

Open Parliament Newsletter

**PARLIAMENTARY
INSIDER** 

Issue 11 / January - February 2020

OUR HIGHLIGHTS:

- ✓ **Introductory remarks:**
Learn about Parliamentary highlights in the first two months of 2020
- ✓ **Open Parliament Analysis**
Do MPs use notifications and explanations in the Parliament?
- ✓ **Summaries of the laws**
Law amending the Law on Election of Members of Parliament
Law amending the Law on Local Elections
Law amending the Law on Local Elections
Law amending the Law on the Election of the Members of Parliament

| | |
|--|-----------|
| Introductory remarks | 5 |
| Month in the parliament | 7 |
| Parliament in numbers | 11 |
| Analysis of the Open Parliament | 13 |
| Do MPs use notifications and explanations in the Parliament? | 13 |
| Summaries of the laws | 16 |
| <u>Law</u> amending the Law on Election of Members of Parliament | 16 |
| <u>Law</u> amending the Law on Local Elections | 16 |
| <u>Law</u> amending the Law on Local Elections | 16 |
| <u>Law</u> amending the Law on the Election of the Members of Parliament | 18 |
| <u>Law</u> on Determining the Origin of Property and on Special Tax | 19 |
| <u>Law</u> Ratifying the Annex No. 3 of the Economic and Technical Cooperation Agreement in the area of Infrastructure between the Government of Republic of Serbia and Government of People's Republic of China | 21 |

● INTRODUCTORY REMARKS

Learn about Parliamentary highlights in the first two months of 2020

The eventful winter season in the Parliament is over. The work of the Assembly was marked by unexpected series of events – from adoption of the election legislation to a heated debate between MPs and the Minister.

When it comes to this season of the work of the Parliament, it was quite surprising to witness such **intense work in January**. The MPs worked for **10 days** in the plenary sessions, which is more than in previous years. In comparison, in the first two years of this legislature there had been no activity in the plenum for this period, and in 2019 the MPs had worked just one day in January.

In the course of January sittings, we could have heard recurring numerous critiques on the account of not only the part of the opposition that had announced it would boycott the upcoming elections, but also the public figures whose appearances are not liked by the current government. The topics were related to the pre-election uncertainties, but still the highest attention was caught by the incident which happened between Zorana Mihajlovic, the Minister of Construction, Transport and Infrastructure and Serbian Radical Party MPs. It is obvious that in the last couple of months the fights in Parliament became more frequent. MPs behaviour such as unprecedented exchange of insults between Serbian Radical Party MPs and Minister Mihajlovic, snatching banners from representatives of the Ministry or the scandal when Milorad Mircic unpacked and showed to everyone the women's underwear, had made a significant impact on the citizens' trust into the highest legislative body. This incident again confirmed the necessity of adopting the Code of Ethics.

On 30 January, for the first time this year, the MPs had an opportunity to use the institution of parliamentary questions. Seven MPs posed questions in verbal manner, while seven out of nine members of the Government present answered the questions. The questions referred to trending theme of the coronavirus, investments in agriculture, assistance to families with children, European perspective and digitization of schools.

On the leap day, the Parliament worked more intensely than usual. In fact, from 20 working days in total, the MPs were in session 17 days, seven extraordinary sessions were organised, plus another one on the last Thursday of the month when the Prime Minister and the ministers were answering the parliamentary questions. In total 60 items of the Agenda were scrutinised including very important and long-awaited laws. Two public hearings had been organised, several bilateral meetings with foreign colleagues, and the MPs addressed the public regularly via press conferences as well.

In February the Law on Election of MPs and Law on Local Elections had been adopted as well. In the long run, the most important decision was that political parties would need three per cent of votes to get into the Parliament, instead of five per cent that was the case until now. Although at first sight this amendment seemed to have little relevance for citizens, precisely the decision on amending the threshold would bring a completely different composition of the Assembly after the general elections in 2020, and the future legislature of the National Assembly would have to face, as announced, numerous important decisions that had not been resolved in this term.

The ruling majority explained that the proposal for lowering the election threshold came from a wish to give opportunity to as many of political options to have their representatives in the Parlia-

THE OPEN PARLIAMENT INITIATIVE

The Open Parliament Initiative has been monitoring the work of the Serbian Parliament every day since 2012. The Open Parliament collects and publishes data on the Parliament's work and results and deals with the analysis of various processes from the perspective of transparency, accountability and participation.

The main goal of the Open Parliament Initiative is to increase transparency and accountability of the work of the Parliament, to inform the citizens about the work of the Parliament and to establish regular communication between citizens and their elected representatives. Our work is based on the values contained in the international Declaration on Parliamentary Openness, and the Open Parliament took part in the development of this initiative.

Since January 2018, the Open Parliament team has increased the focus of this initiative's activities on democratism and accountability in the conduct of MPs and the work of the institution.



The Federal Foreign Office of the Federal Republic of Germany has been supporting the Open Parliament Initiative since August 2018, including drawing up the newsletter. The views expressed in the newsletter are the views of the Open Parliament team, but they do not necessarily reflect the views of the donor.

ment, and thus contribute to the higher representativeness and democracy of the highest legislative body. However, the opposition, and especially the part of the opposition which boycotts the work of the National Assembly, was convinced that such action represents a government manoeuvre to enable smaller parties to participate in the elections by the means of smaller threshold, and that by eventually passing the threshold they will provide legitimacy to the new legislature of the National Assembly.

The non-governmental sector reprimanded often that such important changes were to be adopted in the election year which was in contrary to the examples of good practice in Europe, although it was undisputable there had been no explicit legislative ban to amend the election laws several months before the elections. Representatives of the civil society organisations who had participated in the dialogue between the government majority and the opposition in the second half of the last year, emphasised that such example was not among the proposals considered during the dialogue.

Another important amendment regarding the elections was that now in the electoral list there will have to be at least 40 per cent of women, meaning that for every five proposed candidates at least two will be women. Historical importance of this decision was reflected in the fact that the ruling coalition had adopted the amendment of the law on the proposal of the opposition MPs Gordana Comic, and the fact that Comic interrupted her one-year boycott contrary to the recommendation of her Democratic Party.

In February, the [Law on the Origin of Assets](#) was adopted, as it was long announced and expected, though it had not been met with general approval. While explaining the law proposal, Minister Nebojsa Stefanovic emphasised that every citizen who would earn EUR 150 thousand or more in three years, without being able to prove how (s)he had earned it, would be subjected to this law and that no one would be protected. The opposition complained that the law referred to natural persons only, so if a person had no assets but his or her company had in its possession dozens of real estate assets or had property abroad, this law would not be able to touch them.

The opposition MPs who participated in the work of the Assembly, in this case usually Serbian Radical Party MPs, estimated that the Law on the Origin of Assets was a pre-election trick that would never yield any results. The MPs from SRS had a similar comment for the proposal of the Law on determining the facts concerning the status of new-borns suspected to have disappeared from the maternity wards in the Republic of Serbia. Although there had been similar committees before, SRS MPs emphasised that they did not believe the government really had an intention to continue the overdue instigated investigations, but that it had touched this subject just before the elections to prove to the European institutions that they had observed their recommendations. However, the government emphasised that such law would be the best possible offer at the moment, bearing in mind that potential babies thefts had happened 30 and 40 years ago, and that many perpetrators of potential criminal acts had been dead for a long time.

2020

Month in the Parliament

JANUARY

20.

The first extraordinary session in 2020 was scheduled for the second half of January. A few laws in the field of education, two laws from field of culture and several international agreements were included in the agenda of the 19th Extraordinary Session. Most of the time the MPs kept to the subject, especially during the debate on whether the dual education of artisan workers is a desirable model for our children or Serbia really needed more engineers, as claimed by Vjerica Radeta, an MP from Serbian Radical Party. Minister Mladen Sarcevic was present at the session and he actively argued during the debate.

21.

At the 19th Extraordinary Session, the MPs confirmed the agreement with Russia about returning one missing page of the Miroslav Gospel to Serbia. In addition, there was also discussion about pre-election doubts at this session. Radical Party MP Milorad Mircic claimed that Maja Gojkovic is a true candidate for Minister of Culture and Information.

23.

During the debate on particularities of amending the Law on Culture and Law on Archives and Archival Activities, Srbislav Filipovic, an MP from Serbian Progressive Party, mentioned that he believed the relationship with culture is best reflected through preservation of Serbian relics, underlining the credits that President of Serbia deserved: "St. Sava Temple is the legacy of this government. This legacy, if we may say, personified work of President Aleksandar Vucic, being personally related with him. This is the legacy of such responsible politics." In the middle of the debate on culture, the criticism on the account of the opposition was repeated several times due to the announcement of the election boycott, including the behaviour of persons that the current government disliked. The session was concluded by the Voting Day on 24 January, when seven laws and four international agreements were adopted.

27.

The final sitting in January will be never forgotten due to heated debates between Minister Zorana Mihajlovic and Radical MPs. The debate was imbued with insults, which were exchanged, in such a tone and volume not seen in the last twenty years, as well as the disrespect MPs demonstrated when talking to the Minister, and also the one Minister openly demonstrated towards the MPs and the role of Parliament as such. In the cognate debate, Vjerica Radeta, Serbian Radical Party MP, spoked that the Minister was accused of taking bribe, that she had stolen EUR 300 million in Morava Corridor and that she spied for foreign embassies.

28.

After two breaks, in the continuation of the 20th Extraordinary Session, the atmosphere in the venue was unpardonable – such as snatching posters from representatives of the ministry and then the scandal when Milorad Mircic unpacked and showed to everyone piece of female underwear that the Radicals prepared as the hypothetical present for Minister Zorana Mihajlovic. In other two days of this Session, when Minister of Finance Sinisa Mali defended the set of financial laws, another five loan agreements were confirmed, but Radicals were not so loud in criticising. The public heard about these agreements from Modern Serbia Party MP, Aleksandar Stevanovic, who emphasised that we had taken a loan with 2,5% interest with the Turkish bank, for the sake of keeping good relations, despite the fact that European Union calculated 0.7% interest for the similar loans for us.

31.

On the final Thursday in January, Prime Minister and several minister had responded in person to the questions from MPs, as provided for by the Rules of Procedure. Seven MPs used their right to ask questions, and out of nine representatives of Government present, including the Prime Minister, seven of them answered the questions. The atmosphere was friendly during two out of three hours of the sitting when questions and answers were exchanged between MPs from the ruling coalition and representatives of the Government, when the public learned that at the moment we were not threatened by the coronavirus, that more would be invested in agriculture and assisting families with children, the public learned more about life in farms, European perspective and digitisation of schools. Minister Goran Trivan used an opportunity to note that citizens themselves were to be blamed for the landfill in Prijepolje, but as he had added, drafting of the project to solve that was ongoing and because of that the Ministry of Environmental Protection had lost sleep.

3.

Because of the inconsistent case law, the Government of Serbia had requested the Authentic Interpretation of Article 48 para. 6 of the Law on Enforcement and Security. The basic dilemma concerning this Article was whether the power of attorney had to be certified by the public notary for the attorneys-at-law to charge the court costs. The Proposal of Authentic Interpretation was elaborated to the MPs by Djordje Komlenski, the Chairman of the Committee on Constitutional and Legislative Issues, in the 21st Extraordinary Session.

4.

We heard the conflicting opinions of the MPs from Serbian Progressive Party and Serbian Radical Party. While Jelena Zaric Kovacevic (SNS) emphasised that the authentic interpretation would only increase the accountability of both lawyers and the parties they represent, Nemanja Sarovic, an MP from Serbian Radical Party, said that since the interpretation of this law was the only item of the Agenda, it witnessed how strong the lawyers' lobby in Serbia had been and that their strike had not been yet forgotten.

6.

The first public hearing of this year was organised by the Committee on Constitutional and Legislative Issues. The MPs, expert public and civil sector had a chance to state their opinion on the Proposal of the Law amending the Law on Election of MPs and Proposal of the Law amending the Law on Local Elections. Decreasing the threshold from five to three per cent will contribute to the representativeness of the National Assembly of Serbia composition, but the election rules should not be amended in the election year, as told in the public hearing. The non-governmental sector position clearly indicated that amendments immediately before the elections deteriorate the trust in the election system. With the comment that this theme was not mentioned in the meetings regarding the improvement of the electoral conditions, Pavle Dimitrijevic from CRTA emphasised that the threshold was not only important for the 2020 elections, but also brought a question in which country we wanted to live.

6.

In the public hearing, the lowering of the threshold was supported by the members of the ruling coalition, with argument that the amendments to the election system would make it more proportionate, while Jovan Jovanovic from the parliamentary group of Independent MPs Club said that he did not believe in the generous acts of Serbian Progressive Party. "We find this attempt of the authorities to provide alleged legitimacy, representativeness and pluralism in the future legislature of the Parliament very unconvincing. So, today we are having this public hearing. However, in the midst of the public hearing, we have a sitting dedicated to the same election laws, which tells us how honest this public hearing must be", emphasised Jovanovic.

6.

After nearly a year, the agenda of the 22nd Extraordinary Session included the proposals of an MP from the opposition. In addition to the laws related to the electoral conditions which were proposed by the Serbian Progressive Party MPs, the laws that were proposed by the opposition Democratic Party MP Gordana Comic were included in the agenda. All the laws were adopted, so the election threshold was lowered from five to three per cent.

8.

The proposal for lowering the election threshold was submitted by Serbian Progressive Party, explaining that an aim was a more representational Parliament with a variety of opinions, although the proposal was not really in favour of SNS. Serbian Radical Party MPs – Nemanja Sarovic and Vjerica Radeta criticised the proposal for the higher participation of women in Parliament, and the Assembly Speaker Maja Gojkovic said that they had just been blurring the fact that they would not support a higher number of women in the Assembly. Regarding the participation of the national minorities parties, the majority had agreed with the recommendations from the public hearing, thus the Republic Electoral Commission would declare the minority election lists and in this regard, it may request, but does not need to, an opinion from the National Minority Council.

10.

On the proposal of the opposition MP, Nada Lazic, the Environmental Protection Committee organised a second public hearing this year on the topic "Air Quality in Serbia". The Assembly Speaker Maja Gojkovic emphasised that the Environmental Protection Committee and the National Assembly of Serbia were willing to work on further improvement of legislative framework in this area. At the public hearing among the participants there were Goran Trivan, the Minister of Environmental Protection, Aleksandar Antic, Minister of Mining and Energy, Goran Vesic, Deputy Mayor of Belgrade, and Andrea Orizio, Ambassador of the OSCE Mission to Serbia.

12.

At the 23rd Extraordinary Session, the MPs discussed the election of judges, deputy public prosecutors and confirmation of independent authorities' financial plans. In the plenum, the proposed decisions were substantiated by the representatives of the proposers – a member of the High Judicial Council and a member of the State Prosecutorial Council. However, the main theme was the Appellate Court judge, Miodrag Majic. As assessed by the Serbian Progressive Party MP, Jelena Zaric Kovacevic, the most negative occurrence in the judiciary is judge Majic, "who breached all ethical and professional norms, abusing the judicial role for the purpose of daily politics".

13.

The election of some courts presidents was postponed, and the reasons were poor proposals, in words of Aleksandar Martinovic, the president of SNS parliamentary group. Petar Jojic, the MP from SRS, welcomed the Assembly decision to deliberate a bit more about the proposals, adding that he had received a letter from the employees in Pirot Court about the candidate for the president, which underlined her modest GPA at the university, and how long she had studied and how long she had been in service. Following some rejections regarding the election of the court presidents, the current year financial plans of the Republic of Serbia Securities Commission, Regulatory Authority for Electronic Media (REM) and the Energy Agency were adopted. In addition, the amending of the Energy Agency financial plan for 2019 was adopted.

14.

The 24th Extraordinary Session was held and the agenda included only one item – the list of candidates for the members of the Council of Regulatory Authority for Electronic Media. The National Assembly of Serbia MPs had elected Slobodan Cvejic and Visnja Arandjelovic for REM Council members, however, the most of the time in the seven-hour debate was not dedicated to them but to REM and media freedom. Natasa Mihajlovic Vacic from Social Democratic Party of Serbia said that REM success would depend on the courage and independence of its Council members, while Djordje Komlenski from Socialist Movement underlined that he expected REM to deal with the broadcasting licences of N1 television.

18.

Five international agreements, Law on Construction of Memorial Centre and amendments to the Law on Procedure of Registration in the Real Estate Cadastre and Utility Cadastre were included in the agenda of the 25th Extraordinary Session. Construction of Memorial Centre "Staro Sajmiste" was a rare theme for which consensus was reached in the Assembly. It had been told that this idea was overdue, it was remarked that at the moment it was to be done under the pressure of Jewish community, but the point was that the victims of the Nazi camp in Zemun would finally have a dignified memorial. The ruling majority MPs emphasised that the memorial would be built on the initiative of President Aleksandar Vucic, while the Serbian Radical Party MPs had insisted that they supported the idea only for the idea's own sake.

19.

There were no remarks on the amendments to the Law on Procedure of Registration in the Real Estate Cadastre and Utility Cadastre, but the MPs from Serbian Radical Party only demanded the explanation what was the criteria for including the laws in the agenda, since their proposal of the Law on Termination of Public Enforcement Officers had been locked in the procedure for months. Milorad Mircic had not been pleased with an answer that for a proposal to be included in the Agenda 126 MPs would have to be present.

20.

During this sitting, the leader of Free Citizens Party, Sergej Trifunovic, submitted to the National Assembly clerk's office a letter for the Serbian Radical Party MPs mentioning that they "were very proactive" in refusing the proposals of the laws from the opposition which might have assisted the medical treatment of children abroad. He had received an answer in the plenum by the Speaker of the Assembly Maja Gojkovic who had supported the President of Serbian Progressive Party and President of Republic of Serbia Aleksandar Vucic, emphasising that he had founded the Fund for Rare Disease Children Medical Treatment, and in her answer she had also focused on Dragan Djilas, the President of the Party of Freedom and Justice, and his financial means.

24.

After the MPs voted on the proposed laws, the Speaker of the Assembly concluded the sitting and on the same day opened a new extraordinary session with surprisingly 34 items in the agenda. Would we be investigation our people as well or only theirs regarding the origin of assets had been the most interesting question to be heard during the parliamentary debate of the 26th Extraordinary Session. Serbian Radical Party MPs yet believed that this law was only a part of the pre-election publicity and that the assets of the current ministers would not be investigated. However, Dragomir Karic, an MP from the Strength of Serbia Movement, supported the new law, since the old one regarding the extra-profit was only written and meant for Brothers Karic. Dragan Jovanovic, an MP from the ruling majority, also supported the law emphasising that he was subjected to the similar law himself when he was in the opposition.

25.

Yet, the highest attention at the 26th Extraordinary Session was dedicated to the debate on the law of unveiling the fate of missing babies. It was a very difficult, often quite emotional debate, and often it could have been heard that those who had participated in the alleged theft and selling of babies should be punished most severely, if they had been living and if there was evidence. In the absence of documentation, the court may impose a fine for violating the right to family life in the amount no higher than EUR 10,000, as said by Minister Nebojsa Stefanovic.

26.

On the final day of this session, the MPs included the amendments, which the Serbian Prime Minister Ana Brnabic had subsequently agreed upon with the representatives of the parents' associations, in the law, which provided for the establishment of the committee with the majority of members in fact being the parents of missing babies, that was to deal with collecting the facts on the status of babies suspected to have disappeared, which would open space for instigating the investigations. It could be heard in the debate that similar committees had already been formed, but that there were no results.

27.

At the beginning of the sitting, in accordance with the Rules of Procedure, the Speaker of the Assembly interrupted the sitting and opened the new 27th Extraordinary Session. The Agenda included the proposal on the Authentic Interpretation of Article 40 para. 5 of the Law on Local Elections. The Chairman of the Committee on Constitutional and Legislative Issues had explained the proposal, and after his speech, the MPs voted for the adoption of the authentic interpretation.

27.

On the final Thursday in February, the topics mostly discussed during the time for parliamentary questions posed to the members of Government were the selling of Komercijalna Bank, birth rate, Government's successes, Kosovo and education. As regards the most trending topic, the coronavirus, Zlatibor Loncar, the Minister of Health, said that "Serbia had done everything necessary and that currently Serbia had no registered cases of the coronavirus infections". Djordje Vukadinovic, the opposition MP, demanded an explanation on the meaning of the most recent statement of the President as regards Kosovo, that Serbia would get "an offer that we could not accept, but that we must not refuse"? He had estimated that the situation in the north of Kosovo and Metohija was worse today than it had been before this government came to power. Since the ministers' answers took 45 minutes for one case, and for the other surprisingly 48 minutes, Tatjana Macura, an MP from Modern Serbia Party, expressed her hope that in the next legislature the Assembly Rules of Procedure were going to be amended. The institution of parliamentary questions was used by the six MPs in February, while out of 11 Government members present, seven of them had answered the questions.

29.

The sitting was concluded with the Voting Day, when the MPs adopted 28 international agreements, two law amendments and four new laws. The final extraordinary session of February was thereby completed.

PARLIAMENT IN NUMBERS

Statistical review of the work of the 11th Convocation is concluded with February 29th



LEGISLATIVE ACTIVITY

362 days of legislative activity

608 adopted laws

97.37% of adopted laws were proposed by the Government

The common practice of the parliamentary agenda dominated by the proposals submitted by the government, or in some cases the MPs from the ruling majority, continued throughout the summer. Hence, the noteworthy case in March, when two proposals of MPs not belonging to the ruling majority were included in the agenda of the plenary session, remains the exception that proves the rule.

Another exception in 2020, are two law proposals submitted by an MP from the opposition Democratic party, Gordana Čomić, which were included in the agenda of the plenary session: Law amending the Law on Local Elections and Law amending the Law on Election of Members of the Parliament. **These two laws were adopted at the Extraordinary session in February 2020.**



URGENT PROCEDURE

35.69% of all laws (including new laws, amendments to laws and ratifications of international agreements) were adopted by an urgent procedure

47.98% are adopted by an urgent procedure, if we exclude the laws on the ratification of international agreements, which are generally adopted by a regular procedure and consider only new laws and amendments to laws.



PAY ATTENTION TO:

- boycott of the parliament by less than 50 opposition MPs;
- changes in "filibuster" activities decreased since the summer - decreased number of "bravo" amendments (that used to be submitted by the ruling majority) and consolidating agenda items into a single debate;
- the most recent European Commission Report 2019 on Serbia highlights the state in the parliament, urging for immediate changes of negative practice and restitution of inter-party dialogue.

1 In March 2019, for the first time since 2015, two proposals submitted by the opposition MPs Nenad Canak, Olena Papuga and Nada Lazic were included in the agenda of the plenary session: the Proposal of the Law on Financing of the Autonomous Province of Vojvodina, and the Proposal of the Resolution of the National Assembly of the Republic of Serbia on Vojvodina. Proposals were not adopted as they have not received support from the sufficient number of MPs.

PARLIAMENT'S SUPERVISORY ROLE:

14 sessions of the "MPs Question Time" held during the 11th convocation

including: one in 2016 (October); one in 2017 (October); five in 2018 (March, April, September, October, and November); and five in 2019 (March, June, July, November and December) and two in 2020 (January and February). In addition, it is questionable how much time is effectively dedicated to discussing the topics.

16 public hearings organized during the 11th parliamentary convocation:

In 2016 - six public hearing sessions held (one in October, four in November and one in December); only one public hearing held per year in 2017 and 2018 (both in November); in 2019 - six public hearing sessions held (two in June, one in September and three in November); in 2020 - two public hearing sessions were held (both in February).

In March 2019, the independent institutions submitted their annual reports for 2018 to the Parliament. After a five-year break, the annual reports of several independent institutions were discussed in the plenary and the conclusions of the parliament on the following reports were passed:

in June 2019 (State Audit Institution, Fiscal Council and Commission for the Protection of Competition); in July 2019 (Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, and Anti-Corruption Agency); in October 2019 (the annual report of The Commissioner for Protection of Equality).

Three members of the Council of Regulatory Body for the Electronic Media have been elected in December 2019, following a two-year delay. Another two members of the Council of Regulatory Body for the Electronic Media have been elected in Extraordinary session in February 2020.

Parliamentary committees increasingly chaired by the ruling majority MPs: out of 20 parliamentary committees, only 2 are chaired by non-majority MPs (European Integration Committee and Committee on Education, Science, Technological Development and the Information Society).

The State Budget for 2020 was adopted in November, without violating the Rules of Procedures. A total of 17 Laws on Budget Expenditure were adopted in December 2019.

● ANALYSIS OF THE OPEN PARLIAMENT

Do MPs use notifications and explanations in the Parliament?

Every Tuesday and Thursday, in the Assembly plenum, the MPs have an opportunity to request explanations and notifications from the Speaker of the National Assembly, Chairpersons of Committees of the National Assembly, Government Ministers and officials in other public authorities. By publicly asking questions related to issues within the framework of the rights and duties of those officials and within the competences of the authorities they head, at the same time the MPs receive information and invoke officials to be accountable.

To examine how this mechanism is used in practice, we have analysed the MPs' activities in 2019. We would like to remind that the Parliament boycott has influenced the analysis of the results to a great extent, since, due to the boycott, in the course of the analysed period, many MPs who do not belong to the ruling coalition had not participated in the work of the National Assembly.¹ This analysis is a part of the broader analysis of the work of the National Assembly in its 11th Legislature, which will be published after the end of its term.

How to request explanations and notifications?

The MPs are entitled to request notifications and explanations on the questions they require for the exercise of their MP function. Usually, notifications and explanations are requested in written, unlike the parliamentary questions the MPs pose to the Government during the sittings of the last Thursday in a month. In a single address lasting up to five minutes on Tuesdays and Thursdays, the heads or representatives of parliamentary groups may verbally request explanations and notifications at the beginning of the Assembly sitting. Under the procedure defined in the Rules of the Procedure of the National Assembly (Article 287), Speaker of the Assembly shall grant the floor to heads or representatives of parliamentary groups who have duly applied to speak, starting from the representative of the smallest parliamentary group and ending with the largest one in size according to number of its MPs. The officials to whom the question was referred shall communicate the answer in writing to the MPs within 15 days.

How many times the MPs had an opportunity to request notifications and explanations?

On Tuesdays and Thursdays in 2019, the Parliament convened 86 times in the plenum, and **the MPs used an opportunity to request notifications and explanations 46 times in total**. If we make an overview how many times the MPs had an opportunity to request notifications and explanations **per a sitting**, we could see that **from a total of 33 sittings held** on Tuesdays and/or Thursdays when the Parliament worked in the plenum, the MPs **used this opportunity at 25 sittings**.

¹ Read more about the parliamentary boycott in Serbia – "Case study: Serbia" by Ilic, Brankovic and Tepavac in [Parliamentary Boycotts in the Western Balkans](#), Westminster Foundation for Democracy, 2019

To what extent the MPs use notifications and explanations?

In 2019, one fifth of the MPs had actively used this mechanism in their work. All in all, **59 MPs requested 398 notifications and explanations** from the representatives of the executive. Most often, the notifications and explanations were requested from the Prime Minister Ana Brnabic, Minister of External Affairs Ivica Dacic, Minister of Finance Sinisa Mali and Minister of Interior Nebojsa Stefanovic. There were many cases when the MPs did not clarify whom they had referred the questions, or they had asked the same question to different officials.

Concerning the sittings when the MPs used the mechanism of notifications and explanations the most, on **Seventh Sitting of the Second Regular Session** (28 November 2019 - 06 December 2019) there was a record number of questions for an individual sitting, when **17 MPs asked 39 questions**. Those were usually referred to the Prime Minister and ministers in Government, President of the Republic of Serbia, followed by the Distribution of Serbia, Press Council, journalists' associations and Commission Investigating Murders of Journalists. As for the notifications and explanations, the **Twelfth Extraordinary Session** (25 June 2019 – 08 July 2019) was very active, when also **17 MPs posed altogether 35 questions** in the areas of agriculture, population policy, electronic media and other.

MP Djordje Vukadinovic was the most active regarding the number of opportunities he had used for this mechanism. In 2019, Vukadinovic had requested notifications and explanations for **28 times out of 46 times when the Parliament convened in the plenum on Tuesdays or Thursdays**. Second and third in requesting were **Milija Miletic**, an MP from the United Peasant Party who had asked the questions to the competent officials **19 times** using this mechanism, and the youngest MPs **Aleksandar Seselj**, a member of Serbian Radical Party, who had used this opportunity for **18 times**.

Who requested the most notifications and explanations?

The Rules of Procedure of the National Assembly do not limit a number of requests for notifications and explanations in an MP address. Therefore, as long as the single address lasts up to five minutes, as prescribed by the Rules of Procedure, an MP may request more than one notification or explanation referred to officials or other public authorities. The most prominent MPs as regards the requests for notifications and explanations are MPs **Djordje Vukadinovic**, who had asked **47 questions**, followed by **Marijan Risticivic**, the United Peasant Party MP, with **40 questions**, and the United Peasant Party MP **Milija Miletic with 34 questions** (Figure 1). Among the first ten MPs who had asked the most questions by using the notifications and explanations, there is **only one female MP. Nada Lazic**, an MP from the League of Social Democrats of Vojvodina, referred **nine questions** altogether to the representatives of the executive.



From the point of view of the parliamentary groups, and/or the representatives of political parties in the Parliament, the most questions were posed by the **MPs from ruling Serbian Progressive Party** compared to other political parties participating in the work of the Assembly plenum. From the largest parliamentary group, the Serbian Progressive Party Parliamentary Group, **12 MPs asked 64 questions in total**.

The MPs who do not belong to any party are immediately next. Two MPs – **Djordje Vukadinovic and Miodrag Linta**, posed altogether 53 questions to the representatives of the executive by using the mechanism of notifications and explanations. Similar number of questions – **47 questions in sum were posed by the four MPs from the Party of Modern Serbia**, by MPs Vladimir Djuric, Aleksandar Stevanovic, Nemanja Radojevic and Tatjana Macura. Contrary to these, the fewest explanations and notifications were requested by the MPs of the Liberal Democratic Party, as only one of their representatives, Natasa Micic MP, had one question (Figure 2). Also, there are many political parties whose representatives, or presidents, did not participate in posing this type of questions. **Out of 33 political parties altogether, representatives of only 17 parties had participated in requesting explanations and notifications.**²



In comparison to their colleagues, **the female MPs used this mechanism considerably less**. Female MPs had requested one third, i.e. **34% of questions** referred to representatives of the executive through this mechanism during the 2019 sittings. Therefore, **out of 59 MPs** who used the mechanism of notifications and explanations in 2019, **39 of them were male MPs and 20 female MPs**.

² The representatives, or presidents, of political parties who did not participate in posing notifications and explanations are members of Democratic Party, Serbian Movement Dveri, Alliance of Vojvodina Hungarians, Social Democratic Party, People's Party, Serbian People's Party, Democratic Party of Serbia, Power of Serbia Movement, Serbian Renewal Movement, Party of Democratic Action of Sandzak, Justice and Reconciliation Party, Together for Serbia, Better Serbia, Democratic Alliance of Vojvodina Croats, New Serbia, New Party, Greens of Serbia.

● SUMMARIES OF THE LAWS

LAW AMENDING THE LAW ON ELECTION OF MEMBERS OF PARLIAMENT

- INCREASING THE PARTICIPATION OF LESS REPRESENTED GENDER IN THE ELECTION LIST FROM 30% TO 40%

The Law provides for that instead of 30%, as provided for by the legislative solution now in force, 40% of the positions in the electoral list must be reserved for less represented gender. It has been specified that the electoral lists shall meet this obligation in such a manner that for every 10 candidates at least 4 candidates of the less represented gender will be included.

The Law proposer emphasized that the proposed amendment of the law would enable higher participation of women in political life.

LAW AMENDING THE LAW ON LOCAL ELECTIONS

- INCREASING THE PARTICIPATION OF LESS REPRESENTED GENDER IN THE ELECTION LIST FROM 30% TO 40%

The Law provides for that instead of 30%, as provided for by the legislative solution now in force, 40% of the positions in the electoral list must be reserved for less represented gender. It has been specified that the electoral lists shall meet this obligation in such a manner that for every 10 candidates at least 4 candidates of the less represented gender will be included.

The Law proposer emphasized that the proposed amendment of the law would enable higher participation of women in political life.

LAW AMENDING THE LAW ON LOCAL ELECTIONS

By the Law amending the Law on Local Elections submitted by 103 MPs from the parliamentary group Serbian Progressive Party, the amendments of the Law have been proposed which if adopted would mean that the local elections would have to be called no later than 45 days before the term of office of councillors whose term of office is about to terminate had expired.

In addition, by the amendments of the Law, the threshold for councillors in local assemblies would be restored to 3%, as it had been before the threshold was raised to 5% in 2007.

Moreover, the Law aims to establish the additional check on the status of the national minority parties that want to have this status recognised when making a proposal of the list for MPs election.

Calling local elections no later than 45 days before the term of office of councillors whose term of office is about to terminate had expired.

The valid legislative solution provides for that the councillors elections must be implemented no

later than 30 days until the end of the mandate of the councillors whose term of office is about to end. With the proposed amendments of the Law the deadline to hold elections is not linked with the date of the elections but with the final date when the elections must be called. Within that meaning, the proposed amendments of the Law provide for that local elections shall be called no later than 45 days before the end of the term of office of the councillors whose mandate is about to expire.

Enabling participation in the distribution of the mandate for the parties that win the minimum 3% of votes

This Law provides for that the electoral lists which win the minimum of 3% of votes of the total number of voters who voted, instead of 5% of votes which was requested by the current legislative solution, would be able to participate in the distribution of mandates. The threshold still does not refer to the national minority parties and their coalitions, which will participate in the distribution of mandates even if they would not win the minimum of 3% of votes.

Authority for the local electoral commission that, with the attached certificate from the National Minority Council, will be able to decide if the submitter of the electoral list would have the status of national minority political party.

Law amending the Law provides for that only such party for which the local electoral commission has established, in accordance with the international standards, that its main aim is to represent and uphold interests of the national minority and improvement of the rights of the members of the national minority, will be given the status of the national minority political party within the meaning of this Law. A special decision on whether the submitter of the electoral list will have a status of national minority party or national minority political parties' coalition will be adopted by the electoral commission, when the electoral list is proclaimed, on the basis of the certificate that the relevant National Minority Council will issue to the submitter of the electoral list. This decision is adopted on the proposal of the submitter of the electoral list that must be attached when the electoral list is submitted.

The status of the national minority political party and/or coalition of the national minority political parties is relevant since these political entities participate in the distribution of mandates even if they win less than 3% of the total number of votes from those who voted.

Thus, the key novelty is the authority of the electoral commission to adopt special decision when deciding if the submitter of the electoral list should have a status of the national minority political party or the national minority political parties within the meaning of the Law on Election of Members of Parliament and thus enable them to participate in the distribution of the mandates even if they win less than 3% of votes (natural threshold), regardless of the fact that those political parties are already registered in the Register of Political Parties of the Ministry of Public Administration and Local Self-Government as the minority political parties in accordance with the relevant provisions of the Law on Political Parties.

LAW AMENDING THE LAW ON THE ELECTION OF THE MEMBERS OF PARLIAMENT

Law amending the Law on Election of Members of Parliament, which was submitted by 103 MPs from Serbian Progressive Party parliamentary group, proposes the amendments of the Law, which if adopted would, for the first time since 1992 when the proportionate system for the election of members of the Parliament in Serbia had been introduced, lower the threshold from 5% to 3% votes of the total number of voters who had voted.

In addition, the Law aims to establish additional check of the status of the national minority parties that want to have this status recognised when submitting the lists for election of members of the Parliament.

Enabling parties that win the minimum 3% of votes to participate in the distribution of mandates.

This Law provides for that the electoral lists which win the minimum of 3% of votes of the total number of voters who voted, instead of 5% of votes which was requested by the current legislative solution, would be able to participate in the distribution of mandates. The threshold still does not refer to the national minority parties and their coalitions, which will participate in the distribution of mandates even if they would not win the minimum of 3% of votes.

Authority for the Republic Electoral Commission, that, with the attached certificate from the National Minority Council, will be able to decide if the submitter of the electoral list would have the status of national minority political party.

The amendments of the Law provide for that only such party for which the Republic Electoral Commission (REC) has established, in accordance with the international standards, that its main aim is to represent and uphold interests of the national minority and improvement of the rights of the members of the national minority, will be given the status of the national minority political party within the meaning of this Law. A special decision on whether the submitter of the electoral list will have a status of national minority party or national minority political parties' coalition will be adopted by REC, when the electoral list is proclaimed, on the basis of the certificate that the relevant National Minority Council will issue to the submitter of the electoral list. This decision is adopted on the proposal of the submitter of the electoral list that must be attached when the electoral list is submitted.

The status of the national minority political party and/or coalition of the national minority political parties is relevant since these political entities participate in the distribution of mandates even if they win less than 3% of the total number of votes from those who voted.

Thus, the key novelty is the authority of the Republic Electoral Commission to adopt special decision when deciding if the submitter of the electoral list should have a status of the national minority political party or the national minority political parties within the meaning of the Law on Election of Members of Parliament and thus enable them to participate in the distribution of the mandates even if they win less than 3% of votes (natural threshold), regardless of the fact that those political parties are already registered in the Register of Political Parties of the Ministry of Public Administration and Local Self-Government as the minority political parties in accordance with the relevant provisions of the Law on Political Parties.

LAW ON DETERMINING THE ORIGIN OF PROPERTY AND ON SPECIAL TAX

The Law on Determining the Origin of Property and on Special Tax (hereinafter referred to as: the Law) regulates the conditions, manner and procedure for determining the property and increase in the natural person's property, as well as a special tax on the increase in property for which a natural person cannot prove that he/she has acquired it in a lawful manner, as well as bodies competent for the implementation of the Law. The main reason for passing this law is the **cross-checking of citizens' property** when it is suspected that it was illegally acquired.

This is a special tax procedure, conducted by a **special organisational unit of the Tax Administration** (hereinafter: **the Tax Administration Unit**). The Tax Administration Unit will determine the property and the increase in the natural person's property, as well as a special tax on the increase in property, for which the natural person cannot prove that it was acquired legally. The head of this unit is appointed by the Government for five years, at the proposal of the Minister of Finance.

All state bodies and organisations, holders of public authority, natural and legal persons are obliged to provide at the request of this organisational unit **the information it requires and to provide their support**.

Furthermore, the Ministry of the Interior, the National Bank of Serbia, the Directorate for the Prevention of Money Laundering, the Anti-Corruption Agency, the Republic Geodetic Authority, the Business Registers Agency and the Central Registry of Deposits and Clearing of Securities are obliged to appoint a **liaison employee** for more efficient cooperation and submission of data to the Tax Administration Unit. If necessary, the liaison staff may, at the request of the Director of the Tax Administration, be temporarily transferred or assigned to work at the Tax Administration Unit. Temporary relocation or secondment takes up to a year, but can also be extended.

The law defines the meaning of the most important terms used therein which have been specifically defined for its purposes. The most significant terms are: property, reported income, increase in property and illicitly acquired property. **Property** includes *all immovable and movable property, whether registered or unregistered, as well as all other property rights, whether located in the Republic of Serbia or abroad*.

Reported income means income that is reported to the competent tax authority. The term increase in property implies a positive difference between the value of an individual's property at the end of an observed period, compared to the beginning of the same period. Certainly the most significant term is the concept of illegally acquired property, since such property also represents the tax base for the collection of a special tax. **Illegally acquired property** is defined as the difference between an increase in property and reported income for which a natural person has not proven that it was lawfully acquired.

The burden of proof establishing the increase in property in relation to the reported income of the natural person belongs to the **Tax Administration**. On the other hand, **the burden of proof that the property has been lawfully acquired belongs to a natural person**. This creates an obligation for the natural person as a taxpayer to provide to the Tax Administration evidence in what way they acquired property which, according to the Tax Administration records, has no coverage in their reported income.

The procedure for determining property and a special tax is initiated and conducted ex officio, and consists of two stages:

- preliminary proceedings phase
- controlling procedure and special tax establishing phase.

Preliminary proceedings are carried out according to annual guidelines passed on by the Director of the Tax Administration on the basis of the risk analysis. Annual guidelines are not publicly available.

Preliminary proceedings can be also initiated outside of the annual guidelines, **at the request of another body or at the initiative of a natural or a legal person.**

In the preliminary proceedings, the Tax Administration Unit determines the increase in property on the basis of the information at its disposal and the data it collects from other bodies and organisations, legal or natural persons and compares it with the reported income over a certain period.

The Tax Administration Unit determines the origin of the property by inspecting the data presented in tax returns and tax balance sheets, accounting reports, other records and databases, etc., and by comparing data from tax accounting and other official records.

The Tax Administration Unit **initiates the controlling procedure**, in a way determined by the law regulating tax procedures and tax administration, **if it makes probable in the preliminary proceedings that in a maximum of three consecutive calendar years in which the natural person has an increase in property, there is a difference between the increase in property and the reported income of the natural person exceeding 150,000 EUR** in dinar equivalent at the middle exchange rate of the National Bank of Serbia on the last day of the calendar year of the review period.

The natural person against whom the controlling procedure is conducted is entitled to participate in the controlling procedure and to submit evidence proving the lawfulness of the acquisition of property. After the procedure has been completed and the illegally acquired property has been identified, the Tax Administration Unit decides on the determination of the **special tax**. An appeal against this decision can be filed to the ministry responsible for finance (currently the Ministry of Finance), which delays the execution of the decision. The second instance decision of the Ministry is final in an administrative procedure and only an administrative dispute can be initiated against in before the Administrative Court. The law stipulates that the Law on Tax Procedure and Tax Administration shall be applied in the controlling procedure, except for the provisions on the statute of limitations for determining and collecting taxes. The very lack of provisions on statute of limitations creates legal uncertainty and is likely to be the subject of expert debate and constitutional review before the Constitutional Court. It should be noted that in the previous version of the Bill, it was stipulated that the increase in property would be controlled only for the previous 12 years, which was also criticised.

It is important to point out that the tax authorities, by applying the Law on Tax Procedure and Tax Administration, determine by cross method where legal income exists and no annual tax has been paid, while a special unit will apply the same method to determine illegally acquired property and tax it at a high rate.

The law prescribes a very high **tax rate of 75%** that taxes illicitly acquired property. Such a solution is very evocative of the "Law on Extra Profit" enacted in the early 2000s. Both laws actually introduce the legal possibility of legalising illegally acquired property, i.e. of introducing it into legal flows, at a high tax rate. In practice, this would mean that if a person under control cannot prove the lawfulness of an increase in their own property in the amount of 1,000,000 EUR, if they pay 750,000 EUR to the state, they can still retain the property of 250,000 EUR, even though they have not proven that such property was acquired in a legal manner.

Employees of the Tax Administration Unit and employees of the Ministry of Finance, who decide on appeals in the second instance, are required to attend the continuous training programmes prescribed by the Minister of Finance at the proposal of the Director of the Tax Administration. Moreover, judges of the Administrative Court, who adjudicate administrative disputes against final decisions

on special tax, must have completed the special training prescribed by the Judicial Academy, which issues to judges a certificate of completion of training at the end of a training programme.

Employees of the Tax Administration Unit are obliged to report their property to the Anti-Corruption Agency before taking up their duties. In addition, at the written request of the Director of the Tax Administration, stating the basis, purpose and scope of the control, security checks of the employees of the Tax Administration Unit may be carried out before they assume duties, during their office and a year after the termination of their office within Tax Administration Unit, without their knowledge. Security checks are carried out by the Ministry of the Interior and the Security Intelligence Agency.

LAW RATIFYING THE ANNEX NO. 3 OF THE ECONOMIC AND TECHNICAL COOPERATION AGREEMENT IN THE AREA OF INFRASTRUCTURE BETWEEN THE GOVERNMENT OF REPUBLIC OF SERBIA AND GOVERNMENT OF PEOPLE'S REPUBLIC OF CHINA

The Economic and Technical Cooperation Agreement in the area of Infrastructure between the Government of Republic of Serbia and Government of People's Republic of China was concluded on 20 August 2009 in Beijing and amended by the Annex 1 of 28 March 2013 and the Annex 2 of 1 July 2013.

The Law proposes the ratification of the Annex 3 concluded on 16 May 2017 in Beijing in accordance with the Government Conclusion No. 018-4179/2017-03, and the primary purpose of including the procurement of the locomotives and railway rolling stocks in the framework of the bilateral cooperation between two countries.

For this purpose, it had been defined that the cooperation in the framework of the Agreement would be carried out through technical assistance of experts in training the domestic experts for drawing up the development plans related to any type of transport; that the cooperation of contracting parties would be also carried out through procurement of the locomotives and railway rolling stocks (including the electro-motive trains) necessary for construction, operation and maintenance of the infrastructure projects, and that customs duties and VAT will not be charged for the import and/or buying of the locomotives and railway rolling stocks (including the electro-motive trains) in the territory of Serbia.