine Belgije /Deciding in the Parliament of the Kingdom of Belgium/* in the book Kasim Trnka (et. al.) *Proces odlučivanja u Parlamentarnoj skupštini Bosne i Hercegovine /Decision-Making Process in the Parliamentary Assembly of Bosnia and Herzegovina/*, Sarajevo: Konrad Adenauer Stiftung, 2009.; article *Referendumsko odlučivanje u Bosni i Hercegovini /Referendum Decision-Making in Bosnia and Herzegovina/* in the journal Pravna misao, no. 1–2, Sarajevo, 2012.; article *Electoral System of Bosnia & Herzegovina: Short Review of Political Matter and/or Technical Perplexion*, in the journal Contemporary Issues, vol. 2 no. 1, Zagreb, 2009.

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of 2006. Participant in numerous international missions as ENEMO or OSCE observer (Ukraine, Kirgizstan, Kazakhstan, Tajikistan and Moldova, Kosovo, Albania). At the last parliamentary election in Kosovo (2010–2011) performed the function of the Head of the ENEMO EOM Kosovo Mission 2010, where he led the team of over 200 short-term and long-term international observers. Member of the National Commission for Fight against Corruption and Organized Crime in Montenegro and the Council of the Agency for Electronic Media. In his research work, focused on the issues of personalization of politics and political parties, control of electoral process, electoral systems, parties and party systems, decision-making procedure in the EU, Europeanization of national political parties as well as aspects of functioning of the European Parliament.

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