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ROLE OF THE PARLIAMENT OF MONTENEGRO IN FIGHT AGAINST CORUPTION



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INTRODUCTION

Parliament is one of the key pillars for the efficient fight against corruption, not only as a main legislative body, as a authority that monitors the implementation of its adopted laws, because without a proper implementation, laws remain only dead letter on the paper. Even though Montenegrin Parliament is enabled, through its control mechanisms to monitor implementation of the adopted laws, these mechanisms are not sufficiently exploited, especially in the area of fight against corruption. The Parliament of Montenegro is one of the main bearers of implementation of the Innovated Action Plan for the Fight against Corruption and Organized Crime (2008-2010). As a main characteristic of its functioning in last year, we can point out extremely vigorous legislative activity, when it comes to the laws which regulate questions of corruption and corruptive actions.

As it could be perceived from the assessments of international organizations, or from reports of the National Commission, implementation of these laws is at the quite low level, due to the lack of the adequate mechanisms for the monitoring of implementation and some legislative provisions are imprecise and uncoordinated with international standards, defined in similar laws. It is necessary to strengthen functions of the Parliament, and not only in part of legislative framework creation, but also in the other important areas, such as: Budget adoption, control of the reports of the State Audit Institution and plenary discussions before its adoption, control of the public procurement process through adoption of the reports of Commission for the Control of Public procurement process and Directorate for the Public Procurement, improvement of laws that are not in accordance with international standards (especially of the Law for Prevention of the Conflict of Interests) and improvement of control of their implementation.

Montenegrin Parliament should align its actions with international obligations to which Montenegro accepted and with its set priorities in the area of the fight against corruption. Present functioning of this institution has not given visible results, and measures of the Innovated Action Plan, designed for the Parliament were only partially realized.

Existing organization of this institution and its Rules on Procedure are not providing sufficient space for discussion on regulation of the fight against corruption and until now, the initiative for formation of the new parliamentary body that would be devoted to this issue, was twice rejected.

We remind on conclusions of the Council of Europe, according to which, national parliaments should set foundations for the fight against corruption in country. Parliaments, through their role of the supreme political authority and its control power should :

- a. ensure that state institutions – including parliaments themselves – are so transparent and accountable as to be able to withstand corruption or permit its rapid exposure;
- b. instil in parliaments' own ranks the notion that parliamentarians have a duty not only to obey the letter of the law, but to set an example of incorruptibility to society as a whole by implementing and enforcing their own codes of conduct;

- c. introduce an annual system for the establishment of assets of parliamentarians and their close associates;
- d. create clear and fair legislation, including efficient public supervision, as regards the funding of political parties and election campaigns. The proper declaration of sources of income and of potential conflicts of interest is particularly important;
- e. safeguard the strength of civil liberties, in particular press freedom and the ability of citizens to form associations for informing the public, including through freedom-of-information acts;
- f. protect the independence of the judiciary and the media;
- g. have all public expenditure, revenue collection and public procurement checked either by an independent auditing body or, where necessary for state security or other reasons, by a competent parliamentary instance;
- h. take special measures to protect the position and career prospects of ‘whistle-blowers’, that is to say, officials who unmask and report cases of corruption; and establish, where this has not yet been done, a code of conduct for civil servants and public officials;
- i. enact legislation providing for adequate and precise sanctions against those who engage in corruption;
- j. as far as possible, simplify regulations, permits, administrative procedures and the like, since these open up possibilities to exact or receive bribes;
- k. resolutely fight organised crime, seeing its role as a main vehicle for corruption;
- l. enhance competition in economic life through clear and fair legislation, by taking a firm stand against monopolies and oligopolies, by reducing subsidies to companies and economic sectors, and by enhancing public scrutiny over the launching and implementation of public projects;
- m. in view of the growing international dimension of corruption, support international co-operation instruments;
- n. engage civil society in an ongoing debate on corruption from school onwards and involve it in the progress made in the fight against it.

This brings up the question: How many of these principles are fulfilled by the Montenegrin Parliament? Besides noteworthy legislative activity, unfortunately we can state that there is complete absence of interest for the “destiny” of adopted laws.

Analysis of situation

In reports of the European Commission, GRECO, SIGMA, there's been pointed out that in Montenegro the fight against corruption is not at the satisfying level, that institutions are partitioned and that are set in the manner which disables them to conduct effective control over higher state officials and politicians. This situation is caused by the lack of adequate legislative and by insufficient control of the implementation of adopted laws, from the Parliament.

Montenegrin Parliament has at its disposal, enough mechanisms to control implementation of adopted laws: control and consultative hearings, Prime Minister's hour and parliamentary investigation. However, this mechanisms are not sufficiently exploited in regards to the control of implementation of adopted laws in area of corruption: current Parliament has conducted nine hearings: six consultative and two control ones, out of which only three dealt with issues of corruption and organized crime.

In 2008, Parliament has adopted the Resolution against Corruption and Organized Crime, in which was expressed readiness to fully exploit control mechanisms at their disposal, to develop regional and international cooperation. Parliament also committed to establish **a national branch of Montenegrin parliamentarians in fight against corruption and organized crime**, where would be represented members of all parliamentary working bodies. Formation of this branch is one of the commitments foreseen within Regional Conference of South Eastern Europe. However, despite the fact that initiatives for establishment of this body existed within the Parliament, for two years after adoption of this document, national branch was not founded.

One of the measures from the Innovated Action Plan for the Fight against Corruption and Organized Crime was strengthening of the Board for Political System, Justice and Administration and Board for Economy, Finances and Budget. In order to achieve this, the change of the Rules on Procedure was foreseen, to widen jurisdictions of the board, higher degree of NGO inclusion into debates and more adopted opinions of these Boards. None of these measures was implemented.

Role of the Montenegrin Parliament in fight against corruption is hindered by constant clashes of party interests, during plenary discussions, which produces incomplete solutions, created as a compromise of different political lines. This is particularly visible in the process of the officials' appointment, whose election is under jurisdiction of the Parliament. For the officials elected in the Parliament party affiliation is the first requirement, while professional qualifications are often disregarded. This is a serious weakness of appointment system, especially if appointed officials should run anti-corruption

institutions, since their impartiality and objectiveness in procession the cases of corruption could be brought to question.

On the basis of Progress Report, and reports of other relevant international institutions, we can conclude that corruption and organized crime represent one of the main obstacles for development of the country; therefore these issues require much more attention. **The Parliament of Montenegro has no working body that deals with issues of corruption and organized crime, so these issues remain marginalized, despite significant legislative and institutional activity in this area.**

All of the above mentioned arguments are showing that it is necessary, in shortest term, to undertake concrete measures, which would enhance fight against corruption and role of the Parliament in it. For its complexity, these issues must be processed in-detail and take a significant place among numerous objectives that are posed to the state management in the process of the European integrations.

Available options

Here we will discuss three possible options for functioning of the Parliament:

1. unchanged mode of functioning - status quo
2. Strengthening of the role of the Board for Political System, Justice and Administration and Board for Economy, Finances and Budget in fight against corruption;
3. Foundation of the new working body that would deal with issue of corruption and organized crime.

We render it unnecessary to repeat that current system of functioning is not giving adequate results in the field of fight against corruption and that it doesn't control nor foster implementation of adopted acts in this area. From listed arguments in analysis of the situation we can conclude following: ***If the Parliament proceeds with present form of functioning, it will be able to fulfill recommendations of international community only formally, and fight against corruption will not give satisfying results.***

Measures from the Innovated Action Plan, regarding strengthening of the Board for Political System, Justice and Administration and Board for Economy, Finances and Budget, if implemented, could produce only limited results. Strengthening of these boards would contribute to the fight against corruption and organized crime, but not substantially, because this issue is just one aspect of boards' functioning, while foundation of the new Board would provide more space and attention for these issues. Mentioned boards, under their jurisdiction have already a number of important issues, therefore it would not be possible for them to dedicate appropriate attention to this area. Current results of these

bodies are not showing that they have capacities to take over whole spectrum of activities, needed in order to bring implementation of the laws regulating fight against corruption, to higher level

Third option is foundation of the new Board with following functions:

- Preparation of draft laws that regulate fight against corruption and organized crime;
- Proposal of amendments and supplements of existing laws in this area, that are evaluated as inadequate;
- Control over implementation of adopted laws in this field;
- Discussion on reports of independent bodies for the fight against corruption, reports of the State Audit Institution, and preparation of key findings of these reports for the plenary discussion;
- Fosters participation of civil sector in the process of anti-corruption laws drafting.

This Board would include in its work representatives of all political parties, and in such manner it would provide double control and widest consensus in formulation of legislation in this area. Laws would be developed in detail, and current laws would be enhanced with provisions that would enable efficient control and sanctioning of corruption. Besides, in Parliament would exist one address for questions related to corruption, and responsibility would be narrowed to a smaller circle of people. In addition, control of the implementation of adopted laws in this area would be improved, which would contribute to their faster and more efficient execution.

CONCLUSION

The Parliament of Montenegro is conducting noteworthy legislative activity in the area of the fight against corruption. Also it has at its disposal control mechanisms, but efficiency in exploitation of these mechanisms could be brought to the question.

In plenary discussions, main goal of discussion is disregarded and party clashes are put in the spotlight. This reflects to the quality of adopted regulations, as well as to appointment of the officials that are elected in the Parliament. In this way, effects of these compromise half-solutions can be seen both in weaknesses of the legislation and efficiency of elected officials.

Parliamentary Board for Political System, Justice and Administration and Board for Economy, Finances and Budget are burdened and their opinions are rarely taken into consideration during plenary discussions.

These boards lack time and capacities for effective control of anti-corruption policies implementation, nor to revise adopted legislation in this area, which has turned to be inadequate. In addition, opposition parties are claiming that they are completely excluded from the process of fight against corruption.

Establishment of the new Board which would overtake control over this area, which would integrate in its work both representatives of the governing coalition and parliamentary opposition, is a necessary step towards creation of conditions for proactive role of the Parliament in fight against corruption and achievement of better results in this field.

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