

INSTITUTE FOR DEMOCRACY AND MEDIATION (IDM)

CENTER FOR EUROPEAN & SECURITY AFFAIRS (CESA)

MONITORING BRIEF No 1 / PCNS

On the work of the Parliamentary Committee on National Security (PCNS)

INTRODUCTION

The Parliament plays an important role in the overall developments within the security sector not only in terms of shaping the legal and institutional framework of the sector, but also as regards its democratic control and oversight. The latter role is more directly played through the Parliamentary Committee on National Security (PCNS). Given the increased focus on control and oversight of this sector in general and also the membership in the North Atlantic Alliance (NATO), the role of this Parliamentary Committee gains particular importance for both, national and NATO partners' security.

Parliamentary political parties in Albania have traditionally shared consensus on necessary reforms bringing Albania closer to NATO membership and standards. Beyond this perception, it seems that civic and public interest on PCNS' work remains limited under the justification of national security matters. However, in a dynamic world of developed societies such limitations of the security concept are being "conquered" and the public is allowed greater access in the role of the Parliament in this regard and also in the overall security sector governance.

These issues represent the main motivation behind the initiative of IDM Centre for European and Security Affairs (CESA) to monitor the performance and efficiency of the Parliamentary Committee on National Security.

This Monitoring Brief covers the first six months of 2011 and will be followed by an annual monitoring report of the work and performance of PCNS.

METHODOLOGY

The monitoring initiative was initially designed to be carried out directly through the participation of monitoring experts in PCNS' meetings. To this goal, in January 2011 IDM asked officially the Parliament's administration to grant annual permission for our experts' free access. To the time this Monitoring Brief is being published, such permission was not granted. Hence, IDM team decided to continue with the monitoring based on minutes of PCNS' meetings which are regularly made public through the Parliament's website.

The monitoring of this parliamentary committee focuses on the following indicators:

1. Presence of PCNS members in each meeting
2. Presence of representatives of ministries in charge of drafting legislation subject to PCNS' work
3. Formal procedures of PCNS scrutiny on draft legislation
4. Involvement of civil society and interest groups in PCNS' meetings
5. Quality of debates as observed through objections and proposals (by PCNS members) amending the draft legislation or other act

The Monitoring Brief acknowledges the methodological limitations imposed by the fact that it relies only on official minutes of PCNS meetings. While hoping that the Parliament's administration will reflect on its doings regarding access to parliamentary committees' hearings, IDM experts will address this limitation through direct contacts with PCNS members.

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IDM PARLIAMENTARY MONITORING INITIATIVE

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KEY FINDINGS

In the first 6 months of 2011 (January – June 2011), PCNS held a total of 12 meetings in which 5 draft laws and 4 agreements were reviewed and additionally a hearing session with the Minister of Defence took place. Even though the political boycott of the opposition (absent in 70% of PCNS hearings) constitutes a major concern for the overall committee's dealings, the discussions in this committee were less affected by the political tense climate in the country. The engagement of individual PCNS members in discussions has remained at low levels which reflect the need to improve the level of expertise and capacities of Committee's support staff.

THE PARTICIPATION OF PCNS MEMBERS from the opposition in the first half of 2011 was limited to 30% of the total number of Committee's hearings. Acknowledging the limitations of the monitoring process based mainly on the minutes of the PCNS and as well as their value as an official document of the Parliament, this Monitoring Brief highlights an important concern as regards the participation of MPs and the quorum required for the validity of the meetings. More specifically, according to Article 34 of the Rules of Procedure of the Albanian Parliament "The committee's hearings are valid when more than half of the total number of committee's members are present" and according to the 2nd paragraph of the same article "The decisions are taken with the majority of votes and in the presence of more than half of all committee's members". In most of the minutes reviewed, there are irregularities observed especially in two main aspects. Firstly, there is no accurate data for the exact number of the present MPs. There are 22 members taking part in the Committees (13 from the majority and 9 from the opposition) and in 12 hearings that were held in total during this period, only 4 minutes give the exact required number. In the other documents, the number of MPs (present and absent) indicates more than 22 and in some cases even less than 22, which creates confusion over the real number of PCNS member. Secondly, according to the committee's minutes, in 3 of the PCNS hearings (held on 8.2.2011; 15.2.2011; and 24.5.2011) only 11

HIGHLIGHTS

The Monitoring Report concludes that the performance of the PCNS during the first half of 2011 has been limited. Apart from the absence of the opposition in 70% of the Committee's hearings, another concern is the disengagement of individual PCNS members in discussions which reflects the need for additional supporting capacities and expertise for the Committee.

Another concerning issue observed in the report relates to the necessary quorum required for the committee's hearings, where in 4 of them was either only half present or less than half of the total number of members. Taking for granted the accuracy of the minutes as an official document of the Parliament, this violations cause invalidity of the PCNS decisions.

Representatives from line ministries responsible for drafting legislation or other acts have been present in all of the PCNS meetings. Their contribution has been essential for building a constructive debate.

The involvement of civil society and interest groups in the debates in the PCNS hearings has been totally missing. The reasons mentioned from the parliament's representatives are manifold (lack of interest from civil society, limitations coming from Parliament's infrastructure etc.) Nevertheless, none of them can justify the current situation in this regard.

The quality of debates in PCNS hearings has to be further improved. In 9 out of 12 meetings held there was no debate. On the overall, a low level of participation in the discussions is noted, limited to only one or two participating members.

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MPs were present (half of the total) while in one of the hearings taking place on 14.6.2011 there were only 10 members present (less than the half). These are grave violations because they affect the validity of the meetings and the whole decision-making process, particularly given the fact that these meetings have scrutinized a number of legal acts.

REPRESENTATIVES FROM LINE MINISTRIES AND OTHER INSTITUTIONS responsible for drafting specific draft laws or other legislative acts have been present in all PCNS meetings on the respective acts. Invited institutions participating in the Committee have been an essential part of the committee's work. It was noted a large number of participants from the above mentioned group coming to report on the issue / draft law, part of the daily agenda of the Committee, giving their explanations on the importance, reasons for approving specific pieces of legislation and also their respective amendments. Their contribution has been crucial for providing detailed clarifications and explanations and in most of cases has also stimulated a constructive debate. Nevertheless, a great part of the MPs do not engage in discussions with questions or comments hence bringing interactive debates to low levels.

THE INVOLVEMENT OF CIVIL SOCIETY AND INTEREST GROUPS in PCNS meetings has been completely missing. The committee's hearings are generally and allow for participation of interest groups, media or other visitors (article 35 of the Rules of Procedure), except in cases when the issue at stake imposes the opposite (due to classified information etc.). Excluding the last case, the reasons listed from the Parliament' representatives concerning this issue vary from the fact that, according to them, there is no interest from civil society or other non-public sectors to justifications such as lack of appropriate infrastructure of the Parliament.¹ The involvement of interest groups is in the interest of the whole committee's activity and the policymaking process and in this context; a proactive role of the committee cannot be justified under any of the above mentioned reasons which are not envisaged in any law and parliament's Rule of Procedure. Taking into account the different chains of the legislative process, the committee should be the initiator of their involvement and call for participation in the process.

Although the monitoring of **PCNS FORMAL PROCEDURES** was part of the monitoring methodology of this report, IDM experts had to renounce of this aspect due to the fact that the Parliament's administration did not issue the necessary permissions for our team to take part in PCNS meetings.

QUALITY OF DEBATES held at PCNS hearings on specific draft legislation and other acts related to security matters was carefully approached by IDM monitoring team. The Monitoring Brief acknowledges that the sub-indicators established – objections and proposals for amendments – are not exhaustive to come to a comprehensive assessment on the quality of debates and scrutiny over draft legislation and other acts. Another limitation in this regard represents the fact that the monitoring relies only on PCNS minutes. Additionally, the analysis focuses only on general elements so as to avoid subjectivism and bring claims for lack of objectivism to minimal levels. Here are some of the observations:

On the overall, what dominates in the PCNS meetings is a low level of interactive debate, reflected mostly in silent approval of the draft laws without concrete debate and further

¹ More specifically, in one of the hearings of the PCNS this year, IDM staff was denied access precisely with the excuse that "there was not enough room in the Committee's premises".

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scrutiny. In most of them (9 out of 12 meetings held) there was no debate on the draft laws reviewed. Furthermore, general MPs' participation in debates was limited to only one or two members of the committee. In certain cases, one of the reasons for non-involvement in debates was the lack of (or late) notification on the draft laws that were to be reviewed. PCNS' members have proposed amendments in only three hearings and mostly on terminology concerns. These amendments were reflected in the draft acts and in some cases it was decided to be addressed in the following procedures.

Last, given the overall involvement of individual members (MPs) in debates and discussions at PCNS meetings, it is important to reinforce the need to improve the level of expertise and capacities of Committee's support staff.

PROPOSALS FOR NEXT STEPS...

Based on the findings of this monitoring brief, few recommendations may be drawn to improve the overall Parliament's role and more specifically, PCNS' performance in relation to overall security sector developments:

1. Strictly comply with the rules regulating committee's meetings and respective decision making procedures especially in terms of quorum
2. Take urgent steps to improve access of civil society actors in parliamentary committees' meetings
3. Encourage civil society actors and other non-state actors to get involved in PCNS activity
4. Improve the level of expertise and resources available to PCNS (support staff)
5. Take actions to ensure active involvement of PCNS members in the committee's hearings and debates, as well as to allow for accurate and timely informing of MPs on the acts and issues to be discussed at PCNS