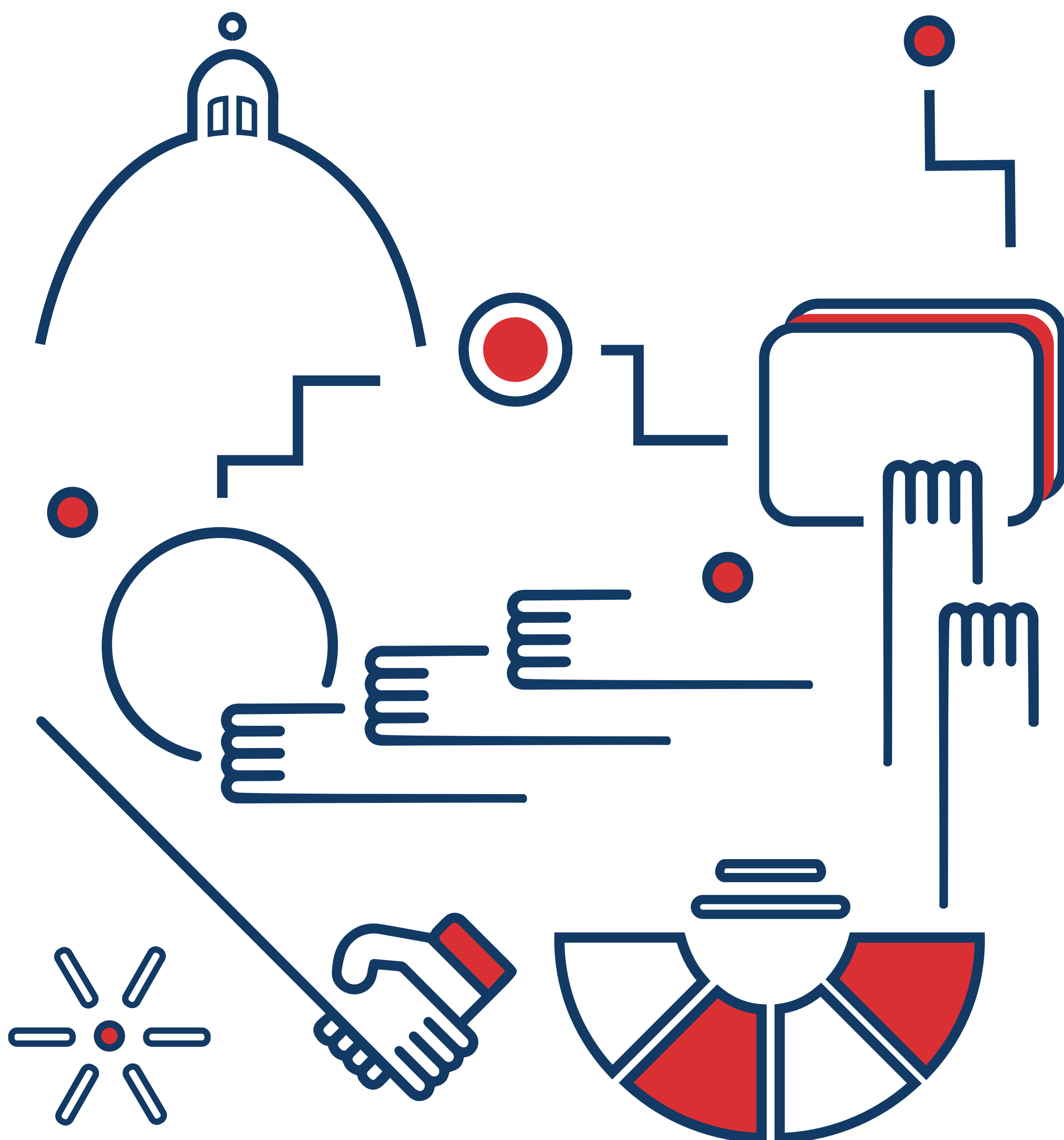
Working Paper

NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA: TEMPLE OR FACADE OF DEMOCRACY?



Working Paper

NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA: TEMPLE OR FACADE OF DEMOCRACY?

Tara Tepavac

Belgrade, January 2019

This Working Paper was prepared for the conference "Civil Society for Responsible Authority", to be held on February 4th and 5th in Belgrade. Working Paper will provide a basis for participants' dialogue in this area, identification of key problems and the formulation of specific recommendations. Conferences conclusions will be used in the preparation of the Final version of this Paper.

This preparation of this Paper was done with the support of the British Embassy in Belgrade. The contents of this publication are the sole responsibility of the authors and do not necessarily reflect the views of the British Embassy in Belgrade.

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Introduction

The Republic of Serbia has been defined by the Constitution from 2006 as a state based on the rule of law and the principles of civil democracy, with the National Assembly as the supreme representative body and holder of constitutional and legislative power in the Republic of Serbia, through which citizens exercise their sovereignty. The Constitution among its principles highlights the rule of law, which is exercised by the division of power into legislative, executive and judiciary, whose relationship is based on a system of mutual "control" and balance.[1] The constitutional settlement of the Republic of Serbia implies that the institution of parliament in Serbia should play a key role in shaping the state organisation, representing citizens and representing the voters' interests, who in turn reward the MPs with their confidence and votes. Alongside the representative and legislative functions, the National Assembly shall perform the electoral function, as well as the oversight function over the work of the Government. These parliamentary functions in principle provided for by the 2006 Constitution, are more precisely regulated by the Law on the National Assembly and the Rules of Procedure of the National Assembly, as well as other acts.[2]

In order for this constitutional settlement to be put into practice, a functioning and influential parliament is necessary as a crucial element of the division of power and the system of "control and balance of power", on which the rule of law is based. In that sense, it can be said that the legal framework has largely ensured sound preconditions for the Parliament to efficiently and effectively perform its functions. According to the Constitution, the National Assembly is declared as the holder of legislative power which "elects the Government, supervises its work and decides on the expiry of the term of office of the Government and ministers".[3] The Constitution further states that the Government "shall account to the National Assembly for the policy of the Republic of Serbia, for enforcement of laws and other general acts of the National Assembly, as well as for the work of the public administration bodies",

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[1] See Articles 1 to 4 and Article 98, Constitution of the RS, "Official Gazette of the Republic of Serbia", No. 98/2006

[2] See Law on the National Assembly, "Official Gazette of RS", No. 9/2010; and Rules of Procedure of the National Assembly, "Official Gazette of RS ", No. 20/2012

[3] Article 99 (2), Constitution of the Republic of Serbia from 2006, "Official Gazette of RS", No. 98/2006

and that the ministers "shall account for their work and situations within the competence of their ministries to the Prime Minister, the Government and the National Assembly".[4]

However, the increasingly frequent abuse and obstruction of the work of Parliament that degrade the position of the National Assembly as well as the confidence of citizens in this institution raise the question of whether the Parliament in practice really fulfils the functions provided for by the Constitution and the Law. The current practice points to the alarming trends of the deterioration of the role, influence and power of the National Assembly in Serbia, especially with regard to its legislative and oversight functions, which puts into question the existence of balance and division of power in Serbia, as prerogatives to the rule of law. Not only does "the parliament no longer stand for a place where power resides"[5], but, due to the enduring and continuous degradation, the work of the National Assembly is increasingly reduced to the mere fulfilment of the form without essential content. The lack of parliamentary control, underdeveloped and ineffective cooperation of the Parliament with the bodies it elects that account for their work to the Parliament (such as the Government, independent, supervisory and regulatory bodies), the lack of a substantive discussion and parliamentary debate – all make the Parliament increasingly resemble a marginalized "voting machine". Therefore, the extremely low level of confidence that citizens have in the institution of parliament is not a surprise. Namely, recent research has shown that less than one fifth of citizens think that the Assembly effectively monitors the work of the Government and takes care that the Government leads responsible politics for the benefit of all citizens, while only but 13 % think that MPs represent the interests of ordinary citizens.[6]

A powerful, efficient and influential parliament, as the source of legitimacy of the authorities and the basic element that enables the division and balance of power,

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[4] Articles 124 to 125, Constitution of the Republic of Serbia from 2006, "Official Gazette of RS", No. 98/2006

[5] Marijana Pajvančić, "Ustavne pretpostavke odgovorne vlade – nemačko iskustvo: kontrola vlasti u nemačkom ustavu" (*Constitutional Presumptions of the Responsible Government - German experience: control of power in the German Constitution*), in: Ljubica Đorđević and Aleksandra Popović (eds.), *Vladavina prava – odgovornost i kontrola vlasti (Rule of Law – accountability and control of power)*, Belgrade: Konrad-Adenauer-Stiftung, 2009, p. 38

[6] Research on the participation of citizens in democratic processes, conducted in September 2018, CRTA, 2018

represents a "pure blessing for democratization".[7] For this very reason, a functioning parliament is crucial for establishing a stable and consolidated democracy, especially in societies of still young and deficient democracies such as Serbia.

In order to determine how the Parliament in Serbia performs its legislative and oversight functions in practice, we analysed both the extent and the manner in which the National Assembly uses the procedures, institutes and mechanisms available. Two basic sources of material in this research are statistical data on the work of the National Assembly and the data collected through in-depth interviews with MPs and representatives of the academic and professional community, international organizations and civil society, who provided us with a significant insight into the perception of the work of the Parliament and its most important mechanisms, as well as clarifications on the ways in which the Parliament functions. The structure of this paper is therefore divided into two parts. After the introductory part containing a brief overview of the legal and institutional framework that regulates the position and work of the Parliament in Serbia, there are two central chapters of this paper. The focus of the first chapter is aimed at the legislative function – the way laws are adopted in the Assembly. Special attention is paid to the activities of MPs in the plenum and to increasingly frequent practices of abuse of rules and procedures, as well as the consequences for the quality of legislative activities of the Parliament. The second chapter is devoted to the oversight function of the Parliament i.e. the analysis of the way in which the Assembly (does not) use mechanisms at its disposal. The mechanism of public hearing and the work of parliamentary committees have been elaborated within this chapter with indications of their importance for the effective implementation of the legislative function of the National Assembly. The paper ends with a conclusion – a brief overview of the key findings and their effects on the functioning of the political system in Serbia.

[7] Steven Fish, „Stronger legislatures, Stronger democracies“ Journal of Democracy, Vol 17. No 1, January 2006, str. 5.

Supremacy of legislative function: form without content

High legislative activity without substantive debate

According to the Constitution of the Republic of Serbia from 2006, the National Assembly represents the embodiment of the legislative authority. The adoption of laws is considered the basic and often the most important function of the Parliament. However, in recent years, the work of the National Assembly has been characterized by a high level of legislative activities, but also by worrying trends in violation of parliamentary procedures and abuse of the Rules of Procedure of the National Assembly. Since 2017, the ruling majority in Parliament has regularly been abusing the procedural rules by an unlimited debate on certain issues in order to obstruct the work of the Assembly. Such practices of obstructing the work of the Parliament without direct violation of parliamentary procedures in a technical sense are called "filibustering".

The procedure of proposing laws is regulated by the legal framework as unique and includes several steps, including proposing the law, then consideration of law proposals in committees, then consideration in the plenum followed by a vote on the proposal and the promulgation of the law.[8] In Serbia, laws are proposed by the Government, which is always the authorised proposer, as well as by the Assembly of the Autonomous Province, the Ombudsman, the National Bank, each MP, as well as citizens by means of legislative initiative for which 30,000 citizens' signatures need to be collected.[9] The most common proposer of laws is the Government, which in principle represents the usual comparative practice. However, the percentage of adopted laws proposed by the Government is disproportionately high in relation to previous parliamentary practice. Namely, earlier research showed that in the period from 2005 to 2010, the Government on average proposed about 62 % of laws and other acts.[10] On the other hand, from the beginning of the 11th legislature of the

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[8]Irena Pejić, *Parlamentarno* pravo (*Parliamentary Right*), Niš: Faculty of Law, University of Niš, 2011, p. 182

[9]See Article 107, Constitution of the Republic of Serbia "Official Gazette of the Republic of Serbia", No. 98/2006 and Article 150, Rules of Procedure of the National Assembly

[10]Dragana Đurašinović Radojević, Zakonodavna funkcija Narodne skupštine Republike Srbije", u: Slaviša Orlović (prir.), *Demokratske performanse parlamenata Srbije, Bosne i Hercegovine i Crne Gore*, Beograd, Sarajevo, Podgorica: Univerzitet u Beogradu – Fakultet

National Assembly, of the 354 adopted laws, the Government proposed 344 which represent 97 %. Of the remaining 10 laws, 5 were adopted on the proposal of the Governor of the National Bank of Serbia, and 5 on the proposal of the ruling majority MPs, while not a single law proposed by opposition MPs was included in the parliamentary agenda.

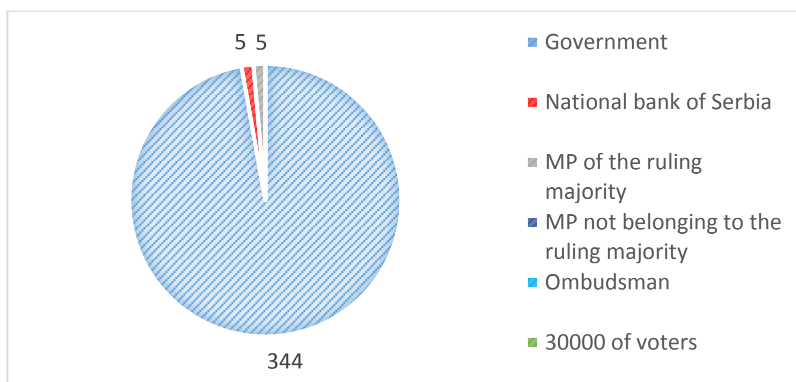

Chart 1: 11th legislature of the National Assembly: structure of the adopted laws by proposers

The fact that the law proposals submitted by citizens, that is, voters, as well as MPs from the opposition, are not included in the agenda of the National Assembly in practice means that they are not able to exercise their right to propose laws which is de jure guaranteed by the Constitution, while on the other hand the ruling majority may ignore the submitted proposal i.e. de facto not act on it.[11] Moreover, in this respect, the Rules of Procedure of the National Assembly contain deficiencies regarding the legal norm, since, unlike the text of the previous Rules of Procedure from 2009[12], they do not state the deadline in which the submitted law proposal must be included in the agenda of the sitting, "which, when logically deduced, means that the proposals may endlessly remain in the 'parliamentary procedure'

političkih nauka, Sarajevski otvoreni centar, Fakultet političkih nauka – Univerzitet Crne Gore, 2012, p. 82

[11]See Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: *Elections in Domestic and Foreign Law*, pp. 261-264

[12] According to Article 140 of the National Assembly's Rules of Procedure from 2009, the law proposal must be included in the agenda of the Assembly's sitting within 60 days, with additionally allowed 30 days in exceptional cases. *Rules of Procedure of the National Assembly*, "Official Gazette of RS", 14/2009

without being acted upon at all".[13] On the other hand, the MPs themselves point out that "it would be better if they more used the possibility of proposing laws, although I know that it is difficult to write a good law, which requires much more extensive (parliamentary) service".[14]

In the current 11th legislature, during 230 days of legislative activity, the National Assembly adopted 354 laws, including 223 new laws and amendments and supplements to the laws (63 %), and 131 laws ratifying the international treaties (37 %). If we observe the number of laws the Assembly adopted in previous years, there is a growing trend in terms of high legislative activity. Only in 2018, the Assembly adopted 218 laws during 108 days at regular and extraordinary sessions. For comparison purposes, in 2017, the Assembly adopted 89 laws during 67 days of work, whereas in 2016, it adopted 47 laws in 2016 during 55 days of work.

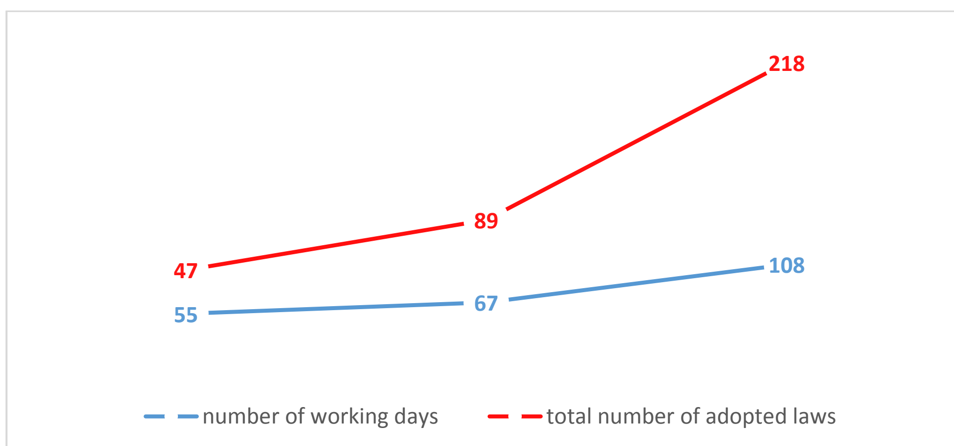

Chart 2: Comparative overview of the number of adopted laws and working days 2016-2018

Some MPs state that the current process of European integration which requires harmonization of domestic legislation with the *acquis communautaire* i.e. the "EU acquis" is the reason for the haste with the adoption of laws, the use of urgent procedures and consolidated public debate, whereby the Assembly and the MPs are being piled up with a large number of regulations that should be adopted within the

[13]Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić, PhD and Vladimir Djurić, PhD (eds.), *Elections in Domestic and Foreign Law*, Belgrade: Institute of Comparative Law, 2012, pp. 263-264
[14]Interview with an MP of the National Assembly of the Republic of Serbia, 5.12.2018

stipulated deadlines. Thus, one of the interviewed MPs believes that "one of the key problems in Parliament's work is a tendency to arrive at the door of the EU as soon as possible since one of the requests was to change between 12,000 and 13,000 laws and regulations to adapt to the EU", which is why, he says, a single law cannot be discussed during one sitting. "We do not have as many gifted and capable people who write laws in a good and fast manner because it takes time, experience, energy and coordination. This pace we are talking about is mission impossible."[15] The MPs have been pointing out for years the aggravating circumstances caused by the harmonization of domestic legislation in the framework of European integration as the key reason for the excessive use of urgent procedure in the adoption of laws, while there is no systematic progress in solving this problem. Thus, in analysing the legislative function of the Parliament in 2011, it is noted that "given that a large number of new, amended and supplemented laws and other general acts have been adopted, it is quite realistic to expect that the focus of the work of the National Assembly in the incoming period will be shifting from the adoption to the implementation of laws in practice, that is, to a more dominant oversight function of the Parliament."[16]

However, in addition to completing an indeed demanding project such as the process of harmonization, other objective factors significantly aggravate the situation. First of all, there is a lack of the National Assembly’s Annual Work Plan, as well as of better coordination of executive and legislative power, without which the coordination of activities within the National Assembly and the quality preparation of the MPs are significantly aggravated. According to one of the interviewees, "the key problem is that it is not known what is on the agenda in three weeks, and what in eight months; it is necessary to introduce at the political level a programme that will include amendments and supplements to laws so that civil society as well as interested parties may be aware of it, in order to have a clear plan what will happen in the future."[17]

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[15]Interview with an MP of the National Assembly of the Republic of Serbia, 5.12.2018
[16]Dragana Djurašinović Radojević, "Legislative Function of the National Assembly of the Republic of Serbia", in: Slaviša Orlović (ed.), *Democratic Performance of Parliaments of Serbia, Bosnia and Herzegovina and Montenegro*: University of Belgrade – Faculty of Political Sciences, Sarajevo Open Centre, Faculty of Political Sciences – University of Montenegro, 2012, p. 95.
[17]Interview with a representative of the academic community, 21.11.2012

The frequent use of urgent procedure in the process of adopting laws represents another worrying negative trend that culminated in December 2018. Although at first glance it seems that the total of 51 % of laws adopted by urgent procedure is decreasing compared to the alarming 80 % reached in 2012 and 2013, when we pay closer attention to the structure of the adopted laws, it is obvious that the urgent procedure is used as a rule rather than as an exception. During the 11th legislature, four fifths of ratifications of international agreements were adopted by regular procedure. On the other hand, more than 70 % of the laws and amendments and supplements to laws were adopted without prior public debate, by urgent procedure (including key and reform laws, such as the Law on Free Legal Aid, the Law on Personal Data Protection, the Law on Financial Support for Families with Children, and many others). Thus, while the ratification of international agreements is performed by regular procedure, new laws and amendments and supplements to laws are most often adopted by urgent procedure.

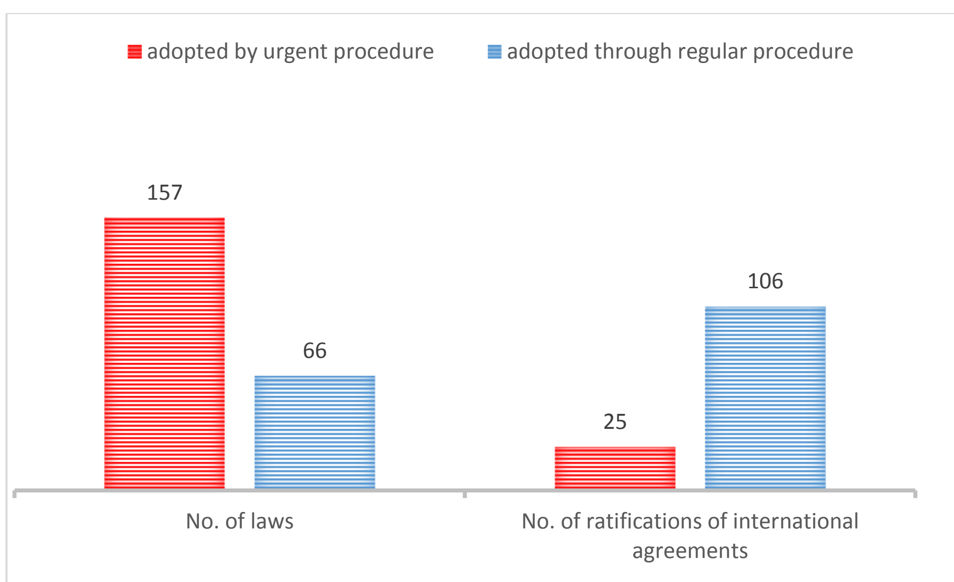

Chart 3: Ratio between the use of urgent and regular procedure in adopting laws

If we exclude the ratifications of international agreements, and look only at procedures for adopting new laws or amendments and supplements to laws, we will notice that 157 out of 223 laws have been adopted by urgent procedure. In other words, during the 11th legislature more than 70 % of new laws and amendments and supplements to laws were adopted by urgent procedure

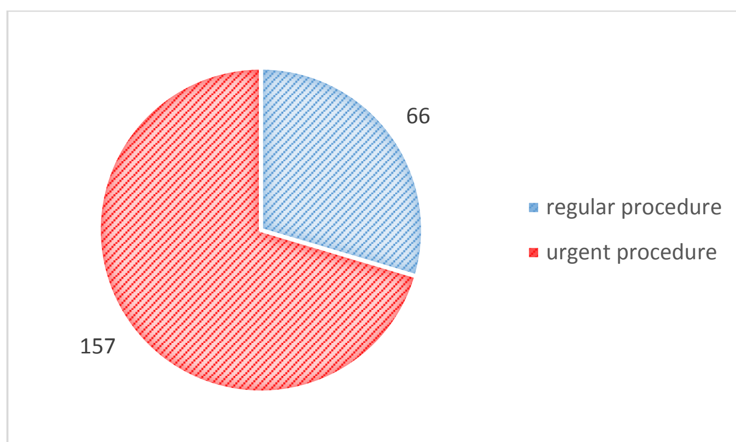

Chart 4: The most common procedure for adopting new laws and amendments and supplements to laws

Making parliamentary debate absurd: consolidated debate and amendments "with special reference"

The adoption of a vast number of laws by urgent procedure without a prior debate paves the way for the performance of the legislative function of the National Assembly by means of fulfilling the form without the substantive participation of MPs. However, reducing the debate on the proposed laws in the plenum to a minimum by submitting hundreds of amendments without truly relevant content, as well as consolidating the debate in principle for dozens of items on the agenda of the Assembly that are not interlinked or similar all make the current situation alarming. The parliamentary debate in the plenum is de facto being prevented by the abuse of procedures, most often without direct violation of the Rules of Procedure of the National Assembly.[18]

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[18] The procedure of consideration and adoption of law proposals is regulated in detail by the Rules of Procedure of the National Assembly. See the Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

The ruling majority has developed a practice in the parliament of proposing hundreds of amendments to the first articles of the law proposal that is first on the agenda, while the agenda itself contains proposals of diverse and unrelated laws combined in a consolidated debate. The possibility of a cognate debate in principle is provided for by the Rules of Procedure of the National Assembly on "several law proposals on the agenda of the same sitting, which are mutually conditioned, or provisions in them are related."[19] However, it has been proven that the interpretation of the conditionality, that is, the interconnection of the provisions that different law proposals of the law contain, can in practice be quite wide.

We may highlight as an obvious example the way in which one of the most important laws in the state – the Budget Law is being adopted for the second consecutive year. The Budget Law for 2018 was adopted together with another 29 laws in December 2017 by means of a consolidated debate, as the sixth of the 31 agenda items. The MPs of the ruling majority on that occasion proposed as many as 436 amendments. Among them, as many as 400 amendments were proposed to the first item on the agenda – the Law Proposal on the Budget System, whereas the remaining 36 amendments were proposed to the Law Proposal on Amendments of the Budget of the Republic of Serbia for the previous year, 2017. The time for debate was spent on presenting the amendments to the first two items of the agenda, after which more than two thirds of these amendments were withdrawn. In this way, the total of 10 hours foreseen by the Rules of Procedure of the National Assembly for a debate were used for presenting amendments, whilst there was no time left for a debate as regards other items on the agenda, including the Law Proposal on the Budget. On that occasion, the opposition MP Marko Djurišić invoked the Article 157 of the Rules of Procedure of the National Assembly which in paragraph 4 states that "a debate in detail on the Law Proposal on the Budget of the Republic of Serbia shall begin immediately upon the conclusion of the debate in principle", warning that opening the debate on the items that precede the Budget Law, instead of discussing the amendments to the Budget Law, will lead to the fact that "the first time in the history of the parliament amendments to the Budget Law will not be discussed."

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[19] Article 157, Rules of Procedure of the National Assembly, "Official Gazette of RS ", No. 20/2012

However, the Speaker of the Assembly replied that the above Article was not violated at all.[20]

This practice continued throughout the entire 2018, due to which the MPs from the opposition were de facto unable to discuss the law proposals. A year later, in December 2018, the case of the most large-scale consolidated debate in the entire 11th legislature was noted, when as many as 62 diverse agenda items were consolidated on the agenda of the plenary session, placing the Budget Law of the Republic of Serbia for the year 2019 together with for example the Law on Tobacco, the Law on Waters, the Law on the Science Fund, the Law on Radiation and Nuclear Safety, etc. The Budget Law of the Republic of Serbia for 2019 was only the fourth item on the agenda, whilst being preceded by the Law Proposal on the Central Registry of Compulsory Social Insurance, the Proposal of Decision on Approval of the Decision on Amendments to the Financial Plan of the Social Security Fund for Military Insurers for 2018, as well as the Draft Customs Law. Alongside consolidating the agenda, the fact that "there is no order of putting the law proposals on the agenda“[21] is being abused, so key laws are placed as the latter items of the Assembly's agenda, whereas the time for debate is spent before they get on the agenda.

The lack of interest of the ruling majority in the parliamentary dialogue has been highlighted as one of the core problems by the majority of interviewees – "if you do not have a dialogue, you do not have an assembly".[22] In addition, according to the interviewed lady, "whatever the Rules of Procedure might be like, you must have an institutional consensus that the procedure equals culture; if there is no consensus regarding this matter between the majority and the minority, it does not matter what the Rules of Procedure stipulates".[23] Here, the issue of the responsibility and integrity of the MPs themselves should be emphasized, since the MPs themselves largely determine by their own activities the way in which the Parliament will perform its functions in practice. The current practice points to the paradoxical

[20] Stenographic notes of the Fifth Sitting of the Regular Session of the National Assembly, 01 No 06-2/274-17, 4th working day, 11.12.2017, available at the Open Parliament website.
[21] Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić, PhD and Vladimir Djurić, PhD (eds.), *Elections in Domestic and Foreign Law*, Belgrade: Institute of Comparative Law, 2012, p. 263
[22]Interview with an MP of the National Assembly of the Republic of Serbia, 27.11.2018
[23]Interview with an MP of the National Assembly of the Republic of Serbia, 27.11.2018

situation that "people in all parties who are truly committed to turn what is written on the paper into reality represent a distinct minority".[24] Therefore, it is no surprise that no ethical code of conduct for MPs has been adopted yet despite numerous attempts since 2008, although its urgent adoption is among the GRECO recommendations addressed by the Council of Europe to the Republic of Serbia last spring. This deficiency is also underlined in the Annual Progress Report of the European Commission on Serbia.

Although the professional public along with non-governmental organizations in several instances openly warned that some of the proposed legal provisions that directly affect citizens' lives were bad, the MPs did not have the opportunity to discuss in detail the proposals of these laws. The extent to which this practice is detrimental not only for the quality of the parliamentary debate, but also for the quality of the laws that are being adopted, can be observed from the example of the Law on Financial Support to the Family with Children. Given that the proposal of this law was adopted by urgent procedure, also in the consolidated debate in December 2017, there was no public debate or the debate in the Assembly's plenum on the law proposal, which led to the adoption of defective legal provisions. The poor quality of the legal provisions is proven by the fact that the amended law proposal was adopted as early as in June 2018 on the proposal of the Government by urgent procedure, again without debate, and that the Government would then announce new amendments and supplements in the autumn of the same year.[25] Such a practice contributes to the perception of the National Assembly as a machine for "mass-producing" the laws well-suited for the Government.

Deficit of parliamentary oversight and supervision

While the ruling majority is dominant as regards the legislative function, parliamentary control is the most important mechanism available to members of the opposition.[26] By means of competent committees and interim working bodies,

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[24]Interview with an MP of the National Assembly of the Republic of Serbia, 27.11.2018
[25]See Law on Financial Support to the Family with Children adopted by an urgent procedure without a discussion in the plenum, *Parliamentary Insider, Issue No 1/ October2018*, Open Parliament, p. 10. available at: http://otvoreniparlament.rs/uploads/istrazivanja/Otvoreni%20parlament%20-%20Bilten%201%20-%20Oktobar%202018.pdf
[26]Dušan Spasojević, “Kontrolna funkcija Narodne skupštine Republike Srbije” (*Oversight function of the National Assembly of the Republic of Serbia*), in: Slaviša Orlović (ed.),

the National Assembly supervises the work of the Government, Security Services, Governor of the National Bank of Serbia, Ombudsman, as well as other authorities and bodies in accordance with the law.[27] For this purpose, there is a range of mechanisms at its disposal that enable the Assembly to conduct parliamentary control, both in the "weaker" sense of inquiry and criticism, which it carries out by checking, examining, criticizing and calling for billing, as well as in a "stronger" meaning which implies the possibility of disciplinary and legal sanctions.[28] Some of them may be initiated only by MPs, such as parliamentary questions, while others require the initiative or involvement of other bodies of the Parliament, such as the organization of public hearing which is initiated by the parliamentary committee. Control mechanisms, with parliamentary questions and public hearings, include the possibility of establishing an inquiry committee and a commission, consideration of reports of state authorities, organizations and bodies, as well as the possibility of initiating an interpellation and a vote of no confidence in the Government or a member of the Government, which are much less used in practice. The procedure of parliamentary control over the work of the Government and other state authorities, organizations and bodies is more closely regulated by the Rules of Procedure of the National Assembly and other relevant regulations.[29]

Although the range of various mechanisms foreseen by the legal and institutional framework provides the parliament with sound preconditions for the effective implementation of control and oversight over executive power, their sporadic and superficial application in practice, as well as the abuse of procedures which makes them absurd, make parliamentary control symbolic or "superfluous" instead of the essential supervision of executive power. The majority of interviewees believe that the image of the implementation of parliamentary control is in practice bad because the control mechanisms do not function.

“Demokratske performanse parlamenata Srbije, Bosne i Hercegovine i Crne Gore” (*Democratic performances of the Parliament in Serbia, Bosnia and Herzegovina and Montenegro*), Belgrade, Sarajevo, Podgorica: University of Belgrade – Faculty of Political Science, Sarajevo Open Centre, Faculty of Political Sciences – University of Montenegro, 2012, p. 135

[27]Article 15 and Article 27 of the Law on the National Assembly, "Official Gazette of RS" No. 9/2010

[28]Roy Gregory, “Parliamentary Control and the Use of English”, *Parliamentary Affairs*, 1990, 43 (1): 59-77., p. 64.

[29]Articles 204 to 229 of the Rules of Procedure of the National Assembly

Parliamentary questions

Parliamentary questions are one of the most widely used and most frequently used mechanisms of parliamentary control. This mechanism guarantees to MPs an individual right to ask the Government or the competent minister a question in a verbal or written form to which the Government or the minister to whom it is addressed is obliged to respond.

The oversight function that the MPs can exercise through parliamentary questions is reflected in the way in which the procedure for posing questions is designed, and which is more precisely defined by the Rules of Procedure of the National Assembly (Articles 204 to 208). One can say that by means of parliamentary questions the MPs "take the floor" by having the first and the last word in the dialogue with the representative of the Government. Namely, the procedure stipulates that the MP shall pose the question for up to three minutes, and after the reply of the Government or the competent minister, the MP shall again have the right to comment on the answer or to ask a supplementary question. Finally, after receiving the answer to the supplementary question, the MP may declare his/her opinion, this time not longer than two minutes.[30] Such dynamics is in line with the essential goal of parliamentary control and the presumption that the Government or its representative is obliged to answer the question to the MP, and thus to the citizens represented by the MP, thereby accounting for their work. It is foreseen that the Government or the minister immediately respond verbally to the questions posed in the course of the sitting itself, and the exception to this rule is allowed only if a preparation or a more complex analysis is required to answer the question. In such a case, the answer to the question must be submitted in writing within eight or at the latest 30 days.[31]

The Rules of Procedure specify the day for parliamentary questions – it is stipulated that during the regular session of the National Assembly the questions are posed "in the presence of Government members, every last Thursday of the month during an on-going parliamentary sitting, between 16:00 and 19:00 hours, when the work performed according to the agenda shall be adjourned", while during the

[30] Articles 204 and 207, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012
[31] Article 206, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

extraordinary session they may be asked on some other day of the month "if the party who requested the extraordinary session anticipated that in its request".[32] The practice of linking parliamentary questions to a specific day of the week during the regular session, introduced by the amendments to the Rules of Procedure of the National Assembly in 2009, limited this mechanism in relation to the previous formulation that did not specify the exact day. Namely, such a formulation enables the Speaker of the National Assembly to avoid scheduling a sitting of the regular session on the usual days, including Thursday "if there are justified reasons for this, which the Speaker shall explain to the MPs".[33]

The very institution of the National Assembly declaratively recognizes the importance of parliamentary questions, and thus on its website highlights the long tradition of using this mechanism, which it claims to be "as old as an Assembly", adding that "for example, in its legislature of 1897-1900 the Assembly solved 445 MP proposals."[34] However, the analysis shows that in the current practice, the potential of this mechanism is not being realized continuously or fully. Looking at the trends of its use, we will notice that the practice of posing parliamentary questions on the last Thursday of the month is irregular.

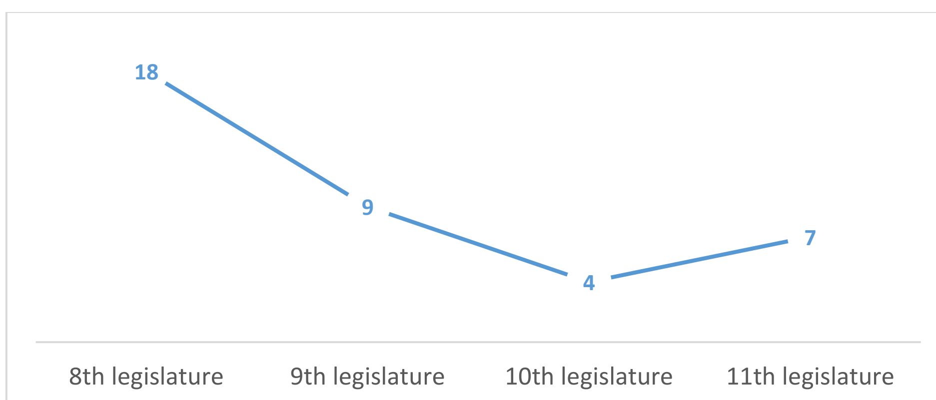

Chart 5: Trend of using the mechanism of parliamentary questions

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[32] Article 205, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012
[33] Article 87, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012
[34] National Assembly of the Republic of Serbia, History 1804-1918, http://www.parlament.gov.rs/narodna-skupstina-/istorijat/istorijat-1804---1918.937.html

During the 11th legislature of the National Assembly (the current legislature was constituted on 3 June 2016), this mechanism was used for seven times by January 2019, including the regular and extraordinary sessions. However, it is interesting that significant oscillations in its use are noticeable, considering that during the first two years of the current legislature it was used only once a year. More specifically, in the course of 2016, the MPs posed questions to the Government representatives only on the last Thursday in October 2016, and then again only after a year, in October 2017. This trend is similar to the practice recorded during the 10th parliamentary legislature (16 April 2014 – 3 June 2016), when the MPs posed questions only four times - in May and July 2014, and then twice in July 2015.

However, if we look at the previous legislatures of the National Assembly, we will see that parliamentary questions are used much more often. For example, during the 9th legislature that lasted roughly the same as the tenth (31 May 2012 – 16 April 2014), parliamentary questions were posed nine times in total: five times in 2012 (every last Thursday of the month from August to December) and four times in 2013 (in March, June, October and December).[35] The regular use of the institute of parliamentary questions characterized the eighth legislature of the National Assembly as well (11 June 2008 - 31 May 2012), in which it was used 18 times.[36] The trend in the use of this mechanism improved during 2018, when the MPs had the opportunity to pose questions to the Government five times: in March, April, September, October and November.[37]

[35]Data taken from the website of the National Assembly, http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/arhiva-aktivnosti/saziv-od-31-maja-2012/poslanicka-pitanja.2273.html?offset=0

[36]Data taken from the website of the National Assembly,http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/arhiva-aktivnosti/saziv-od-11-juna-2008/poslanicka-pitanja.1549.html?offset=0

[37]Data taken from the website of the National Assembly, http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/poslanicka-pitanja/poslanicka-pitanja.991.html

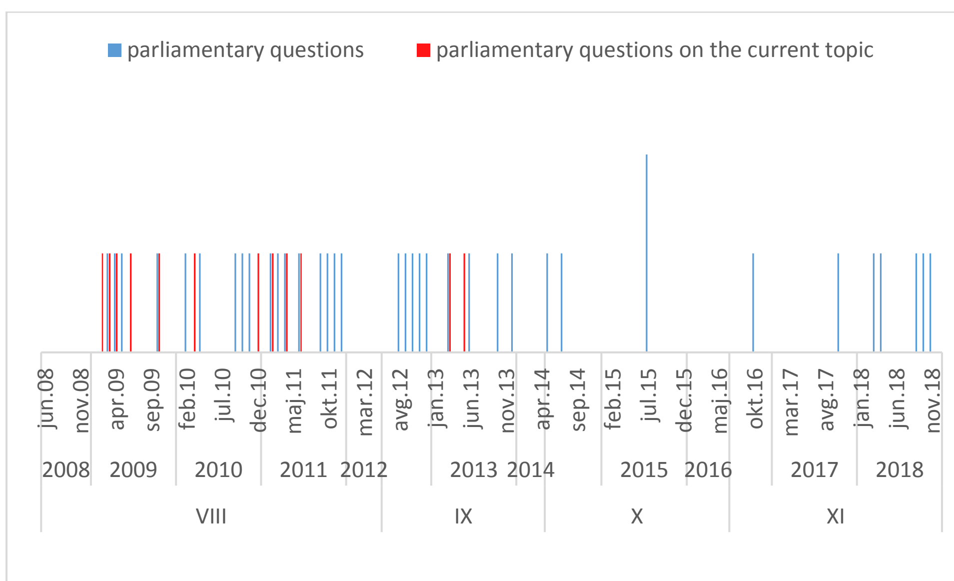

Chart 6: Parliamentary questions - review by legislatures

However, it is worth noting that the regularity in the use of the institute of parliamentary questions does not in itself guarantee that it will be effective in practice, that is, that it will substantially contribute to the implementation of parliamentary control over the work of the Government. Besides irregular use, the effectiveness of parliamentary questions is also undermined by the existing vagueness in the Rules of Procedure of the National Assembly that leaves room for the abuse of this mechanism. Thus, for example, the time that representatives of the Government have at their disposal to answer the question of the MPs during the sitting itself is not limited.

From the comparative point of view, the practice of posing parliamentary questions has been recognized as an important mechanism of parliamentary control in Southeast Europe. The application of this mechanism is regulated by the Rules of Procedure of Parliaments in a similar way, with minor procedural differences. The regulation of this mechanism in the case of the Parliament of Serbia is to a great extent in line with the practice of other parliaments in the region. Namely, MPs pose their questions in the oral and/or written form to the Prime Minister and members of the Government at the sitting scheduled for parliamentary questions, during the period ranging from 90 to 180 minutes, and depending on the parliament, the MP may pose one to three questions lasting not longer than 2 minutes or 3.5 or 10

minutes.[38] However, only in the case of Serbia, the time that the Government or the competent minister has at its disposal for a reply to a MP is not limited. In the case of other parliaments in the region, the time varies from the most common 2 or 3 minutes (in the case of Bosnia and Herzegovina, Bulgaria and Romania), up to 4 and 5 minutes (for example, in the case of Croatia and Slovenia) or even 10 minutes (in the case of Macedonia).

In the case of Serbia, a significant difference in the time used by the MPs on the one hand, and representatives of the Government on the other illustrates the possible consequences of the lack of this limitation (Chart 7). If we look more closely at the way in which the time for parliamentary questions was used last September, we will see that the MPs used 44 of the 180 minutes reserved for parliamentary questions for posing questions and commenting on the answers, whereas the ministers used the remaining 128 minutes. More precisely, there was enough time for six MPs to ask their questions within a given timeframe, while a total of 10 ministers spent three quarters of the anticipated time to reply. A similar situation was noted during posing parliamentary questions in October, when five MPs used a total of 36 minutes while the Prime Minister and seven ministers spoke during the remaining 134 minutes, as well as in November when five MPs asked questions for a total of 34 minutes, while nine representatives of the Government responded for two hours and 16 minutes.[39]

The lack of a time limit for answering parliamentary questions defined by procedural rules, which to a large extent exists in comparative practice, is one of the problems that reduce its effectiveness, especially bearing in mind that the self-limitation of Government representatives while answering questions has not yet become a part of political culture.

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[38]In the case of the parliaments of Bosnia and Herzegovina, Croatia, Bulgaria and Romania, the time available to the MP for posing the question is limited to 2 minutes, in the case of Slovenia, the MP has 3 minutes at his/her disposal, while in the Parliament of Macedonia there is as long as 10 minutes.

[39]Open Parliament, “Parliamentary Insider”, Issue No. 1, October 2018, pp. 11-14.

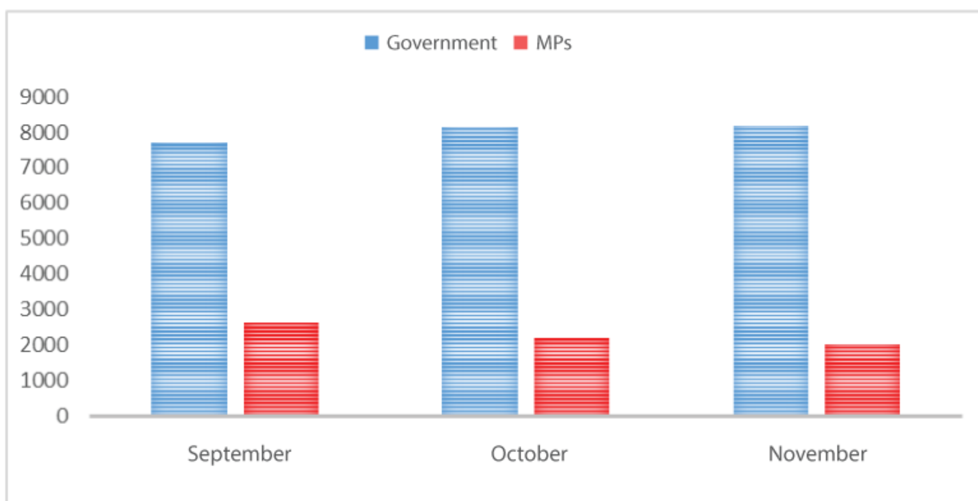

Chart 7: Ratio of the time spent on posing parliamentary questions and the answers of the members of the Government, expressed in seconds

Recent practice shows the increasing trend of a growing number of Government representatives who respond to a parliamentary question during the last Thursday of the month at the expense of a decreasing number of MPs who pose them (Chart 8).

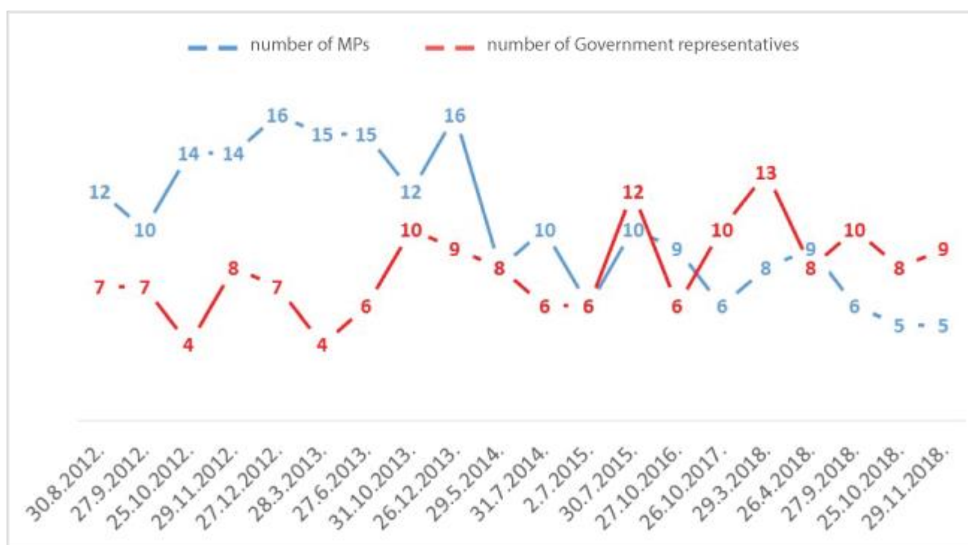

Chart 8: Comparative overview of the number of MPs who posed questions and representatives of the Government who responded

The length and comprehensiveness of the response of the minister to whom the question is addressed or the Prime Minister can certainly be justified, depending on the complexity of the question i.e. the quantity of specific data and the information required by the question. But on the other hand, the problem arises when instead of actual responses consisting of relevant information, comprehensive answers are being abused in order for the limited time for parliamentary questions to be spent, thus disabling a greater number of questions by various MPs. According to one of the interviewees, at that moment "the ruling majority overburdens the Government with their questions, the institute itself loses its significance."[40] Although in a comparative practice the MPs of the ruling majority also use this mechanism for the purpose of essential control of the Government, due to the lack of intra-party competition and due to strong party discipline, the questions that are posed by the MPs from the ruling majority are, as a rule, "friendly", i.e. intended to promote the success of the Government rather than to control the parliament.

Unfortunately, the use of the time provided for answering questions by Government representatives for accounting with political opponents instead of answering current issues of particular relevance to the general public is common. One of the causes of the "tabloidization" of this mechanism, which makes its essential purpose absurd, stems from the fact that the sittings in which parliamentary questions are posed are open to the public, held in the presence of media and television broadcasts; so this mechanism, instead of informing the public, drawing public attention to particular topics or conducting a dialogue with government representatives on a particular issue or activity, is used for political promotion to which it is sometimes difficult to determine the boundary, or for attacking political opponents.[41] Therefore, in addition to procedural deficiencies, attention should also be paid to the responsibility of the MPs themselves in using the institute of parliamentary questions. In some cases, a clear formulation of these questions by the MP required by the Rules of Procedure is questionable, so certain MPs may pose as many as 18 questions within one question.[42]

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[40]Interview with a representative of the academic community, 21.11.2018
[41] Orlović and Lončar; Spasojević; Radojević. Poboljšanje demokratskih performansi Narodne skupštine Republike Srbije. (*Improving the Democratic Performance of the National Assembly of the Republic of Serbia*) Belgrade, 2012, p. 61
[42] During posing parliamentary questions in October 2018 the MP Boško Obradović managed to pose a total of 18 questions within three minutes for a "plainly formulated

Parliamentary questions relating to a topical subject

The alarming trend is also recorded as regards the other common or "regular" mechanism of parliamentary control – parliamentary questions on relating to a topical subject. The procedure for asking parliamentary questions in this form is similar to the one for parliamentary questions. According to the Rules of Procedure of the National Assembly, at the proposal of the parliamentary group, the Speaker of the National Assembly should at least once a month determine the date when certain representatives of the Government respond within 180 minutes to the questions of the MPs regarding a precisely determined topic.[43] In the event that the estimated time expires and that the representative of the Government does not answer all questions, the Speaker of the National Assembly may appoint another day in order for the representative of the Government to answer the remaining MPs questions. The order of posing questions gives priority to the representative of the proposer, to the registered heads and authorized representatives of the parliamentary groups "starting from representatives of the smallest parliamentary group to the largest one", and then the MPs as they applied for the floor until the expiry of the total time.[44]

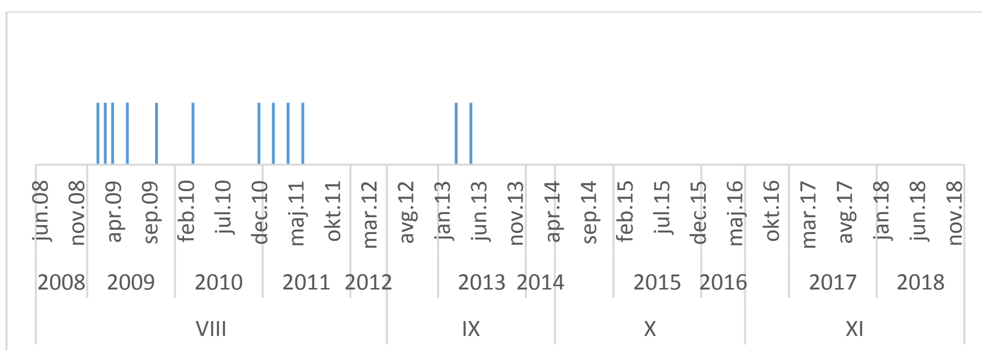

Chart 9: Questions on the current topic - review by legislatures

question", and then, during the time for an additional question, he addressed the ministers' responses and asked new questions addressed to the entire Government , which largely remained unanswered. See: "Endless answers and numerous questions", *Open Parliament. Parliamentary Insider*, Issue No. 1, October 2018, p. 11

[43] Articles 209 to 212, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

[44]Article 213, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

Unlike the mechanism of parliamentary questions, the Rules of Procedure stipulate more precisely the fact that a MP may pose up to three questions, as well as the time for asking and answering questions.[45] Namely, after the presentation of the question by the MP that lasts for three minutes the most, the competent minister has five minutes the most to answer the question. After the reply, a MP may pose "two more additional questions for a total duration of up to two minutes", to which the minister is answering for a maximum of five minutes in total.[46] Unlike the previous one, in this mechanism, the procedure does not stipulate the final word of the MP.

However, in practice, the parliamentary questions on relating to a topical subject were held for the last time more than five years ago, specifically on 30 May 2013. At that time, a total of 18 MPs asked questions about the topic "Solving the problem of difficult economic and social situation in the country", and six representatives of the Government responded – "Prime Minister and Minister of Internal Affairs Ivica Dačić, Minister of Finance and Economy Mlađan Dinkić, Minister of Civil Engineering and Urbanism Velimir Ilić, Minister of Agriculture, Forestry and Water Management Goran Knežević, Minister of Education, Science and Technological Development Žarko Obradović and Minister of Energy, Development and Environmental Protection Zorana Mihajlović".[47] Moreover, the analysis shows that the well-established practice of using this mechanism in the eighth legislature of the National Assembly began to record a significant decline during the ninth legislature, after which during the tenth and eleventh legislature the complete disregard of this form of parliamentary control followed (Chart 9).

Work of parliamentary committees

Committees of the National Assembly represent an important link in the implementation of parliamentary control, given that they have within their scope of work the mandate to monitor the work of the Government and other authorities

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[45]Articles 213 to 214, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

[46]Article 214, Rules of Procedure of the National Assembly, "Official Gazette of RS", No. 20/2012

[47]Data retrieved from the Activity Archives of the National Assembly of the Republic of Serbia, available at the website of the Assembly: http://www.parlament.gov.rs/Dan_za_odgovaranje_na_poslani%C4%8Dka_pitanja_u_vezi_sa_aktuelnom_temom_.18709.941.html.

and bodies supervised by the Assembly, to consider the reports that these authorities and bodies submit to the Assembly, as well as to organize public hearings.[48] Parliamentary committees are often considered to be the place where the real parliamentary work takes place, whereas the control through parliamentary committees stands out as the most systematic method of oversight as regards the work of executive power.[49]

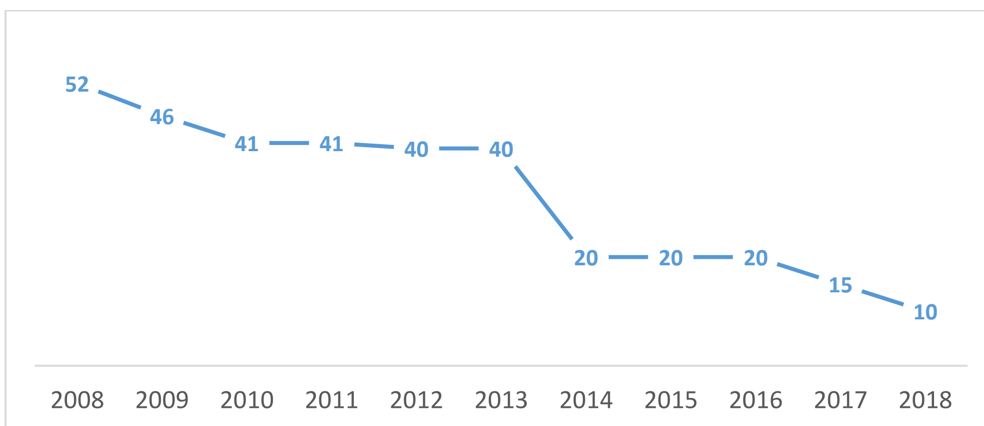

Chart 10. Percentage of chairmen of parliamentary committees not belonging to the ruling majority

The distribution of the positions of chairmen of parliamentary committees between parliamentary parties shows the way of understanding the role of the committee in the Assembly. If we look at the composition of the parliamentary committees, we will notice that the percentage of chairmen of parliamentary committees that do not belong to the ruling majority has been steadily decreasing since 2008. In 2008, in the spirit of good practice, half of the chairmen of the parliamentary committees were not from the ruling majority. However, after the 2014 election, this percentage began to decline, reaching 20 %. In line with the trend that has continued, today it is only 10 %. In other words, today only two out of 20 National Assembly committees do not belong to the ruling majority, and only one assembly committee is chaired

[48] Article 27, Law on the National Assembly
[49] David Bitam, Parlament i demokratija u XXI veku: Vodič za dobru praksu, (David Beetham, Parliament and Democracy in the Twenty-First Century), Program Ujedinjenih nacija za razvoj (UNDP), 2008, p. 128

by a representative from the opposition. In that sense, it is also worth considering the possibility of standardizing this rule of good practice and prescribe by the Rule of Procedure that the opposition deputies chair at least one-third of the assembly committees.

Commissions and inquiry committees

Among the mechanisms of the parliamentary control that the Assembly has at its disposal there are also *ad hoc* bodies that carry out the parliamentary investigations – commissions and inquiry committees. They are established by the National Assembly, most often *ad hoc*, to examine the situation in the specific area, establish the facts and collect data "on some important matter of public interest or some other matter related to the work of the executive power (head of the state, government, ministers)"[50], meaning to "gain comprehensive insight in the activities of the executive power that are deemed to cause severe violations of the legal procedures and irregularities in the work that produce or might produce adverse social circumstances".[51] There are different commissions and inquiry committees depending on their members, namely inquiry committees consists of MPs, while the Commission, besides the MPs, also involves the representatives of authorities and organisations, experts and scientists in its work.[52] The role of MPs is very important for the effective work of these bodies, since it enables them "to separately deal with the oversight and supervision of the specific government bodies and their activities".[53] However, former analysis of the work of these bodies reveals that, in the majority of cases, despite their reports being "heavily critical of the work of the Government and keeping it alert, in practice they do not contribute in the long term to the permanent resolving of the relevant problems".[54]

The effectiveness of inquiry committee is usually assessed on the basis of the conclusions revealed to the public upon the completion of the activities. Since 2000,

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[50]Marijana Pajvančić, "*Parlamentarno pravo", (Parliamentary Right),* Konrad Adenauer Foundation, Belgrade: 2008, p. 90
[51]Article 68, National Assembly Rule of Procedure, "Official Gazette of RS", No. 20/2012
[52]Article 68, National Assembly Rule of Procedure, " Official Gazette of RS ", No. 20/2012
[53]Bogdan Urošević, 2015, p. 85
[54]Tatjana Lazić, "Izazovi i perspektive nadzora izvršne vlasti u parlamentarnim demokratijama", (Challenges and the perspectives of supervision of the executive power in parliamentary democracy system), in: Pregled – Magazine for Social Matter 3/2014, University of Sarajevo, p. 151

in the Serbian parliamentary practice a total of eight inquiry committees were established, and majority of these did not have specific results. For example, the inquiry committee formed for the purpose of investigating the circumstances of Vuk Drašković assassination attempt at *Ibarska magistrala*, formed by the end of 2000, had not achieved any specific results, despite the unanimously adopted repor which concluded that "quadruple homicide is 'an organised crime' and people who ordered it and its perpetrators were deliberately protected by the police, prosecutor and the court, and this crime investigation has been 'interfered with and blocked from the very beginning'", and the former State Security Service was involved in that.[55] One of the possible reasons is explained by the lack of appropriate authority of the members of the committee, due to which some government officials were not heard before the committee. Subsequent inquiry committees dealt with the circumstances of the murder of Minister of Defence Pavle Bulatović (the one established in 2001), alleged wiretapping of the FRY President Vojislav Koštunica office by the order of the Government (during 2002), establishing facts and circumstances in electricity trade and related financial-banking affairs (March 2004), facts and circumstances of the elections for the Belgrade City Assembly held on 19 September 2004 (November 2004 – February 2005), performance of competent public authorities in the procedure of privatisation of the company "Knjaz Miloš" from Arandjelovac (January – March 2005).

The only committee with an explicit epilogue at the time was the inquiry committee for examining the case of missing babies, chaired by Živodarka Dacin (June 2005 – February 2006). Following 28 meetings of this committee, in July 2006 the Serbian Assembly has adopted the report on the work of this inquiry committee, according to the statement of the Speaker of the Assembly Predrag Marković, for the first time in history of Serbian parliamentarism. In its report, the Committee has assessed that "the parents' suspicion has been founded in many cases and the measures were proposed: that the Special Prosecutor and special Department for combating organised crime in the District Court shall process all parents requests on the missing

[55]See more about inquiry committees and their work at: Jovana Gligorijević "Gde su bebe, a gde svi drugi" (*Where are babies, where is everyone else?*), Magazine Vreme, 6 December 2007, available at: https://www.vreme.com/cms/view.php?id=541828; (retrieved on 10.01.2019) and Dimitrije Bolta "Anketnim odborom do ćorsokaka" *(Inquiry Committee hitting the dead-end*), Istinomer, 24 May 2018, available at: https://www.istinomer.rs/clanak/2335/Anketnim-odborom-do-corsokaka (retrieved on 10.01.2019)

children".[56] However, apart from the adopted report with the specific examples, "the parents still do not know what has happened with the missing children".[57]

Next inquiry committee has been established only in 2013, to establish the facts of the means of spending the Republic of Serbia budget funds at the territory of Autonomous Province Kosovo and Metohija in the period 2000 to 2012.[58] The report adopted by this inquiry committee refers to the multiple abuses and misuse of the citizens money, and the Government obligation was "to make sure that the competent national authorities shall examine the allegations from the Report on the misuse of the budget funds at the territory of Kosovo and Metohija and undertake necessary measures of criminal and disciplinary liability, as well as the necessary organisational and personnel measures to prevent misuse of budget funds"[59], and to notify the Assembly on the measures taken within a year. However, despite the importance of the topic and comprehensive activities of the inquiry committee, this report has never been included in the parliamentary agenda. Therefore, the Assembly has never adopted this report, meaning it has never used the possibility to bind the Government to undertake the proposed measures and notify about it to the Assembly within a year. Not only does the National Assembly demean the work of its MPs by these reactions, but it also undermines the functioning of the existing mechanism of parliamentary oversight and contributes to spreading of the belief

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[56]Slaviša Orlović "Nadležnosti parlamenta", (*Competences of the Parliament*), in: Vukašin Pavlović and Slaviša Orlović (eds.), *Dileme i izazovi parlamentarizma, (Dilemmas and Challenges of the Parliamentarism)* Konrad Adenauer Stiftung and Faculty of Political Sciences, Belgrade, 2007, p. 154

[57]Dimitrije Bolta "Anketnim odborom do ćorsokaka"*(Inquiry Committee hitting the dead-end*), Istinomer, 24 May 2018, available at: https://www.istinomer.rs/clanak/2335/Anketnim-odborom-do-corsokaka

[58] See: "Kako su trošene pare za Kosovo" (*How was the money for Kosovo used*), Magazine Vreme, 17 April 2014, available at: https://www.vreme.com/cms/view.php?id=1191488; and M. Čekerevac "Anketni odbori rade, rezultati izostaju" (*Inquiry* Committees *working, no results*), Politika Newspapers, 27 May 2013

[59]"The report on establishing the facts on spending the budget funds of the Republic of Serbia in the territory of the Autonomous Province of Kosovo and Metohija in the period from 2000 to 2012 with the proposal for the measures to be taken", the inquiry committee shall work on establishing the facts on the means of spending Republic of Serbia budget funds in the territory of the Autonomous Province of Kosovo and Metohija in the period from 2000 to 2012, 01 No: 06-2/19-14, Beograd, 14 April 2014, p. 68, available at: http://www.parlament.gov.rs/upload/archive/files/lat/doc/izvestaj_odbori/VERZIJA%20IZVESTAJA%20NS%2014.%20APRIL%20FINAL%20LAT.doc

that the sole purpose of the inquiry committees is to fight political opponents, and promote politicians or political parties. Moreover, by this absurd denial of the existing mechanisms for the control of executive power, the Assembly itself causes the complete destruction of citizens' trust in the role and influence of the parliamentary institution in the Serbian political system.

The mechanism of parliamentary investigation has been initiated again in 2018 in the form of the Commission. On the proposal of the Speaker Maja Gojković, the National Assembly has adopted a Decision on establishing Commission for investigating consequences of the NATO bombing of the Federal Republic of Yugoslavia in 1999 to the health of Serbian citizens, including the environmental impact, with special attention on the consequences created by the use of the depleted uranium missiles.[60] The Commission has to report on its activities to the Parliament every six months, and also publish its preliminary report by 2020. However, apart from the decision on establishing this Commission, the section of the National Assembly website referring to the activities of the inquiry committees and Commission does not have any single reference to its activities. It remains to see if this Commission will be more successful than the inquiry committees as regards the specific results.

Public hearings

Public hearings represent a very important mechanism not only for gathering information and expert opinions on the matters which are being decided by the parliament and MPs, but also for the oversight of the work of executive power by monitoring implementation and application of the law. The public hearings dedicated to consideration of the legal provisions and means to apply legal provisions are also called "legislative public hearings", and "supervisory public hearings" are often referred as the ones where the activities of government representatives and the quality of the Government programme are considered. In addition to, the theory recognises the consultative hearings intended for assisting

[60]Decision on establishing Commission for investigating consequences of the NATO bombing of the Federal Republic of Yugoslavia in 1999 to the health of Serbian citizens, including the environmental impact, with special attention on the consequences created by the use of the depleted uranium missiles, National Assembly of the Republic of Serbia, RS No. 26, Belgrade, 18 May 2018. Available at: http://www.parlament.gov.rs/upload/documents/activities/RS26-18.pdf

MPs in preparing "to make a decision on the proposals for the appointment of holders of some public offices", as an investigative type of public hearings with the special emphasis on the very investigation in the case of a doubt that "the public officials have acted with misconduct while carrying out their tasks".[61] Our system also has investigative public hearings, but in the form of the Commission, and/or the inquiry committee.

Following the example of good practice in the development of parliamentarism, the mechanism of public hearing has been introduced to our legal system for the first time in 2010 by the Law on National Assembly, while the procedure for organising public hearings has been even more precisely regulated by the Rules of Procedure of the National Assembly.[62] Unlike the parliamentary questions, that can be initiated by a MP independently, the procedure of organising public hearing shall be initiated by the committees of the National Assembly, on the proposal of the member of the parliamentary committee. Upon the reception of the proposal, the committee adopts a decision to organise public hearing, which shall be notified to the Speaker of the National Assembly by the chairman of the committee, who shall then invite "members of the committee, MPs and other persons whose presence is relevant for the topic of the public hearing".[63]

Following the institutionalisation of this system, the public hearings came to life in practice, so in the period 2011 – 2015, they were organised almost regularly – between 10 and 15 per year. Thus in 2012, in his analysis of the practice of holding public hearings in the National Assembly, Mr Vukadinović has an absolute right to conclude that "the institutionalisation of the public hearings has enabled these to be organised as a regular (constant) activity in the parliamentary practice of National

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[61] See more at: Slaviša Orlović, Javna slušanja kao institucija parlamentarne prakse (Public Hearings as the institute of the parliamentary practice), United Nations Development Programme: 2007, pp. 17-19

[62]The implementation of the public hearing in Serbia started before it was institutionalised, on the UNDP initiative –under the project "Jačanje odgovornosti Narodne skupštne" (*Strengthening the responsibility of National Assembly*) implemented by the UNDP office in the Republic of Serbia that has directly supported the public hearings, through the material and technical assistance to the chairmen and secretaries of the committees in preparation, design and management of public hearings.

[63]Article 84, Rules of Procedure of the National Assembly

Assembly".[64] Next year, in 2013, the largest number of public hearings organised in one year was recorded – 28 in total. However, in the following year this trend started significantly decreasing. In 2014, only 10 hearings were held. During 2015, there were 14 public hearings held in total, and the following year the number was two times smaller. In 2016, a total of seven public hearings were held, which was the first time the number of hearings dropped to one-digit number, ever since this mechanism was institutionalised. In the past two years, only one public hearing was organised per year – in November 2017 and November 2018. Consequently, although it had seemed that the public hearings became a part of the regular parliamentary practice in Serbia, the number of hearings held in the past years is quite insignificant in comparison to the past good practice demonstrating the reversibility of this process.

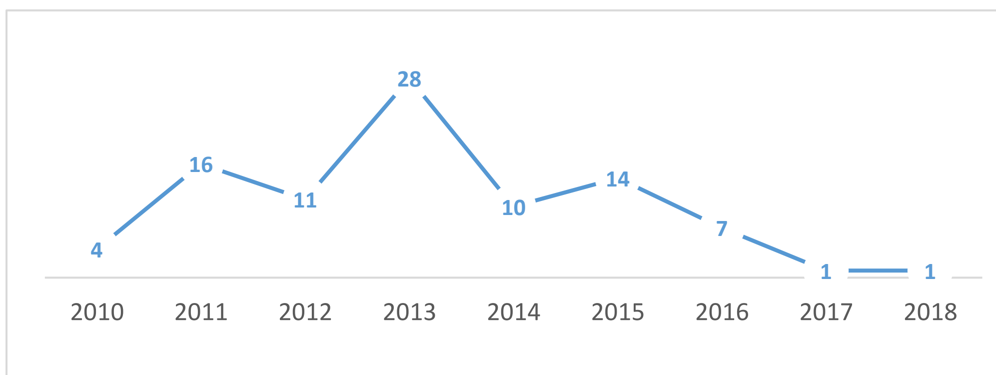

Chart 11. The number of public hearings held 2010-2018

Besides regularly organising public hearings, to enable essential effectiveness of these as the control mechanism, the topics of these hearings would be of key importance. The analysis of the practice has demonstrated that when organising public hearings the selected topics were "life topics, crucial for citizens' problems and systemic problems in the society".[65] So, for example, in the period of the most

[64]Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić and Vladimir Djurić (eds.), *Elections in Domestic and Foreign Law*, Institute of Comparative Law, Belgrade: 2012, p. 250

[65]Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić and Vladimir Djurić (eds.), *Elections in Domestic and Foreign Law*, Institute of Comparative Law, Belgrade, p. 247

regular use of this mechanism, between 2012 and 2014, the public hearings were organised on the topics such as media freedom, higher education, fighting family violence, protection of children from online abuse, GMO impact to the environment and health, status and perspective of metalworking industry in Serbia, local elections in Kosovo and Metohija, national priorities for international financial aid, managing IPA 2 funds, and other.

On the other hand, the current practice and the number of public hearings held for the last two years and their topics, make one think if we have socially important topics at all in Serbia today, which would demand the attention of the parliament. The single public hearing held during 2017 was dedicated to the role of National Assembly in implementing the sustainable development goals. Without intent to diminish the importance of this topic, this specific selection of the National Assembly is quite surprising at the moment the Serbian state and its society are facing important challenges as the issues of finding Kosovo solution and amendments of the constitutional settlement of the country on the road to the European Union. Furthermore, the only public hearing organised in 2018 was dedicated to the Proposal of the Law on Radiation and Nuclear Safety and Security in November 2018, which was submitted by the Speaker of the National Assembly Maja Gojković in her role of a MP. It is interesting that at this time Maja Gojković was also a President of the Steering Committee of the Agency for Protection against Ionising Radiation and Nuclear Safety of Serbia, which was transformed into the Directorate for Radiation and Nuclear Safety and Security exactly with this law, and Ms Gojković remained to be the President of its Steering Committee. A question could be raised why were not the public hearings organised about a set of other crucial laws, adopted or amended for the last two years, which significantly influence the organisation of the state of Serbia and the life of its citizens (these include Law on Personal Data Protection, Law on Free Legal Aid, Law on Planning System, Law on Higher Education, Law on Lobbying and other). The fact that the Government proposed the law, and/or its amendments and supplements, does not justify the lack of interest of the National Assembly to hold the public hearings on these topics. In addition to this, apart from "legislative public hearings", it is obvious this mechanism was ignored when it was supposed to be used for the purpose of oversight of the work of executive power and the results of implementing some of the adopted legal provisions that spurred broader discussions in the society.

Finally, in addition to the selection of topics that the public hearings were dedicated to, the effective performance of this mechanism requires the cooperation and participation of all relevant representatives of executive power, since judging by the past practice this is not guaranteed. Even in the period when the public hearings were held regularly on the current and important topics, executive power often did not respond to the calls from committee secretaries who organised the hearings, and those coming to the public hearings as the representatives of the ministries were "both ministries and state secretaries, but most often heads of departments who usually did not have complete information so they could speak at the public hearings".66

The need to stimulate the supporting activities, and/or take the direct measures following the public hearings also represents one of the key points in improving this controlling mechanism, which is continually emphasised.[67] Besides the sole information on the public hearing held, the number of participants, their positions and proposals they presented, designing precise recommendations, decisions or conclusions, and holding the regular meetings of the committee, with the purpose to solve problems which were considered, would significantly contribute to the effectiveness and importance of this mechanism.

Powers in reserve: interpellation and vote of no confidence to the Government

Instruments such as interpellation and vote of no confidence to the Government have been rarely used in our practice. Although these instruments represent the most powerful mechanisms of parliamentary oversight which the MPs have at their disposal, their effectiveness to a great extent depends on the structure and strength of the parliamentary majority. So, it varies from being a strong instrument of the parliament when the parliamentary majority consists of the wider coalition of parties from different sides of political spectrum to the mere stage performance of the demonstration of the Government political power when the parliamentary majority is dominated by one political party.

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[66]Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić and Vladimir Djurić (eds.), *Elections in Domestic and Foreign Law*, Institute of Comparative Law, Belgrade: 2012, p. 250.
[67]Slobodan Vukadinović, "Relation between Citizens and MPs after Elections", in: Oliver Nikolić and Vladimir Djurić (eds.), *Elections in Domestic and Foreign Law*, Institute of Comparative Law, Belgrade: 2012, p. 269-270.

Interpellation is provided for by the 2006 Republic of Serbia Constitution, and defined with more details in the National Assembly Rules of Procedure.[68] According to the National Assembly Rules of Procedure, the interpellation as regards the Government or its member can be submitted by a minimum 50 MPs, in writing. The Government or its member have at least 30 days available to deliver the response to the Speaker of the National Assembly to “a clearly and concisely formulated issue” which the interpellation contains, so it will be considered at the regular or the extraordinary sitting of the Assembly within no later than 15 days. Unlike the dialogue, which is initiated by the parliamentary question for the purpose of informing on the work of the Government or some ministry, the goal of the interpellation is “to challenge the Assembly debate as regards the activities and acts of the responsible minister or the Government as a whole” and its final outcome might be a vote of confidence to the Government, and/or its resignation or recall.[69] More precisely, if the Assembly votes not to accept the response to the interpellation, and the Prime Minister, and/or the Government member does not resign it is followed by vote of no confidence to the Government or Government member, so the interpellation is automatically transformed into the vote of no confidence to the Government.[70]

However, while within the loose parliamentary majority “the interpellation can shake the government reputation through the argumentative criticism during the debate in the Assembly”, this mechanism is less efficient in the event of a strong and unique parliamentary majority that supports the Government program, when it is used for “confirming the position of the government and the ’political victory’”.[71] Since precisely this happened in the last two Assembly legislatures, it is no surprise

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[68] See Article 129 of the Constitution of the Republic of Serbia, “Official Gazette of RS”, No. 98/2006; and Articles 220 to 227, Rules of Procedure of the National Assembly, "Official Gazette of RS”, No. 20/2012

[69]Irena Pejić, “Kontrolna funkcija parlamenta” (*Oversight Function of the Parliament*), in: Vukašin Pavlović and Slaviša Orlović (eds.), *Dileme i izazovi parlamentarizma, (Dilemmas and Challenges of the Parliamentarism)* Konrad Adenauer Stiftung and Faculty of Political Science, Belgrade, 2007, p. 178

[70]Article 226, Rules of Procedure of the National Assembly, "Official Gazette of RS”, No. 20/2012

[71]Irena Pejić, “Kontrolna funkcija parlamenta” (*Oversight Function of the Parliament*), in: Vukašin Pavlović and Slaviša Orlović (eds.), *Dileme i izazovi parlamentarizma, (Dilemmas and Challenges of the Parliamentarism)* Konrad Adenauer Stiftung and Faculty of Political Science, Belgrade, 2007, p. 179

that this mechanism was for the last time initiated in 2011. Namely, during the eighth legislature (11 June 2008 – 31 May 2012), the MPs have initiated six interpellations in total regarding the work of the Government, and five were initiated by the MPs from the Serbian Radical Party, and one by Democratic Party of Serbia. The debate was pursued only on the basis of the two initiated interpellations. The first was initiated by the MPs of the Democratic Party of Serbia during 2010 in relation to the work of the incumbent Minister of Economy and Regional Development Mladjan Dinkić. [72] The second interpellation that MPs debated was initiated by the MPs of the Serbian Radical Party in September 2011, in relation to the work of Minister of Religion and Diaspora Srdjan Srećković, due to the alleged abuse of the MP position and misuse of funds directed for financing the cooperation between the diaspora and the homeland in 2010.[73] The Government has responded to this interpellation by supporting the work of Minister Srećković saying that "the budget funds were used appropriately and in accordance with the law, and the work of the Ministry was assessed as politically neutral", which was considered at the Sixth Extraordinary Sitting of the National Assembly held in October 2011.[74] However, due to the lack of available data, the author is not aware if the MPs have voted on the interpellation after the debate in both cases, in accordance with the constitutional provisions.[75]

The situation is similar with the mechanism of *voting on no confidence to the Government*, which is, besides interpellation, included in "the rights of the MPs for the effective control over the work of the Government".[76] Unlike the vote of confidence to the Government, which can be requested by the very Government in order to check the support in the Parliament, the motion for vote of no confidence to the Government and/or Government member shall be initiated by the MPs.

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[72] "U parlamentu drugi put interpelacija" (*Second time interpellation in the Parliament*), *Press Online*, 21.10.2011, available at http://www.pressonline.rs/info/politika/182557/u-parlamentu-drugi-put-interpelacija.html (retrieved on 20.12.2018)

[73]http://www.parlament.gov.rs/Devedeset_%C5%A1esta_sednica_Administrativnog_odbora_.13819.941.html

[74]http://www.parlament.gov.rs/%C5%A0esta_posebna_sednica_Narodne_skup%C5%A1tine_Republike_Srbije_u_2011._godini.14214.941.html

[75] The data from the webpage of the National Assembly include the information on the sitting and debate about the interpellations, but no information on the date or the outcome of the vote.

[76]Marijana Pajvančić, "*Parlamentarno pravo" (Parliamentary Right),* Konrad Adenauer Foundation, Belgrade: 2008, p. 52

Voting of no confidence to the Government, or Government member, is considered as “zero option” actually the most severe punishment that the Assembly might use as the sanction for the Government. According to the Constitution and the Rules of the Procedure of the National Assembly, the motion for voting of no confidence to the Government can be initiated by a minimum of 60 MPs, and it would be considered by the Assembly at the first subsequent sitting, no earlier than five days after the date the motion was submitted.[77] If the National Assembly shall approve the motion and vote of no confidence to the member of the Government, the Prime Minister shall initiate the procedure for the appointment of a new member of the Government, and in case of the vote of no confidence to the entire Government, the President of the Republic shall initiate the motion for electing the new Government. It is interesting that the new Constitution of the Republic of Serbia in 2006 has restricted the circumstances for initiating this mechanism by providing that submitting the motion for vote of no confidence to the Government must be supported by a minimum of 60 MPs, while the 1990 Constitution required three times less, only 20 MPs.[78] Along with the increased number of MPs necessary to initiate the motion for vote of no Confidence to the Government, introducing the provision related to the situation when the vote of no confidence to the Government is not voted, the signatories of the motion may table a new motion of no confidence only after the expiry of a period of 180 days, which is also a novelty by which the 2006 Constitution contributed to the stability of executive power and weakening of the oversight function of the Parliament.[79]

Mechanism of voting of no confidence to the Government is rarely used in Serbian parliamentary practice, since it is characterised by the relatively stable ruling coalitions “which most often collapse from the inside and almost never under the

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[77]See Article 130 of the Constitution of the Republic of Serbia, “Official Gazette of RS”, No. 98/2006; then Articles 217 to 219 of the National Assembly Rules of Procedure, “Official Gazette of RS”, No. 20/2012; Article 56 of the Law on the National Assembly, “Official Gazette of RS”, No. 9/2010; and Article 18 of the Law on Government “Official Gazette of RS”, No. 55/2005

[78] Compare Article 130 of the Constitution of the Republic of Serbia, “Official Gazette of RS”, No. 98/2006; and Article 93, Constitution of the Republic of Serbia, “Official Journal of RS”, No. 1/1990

[79] Slaviša Orlović “Nadležnosti parlamenta“ (*Competences of the Parliament*), in: Vukašin Pavlović and Slaviša Orlović (eds.), *Dileme i izazovi parlamentarizma, (Dilemmas and Challenges of the Parliamentarism),* Konrad Adenauer Stiftung and Faculty of Political Sciences, Belgrade, 2007, p. 151

formal pressure of the opposition".[80] National Assembly has considered the Motion for voting of no confidence to the Government of the Republic of Serbia for the last time in December 2008 which was submitted by 86 MPs from the Democratic Party of Serbia, New Serbia and Serbian Radical Party, but in the end the confidence was voted to the Government which was headed by the incumbent Prime Minister Mirko Cvetković.[81] The most recent attempt to initiate this mechanism happened in February 2018, when the MPs from the parliamentary groups "Dosta je bilo" and "Dveri" have started the initiative for voting of no confidence to the Government "due to the extremely poor material situation of the citizens, terrible situation in health care, education and culture, the lowest rate of economic growth in the region, the situation in RTS, the media darkness, the Government avoiding to take part in the debate on the budget, unregulated lists, appointment of party personnel to the most important positions in the country, non-qualified ministers, thousands of young people leaving, and the widespread corruption and crime".[82] However, the initiative was not supported by the sufficient number of MPs to initiate the motion for vote of no confidence.

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[80]Dušan Spasojević, "Kontrolna funkcija Narodne skupštine Republike Srbije" (*Oversight function of the National Assembly of the Republic of Serbia*), in: Slaviša Orlović (ed.), "Demokratske performanse parlamenata Srbije, Bosne i Hercegovine i Crne Gore" (*Democratic performances of the Parliament in Serbia, Bosnia and Herzegovina and Montenegro*), Belgrade, Sarajevo, Podgorica: University of Belgrade – Faculty of Political Science, Sarajevo Open Centre, Faculty of Political Sciences – University of Montenegro, 2012, p. 139

[81]Dušan Spasojević, "Kontrolna funkcija Narodne skupštine Republike Srbije" (*Oversight function of the National Assembly of the Republic of Serbia*), in: Slaviša Orlović (ed.), "Demokratske performanse parlamenata Srbije, Bosne i Hercegovine i Crne Gore" (*Democratic performances of the Parliament in Serbia, Bosnia and Herzegovina and Montenegro*), Belgrade, Sarajevo, Podgorica: University of Belgrade – Faculty of Political Sciences, Sarajevo Open Centre, Faculty of Political Science – University of Montenegro, 2012, p. 144

[82]Release of the movement *Dosta je bilo*, http://dostajebilo.rs/blog/2018/02/20/jos-cetiri-poslanika-podrzala-inicijativu-za-izglasavanje-nepoverenja-vladi-i-razresenje-predsednika-srbije/

Independent Bodies

Independent bodies represent key partners to the parliament in its implementation of the supervision function over executive power, administration bodies and holders of public powers. Independent bodies, such as Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality, play an important role in the process of parliamentary supervision and oversight since they are conferred with powers to supervise the work of administration authorities and other holders of public powers. Through regular and special reports, these institutions inform the National Assembly on the work of the public authority bodies, on the manner the national authorities perform their functions, on indicated omissions and potential problems, and give recommendations for solving the existing issues and improvement of their work, and the improvement of legislative framework. In addition to the significant contribution to the execution of the parliamentary control, these institutions contribute to the effective implementation of the legislative function by submitting opinions on draft regulations in their areas, thus improving the quality and ensuring the best possible regulatory framework.

However, these authorities face many obstacles and difficulties in their work, which not only degrade their position and influence, but also decrease the effectiveness of the entire parliamentary control.[83] The effectiveness of the reports of the independent bodies therefore largely depends on the possibility to use these reports to draw the attention of the public and the Parliament to the problems of the citizens, and also the willingness of the MPs to consider these and use them in implementing supervision and oversight.[84] In addition to neglecting their recommendations and opinions to the draft proposals and other acts and the delays of the institutions of executive power in implementing their recommendations, the difficulties are arising from the lack of the functional system for monitoring the implementation of the conclusions of the Assembly adopted on the basis of their

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[83]Tara Tepavac,"Nezavisna tela i Narodna skupština Republike Srbije: suštinska ili simbolična saradnja?" (Independent bodies and National Assembly of the Republic of Serbia: substantive or symbolic cooperation?), Belgrade: European Movement in Serbia, October 2015

[84]Dejan Milenković, "*Javna uprava: odabrane teme" (Public Administration: selected topics)*, Belgrade: Faculty of Political Sciences: Čigoja štampa, 2013, p. 200

reports.[85] For example, the Law on Personal Data Protection that was prepared by the Commissioner for Information of Public Importance and Personal Data Protection was completely ignored, so instead of this one, the Proposal on the Law on Personal Data Protection was adopted whereby the Judiciary Committee in 50 seconds rejected 124 amendments that the institution of the Commissioner submitted to this proposal.[86]

It is especially worrying that the plenary debate on the reports of the independent bodies has not occurred for a long time, since after the plenary debate the Assembly may adopt the conclusion that shall render the recommendations from the reports of the independent bodies instrumental. According to the Rules of Procedure of the National Assembly, the competent committee shall consider the reports of the independent bodies within 30 days from the day the reports were submitted, and then submit reports to the National Assembly with the proposal of the conclusion, and/or recommendation.[87] The Assembly then takes into consideration the report of the independent authority along with the report of the competent committee and the proposal of the conclusion at the first subsequent sitting, and by the end of the debate it shall by a majority vote adopt a conclusion with the recommendations on the improvement of the situation in the area concerned.[88]

In 2018, for fourth year in a row, the National Assembly has not considered the reports of the independent bodies at the plenary, although these bodies have regularly submitted their reports every year. The last time Assembly considered their reports in plenary sitting was for the 2013 reports, including the reports of Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality and Anti-Corruption Agency. It is particularly interesting that in its conclusions adopted in 2013 and 2014 the National Assembly has obliged the Government to implement the recommendations of the independent bodies and regularly report on these to the

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[85]Tara Tepavac, “Nezavisna tela i Narodna skupština Republike Srbije: suštinska ili simbolična saradnja?” (Independent bodies and National Assembly of the Republic of Serbia: substantive or symbolic cooperation?), Belgrade: European Movement in Serbia, October 2015

[86]Interview with the representative of the Commissioner for Information of Public Importance and Personal Data Protection, 26.11.2018

[87]Article 237, National Assembly Rules of Procedure

[88]Article 239, National Assembly Rules of Procedure

Assembly. Although in 2014, the Government has established the reporting mechanisms in accordance to this requirement, none of these reports was made available to the public or debated in the Assembly. This practice, that the Progress Report of the European Commission is regularly underlining, illustrates there is a lack of efficient and effective feedback that the Parliament must have so as to successfully supervise the work of the government institutions.

Imprecise provisions of the National Assembly Rules of Procedure which does not clearly specify (all of) which parliamentary committees are in charge of considering the annual reports of some interdependent authority, when their representatives are allowed to participate and how much time do they have at disposal for presentation at the sitting, definitely do not contribute to overcoming these deficiencies.[89] However, at the same time, these lacks create an excuse for a bigger problem, which lies in the lack of awareness on the importance of considering independent bodies' reports and active engagement of the National Assembly to implement their recommendations and regularly report on the activities implemented by the Government. Moreover, this case demonstrates the obvious consequences of the party discipline that links the interest with the political party, and lacks the understanding about the importance of criticism for the improvement of the entire society. "Criticism is valuable as such and it is here so the ruling majority would on one hand correct itself, and on the other hand understand the interests which are different to its own".[90]

Through the interviews, the overwhelming impression is that the influence of independent bodies is even smaller than it was, and the National Assembly deals with them "only to the extent necessary to satisfy the basic needs".[91] In that sense, the trend of the severe aggravation of the status of all bodies and deterioration of their influence is especially worrying, with an ever greater tendency of smothering the independency, neutrality, social and political power of the independent bodies. "The relations with these authorities is personalised by people who represent these bodies", the recommendations are ignored and "it is awaited for the term of office to expire for those people who are the heads of these authorities and are somewhat

[89]See Tara Tepavac, "Živo slovo na papiru: nezavisni organi u procesu revizije Ustava" (*Worth the paper it was written: independent bodies in the Constitution revision process*), *Revija za evropsko pravo*, Year XIX, No. 1, 2017, pp. 115-128

[90]Interview with a representative of the academic community, 21.11.2018

[91]Interview with a representative of civil society, 28.11.2018

more feisty, so they will be replaced with people who interpret the relation towards the Parliament differently”.[92] In the opinion of the interviewees, the faulty reasoning is completely obvious as the public is considering if the independent bodies are needed at all, and not if the Government respects and implements their recommendations.[93] Even if in the future this is improved as regards the protocol, the result of their cooperation will not necessarily impact the balance of forces and the influence of the independent bodies.

The importance of context: political culture, accountability and other prerequisites

In analysing the effectiveness of the Assembly in implementing the legislative and oversight function and in discussions with the interviewees, a number of factors that greatly influence the means and the results of the Parliament work attracted special attention. Although this analysis did not directly refer to these factors, they greatly influence the context of the Parliament work.

Changes in the election system and the reform of the political parties are highly important for the effectiveness of the Parliament and its influence. Many of our interviewees have emphasised the importance of the election system and the need for changing it, bearing in mind that it strongly influences not only the manner of citizens’ representation but the role and influence of the MPs. The change in the election system that would give MPs a bigger role and strengthen their relation with the citizens could for sure contribute to the improvement of the situation, but only in the context of the more wide-ranging changes. The change in the election system does not guarantee the change in consciousness until the media sphere is free and developed, and the party discipline is not intimidating and civil society marginalised.[94] As regards the regulation of the political parties, the strong trend of the personalisation of the politics is also visible, which is a characteristic of the fragmented and unstable party systems where the political parties “are more engaged in the battle for political power then they are trying to recognise real problems”.[95] The origins of this problem could also be found in the process of

[92]Interview with a representative of the academic community, 21.11.2018
[93]Interview with a representative of international community, 6.12.2018
[94]Interview with a representative of the academic community, 21.11.2018
[95]Drago Zajc, http://library.fes.de/pdf-files/bueros/belgrad/10636.pdf

presidentialisation of the parliamentary systems at several levels, at the level of executive power, the election process, but also the "presidentialisation" of political parties, due to the lack of competitiveness inside the parties and concentration of power in the hands of the presidents of the political parties.[96] It is therefore necessary to initiate the reform of the political parties, with a special focus on building interparty processes, formulating the criteria for advancement inside the party and criteria for the selection of councillors and MPs, development of interparty debate, equal representation of minorities and women, and the political parties being open to criticism.

Within the context of the strong party discipline, pronounced concentration of power in the hands of executive power, and the lack of political culture and political accountability, the improvement of the legal framework will not guarantee that the mechanisms which exist on paper will be used in practice in a really efficient and effective manner. In the words of one of the interviewees, in the current situation dominated by "one political party which does not have the problem to disregard the rules and principles of representative democracy, there are no rules to prevent that", while on the other hand "in the absence of the political culture that shall stimulate the use of these mechanisms, the discussion on mechanisms is not meaningless but is of secondary relevance".[97] In that sense, it is very worrying how one number of the MPs relates to both their function and the citizens they represent. For example, in the TV show he hosts and edits, broadcasted through all cable operators in Serbia, one of the MPs from ruling majority, when announcing his guest and a party colleague, said the following: "unlike me since I am absolutely lazy as a toad when it comes to MP work, my distinguished colleague even has his office for the reception of the citizens, he also prepares for his work and gives interviews".[98] One has to ask what kind of message an MP, whose basic function is

[96]See more at Dušan Spasojević and Zoran Stojiljković, "The Presidentialisation of Political Parties in Serbia: Influence of Direct Elected President", in: (eds.) *The Presidentialisation of Political Parties in the Western Balkans,* Palgrave Macmillan, Cham, 2019
[97]Interview with a representative of the academic community, 21.11.2018
[98] TV Show "Dobro jutro sa Djukom – Aleksandar Marković" (*Good Morning with Djuka – Aleksandar Markovic*), TV KCN, 3 January 2019, https://www.youtube.com/watch?v=d4wW-y2GZ6A&t=0s&index=6&list=PLGycN1jaSBur7NoC8Ufve74pXM5l63h2k (retrived on 8 January 2019).

to represent citizens and their interests, sends to the voters of his political party, and what would be the reaction of the political party.

An important step in building political culture and nurturing the political liability is to adopt the Code of Ethics as regards the MPs' conduct. The Code of Conduct for MPs has not been adopted yet, although it is provided by Article 65 of the National Assembly Rules of Procedure, and drawing up this Code has started more than 10 years ago. The first working group for drawing up Code of Conduct of MPs has been established in 2008, headed by Nenad Konstantinović, the incumbent Chairperson of the Administrative Committee of the Assembly. In August 2014, it continued with its work, when a new Working group headed by Zoran Babić has drawn up the draft of the Code, yet it has never been included in the parliamentary agenda. At the Sitting of the Committee on Administrative, Budgetary, Mandate and Immunity Issues in July 2017, the new Working group has been established for drawing up the proposal for Code of Conduct of MPs, with Aleksandar Martinović as the head of the group.[99] Although in November 2017 it was announced that the Working group is at the final phase of drawing up the Code, there were no results of its work on adopting the Code to this day.

Adopting this document presents a necessary step in restoring the dignity of the Assembly and the MPs, and more clear provisions enabling the sanctions for specific cases of MPs' improper behaviour, since frequent insults and swear words that some MPs exchange with their colleagues often remained unsanctioned. So recently, when responding to the journalist question if some MPs have been sanctioned for insults directed to an MP from another parliamentary group in the Assembly Hall during the plenary sitting, the Chairperson of the Administration Committee said the following: "as far as I remember, it was not said to the microphone; what counts is what has been said to the microphone, and what has been exchanged in conversation between the MPs does not count".[100] Moreover,

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[99] News on the 27th Sitting of the Committee on Administrative, Budgetary, Mandate and Immunity Issues has been published on the Republic of Serbia National Assembly website in the u rubrici Aktivnosti.
http://www.parlament.gov.rs/27._sednica_Odbora_za_administrativno-bud%C5%BEetska_i_mandatno-imunitetska_pitanja.31940.941.html

[100] Martinović o kaznama: "Ustaška kurva" se ne računa, nije rečeno za mikrofonom", TV N1, 24.01.2019., http://rs.n1info.com/Vesti/a454501/Novcane-kazne-za-opozicione-poslanike-zbog-opomena-na-sednici.html (27.01.2019.)

unlike the Law on National Assembly and Rules of Procedure which determine the behaviour of MPs at the plenary, and in the Assembly too, the Code of Ethics undertakes the MPs to behave in accordance with the rules outside of the Assembly premises as well, in public, including the media appearance, thus reducing the possibilities of the MP immunity abuse.

Conclusion

By analysing the work of the National Assembly, with a special focus on implementing the legislative and oversight function, it can be deduced that the higher concentration of power in the hands of the executive and political parties, as well as the systemic abuse of democratic procedures, generate the collapsing of the status and influence of the Parliament. Although the majority of the interviewees agree that the institution of the Parliament is *de jure* well-positioned in the Serbian political system, the status and influence of the National Assembly has been *de facto* degraded.

Overuse of urgent procedure and newly-established practice of consolidating the debate on dozens of systemic and important laws, as well as the ruling coalition submitting hundreds of amendments so as to prevent the essential debate on the laws in the procedure, turned the legislative activity of the National Assembly into the mere form without the necessary content. Mechanisms of parliamentary control do not work in practice, there are ever more rarely used or just formally implemented in the manner that does not yield effective results. In the words of one of the interviewees, now we have a situation that "from 2008 to 2012 we had the golden days of our parliamentarism, and we wrote really critically about the Parliament in both 2008 and 2012".[101] It is obvious that the role and the influence of the Parliament in the Serbian political system are in practice smaller than provided for by the legal and institutional design, and that the degree of liability of the Parliament as regards the effective performance of its functions is alarmingly low. There are multiple reasons as regards the problems of parliament marginalisation and the decreasing trust of the citizens in this institution.

Although the legal and constitutional settlement has established the decent framework for the effective work of the Parliament in Serbia, there is definitely

[101]Interview with a representative of the academic community, 21.11.2018

room for its improvement. The amendments to the Rules of Procedure may contribute to reducing the abuse of the law-making procedures, more effective use the control mechanisms of the National Assembly and promotion of rights and obligations of the MPs as well.

To strengthen the Parliament and re-establish the balance of powers, and to promote legal and institutional framework, reform the election and party system, it is required to have free media taht demonstrate interest, and have the state institutions cooperating with civil society that actively monitors their work, and also work on informing and educating the citizens and development of political culture in a comprehensive manner. Bringing government closer to the citizens, increasing the liability of political parties, but also capabilities and integrity of the MPs and the capacities of administrative offices of the Assembly, have been recognised as some of the key means for fighting against the trend of deparliamentarisation.[102]

[102]Drago Zajc, „Izazovi današnje parlamentarne demokratije", u: Slaviša Orlović (prir.) *Iskušenja parlamentarizma*, Fridrih Ebert Stiftung, Beograd, 2013, str. 7, http://library.fes.de/pdf-files/bueros/belgrad/10636.pdf

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