

Policy Brief No.27/2020

-

A comparative overview of the role of parliaments in anti-corruption oversight in the region

Author: Simona Mladenovska

-

June 2020

*The views expressed in this document do not necessarily reflect the views of the
US National Endowment for Democracy and the Institute for Democracy
“Societas Civilis” – Skopje.*

Impressum

—

Title: A comparative overview of the role of parliaments in anti-corruption oversight in the region

Publisher: Institute for Democracy
"Societas Civilis" – Skopje

Author: Simona Mladenovska

Translation: Litra

Design: Dejan Kuzmanovski

This publication is available at:

<https://idscs.org.mk/en/portfolio/a-comparative-overview-of-the-role-of-parliaments-in-anti-corruption-oversight-in-the-region/>

The oversight role of the Parliament is key to ensuring increased accountability and transparency of the executive branch. Given the number and scope of the functions performed by the government, the risk of corruption is significant and therefore MPs as representatives of the citizens should put to use the available mechanisms.

This text deals precisely with one of the preventive measures in the fight against corruption that is available in the parliamentary democracies in the region. Namely, the forms through which the Parliament supervises the national anti-corruption institutions in: the Republic of North Macedonia, the Republic of Serbia, the Republic of Albania, the Republic of Kosovo, the Republic of Montenegro and the Federation of Bosnia and Herzegovina are being reviewed.

The parliament and its functions

Parliamentary democracies cannot function without transparency and accountability. In such a system of governance, transparency and accountability provision is a task that falls on Parliament. The use of the oversight function gives Parliament the power to hold the government accountable. Through the exercise of oversight function, parliaments can provide the public with information on the policies, measures and actions taken by institutions, and their compliance with the public interest.

This once again sheds light on parliament as a central institution in the fight against corruption. Parliament is the backbone of democratic systems of check and balance, which plays a key role in the fight against corruption, in many aspects. Above

all, from the consistent practice of the mandates that are available to him.

The importance of this role of Parliament arises from its **legislative, oversight and representative function**. These functions have been recognized by a numerous of relevant, international actors such as the OSCE Mission and organizations such as the Inter-Parliamentary Union (IPU) and the Global Organization of Parliamentarians against Corruption (GOPAC).¹

Through **the legislative mandate**, parliaments are responsible for establishing an appropriate and strong legal framework to prevent corruption. This mandate not only ends with the adoption of domestic legislation, but also advocates for the ratification of international instruments to combat corruption in front of national governments. With the proper practice of this function, parliament also plays an

¹ Chene, Marie. 2017. *What Works in Working with Parliaments Against Corruption*. Anti-Corruption Resource Centre.

essential role in promoting standards of integrity through incentives, oversight mechanisms and sanctions.

The oversight function of parliament is particularly important in the fight against corruption. It derives the right of Parliament to oversee the executive branch. Practicing this function is crucial to establishing parliament as a central institution in the effective fight against corruption.

Hence, the focus of the following text will be on the forms of involvement of parliaments in the fight against corruption in the countries of the region. The similarities, differences and specific features of these forms will be discussed.

Overview of parliamentary oversight

1.1. Republic of North Macedonia

In the case of the Republic of North Macedonia, the State Commission for Prevention of Corruption (SCPC) is the institution directly responsible for preventing corruption and conflict of interest. According to the Law on Prevention of Corruption and Conflict of Interests² from 2019, the composition of the SCPC is elected by the Assembly by public call and public procedure. What should be kept in mind is that **the SCPC is a preventive body**, which is accountable to the Assembly for its work.

The supervisory mandate of the Assembly in RNM does not end with this institution. MPs have a mandate to seek a statement on positions from the Public Prosecutor's Office, including

² Official Gazette of Republic of North Macedonia, Law on Prevention of Corruption and Conflict of Interests, 12/2019

the Public Prosecutor's Office for Organized Crime and Corruption. The supervisory mandate continues above the Government, and thus the other institutions under its supervision, such as the Ministry of Interior and the Ministry of Finance.

The Parliament of Republic of North Macedonia does not have a committee or other body that deals exclusively with issues related to corruption. In the absence of a specialized committee, the competence belongs to the parliamentary Committee on Political System and Relations among the Communities.³

1.2. Federation of Bosnia and Herzegovina

The Agency for the Prevention of Corruption and the Coordination of the Fight Against Corruption (APC) an

independent and self-governing body that is accountable to the Parliamentary Assembly of Bosnia and Herzegovina.⁴

Within the Parliamentary Assembly in Bosnia and Herzegovina, there is a separate committee for monitoring the work of the Agency. The Committee for election and monitoring over the work of APC is an independent body within the parliament whose competencies derive from the Law on the Agency for the Prevention of Corruption and the Coordination of the Fight against Corruption.

The committee has a total of nine members, three of which are representatives of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, three members are representatives of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, two are representatives of the academic

³ "Committee on Political System and Relations among the Communities." Assembly of the Republic of North Macedonia. June 15. Accessed on June 15, 2020. <https://www.sobranie.mk/rabotni-tela-2016-2020-ns_article-komisija-za-politicki-sistem-i-odnosi-megju-zaednicite-16.nspix>

⁴ "Establishment and status." Corruption and Anti-corruption Agency. Accessed on June 15, 2020. <<http://www.apik.ba/o-nama/default.aspx?id=35&langTag=bs-BA.>>

community and one member is a representative from the civil society.⁵ The mandate of the representatives of the House of Representatives and the House of Peoples is as long as that of the parliamentary composition. Representatives of the academic community and the representative of the civil society sector have a mandate of 4 years from the date of appointment.

1.3. Republic of Serbia

In neighboring Serbia, there is the Anti-Corruption Agency, which was established and operates in accordance with the Anti-Corruption Agency Act.⁶ Within the Agency, there is a Board with a mixed composition of eight members.

The National Assembly has the mandate to oversee the Anti-Corruption Agency. Parliamentary oversight is exercised through the Committee on the Judiciary, Public Administration and Local Self-Government. The Committee consists

of 17 members of the parliamentary composition. This Committee does not specialize in overseeing the Agency, but is one of the areas it covers.

1.4. Republic of Albania

The High Inspectorate on Declaration and Audit of Assets and Conflict of Interest is a central, independent institution. The Inspectorate operates in the areas of prevention of conflict of interest, whistleblowing and protection of whistleblowers. The Inspectorate is headed by the Inspector General, who is appointed by the National Assembly, for a term of 7 years.

The competencies of the Assembly of the Republic of Albania end with the election of the Inspector General of the High Inspectorate.

Parliamentary oversight of the High Inspectorate is indirect.⁷ That is, the Inspector General is under the

⁵ "Commission for Selection and Monitoring of the Work of the Commission for the Prevention of Corruption and Coordination of the Fight against Corruption." Parliamentary Assembly of Bosnia and Herzegovina. Accessed on June 15, 2020. <<https://www.parlament.ba/committee/read/19>>

⁶ Official Gazette of Republic of Serbia, Anti-Corruption Agency Act, accessed on: 14.06.2020

⁷ Milosevic, Milena. 2012. Anti-corruption Board: drug or placebo. Short document for public policies, Podgorica: Institute Alternativa

supervision of the National Coordinator against Corruption. The National Coordinator against Corruption, meanwhile, is part of the Council of Ministers. Parliament has a mandate to appoint, dismiss and oversee the Council of Ministers.

1.5. Republic of Montenegro

The parliamentary role in the fight against corruption in Montenegro can be considered informally in two stages: before 2012 and after 2012.

In the period before 2012, the Anti-Corruption Agency was Montenegro's main anti-corruption body. Within the Agency, there is a five-member Council with a five-year term, elected by the Montenegrin Parliament. The president is elected from among the five elected representatives. The supervision of the

work of the Agency is performed by the Parliamentary Committee on Political System, Judiciary and Administration.⁸ During this period, in the absence of a separate body, this committee is a counterpart to the Committee on Political System and Relations among the Communities in the Assembly of the Republic of North Macedonia, in terms of the competencies it has.⁹

In 2012, the idea of strengthening the Parliament in the fight against corruption began to emerge.¹⁰ Apart from the expert public, the Montenegrin Parliament and its technical support services pay due attention to this idea.¹¹ Thus, the amendments to the Rules of Procedure for the Assembly from 2012 envisage the establishment of an Anti-Corruption Board.¹²

The Anti-Corruption Board is being formed as a permanent working body

⁸ Selic, Ana. *The proposal to increase the role and effectiveness of the Montenegrin Parliament in the fight against corruption*. Study, Monitoring and Research Center.

⁹ "Board of Political System, Justice and Administration." *Assembly of Montenegro*. Accessed on June 15, 2020. <<http://www.skupstina.me/index.php/me/odbor-za-politicki-sistem-pravosude-i-upravu/o-radnom-tijelu>.>

¹⁰ Selic, Ana. *The proposal to increase the role and effectiveness of the Montenegrin Parliament in the fight against corruption*. Study, Monitoring and Research Center.

of the Montenegrin Parliament. It includes a total of 13 members, eight from the government and five from the opposition.

1.6. Republic of Kosovo

The Republic of Kosovo has an Anti-Corruption Agency whose functioning and oversight are regulated by the Law on Fight against Corruption.

Namely, the Agency has a Council that directly supervises its work. The Council is a permanent body that is in constant close cooperation with the Assembly.

The Council consists of nine members, three of whom are appointed by the Assembly. The other six members of the Council come from the Cabinet of the President, the Government, the Supreme Court, the Public Prosecutor's Office, the local government and the civil society. The

Council of the Anti-Corruption Agency has the obligation to submit an annual report on the work of the Agency, which is reviewed and adopted by the Assembly of the Republic of Kosovo.

There is no separate committee or working body in Kosovo's parliament to oversee anti-corruption institutions. Supervision over the Anti-Corruption Agency falls under the competence of the Parliamentary Committee on Legislation, Mandates, Immunities, the Rules of Procedure of the Assembly and Supervision of the Anti-Corruption Agency.¹³

¹¹ Parliamentary Institute of the Parliament of Montenegro. 2012. "Parliamentary Working Body Dealing with Anti-Corruption Issues." Research paper, Podgorica. Accessed on June 15, 2020. <<http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/Parlamentarno%20radno%20tijelo%20koje%20se%20bavi%20pitanjima%20borbe%20protiv%20korupcije.pdf>.>

¹² Milosevic, Milena. 2012. *Anticorruption Board: drug or placebo*. Short document for public policies, Podgorica: Institute Alternativa

¹³ "Committee on Legislation, Mandates, Immunities, the Rules of Procedure of the Assembly and the Supervision of the Anti-Corruption Agency." *Parliament of the Republic of Kosovo*. Accessed on June 2020, 2020. <<http://www.kuvendikosoves.org/eng/committees/committee/?committee=21#documents>.>

Specifics of anti-corruption oversight

What can be seen from the brief regional overview is that, in general, the six countries in the region can be roughly categorized into three groups:

1. Countries that have not established a parliamentary oversight structure;
2. Countries that have a general parliamentary oversight structure;
3. Countries that have a specialized oversight structure.

Republic of Albania belongs in the first group, which lacks direct parliamentary oversight. Albania's parliament is conducting anti-corruption surveillance indirectly, through oversight of the Council of Ministers.

The Republic of Serbia, the Republic of North Macedonia and the Republic of Kosovo have common features that characterize parliamentary oversight. In these countries, oversight takes place through parliamentary committees that do not specialize in the area. In other words, these are committees whose scope of work includes a number of areas, including the fight against corruption.

There is an additional similarity in the way oversight is structured in Serbia and Kosovo. In both cases, there is a permanent board, or council, of independent anti-corruption institutions. In both cases, the board has a supervisory role over the work of the institution within which it operates. The composition is mixed, but in both countries the composition includes members nominated by the Parliament.

Common to parliamentary oversight in Montenegro and Bosnia and Herzegovina are committees dealing

specifically with anti-corruption oversight.

Although there are separate committees in the two countries, the two differ. Namely, in Montenegro, it is a committee composed exclusively of parliamentarians. Meanwhile, the committee in Bosnia and Herzegovina has a mixed composition of MPs, representatives of the academic community and the civil society.

Summary

In five out of the six Western Balkan countries included in this overview, the parliaments do have a role in anti-corruption oversight. Namely, the parliamentary oversight is absent only in the Republic of Albania. In the Republic of North Macedonia, Serbia, Kosovo, Montenegro and Bosnia and Herzegovina, the legal framework provides for parliamentary oversight of anti-corruption.

The bodies that perform parliamentary oversight differ mainly in the scope of the areas that fall within the scope of their work. In the cases of Montenegro and Bosnia and Herzegovina, narrow and targeted parliamentary oversight is observed. In North Macedonia, Serbia and Kosovo the oversight is done by assembly committees that work on a wider range of areas.

The countries of the region differ not only in the specialty of parliamentary

oversight, but also in the composition of the oversight bodies in parliament. In the countries subject to this overview, we distinguish between a parliamentary and a mixed composition.

Parliamentary composition exists in Montenegro, Kosovo, Albania and North Macedonia. In these countries, the members of the oversight bodies of the Assembly come from the ranks of the parliamentary composition. In Bosnia and Herzegovina, meanwhile, the committee's composition is mixed. Apart from the MPs of the two House of Representatives, the composition also includes representatives of the academic community and the civil society.

Project information

Anti-corruption talks in the Parliament is a project aimed at strengthening the oversight role of lawmakers in the fight against corruption. The project is funded by the National Endowment for Democracy.

Information about IDSCS

IDSCS is a think-tank organisation researching the development of good governance, rule of law and North Macedonia's European integration. IDSCS has the mission to support citizens' involvement in the decision-making process and strengthen the participatory political culture. By strengthening liberal values, IDSCS contributes towards coexistence of diversities.

Contact information about IDSCS

Address: Str. Miroslav Krlezha 52/2,
1000 Skopje
Phone number/ Fax: +389 2 3094 760
E-Mail: contact@idscs.org.mk

Information about the author

Simona Mladenovska is a junior researcher at the Center for Good Governance at the Institute for Democracy – “Societas Civilis” - Skopje. She is responsible for the Secretariat of the Platform of Civil Society Organizations for Fight against Corruption.

Link

This report is available electronically on:

-

<https://idscs.org.mk/en/portfolio/a-comparative-overview-of-the-role-of-parliaments-in-anti-corruption-oversight-in-the-region/>

Policy Brief No.27/2020

A comparative overview of the role of parliaments in anti-corruption oversight in the region

Author: Simona Mladenovska

-

June 2020