



**INSTITUTE FOR DEMOCRACY AND MEDIATION**  
**CENTER FOR EUROPEAN & SECURITY AFFAIRS**

# **2011 MONITORING REPORT**

**On the Activity of the Parliamentary Committee on National Security**

Supported by OSI Think Tank Fund (Budapest) and Friedrich Ebert Stiftung (Tirana), in the  
framework of

**IDM PARLIAMENTARY MONITORING INITIATIVE**

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IDM, December 2011



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## **PCNS MONITORING IN BRIEF**

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. This role is directly played through the Parliamentary Committee on National Security (PCNS), which concretely deals with the review of draft laws and various agreements that affect the security of our country. Given the increased focus on control and oversight of this sector in general and also the membership in the Northern Atlantic Treaty Organization (NATO), the role of this parliamentary committee gains particular importance for both national and NATO partners' security. In this regard, PCNS importance is related not only to the fulfillment of membership obligations from the operational point of view but also to the improvement and continuous approximation of legal framework with that of NATO member countries.

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 to 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. This approach represents the main motivation behind IDM Center for European and Security Affairs (CESA) initiative. The report presents the main findings of the monitoring and an assessment of the activity of the Parliamentary Committee on National Security during 2011.

### **Methodology**

The monitoring process of the Parliamentary Committee on National Security was conducted in two qualitatively different methods: initially through the analysis of PCNS official minutes and later through direct participation in the Committee meetings. Nevertheless, the entire monitoring was originally perceived to be carried out by direct participation of IDM monitoring experts in PCNS meetings. Yet, in the first half of 2011 this was not possible and the monitoring was carried out by analyzing the minutes of meetings, which are regularly published in the website of the Assembly. In the second half of 2011, a more complete monitoring was made possible by combining the review of minutes and direct participation in Committee's meeting.<sup>1</sup> The monitoring of this parliamentary committee is focused on these indicators:

1. Attendance of meetings by PCNS members;
2. Attendance of representatives of ministries drafting legislation subject to PCNS work
3. Involvement of civil society and interest groups in PCNS meetings
4. Quality of parliamentary scrutiny of draft laws in PCNS.

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<sup>1</sup> After the publication of the main findings of the report on the work of PCNS for the first six months of 2011 (in September 2011), IDM monitoring staff was given access to PCNS meetings by the supportive staff and heads of the Committee. However, the administration of the Assembly has not responded to any of IDM official requests (submitted in January and September 2011).



## **I. OVERALL DEVELOPMENTS IN THE ACTIVITY OF PCNS DURING 2011**

During 2011, PCNS held a total of 29 meetings in which 15 draft laws and 8 agreements were reviewed and 5 hearing sessions took place— two with the Minister of Defense and one hearing session with Minister of Interior, Minister of Foreign Affairs and Minister of Economy, Trade and Energy respectively. The first half of 2011 was characterized by the boycott of the opposition members of Parliament (MPs).<sup>2</sup> Engagement of individual PCNS members in discussions was limited during the first half of the year. This situation changed considerably during September – December 2011 by the time the opposition returned to Parliament and attended PCNS proceedings regularly.

During 2011, several measures were undertaken that positively affected the parliamentary activity in the framework of the European integration process, involvement and transparency of the work of Parliament. These measures include the following:

- An Order of January 18, 2011, of the Speaker of Parliament dictates the full transcription of meetings of the committees, even though the Regulation requires a summarized report of the minutes. The transcripts of the meetings of the Committee are published immediately upon consent and approval of the Committee. This procedure seeks to increase the transparency and improve the quality of the draft laws.
- Upon an order of the Speaker of Parliament, the heads of the permanent parliamentary committees are now to define the agenda of the Parliament.
- An administrative act of the General Secretary of the Assembly imposed the establishment of a database for the civil society actors who may be invited by the committees for the review of draft laws with the aim of increasing transparency and improving the quality of the review of legal acts. This database is under construction and updated continuously

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<sup>2</sup> During January – July 2011, the only case of opposition members' participation was in the review of important draft laws, such as the draft law 'On Some Amendments to the Law No. 8378, dated 22.07.1998 "Traffic Code of the Republic of Albania" as amended' and the draft Law 'On Some Additions and Amendments to the Law No. 7895, dated 27.01.1995 "The Criminal Code of the Republic of Albania.'" In all other cases, the draft laws have gone through the formal procedures of approval with only the majority MPs and in some cases without the required quorum.

## **II. MAIN FINDINGS OF 2011 MONITORING REPORT**

The Monitoring Report assesses that the PCNS performance during year 2011 has been limited. Besides the absence of opposition in 70% of the PCNS meetings during the first half of the year, another concern is the lack of engagement of PCNS members in discussions. This also reflects the need for support and expertise to the committee and for more time available for the parliamentary scrutiny.

Another concerning issue observed in the monitoring report relates to the required quorum for the meetings of the committee and for the adoption of the decisions. During the first half of the year, several draft laws have passed with the attendance of only half or less than half of the members (in six meetings). Taking for granted the accuracy of the minutes as official documents of the Assembly, this renders the PCNS decisions null and void.

Representatives from institutions charged with the drafting of laws or other acts have been present in every PCNS meeting. Involvement of civil society and interest groups in discussions in PCNS meetings has been almost inexistent. Representatives from interest groups have only taken part in one meeting out of 29 meetings held by the PCNS.

The quality of parliamentary review in PCNS must be further improved. In 11 out of 15 meetings held during the first half of 2011, there has been no debate at all. Participation in discussions has been limited to one or two members of PCNS due also to the absence of the opposition. The short time available to get familiar with the materials of the meeting and the busy legislative agenda, especially during the second half of the year, has affected the limited engagement of the PCNS members in discussions. The opposition has been particularly active with its criticism during the second half of the year and mainly during the hearing sessions with the leaders of the main security institutions in the country. Regardless of the extreme politicization of many discussions during the parliamentary review, the decision-making of PCNS does not generally reflect the suggestions and proposals of the opposition MPs even when substantial debates are made on certain draft laws.

### **II.1. Attendance of PCNS Members**

Participation of opposition MPs in the first half of the year is limited to 30% of the total number of PCNS meetings. Acknowledging the limitations of a monitoring based mainly on the PCNS meeting minutes and recognizing their value as official documents of the Assembly, this report underlines an issue of concern in terms of the required quorum in the PCNS meetings during this period. More precisely, in accordance with the Article 34 of the Regulation of the Assembly, "*The meetings of the committee are valid when more than majority of its members are present in it.*" Paragraph 2 of this article states: "*Decisions are taken upon majority of votes in the presence of more than half of the entire membership of the committee.*" Many of the reviewed minutes reveal



irregularities especially in these two directions. First, there is no precise data on the accurate number of PCNS members participating in meetings. The number of PCNS members must be 22 (13 from majority and 9 from the opposition) and in 15 meeting held by PCNS during January – July 2011, accurate data is only given for six of them. In other meetings, the total number is less than 22 and in some cases more than 22, which creates confusion on the number of participating MPs. Second, according to the minutes of the meetings, in five PCNS meetings (those of February 8, February 15, May 24, July 7, and July 12) only 11 members have attended (half of PCNS members), whereas 10 members (less than half) attended the meeting of June 14, 2011.

These irregularities are not observed in the second half of the year, during September – December 2011, when the opposition attended the meetings of the Committee. However, direct monitoring of PCNS meetings revealed other phenomena that are not reflected in the official minutes, such as PCNS members' leaving the meetings once they have started.

## **II.2. Attendance of representatives of line ministries and other institutions**

Representatives from the line ministries and other institutions responsible for the preparation and/or drafting of the draft laws or other normative acts have attended every meeting of the Parliamentary Committee on National Security to give explanations on the respective act. The institutions invited to participate in the meetings have given important contribution to the activities of the PCNS and have encouraged the development of a constructive debate.

Representatives of institutions reporting on a draft law in the PCNS meeting agenda are increasingly participating by providing relevant clarification on the importance and reasons for approving the draft law as well we on the respective amendments. However, PCNS members are not engaged sufficiently with questions or comments with these representatives by keeping the discussions at a relatively low and formal level, or sometimes highly politicized, especially during hearing sessions.

## **II.3. Involvement of Civil Society and Interest Groups in PCNS Meetings**

Civil society and interest groups have been involved in almost none of the discussions in the PCNS meetings held during year 2011. As a rule, the meetings of the Committee are open, which implies that interest groups, media or visitors are allowed to attend these meetings (Article 35 of the Regulation), except in cases where the nature of issues in the agenda (for example, classified information, etc.) imposes otherwise. With the exception of the last case, the reasons given by various representatives of the Parliament in regard to this aspect are different – starting from the lack of interest from the civil society or other non-public sectors to the justifications related to the infrastructure deficiencies in the Assembly.<sup>3</sup>

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<sup>3</sup> More concretely, in one of the PCNS meetings at the beginning of 2011, representatives of IDM were not allowed to attend the meeting with the excuse of 'no vacant seats in the premises of the Committee'.



The involvement of these actors is in the interest of the PCNS activity and the policymaking process in general. In this context, the committee must play a proactive role to make sure that the above barriers are overcome, since these barriers are not justified in the Regulation of the Parliament. This approach and such strategy must be consolidated in the form of a regular parliamentary practice to ensure not only transparency and accountability of the parliamentary review but also inclusion and involvement within the legal boundaries.

Out of 29 meetings held by the national security committee during 2011, representatives of the civil society have only attended one meeting to give their opinion on the respective draft law.<sup>4</sup> This is an indicator that needs improvement and calls for the engagement of both sides. Even though Committee members are in principle open to the representatives of the civil society, concrete measures must be taken not only to involve interest groups but also to incorporate their comments and suggestions when conducting a parliamentary review.

#### **II.4. Quality of Parliamentary Review**

The quality of debates during the PCNS meetings on the reviewed draft laws and other issues of importance to the national security has been analyzed with great attention by the IDM monitoring group by assessing selected sub-indicators (inclusion, proposals for amendments, etc.). Another obstacle relates to the fact that only for the first period the monitoring relies in the analysis of PCNS meeting minutes whereas for September – December 2011 both minutes reports and direct observations have been utilized as PCNS monitoring instruments.

In general, committee meetings are dominated by low level of discussions, which is reflected in the formal approval and without additional amendments of the draft laws. During the first half of the year 2011, no debates, proposals or objections have been given for the reviewed draft laws in 11 out of 15 meetings. In several cases, one of the main reasons for failure to engage in debates is lack of preliminary knowledge on the draft law under review or short notice that lead to failure to become familiar in details with the material. In this period, there have been many requests for review of other issues that relate to summon representatives of various institutions for hearing session. These proposals have come from the opposition MPs and have taken up most of the committee's time. They have also imposed the postponement of the review of draft laws in the subsequent meetings. With regard to engagement of PCNS members in certain draft laws, there have only been three cases where members have given their remarks or suggestions for changes to few articles in draft laws and they relate mostly to terminology changes.

On the other hand, the opposition's comeback brought about quality changes to the situation and the debates made in the PCNS meetings. In the first half of the year, the debates were limited to 1-2 members, but the opposition MPs' participation has triggered discussions and greater

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<sup>4</sup> The civil society came to the PCNS meeting of November 30, 2011, whose agenda included the review of the draft law 'On Some Additions and Amendments to the Law No. 8378, dated 22.07.1998 "Traffic Code of the Republic of Albania" as amended'. Even though PCNS was not the responsible committee for this draft law, it promised that the opinions of the civil society representatives would be considered and would be referred to the respective committee.



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involvement in debates of the meetings. This has been reflected in the long debates of the MPs as well as in objections presented during the review of certain draft laws.

Another moment depicting the active role of the opposition is during the hearing sessions with the leaders of the public institutions in the country. In these meetings, the opposition played an active and constructive role regarding the review of the activity and oversight of the work conducted by these institutions on the addressed issues. Similar climate of discussions was identified in the hearing sessions with the Minister of Interior on the organized crime in Albania, with the Minister of Defense on modernization and progress of Armed Forces, with the Minister of Foreign Affairs on measures for the safeguarding of information and equipment that manages it, and with the Minister of Economy, Trade and Energy on the safety of dams.

During the second half of 2011, of special importance was the PCNS parliamentary review of the draft budget for 2012 and, respectively, the funds allocated for the Ministry of Interior, Ministry of Defense, and State Intelligence Service. The draft budget for the Ministry of Interior was characterized by long debates, as opposition MPs argued that the budget increase is insufficient to cover the needs of the state police. PCNS opposition members submitted their relevant amendments, which were ignored. It is worth mentioning here that in preparation of the draft budget for the Ministry of Interior, the State Police Syndicate, as the only interest group to this draft law, was not invited.<sup>5</sup> The review of the draft budget for the State Intelligence Service for 2012 was developed with closed doors. According to the media reports, PCNS members have debated on the insufficiency of funds allocated by the government to cover the SIS needs for the next year. The opposition members supported the objections and demands of the leader of this institution. They objected to the budget allocated for this institution, even though the committee fulfilled partly the demand for additional funds to the next year budget.

The meetings held with the Minister of Defense on the review of the budget allocated to this Ministry for year 2012 were characterized by long debates from all committee members, particularly from the opposition, which objected to the budget allocated for 2012. The opposition members stated that this budget is insufficient to fulfill certain priorities and to achieve the objective as NATO members. They emphasized that there is a considerable disproportion between the established objective and the real allocation in the budget. Regardless of the many objections from the opposition, the draft budget was approved with the votes of the majority members.

Besides hearing sessions and review of draft budget that entail highly politicized debates and ensure a greater engagement of MPs due to the nature of the issues, the other draft laws have been reviews and adopted without any contextual discussion. On the other hand, it is noticed that PCNS decides to ignore the suggestions and proposals of the opposition on various draft acts, even when they result from a constructive review and not from politicized debate.

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<sup>5</sup> In an interview with the Head of the State Police Syndicate, Mr. Sadetin Fishta, in regard to the draft budget of the State Police, Mr. Fishta pointed out that meetings have been held with the syndicate within the police structures. However, their suggestions were not incorporated in the draft budget. In addition, the syndicate has requested several times to be part of the discussion group on the draft budget. It has submitted this request to the Minister of Interior and the Prime Minister, but it has not received an official reply or invitation on this issue. (Interview with the Head of the State Police Syndicate, Mr. Sadetin Fishta, dated December 13, 2011)





### **III. RECOMMENDATIONS**

In view of the findings of this monitoring, some recommendations for the improvement of the work of the Assembly in general and PCNS in the context of membership in EU include the following:

1. The steps undertaken during 2011 to improve the access of civil society to the meetings of the parliamentary committees must be consolidated further more and guided by a proactive approach. The encouragement of the involvement of interest groups from non-state sectors in the parliamentary review and in PCNS activity must constitute a part of a more consolidated and well-coordinated approach of the administration of the Assembly and parliamentary committees.
2. It is essential to increase the human resources and expertise as well as to improve the capacities available to the Committee. Another potential alternative to the improvement of expertise is the partnership with think-tanks and research entities and contracting their services.
3. In light of problems identified from monitoring PCNS during 2011 as well as from the overall parliamentary practice of the recent years, it is necessary to allow for more space and time to the parliamentary contextual review and active involvement of all PCNS members in the discussions in the PCNS meetings.
4. Strict abidance to formal procedures of parliamentary review at PCNS (including quorum and meeting minutes), consolidation of coordination with the institutions of the security structures in compliance with the oversight functions of the Assembly are aspects of the PCNS activity that must undergo further improvement.