

Open Parliament Newsletter

**PARLIAMENTARY
INSIDER** 

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THE OPEN PARLIAMENT INITIATIVE

The Open Parliament initiative actively monitors the work of the Parliament of Serbia, on a daily basis since 2012. The Open Parliament collects and publishes data on the work of the Parliament of Serbia and its results, but also analyses different processes within this institution with regard to principles of transparency, accountability and participation.

The aim of the Open Parliament initiative is to contribute to greater openness of the Parliament, but also to inform the citizens on the work of the institution and to establish regular communication between citizens and their elected representatives. The foundation of our work is the international Declaration on the Parliamentary Openness in whose development the Open Parliament has also participated.

Since January 2018, the Open Parliament team has increased the focus of its activities towards observing the level of accountability of MPs and the Parliament.

The Autumn Session of the 11th convocation of the Parliament of Serbia has motivated the team of the Open Parliament initiative to enrich its activities with one additional product - a monthly newsletter. During 2018, the Parliament of Serbia has conducted intensive legislative activity, however with often appearance of worrying trends. Some of these trends that we highlight are misuse of existing legislative procedures and filibustering, often use of urgent procedure for law adoption and merging items on the parliamentary agenda into one discussion, as well as the practice of avoiding the existing mechanisms for parliamentary scrutiny. All these events and practices have moved us to make a more systematic approach in presenting the data and findings on the work of the Parliament on a monthly basis, in order to contribute to the discussion on the quality of work and accountability of the highest representative institution.

The monthly newsletter contains an overview of plenary discussions and activities within covered months, an overview of legislative activity and statistics for the entire convocation, summaries of the most important laws that have been adopted within the related month - i.e. the Law on Lobbying, as well as the qualitative analysis of the selected practice or the phenomenon within the Parliament - i.e. MP's Question Time. The monthly newsletter will keep you updated on the latest attitudes and reactions of the Open Parliament initiative, such is the reaction on the Law on Financial Support to Family with Children in October 2018 Issue.

First issue of the monthly newsletter covers all events and activities of the Parliament in October, but also a part of the September activities - when one special and one extraordinary session were held prior to the beginning of the Autumn Session - or the period from September 21st to October 26th 2018.

We hope that the monthly newsletter will be a useful source of key information, as well as the practical tool for monitoring the Serbian parliamentarism and understanding challenges in front of it.



Federal Foreign Office

The Open Parliament initiative is being supported by the German Federal Foreign Office, including the production of the monthly newsletter. Attitudes expressed in the newsletter belong to the Open Parliament team, but do not necessarily reflect the donor's view.

15.

Nineteenth special sitting

The MPs were addressed by H. E. M. Venkaiah Naidu, Vice-President of India and Chairman of the Council of States.

21.

Tenth extraordinary session

The agenda of this extraordinary session contained 33 items. Considering that a common debate in principle was held during this session on all items of the agenda, many MPs outside the ruling coalition pointed at the violation of the Rules of Procedure and the lack of time for a meaningful debate on the items of the agenda.

24.

Fiscal Council and pensions

The opposition MPs referred to the opinion of the Fiscal Council regarding the amendments to the Law on Pension and Disability Insurance in order to indicate that such legal solution would obstruct predictability and integrity of the pension system. On the other hand, Minister of Labour, Employment, Veteran and Social Policy Zoran Đorđević pointed at the advantages of this law. "Whatever the opposition may say, we shall not give in the position that pensions should be higher. We wish for the pensions to approach the minimal consumer basket i.e. the average salary in Serbia. This is what the Serbian Government will actively pursue. Our responsible policy demonstrated that they can increase", Đorđević pointed out.

25.

Voting day

The Assembly ratified 28 international agreements on the agenda. The Decision on the Election of Vice-Governors of the National Bank of Serbia was also adopted, whereby Dragana Stanić and Ana Ivković were appointed Vice-Governors for the mandate of four and three years, respectively.

26.

"Hitler", "cur", "jockey" and similar nick- names

Insults were an integral part of this session. The ruling party MPs called out the MPs from the parties forming the Alliance for Serbia for the statement of Željko Veselinović about Ana Brnabić and the outfit of certain MPs, whereas the opposition MPs made inappropriate comparisons and reminded the SNS members of their radical days.

27.

Ministers responded to MPs' questions

On the last Thursday of the month, the MPs could, in addition to seeking explanations and clarifications in accordance with the Rules of Procedure, ask questions to the ministers attending the session. The MPs were interested in the arrangement of electoral lists for the National Councils of National Minorities, the number of Albanian minority members in the National Council, Serbia's policy with regard to Kosovo and Metohija, amendments to the Law on Financial Support to Families with Children... However, only six MPs managed to pose their questions to the ministers because even the ministers who were not asked anything also took part in responding. This is the third time this year that the Government visited the parliament, whereas in 2017 it happened only once.

28.

"Phantom amendments" and "phantom MPs"

Considering that as many as 615 amendments were proposed solely in relation to the proposal for the law amending the Law on Pension and Disability Insurance, the MPs used this sitting also to debate on the efficiency of proposing amendments which do not contribute to the law quality. Đorđe Vukadinović thus characterised amendments of the majority party as "phantom amendments", considering that they were proposed for the purpose of consuming time. "We are discussing amendments in detail, whereas we have only reached second article of the first item on the agenda. The amendments relating to education will probably not be reached", Vukadinović said. The MPs from SNS criticized the opposition for objecting to the amendments albeit they were never present in the hall. "You say phantom amendments. I can also observe that these are phantom MPs who were never there when the law proposals were to be discussed", Aleksandar Marković said.

29.

Laws and Decision voted

In addition to voting the acts, it was also decided at the sitting that there were particularly justified reasons for the Law on Pension and Disability Insurance and the Law amending the Law on High Education to enter into force in a period earlier than eight days.

2.

Second regular session started

Special intonation of the hymn marked the beginning of the ordinary autumn session. At the very beginning of the sitting, the MPs required information and clarifications, among other relating to Kosovo, Tony Blair, fires in Sandžak, the Law on Missing Babies and the work of the Commissioner for Information of Public Importance and Personal Data Protection. On this occasion, Aleksandar Martinović accused Commissioner Rodoljub Šabić of working against his country and asked him why he did not receive salary from foreign services.

3.

MPs adopted the agenda for the sitting

Proposal for the law amending the Law on Environmental Protection, proposals for the laws ratifying international agreements on protection of the environment, Carpathian mountains, migratory birds and bats, as well as proposals for the decisions on financial plan of the Republic Fund for Health Insurance, changes in composition of delegations and parliamentary committees – comprised the items on the agenda for the First sitting of the Second ordinary session. No law proposal made by opposition for amendment of the agenda was adopted.

4.

Kosovo, Šabić, elections for the National Councils of National Minorities, reality shows...

At the beginning of debate, MPs required the information about the visit of president Aleksandar Vučić to Moscow, irregularities relating to elections for the National Councils of National Minorities, textbooks in minority languages, media laws, allowances for pregnant women and new mothers according to the Law on Financial Support for Families with Children, Draft Law on Kosovo and Metohija, Serbian cultural heritage in Kosovo... MP from SNS Aleksandar Marković asked which law authorised Commissioner Rodoljub Šabić to deal with everyday politics and what the powers of the Commissioner were. At the same time he accused the Commissioner of attacking Aleksandar Martinović and thus abusing the office.

5.

Debate about Trifunović instead of laws

On the second day of debate in principle, the debate concerned private humanitarian foundations for collecting money for treatment of children abroad and the accusations against the foundation of actor Sergej Trifunović addressed by the ruling party MPs. The debate in principle ended by the end of the day.

9.

MPs about BIA, pensions and Russia

MPs started debate in detail about the Proposal for the Law amending the Law on Environmental Protection. There was a total of 402 amendments to the law proposal and the Committee on Constitutional and Legislative Issues rejected 31 of them as incomplete and unconstitutional. Before the debate in detail started, MPs required information about pensions, the position of Russia with regard to Kosovo and the statement of senior officer of the Security Intelligence Agency Marko Parezanović that the greatest threat to Serbia's security was action of foreign factors through individuals from opposition, certain media and NGOs.

10.

Special reference

Working day at the Assembly started with a minute of silence for the 12 people killed on the roads in Serbia. The debate in detail continued on the amendments to the Law on Environmental Protection. MPs of the ruling majority again proposed a large number of amendments "with special reference".

11.

Finalised debate in detail

Before starting with the agenda, authorised representatives of parliamentary groups asked for clarifications and information as to why presidential plane was accompanied by military planes on its flight to Kazakhstan, on drafting of the Civil Code, irregularities relating to electoral registers for National Councils of National Minorities, abolishment of visa-free regime for Iran... By the end of the day, the debate in detail was finalised on the first item of the agenda and voting day was scheduled.

12.

Voting day

MPs voted the amendments to the Law on Environmental Protection which create a formal legal basis for farmers to apply for funds from the European IPARD fund, as well as other acts on the agenda for the First sitting of the Second ordinary session.

PARLIAMENT IN NUMBERS

The statistics is concluded with October 26th

16.

Second sitting of the Second ordinary session

On this Tuesday as well, MPs requested information and explanations required for their work and with reference to the work of state authorities. The agenda for the sitting contained the following items: Law on Construction Products, amendments to the Law on Planning and Construction, amendments to the Law on Legalisation, and several laws in the field of transport – amendments to the Law on Air Transport, amendments to the Law on Transport of Dangerous Goods, amendments to the Law on Transport of Passengers in Road Transport. MPs submitted around 200 proposals for supplementing the agenda, most of which were submitted by MPs outside of the ruling parliamentary group. No proposal for supplementing the proposed agenda was adopted. The proposal of MP from SNS Aleksandar Martinović to conduct a common and single debate on items of the agenda was accepted again.

17.

Šešelj about women

Debate in principle was marked by insults addressed by the head of SRS parliamentary group Vojislav Šešelj to Minister Zorana Mihajlović and MP Gordana Čomić. Šešelj required the dismissal of the Minister of Construction, Transport and Infrastructure, stating that she was incapable of being a Minister and "that he did not like tattlers who managed to get to power and immediately thought they were omnipotent". MP from DS Gordana Čomić told Šešelj that he was not to call a woman tattler and that he should be ashamed for that, whilst his response was: "You should shave your moustache before you attend sitting".

18.

Kosovo, attacks on journalist Tatjana Vojtehovski, Tomislav Nikolić's villa...

Before the debate in principle started, representatives of parliamentary groups required explanations as to the presence of Kosovo without asterisk in international gatherings, respect for the Brussels agreement, basis for Tomislav Nikolić's residence in a state villa... MPs were also interested in measures that the state would take in relation to attacks against journalist Tatjana Vojtehovski and they required the dissolution of State Secretary Aleksandar Gajović for selective approach to journalists' safety. For the rest of the day, MPs held and concluded common debate in principle about the first 10 items on the agenda, as well as single debate on item 11 of the agenda. Polemics and insults between Zorana Mihajlović and MPs from SRS continued and took the most of the time determined for the joint debate in principle.

22.

MPs on everything but the amendments

MPs started the debate in detail about the proposal for the Law on Construction Products, which was subject to proposal of 567 amendments. The total number of amendments proposed for nine laws on the agenda was 1177. However, despite numerous amendments to be discussed, MPs discussed illegal construction and price of infrastructure. Polemics about Kosovo were not omitted.

23.

Daily political issues have priority over the Assembly agenda

While searching for explanations and information, MPs asked the responsible state institutions about Kosovo, crimes in Sjeverin, upcoming local elections, publishing of sensitive information in press about Violeta Cvetković from Kragujevac, President's comment "...eee"... MPs then continued the debate in detail about the first item on the agenda, which was marked by the debate on "historical roots" of democrats and progressive party members, but also by the polemics about President's treatment of women during the opening of textile factory in Kraljevo.

24.

Vukadinović about "pointless" amendments

As the ruling majority proposed a large number of amendments with "special reference", Đorđe Vukadinović from the parliamentary group New Serbia – Movement for Serbia's Salvation – made the following comment during the debate: "Pointless amendments, phantom amendments, we have discussed this issue many times here, yet the practice continues and then you wonder why there is no opposition in these seats. Simultaneously, this time is used solely and exclusively: a) – for commending the Government, which I can understand and I have nothing against, but at least try to formulate the amendments so that they are related to the topic on the agenda; and secondly, for endless spitting on opposition, criticizing the opposition, absent persons, an alliance that I am not a member of but others are".

25.

How many salaries is Aleksandar Martinović receiving

Following the statements of the MPs from the ruling majority that the opposition does not sufficiently frequent the parliament, MP from DS Balša Božović asked Chairman Vladimir Marinković: "being a Chairman, can you at least inform me whether the parliamentary chief of SNS is at his working place or at his second working place at the College of Applied Health Sciences in Čuprija where he was unlawfully appointed as teacher, together with Mr Orlić..." This gave rise to fierce argument between MPs. Martinović responded that these were falsehoods that he had stated and added: "I have been a member of the National Assembly since 2007 and I have never received salary from the National Assembly. I can very well live without politics, I can live without being an MP, whereas you cannot live without your dad".

26.

Government responded to MPs' questions

All acts on the parliamentary agenda were adopted. MPs also determined that the provisions of the Rules of Procedure that they referred to during the sitting were not violated.



LEGISLATIVE ACTIVITY

206 days of legislative activity
288 adopted laws
97% of adopted laws were proposed by the Government

None of the laws proposed by the opposition MPs have yet been included on the parliamentary agenda.



URGENT PROCEDURE

47% of all laws, including the law proposals, amended laws and ratifications of international agreements were adopted under the urgent procedure.

63% of only law proposals and amended laws were adopted under the urgent procedure!

International agreements are mostly ratified under regular procedure.



LOOK OUT FOR:

Filibustering to prevent discussion about laws in procedure.

Merging items on the parliamentary agenda into one discussion.

Submitting a vast number of amendments in order to exhaust the time for the discussion on major legislative pieces by ruling majority MPs.

OVERSIGHT ROLE OF THE PARLIAMENT

6 sessions in 2 years of the "MPs Question Time":
October 2016, October 2017, March, April, September and October 2018.

7 public hearings: none in 2018, and only 1 in 2017.

Independent institutions' reports have not been adopted nor discussed in the plenary since 2014.

Out of 20 committees, in 2018 only 2 are chaired by non-majority MPs.

● OPEN PARLIAMENT REACTS

LAW ON FINANCIAL SUPPORT TO THE FAMILY WITH CHILDREN ADOPTED UNDER THE URGENT PROCEDURE AND WITHOUT DEBATE IN PLENARY SESSION

In the beginning of the regular autumn assembly session and on the occasion of the announcement by Zoran Djordjevic of the Minister of Labour, Employment, Veteran and Social Affairs that second round of amendments to the Law on Financial Support to the Family with Children will be adopted as a consequence of the negative reaction of the public, the Open Parliament Initiative warns that such situations occur due to the practice of adopting laws under the urgent procedure and because of the disregard of parliamentary rules and procedures.

The Law on Financial Support for the Family with Children that is now applied for only several months was adopted for the first time in December 2017 under the urgent procedure at the same time as the Law on the Budget for 2018 at the session where 30 discussion points were brought together. Both of these laws were adopted almost without discussion in the plenary session and without sufficient time to justify the tabled amendments. The purpose of the debate on amendments is to enable the examination of the potential consequences of the bills and, accordingly, adjust the provisions of the law to the needs of the society.

It was already in June 2018, that the Government tabled amendments to this law, which were also adopted under the urgent procedure. Following the negative reaction of the public to the solutions introduced with this law, as well as the reaction of the relevant ministries, new amendments to this law have been announced. This indicates obvious deficiencies in the tabled and consequently adopted provisions that could have been avoided by the initial observance of the procedures and discussion in the Parliament.

The Initiative Open Parliament warns that the worrying trends in limiting parliamentary debate are continued in 2018. The government is still the main proposer of the adopted laws (from the beginning of the 11th legislature, 96% of the adopted laws were proposed by the Government), while the proposals of the opposition deputies are not to be found on the agenda. The practice of merging a large number of agenda items has continued, and important laws are not placed at the beginning of the agenda. This fact, together with the abuse of the procedure by tabling a large number of amendments to be discussed as the points at the beginning of the agenda with the aim to exhaust total time for discussion, making the discussion on the amendments on important laws impossible and therefore preventing a substantive discussion of the proposed legal solutions in the Parliament. The adoption of the laws under the urgent procedure remains to be a rule more than an exception because 60% of laws in 2018 were adopted under this procedure, excluding the ratification of international agreements.

● OPEN PARLIAMENT ANALYSES

Issue Topic: MP's Question Time

ENDLESS ANSWERS AND NUMEROUS QUESTIONS

Retirement and disability insurance of farmers, renewal of fish stock and incentives for fisheries, protection of agricultural crops from natural disasters, constitutional amendments, business activities of the companies owned by the father of Nebojša Stefanović – represent only but a few of the many questions that were posed by the MPs while asking questions to the Government on the last Thursday in October. This was the second consecutive month for the Parliament to host the Government as the MPs had the opportunity to ask questions to the Ministers during the extraordinary session in the last month. Even though the number of days during which the Government answers questions is increasing this year, the question arises as to how effective this Government control mechanism really is?

According to the Rules of Procedure of the National Assembly, if the meeting of the ordinary session is in progress, the members of the Government answer MPs' questions on the last Thursday in a month from 16:00 to 19:00 hours. During extraordinary sessions, the day for MPs' questions may be another day if the proposer determined so during the convocation of the session. The process of asking questions is conceived as a short dialogue between an MP and a member of the Government, where the MP has three minutes to ask a question, then, having heard the answer of the member of the Government, he or she has three more minutes for an additional question or a comment, and after the second answer, he or she has the right to comment on the answers in the duration of two minutes. However, the practice proved this mechanism to be far from a dialogue.

The number of MPs who receive an opportunity to ask a question to the members of the Government during three hours has been decreasing every month. In October, there was enough time for only but five MPs to ask questions, which is the lowest number ever since the Rules of Procedure were amended in 2012, changing, among other things, the procedure for asking questions by MPs.

Since the Rules of Procedure are open to interpretation, the MPs interpret and implement this institute differently. The ordering of asking questions is not defined by the Rules of Procedure, but is rather the result of the established practice according to which the opportunity to speak first is given to the MPs who asked for the floor and who do not belong to any parliamentary group. Then the floor is granted to the remaining MPs who applied, in the following order – from the ones from the smallest parliamentary group to the ones from the largest parliamentary group. When the days for MPs' questions in September and October are concerned, it is noticeable that the MPs who do not belong to any parliamentary groups most commonly ask one or several questions of similar nature. Also, when it comes to the MPs who pose fewer questions, it is noticeable that they are particularly interested in these kinds of problems. Thus, at the session in September during which the questions were asked, MPs of minority parties, Jahja Ferhatović and Fatmir Hasani, asked questions regarding elections for national councils for national minorities, whereas in October, Đorđe Vukadinović asked about the constitutional amendments and the status of Kosovo. With larger parliamentary groups' turn, the number of questions and topics increases. By far the greatest number of questions is asked by the parliamentary group Socialists' Movement – People's Peasant Party – United Peasant Party. Marijan Rističević and Đorđe Komlenski are doing their best to prompt as many ministers as possible. Even after the first round of questions, the two of them keep asking their series of questions as if they had not received the answers to their previous questions or as if they were not interested in the answers after all. Such a way of asking questions seems problematic when

it comes to exercising control over the work of the Government, since there is no dialogue between the MPs and the members of the Government about the posed question. In October, Boško Obradović asked a record number of questions by managing to use the first three minutes that were intended for asking questions to ask 18 questions. However, unlike MPs Rističević and Komlenski, during the additional time for asking questions, Obradović did try to turn to ministers' answers to questions posed during the first round, but he also managed to ask new questions. The questions were not meant to be answered by any particular minister, but they were addressed to the entire Government and most of them remained unanswered.

The parliamentary practice clearly shows that there are two patterns of asking questions: the first one is the one according to which MPs ask a question or a series of questions that refer to the same topic or problem, asking the additional question related to the above, then they comment on it; the second pattern is the one when the MPs pose a great number of thematically different questions, asking a non-related question during their time for asking additional questions. It is clear that having a dialogue between the MPs and ministers is a much more efficient way to control the Government's work than having a polylogue, as it is way simpler for the MPs to ask an additional question in the next round and later to comment on the problem they have already addressed by asking the question. When there is a great number of questions asked, the majority of them is left „floating“ in the assembly room unanswered, whereas the MPs, even when they want to, are not able to use their eight minutes for this kind of mechanism to answer to a large number of ministers who have more time available. As the Rules of Procedure stipulate that the MP has the final say, it is important to refer back to the answers of the members of the Government since the supervising role of the Parliament is thereby achieved.

One of the main obstacles to dialogue and to enabling MPs to control the work of the Government is that the time for the response of the members of the Government is not limited. Thus, during asking questions in September, 10 Ministers spoke for a total of 128 minutes, while six MPs spent 44 minutes on asking questions and commenting on the answers. In October, the discrepancy increased: five MPs spent just over 36 minutes, while eight members of the Government spoke for almost 134 minutes.

Do MPs' questions really require such comprehensive answers?

The Ministers and the Prime Minister devise their answers in a manner that is too general, most commonly elaborating on the issues the MPs are already familiar with or at least they should be (for example, how a certain area is legally regulated). The answers to MPs' questions are also commonly used to cross swords with their political opponents. When answering questions, the members of the Government say how the previous Government is responsible for reducing pensions, „predatory privatizations“, leading a bad policy regarding the „so-called Republic of Kosovo“, but they also use a great deal of time to emphasize that President Aleksandar Vučić managed to improve the situation left by the previous Government. The Ministers frequently accuse MPs of being guilty for the problem they ask the questions about.

Thus, Minister Branko Ružić reminded MP Fatmir Hasani that the Law on National Councils of National Minorities was in the Parliament's procedure and he should have filed amendments back then thus influencing the size of the National Council of the Albanian Minority.

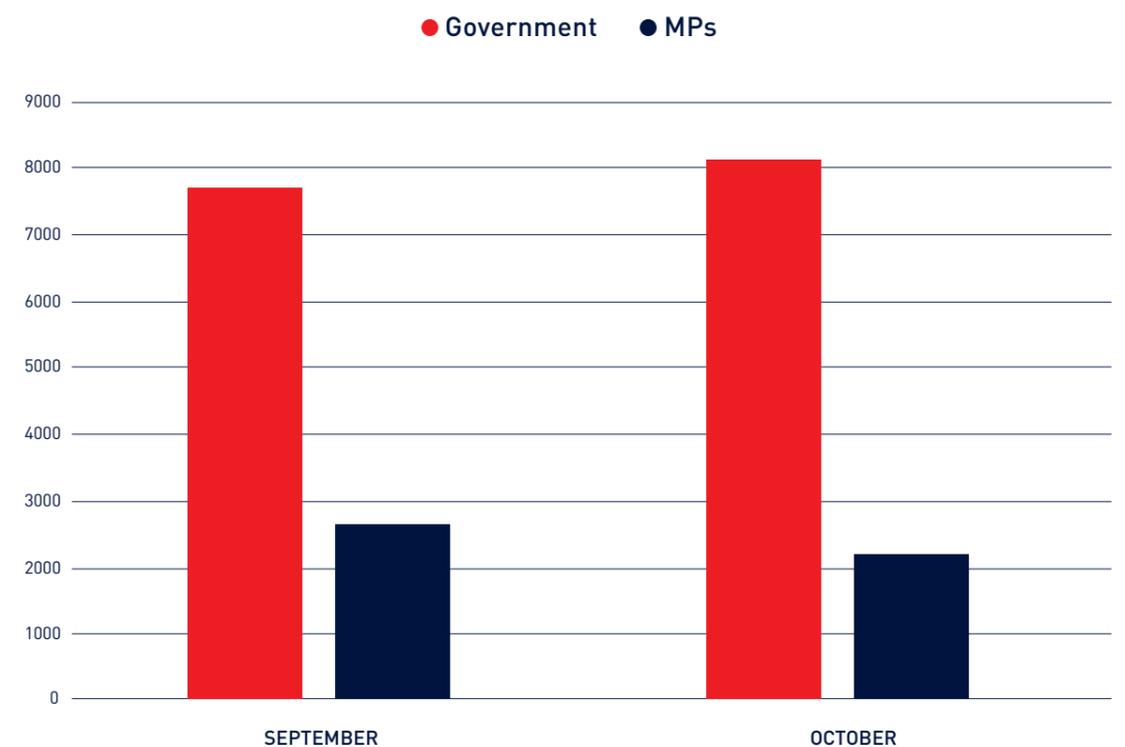
But this does not end the self-will of the Ministers. Even though the MPs state the member of the Government a question is addressed to, those ministers who have not been asked respond widely thus spending time for asking questions. In addition, the members of the Government respond in a much more polite manner to the questions posed by the ruling majority than to the ones asked by the MPs of the opposition. However, there are exceptions regarding this. The example of correct answering to the MPs' questions is Minister Mladen Šarčević who does not engage in disputes with

the MPs and only answers questions that are addressed to him, while equally treating all the MPs.

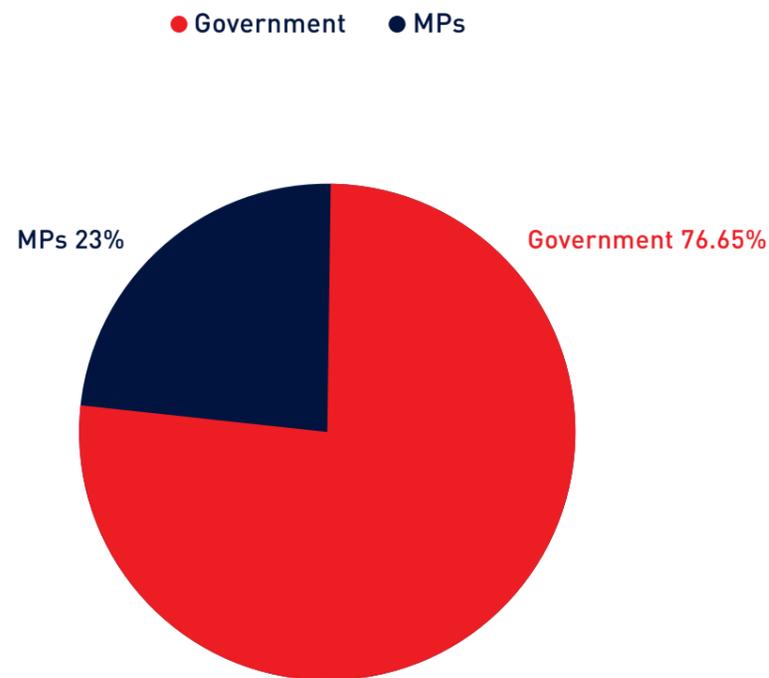
But, although the members of the Government often misuse unlimited time, establishing time limit for a response might also pose a problem. In that case, the Government might avoid answering questions by saying that the time for answering questions expired. This indicates that the current solution is not so bad, but also emphasizes the necessity of maintaining order more efficiently in the plenum during asking questions by the MPs. In this part of the session, there is no possibility of indicating the violations of the Rules of Procedure or replying, but this does not prevent the MP, while asking a question, to reply subtly to the MP who previously spoke. Even though Speaker of the National Assembly, Maja Gojković, refers the MPs to get acquainted with the rules according to which they work, she keeps violating the very same rules. Thus, the questioning in October was closed by the Prime Minister's comment who spoke after her own addressing and the addressing of the Minister of Agriculture, even though, according to the procedure, the MP who asked the question to them should have spoken. If one takes a look at the work of the Speaker of the Assembly, as well as the work of the Deputy Speakers, one might conclude that they are much closer to the Government than to the MPs of the National Assembly.

Given that the television broadcast is mandatory during Government's response to the MPs' questions, this institute might be a good way of bringing politics closer to the citizens, but also of explaining the problems of the state to the broad audience. The broadcast might be used to lead interesting debates that might contribute both to the popularity of MPs and to that of the Government. However, Ministers' responses make this important institute look more like a commercial block after which the viewers and possibly the MPs forget about the questions asked. The control role of the Parliament is not even evident from the Government's strong self-proclamation.

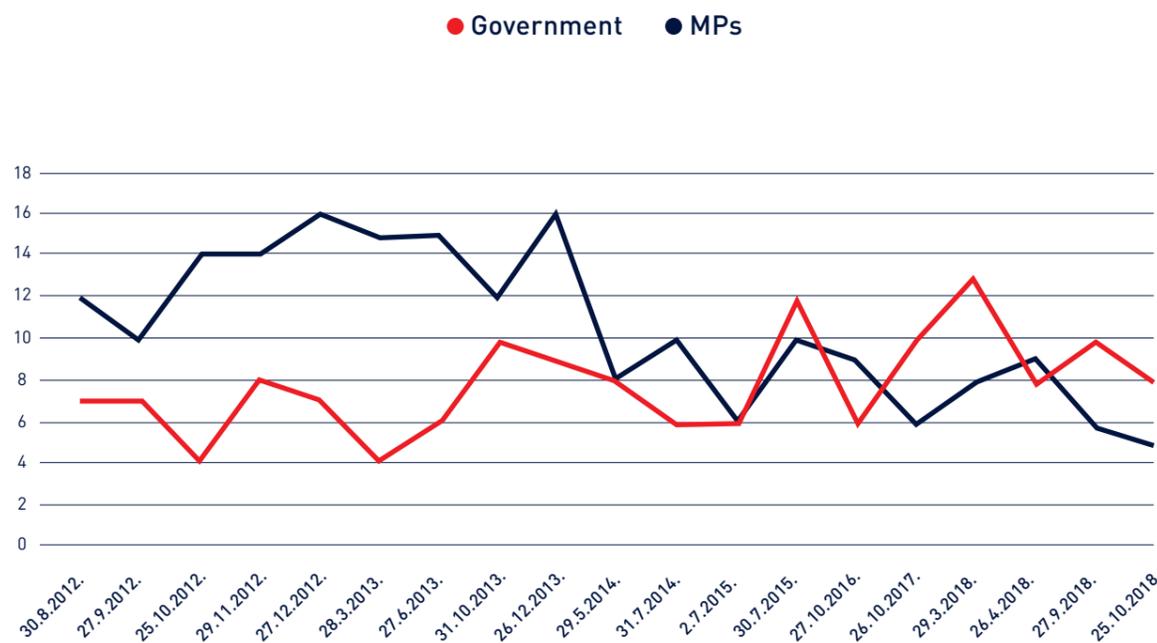
The ratio of time (expressed in seconds) spent on MPs' questions and Government members' answers



The ratio between total time spent on MPs' questions and Government's answers



Number of MPs who spoke during MPs' Question Time decreases over the years, while the number of members of the Government increases



● LAW SUMMARIES

THE BILL ON LOBBYING¹

The long-awaited Bill on lobbying has entered the parliamentary procedure on 13 August 2018. It has been provided for that this area shall be regulated by the National Anti-Corruption Strategy in 2005. As this law was not adopted during the period this Strategy was in force, so its adoption has been included in the National Strategy 2013-2018. At first, it has been confirmed that the Law shall be adopted during 2014, but its adoption has been later postponed for the first quarter of 2017. Since the deadlines for adopting the laws have expired, in its statement of 15 March 2018, **the Group of States against Corruption (GRECO) has estimated that Serbia has not met any of its recommendations in the fourth round of the evaluation, which includes the need for regulating the lobbying of members of Parliament.** The abovementioned statement caused the negative response in public, which has probably contributed to the Ministry of Justice presenting the Bill on Lobbying for public debate already on 23 March 2018. Although it was obvious that the specific comments of the interested parties have been presented during the debate and have been adopted, the Ministry has not published the report on the implemented public debate. **If this Bill would be adopted, the lobbying would be regulated for the first time in Serbia.**

Subject matter

Lobbying has been defined as an **activity of exercising influence on the bodies of public authorities in the procedure of adopting laws, other regulations and general acts for the purpose of realising the interests of the lobbying beneficiaries.**

The Bill limits the notion of lobbying only to those situations when the contact with public authorities bodies is not public (as it is done in person or by sending the letter which would not be published in any information service). Although the activities not regarded as lobbying are **very imprecise**, it seems that the proposer of the law intention was to include in the notion of lobbying **only direct lobbying**, whilst **public advocacy** (within its meaning which concerns promotion and protection of specific values in implementing activities with a primary goal to raise public awareness and gain support of the public as regards the specific issue), as well as the so-called **“grassroots lobbying”** (lobbying which mobilises the public to put pressure on the representatives of the authorities in the direction of changing some specific legal act) are not regulated under this Law.

The Bill provides for that the following **shall not be considered as lobbying**:

- **information, positions and opinions** on the laws, other regulations and general acts, proposals and bills, other regulations and general acts **published in the media and other public information services**;
- **activities of the persons who publicly express their opinion, and/or submit proposals**

¹ Bill on Lobbying was on parliamentary agenda at the time of closure of this newsletter. The adopted law summary will be available in the next issue of the Open Parliament newsletter

and expert opinions to the public authorities for the purpose of initiating, preparing, considering, adopting and explaining the proposed laws, other regulations and general acts or who by the invitation of the public authorities participate with or without compensation or in the project for the public authority as the beneficiary, in the preparation, consideration or giving the expert opinion on the proposed laws, other regulations and general acts;

Participants of the lobbying

The participants of the lobbying shall be: **a person carrying out lobbying, lobbying beneficiary and the lobbied person.**

Person conducting lobbying

Lobbying may be conducted by the **lobbyist** (natural person), **a legal person** registered for the lobbying but also **unregistered lobbyist** (so-called in-house lobbyists).

The Bill provides for special **terms and conditions** for the lobbying and/or the legal entity to meet so as to be able to conduct this activity.

The lobbyists shall have to be **registered** in the Anti-Corruption Agency Register. They have to meet the general requirements in order to register (Serbian citizenship, full legal competence, university degree, not being convicted for a criminal offence), but also to complete the **lobbyist's training** carried out by the Agency. **A foreign natural person** may conduct lobbying in Serbia if he/she has been registered for lobbying in his/her state and if he/she has been registered in the special register in Serbia.

The lobbyist cannot be a person elected, appointed, nominated, employed or a person otherwise engaged in the public authority, as well as the person for whose election, appointment or nomination the public authority gives consent. This prohibition shall expire two years after the person's public office has ended, and/or after the termination of the employment or work engagement in the public authority body (so-called **cooling off period**).

In order to conduct lobbying, the legal entity has to be registered in the Register of legal entities conducting lobbying (meaning that economic entity/association has been registered in the business entities register-APR, having at least one lobbyist employed, and has not been convicted for a criminal offence). **A foreign legal entity** may conduct lobbying in Serbia if he/she has been registered for this activity in the state of its seat and if it has been registered in the appropriate register in Serbia.

An unregistered lobbyist shall be a natural person not registered in the Register of Lobbyists and is a legal representative or is employed with the lobbying beneficiary or represents the interests of an association/a company the lobbying beneficiary is the member thereof.

The Bill sets the obligations of the unregistered lobbyist narrower than the obligations of the lobbyist. He/she shall undertake to send the letter to the lobbied person thus initiating the lobbying procedure (the Bill does not provide for the obligatory content of this letter as regards the unregistered lobbyists), and to act in accordance with the principle of integrity, though it is not obliged to report to the Agency on the lobbying conducted. However, the lobbied persons shall undertake to notify the Agency on any letters received on the initiated lobbying (including the ones conducted by the unregistered lobbyist).

Lobbying beneficiary shall be a person that has his/her interest lobbied, and a **lobbied person** shall be the elected, appointed, nominated person in a public authority, or a person otherwise employed or engaged in the public authority. The lobbied person shall be a person participating in the procedure of preparation and adoption of the laws, and a person on whose election, appointment or nomination the public authority gives consent.

Lobbying procedure

The person conducting lobbying and the lobbying beneficiary first have to conclude **the lobbying contract** which must include basic information on both contracting parties, the compensation for lobbying, the subject and goal of lobbying, the timeline for conducting of lobbying, and the person conducting lobbying cannot undertake in advance to the outcome of lobbying. The exemption to this rule is when the lobbying is carried out by the unregistered lobbyist since it concerns a person that represents or is employed with the lobbying beneficiary, so their relationship has been regulated by another type of contract. In this case, the compensation for lobbying has not been in any sense regulated by the Bill.

Only **after this contract has been concluded the lobbying procedure can be initiated**, by the person conducting lobbying (registered or unregistered) addressing the lobbied person in written form. The person registered to conduct lobbying shall submit to the lobbied person the evidence on the registration in the Register of Lobbyists, the lobbying contract (without specifying the sum of the contracted compensation for lobbying), and also the title of the law he/she is lobbying for. The Bill shall not regulate the contents of the letter sent by the unregistered lobbyist. Upon receiving the letter, the lobbied person shall be obliged to notify the Agency on this no later than 15 days from the reception, as the Agency is authorised to demand extraordinary notifications on the lobbyist's contacts.

The public authority shall be obliged to maintain the records on the lobbyist's contacts of the lobbied persons in the body concerned. Although the proposer of the law has emphasised that the records referred shall be established so as to enable the public to have access to the information which shall convince the public that the lobbying has been conducted in accordance with the public interest, **the Bill does not prescribe the special obligation of publishing such records.**

Reporting

The person conducting lobbying has an obligation of submitting the **annual report** on its work to the Agency. In the event of a cancellation from the register, the report shall be submitted for the period following the day of the last reporting until the day of the cancellation from the register. **The obligatory content of the report shall include** the information on the registering in the Register (number and date), data on the lobbying beneficiary, information on the persons lobbied (including the public authority body this person has been engaged) as well as the subject of lobbying.

The reporting obligation, therefore, shall be obligatory only for the lobbyist and/or the legal entity conducting lobbying. **The Bill does not provide for the lobbied person to report to the Agency on meetings which are characterised as lobbying, conducted in the manner which was not stipulated by this law.**

Apart from this, it is important to mention that the Bill stipulates the publishing of the Register of only national and foreign persons conducting lobbying to the public, whilst the reports delivered to the Agency shall not be published in its webpage. Additionally, on reporting to the Agency, the persons conducting lobbying shall not be obliged to deliver the lobbying contract, including the amount of the compensation for lobbying which has been prescribed by the contract. Having in mind the fact that there is no obligation to publish records maintained by the public authorities whose officials have been lobbied, it is questionable in what extent shall this Law crucially contribute to the increase of the transparency of the influence to the lawmakers.

LAW AMENDING THE LAW ON PENSION AND DISABILITY INSURANCE

From 30 September 2018, this Law shall repeal the Law on the temporary provisions for the administration of pension payments as since 1 November 2014 all retired persons with pension higher than 25,000 RSD have received reduced pension sum as stipulated by this Law.

Apart from this crucial change, the tabled amendments to the Law have provided for the following

Regulating early retirement for the insured persons with the insurance period being calculated with increased length.

Due to the necessity to change the method of calculating pensions for insured persons with early retirement who work on posts with insurance period which is calculated with increased length (so-called privileged years of service), the amendments to the Law provide for the regulation of their early retirement status and method of calculating the penalties, which shall be calculated for each insured person specifically as regards the reduced eligibility age. This shall mean that only the reduced eligibility age is calculated unlike the previous law when general eligibility age was calculated.

The introduced changes also refer to the right of benefiting from early retirement for insured persons who work or have been working in the working posts with maximum degree of increased insurance period so if they have effectively spent 2/3 of insurance period in the workplace the eligibility age shall be changed from 55 years of age to 50 years of age.

Calculating the insurance period including the time with paid contributions for pension and disability insurance on any basis for the insurance period with the obligatory paid contributions.

As regards calculating the insurance period, the Law specifies that the insured person's insurance

period is calculated to include the period of time with paid contributions for pension and disability insurance on any basis for the period with obligatory paid contributions (not only on the basis of work, as stipulated by the former legal provisions).

If the personal coefficient of the insured person cannot be calculated on any basis, the assumed value of the coefficient shall equal 1

As regards calculating the personal coefficient, it has been specified that for the insured person for whom the personal annual coefficient cannot be calculated on any basis it shall equal one. For the insured person whose data on the wages, wages compensation or the basis for the wage for the calendar years have not been recorded in the central register, the value of the personal coefficient shall be taken into account.

Calculating the lump sum amount of pension if the final amount shall be impossible to determine

One of the changes in the new Law concerns the calculation of the pension, if all requirements have been met but the final amount of the pension for the insured person cannot be determined, the temporary decision on the lump sum of the pension shall be adopted with the explanation of the reasons for the lack of possibility to determine the final amount of the pension. After establishing the facts, the lump sum amount shall be replaced with the decision on the final amount of the pension and if these requirements have not been met in the following three years, the lump sum shall become final. If in the period of lump sum disbursement, the insured person has been disbursed with the smaller sum than the final sum, the insured person shall be entitled to be disbursed with the difference in amounts at once, also if the insured person has been paid more than the final amount, he/she shall be obliged to return the difference.

The retirement and disability insurance fund shall be obliged to disburse the pensions to the beneficiary in the territory of the Republic of Serbia to the bank account.

The relations between the bank and the fund have been regulated by the contract, and if the disbursement occurs after the death of the pension beneficiary the bank shall be obliged to return all the funds to the Fund which shall mean that the bank cannot charge it claims from these sums as regards the beneficiary.

Suspension of the pension disbursement if the beneficiary fails to deliver the necessary certificates

The Law stipulates that if the beneficiary has failed to deliver timely the certificates which are not issued ex officio and pertain to the rights exercised, the Fund shall suspend the disbursement of the outstanding monthly sums of the pensions and/or monthly wages. Following the delivery of the missing certificates, the payments which could not be carried out shall be disbursed for the former period which shall be no longer than 12 months.

Establishing electronic Central Register

Specific matters of recording the beneficiaries' data have been determined by introducing the electronic central register which shall include all data from the beneficiaries. The aim of establishing register is to facilitate the data access and enable the facilitated exercise of the beneficiary rights. The proposer of the law foresees that owing to this register the total of 16 forms shall be cancelled, including the M4 form.

In the event of the fiscal possibility, the sums of the beneficiaries' pensions may be increased by the disbursement of the cash benefits within the meaning of the pension's augmentation.

The government shall adopt the act on the augmentation, and the disbursement shall be done by the Fund from the budget with the specification that the augmentation has incurred.

The rules on the pensions' adjustments shall not apply "until the moment of the achievement of the retirement system financial sustainability"

The rules on the pensions' adjustment shall be suspended until "the financial sustainability has been achieved", and until that moment they shall be determined under the provisions which regulate the budget and budgetary system.

● LAW ON PROFESSIONS OF PARTICULAR INTEREST TO THE REPUBLIC OF SERBIA AND CONDITIONS FOR THEIR PURSUIT

The list of professions of special interest shall be determined by the Government no later than October 2019. The list shall not be final, but the ministries shall have the possibility to propose new professions of special interest under the conditions provided by the law.

Access to and the pursuit of a profession of special interest is conditioned by the possession of professional qualifications. **Professional qualifications** include a **formal qualification** (diploma, certificate or other public certificates on acquired formal education) and **additional vocational training and training that is carried out during or after obtaining a formal qualification, with a diploma or other public certificate** (specialization, bar exam and other) as a proof.

Conditions relating to formal and professional qualifications for performing a particular profession of special interest must be **provided by special laws**, i.e. laws governing the field or activity in which a profession of special interest is exercised.

The ministry (the competent ministry) which in its scope has the activities concerning the profession of special interest shall define a minimum of necessary competencies for performing a certain professional activity.

Competencies are a set of knowledge, skills, abilities and attitudes that enable an individual to effectively perform an activity in a given profession.

The competent ministry shall determine the composition and operating procedures of the body responsible for the implementation of the procedure for determining special conditions for the pursuit of a profession of special interest.

The method of election, mandate and operating procedures of the above-mentioned body **are not precisely defined by this Bill**. The obligation is established for ministries to publish on their websites all necessary information on professions of special interest.

The pursuit of professions of special interest shall be possible only after the competent body decides upon the request of the interested person that the candidate meets the legally defined requirements and possesses the necessary competencies (knowledge, skills and attitudes) required for the performance of that profession.

Any person interested in pursuing a profession of special interest shall **first have to submit an application with the body in charge of verifying the fulfilment of conditions with the aim to determine whether he/she meets the requirements for performing that profession. The same request shall be submitted by persons who have previously validated their foreign diplomas**. The deadline for the decision on the request is 3 months.

The competent body determines whether a difference exists between the acquired competencies in a formal qualification and the stipulated minimum of required competencies. *The differences between the acquired competencies in formal qualifications and the minimum required competencies can arise as a result of the fact that different universities with accredited study programs can independently determine the curricula. For example, it can occur that the academic title of a lawyer may also be obtained by a person who did not pass the exam on the International Private Law or even the exam on the Law on Obligations.*

If the candidate does not possess the necessary competencies, the competent body may refer him to additional exams or determine by the decision that the person does not meet the necessary requirements

The application is rejected if the significant and irrecoverable differences in the acquired qualifications are established, which cannot be compensated with passing the exam or with practice.

If a person who has acquired formal/professional qualification abroad wishes to pursue the profession of special interest, the competent body shall first seek the opinion of the appropriate educational institution founded by the Republic, province or local self-government that shall compare the curriculum of the foreign institution in which the person has acquired a formal qualification with the curriculum for the same profession in Serbia.

Persons who have acquired a professional qualification by the date of the enactment of the Government act establishing a list of professions of special interest shall be deemed to be eligible for the profession.

● LAW AMENDING THE LAW ON LEGALIZATION OF OBJECTS

The proposer of the law notes that there are more than two million illegally constructed objects in Serbia and for this reason, it is necessary to enable more efficient legalization. On the other hand, the tabled amendments aim to prevent new illegal construction as well as to legislate placing of immovable property on the market.

The subject of legalization can only be an object that is visible on the Serbia satellite image from 2015.

For illegal objects, a request for legalization may be submitted if they are visible on the satellite image from 2015. For all objects that are illegally constructed later, a decision on demolition shall be issued.

Proof of tax submitted for property tax as an additional condition for issuing a decision on legalization

When the competent authority determines that the conditions for legalization have been fulfilled, the owner of the illegally constructed object shall first have to submit a tax return for determining the property tax. This tax return data must include the data which has to match the content of the documents submitted in the procedure of legalization (technical document, geodetic survey). The proof of the tax return submitted is delivered to the competent authority which then informs the owner on the value of the tax that he/she is required to pay for legalization. After having submitted the proof of tax payment, the decision on legalization is issued.

Legalization of objects in the protected zone of the public facilities

If the subject of legalization is an object built in the protected zone of public facilities, the Bill provides for an additional condition for adoption of the decision on legalization. Namely, the owner of the illegally constructed facility shall be obliged to submit **a certified statement that it waives the right to initiate a court proceeding on any basis** in relation to the use of a legalized object being influenced by that public facility. Only after this, it shall be possible to adopt the decision on the legalization that contains the declaration that the owner has submitted the aforementioned statement. In addition, **a derogation statement is registered in the Cadastre as a note** which remains valid for the entire existence of a legalized object and remains valid even when the owner of the object is changed.

Demolition after the decision is final and enforceable, not waiting for the outcome of the administrative dispute

The amendments to the Law shall enable the demolition of illegally built objects that were not approved for the legalization in the procedure and after the decision on refusal/rejection was final and enforceable, i.e. after the expiration of the deadline for appeal or when the second instance administrative body decides on the appeal. So far, the demolition was not performed until the decision does not become final and enforceable, i.e. until the Administrative Court decides on the lawsuit in the administrative dispute.

Records kept by the competent authority

The competent authority shall be obliged, in accordance with the tabled amendments to the law, in addition to the records on issued decisions on legalization, to maintain records of the initiated legalization proceedings. It is specified that the records will be available to the public on the digital platform of the National Spatial Data Infrastructure.

Prohibition of temporary access to network and infrastructure for objects that are in the process of legalization

Objects that are in the process of legalization, **previously not being connected** to the electricity, gas, electronic communications or district heating networks, water supply and sewerage, shall not be granted a temporary access to these networks.

If the object under the legalization procedure that is already connected to the mentioned networks, does not become legalized, the competent construction inspector is obliged to issue a final decision refusing/dismissing the legalization and deliver it without delay to the company that owns the network to which the object is connected.

Prohibition of alienation for objects that are in the legalization process

The competent authority for the implementation of the legalization procedure shall be obliged to submit to the Cadastre a certificate that the object is in the process of legalization, for each object that is in the process of legalization within 6 months from the date of entry into force of the amendments to the Law, and the Cadastre shall make a note on the prohibition of alienation for these objects.

If the procedure of legalization does not end within 5 years from the date of entry into force of the amendments to the Law, it shall be considered that the request for legalization has been rejected.

Any initiated legalization procedures yet **not completed** until the entry into force of the amendments to the Law **shall continue in line with new provisions**.

● LAW AMENDING THE LAW ON TRANSPORT OF PASSENGERS IN ROAD TRAFFIC

The proposer of the law considers that the Law on Transport of Passengers in Road Traffic adopted on 12 August 2015 and amended on 8 June 2018, necessitates further specifications in three areas, namely the provisions related to the conditions for taxi transport, the transport of passengers that is performed with the rented passenger vehicle including a driver's service (limo service) as well as the provisions regulating the rights and duties of the inspection supervision.

Specification of the conditions for taxi transport

Amendments to the Law specify that taxi service shall be the type of public transport for which the fee is charged by a taximeter and their vehicles shall have the license plates with the TX mark registered according to the on the location of the company's seat and they shall have an approval for the provision of transport services. Furthermore, the Law stipulates that the transport operator must not be convicted for the crimes which are listed in the Law. Services are performed on the territory of the city where the vehicle is registered, while the detailed conditions for taxi services are regulated by the municipality, the city or the City of Belgrade. Any other characteristics not regulated by this Law are further specified by the Decision issued by the local self-government units.

Specification of the conditions for performing limo service

The status of the limo service provider was previously imprecisely regulated with the Law on Tourism. The proposer of the law considers that because of a broad interpretation of possible solutions, this type of transport services needs to be regulated with the Law on Transport of Passengers in Road Traffic. It is proposed that a limo service should be defined as public transport and accordingly, both driver and vehicle are subject to the obligations defined in the regulations governing the area of traffic safety on the roads. It is also specified that for providing a limo service the register maintenance is mandatory and the Law then further defines the scope of services that a provider is obliged to deliver. The service provider shall be obliged, in any business area or place of business in which he/she performs the activity, to keep the decision on the registration in the appropriate register as well as the certificate of registration in the Register of Tourism, to advertise the price of the services provided in any of business premises or places of business and to operate in accordance with the advertised or published prices, to issue an invoice for each service provided and to keep records of the provided services.

In addition to the fact that limo service shall be performed exclusively on the basis of the approval of the local self-government unit, amendments to the law precisely determine types of vehicles that can be used for a limo service. It is not permitted to perform a limo service on a pre-defined route, the vehicle of the limo service shall be rented exclusively as a whole (rental of individual seats shall not be permitted) and the agreed time of transport may not be less than three hours. In this way, amendments to the law shall ban the provision of limo service for many operators that provided this service in line with the Law on Tourism.

Specification of cases in which transport services are not permitted by the provision of information technology services

The biggest problem that the proposer of the law perceives is the emergence of the grey economy by the occurrence of the unauthorized performance of public transport of passengers, unfair competition through the installation and advertising of electronic applications for performing taxi activities by natural persons and economic entities that are not authorized to perform taxi service.

Pursuant to the amendments to the law, the provision of IT services for offering transport services or connecting transport users with service providers who are not authorized to provide a taxi service or a limo service shall be punishable. The law also prohibits the use of technologies for offering taxi services at a price different from the one prescribed by a local self-government unit.

Extension of competencies for the inspection and the communal police

Amendments to the law shall also enable the intensified work of inspections. In performing inspection supervision, the inspector shall be entitled to act as a covert traveller, but only if the necessary evidence cannot be obtained in a different manner. Amendments to the law shall allow the inspector to exclude from the traffic a vehicle that is performing a limo service contrary to the law, as well as to revoke the traffic license and license plates for a 10-day period.

The powers of inspection are also transferred to the communal police due to insufficient capacity. The rights and duties of the municipal police have been extended, which shall also have the authority to temporarily seize a vehicle which has a taxi sign but has no approval for performing this activity.