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SUMMARY OF FINDINGS AND RECOMMENDATIONS

REGARDING THE MONITORING OF PARLIAMENTARY ACTIVITIES DURING THE SEPTEMBER-DECEMBER 2023 PARLIAMENTARY SESSION

Over 2023, there was among civil society monitors, with hindsight, an overly hopeful expectation that the parliament, the most important institution in the hierarchy of the governance system in Albania, would manage to improve its performance, as 2023 marked the first full year after the opening of negotiations with the EU, a year when Albania increased its international footprint, taking advantage of its pen-holding membership of the UN Security Council, whilst hosting several important international summits, including the Berlin Summit. Unfortunately, qualitative data from the monitoring of the autumn parliamentary session (September-December 2023), point to the fact that this year, contrary to our expectations, is another lost chance for meaningful reforms that would lead the country to a return to the integrity of institutions and political maturity.

The Institute of Political Studies (ISP) continues to monitor the Assembly of Albania and the country's parliamentary activity since 2016. In the years 2016-2017 this initiative was supported by FES, the period 2017-2020 by the Embassy of the Kingdom of the Netherlands, the period 2021-2022 by the Embassy of Switzerland and from 2023 on it was continued with the contribution of ISP staff. However, during the last years the ISP has made specific engagements related to parliamentary monitoring, such as monitoring the implementation of decriminalization (supported by NED), monitoring the standards of the Code of Conduct and transparency (supported by the US Embassy), as well as monitoring the reporting and oversight process of independent institutions (supported by WFD/British Embassy). As part of its commitments, ISP publishes professional monitoring reports, which are available on the official website www.isp.com.al.

This report does not represent the product of a project, nor does it have a specific donor, so all findings and assessments are the responsibility of ISP and its staff of experts and monitors. Our monitoring purpose is mainly related to the need for information that can be fulfilled through our expertise created over the course of the years in terms of analyzing public information on the parliament and parliamentary activity in Albania. In our opinion, it makes little sense for civil society organizations to monitor various sectors of governance

and politics, whilst leaving the Assembly, the main institution in the political system, unmonitored.

This report analyzes the main indicators related to the current functioning of the parliament, the legislative output of the September-December 2023 parliamentary session, the constitutional functions of the parliament, and provides findings and recommendations on all of the above dimensions.

MAIN FINDINGS

As per the evaluation of the monitoring staff of the ISP, it resulted that during the parliamentary session of September - December 2023:

I. The outgoing parliamentary session, dominated by relentless political conflict and marred by numerous incidents, greatly weakened the authority and role of parliament in the Albanian political system. This situation was marked by a growing limitation of political freedoms of deputies and by the misuse of political representation functions to benefit of narrow and personal political agendas. About 50% of the parliamentary activity was merely formal, marked by a ruling majority that persevered in adopting legal acts in the absence of any debate. This overwhelming majority rule was countered by a weak opposition that resorted to attempts to obstruct physically and by non-parliamentary means the functioning of the Assembly. The plenary sessions set a historical record in terms of their short duration. For example, the 2024 state budget was voted in only 8 minutes and on average one law/decision was passed every 2 minutes of the plenary session.

II. The Assembly failed to advance any significant reform during the fall session. The acts it approved were adopted mainly in function of the daily agenda and geared to the priorities and needs of the Council of Ministers, which was the initiator of 100% of the approved laws. The initiatives of the deputies increased significantly, but the permanent committees did not engage in examining them, leaving them in oblivion for months. Several lawgiving MP initiatives were defeated in the plenary session, a discouraging signal for the deputies in relation to the exercise of their legislative rights. Not all legal initiatives proposed by MPs were subject to public consultation. In those cases where the process was carried out, only the legal initiative was published without including the updated law on which changes were proposed. The lack of the latter led to difficulties in understanding the proposed changes.

III. The most active deputies in terms of a positive contribution to the effective functioning of the parliament were Jorida Tabaku and Ina Zhupa (DP), Erion Brace and Klotilda Bushka (SP). In general, women MPs showed a higher parliamentary efficiency compared to their men counterparts. In total, 41 deputies did not hold any discussion and about 30 deputies did not give any real contribution in the committees or in the plenary sessions. In the Assembly, a minority of deputies continue to be overloaded with commitments, while the majority of deputies have formal activities.

IV. The Assembly did not make any progress in relation to the application of its constitutional function of oversight and control over the executive power. The use of the

constitutional mechanisms and of the mechanisms provided by the Regulation (interpellation, questions, motion with debate, request for information) was low. The parliamentary majority dismissed the minority's demands for the establishment of two investigative commissions on the grounds that the object and field of action do not respect constitutional standards and principles, while there was no attempt by the majority to propose alternative formulations and give the minority the opportunity to reformulate its request, as assessed by the Constitutional Court.

V. The Assembly did not fulfill its function related to the appointment of officials in public institutions, creating 23 vacancies, including the vacancy for the Ombudsman and the Commissioner against Discrimination, two important institutions in the protection of human rights. Non-compliance with deadlines by the bodies involved in the electing/appointing process negatively affected the stability and sustainability of the institution itself, despite the fact that the organic laws guarantee institutional continuity by leaving room for the member of the body to remain in office until replaced. Nonetheless, resignations or dismissals created an institutional vacuum. In some cases, the continuity in office of those officials whose mandates expired is only guaranteed for three months. Likewise, the Assembly failed to take a decision on the rotation of civil society and interest groups representatives in the important bodies of justice system, the High Judicial Council and the High Prosecution Council, - a critical sign that can also be read as a silent pact to extend the current mandates of officials whose mandate has ended.

VI. The Assembly has taken some steps towards the implementation of the standards for the prevention of conflict of interest in the activity of deputies. ISP addressed in the Assembly at least one documented case of conflict of interest, while several cases of "pre-ordered" laws were noted during the legislature. For example, in December, a leader of an independent institution publicly confirmed that the legal initiative to change a law in his favor and personal interest was written by him, although formally the initiative was presented to the Assembly in the name of two deputies of the majority.

VII. The Assembly did not demonstrate the political and institutional will to reflect into the law at least six decisions of the Constitutional Court (related to the provisions in the Code of Civil Procedure, with supplementary salaries and pensions, lawyers/road accidents, diaspora vote, temporary provisions during the pandemic, as well as the mandate of the former foreign minister).

VIII. Many legislative initiatives of the deputies, excluding those concerning the annual budget, were dominated by the need to cater to daily political needs and to fight political rivals, rather than by efforts to initiate reforms or to solve governance problems. Such were the initiatives to enact changes in the law on investigative commissions and the initiatives for changes in the Rules of the Assembly.

IX. During the last session, the Assembly decided to remove the parliamentary immunity of S.B, one of the 2-3 dominant political figures of Albania's 32-year political transition. Mr. Berisha is under investigation by SPAK. Although about a decade ago he was one of the initiators of the complete removal of parliamentary immunity in cases of corruption investigations, in his case he took the opposite approach. The request of SPAK and the subsequent decision of the court to end his freedom of movement abroad and seize his

travel documents constitutes a typical case of conflict between legal and constitutional provisions. S.B rejected the ruling of the justice bodies by making a self-interpretation of the Constitution, but a lawsuit in the Constitutional Court related to this case resulted in its rejection and in leaving the current practice in force.

X. Deputy A.A. continued to exercise his parliamentary functions, although since July he was wanted internationally on charges of corruption. The Assembly had no mechanisms to deal with such practices and in contrast to the standards of decriminalization and integrity, his political party refused to expel him from the parliamentary group.

XI. The parliament's legislative activity took place in about 120 meetings of the Assembly's committees, discussions on draft acts and hearings. The standing committees faced difficulties to function normally (due to the blockade imposed by the opposition in the committee rooms, the meetings were held online), to ensure the quorum of the meetings and to have effective results. **About 39 decisions of the Assembly were taken in full violation of the parliamentary procedures defined in the Regulation**, and about 32% of the meetings of the parliamentary committees were held online, through an unfounded legal decision taken by the Assembly, a decision which, as resulted from the investigation of ISP was taken after the "fait accompli", i.e. after the online meetings had started. Voting from MPs' cars became a trend in at least 12 cases, including the vote for the 2024 state budget.

XII. **The Assembly set a historical record with 63 disciplinary penalties against MPs, targeting 55% of the opposition MPs.** The penalties levied during the year 2023 mark a high tide compared to the 2005 legislature, which held the record until now. The actual adoption and enforcement of ethical and behavioral rules in the parliament is weak as evidenced by the lack of political will to ensure the implementation of established standards although the standards in place duly regulate ethical behaviour in the parliament in full harmony with international standards. The Assembly initiated unilateral changes to the Regulation and the Ethics Secretariat enforced collective disciplinary punishments, not based on verifications, facts and on a due process. The President of the Assembly, in some cases, imposed the disciplinary measure "Exclusion from the plenary session" against opposition MPs, but in none of these cases the measure taken was formalized with the concrete legal act as determined by the Assembly Regulations. The Secretariat for Procedures, Voting and Ethics, whilst taking disciplinary measures referred to the calculation of the duration of the disciplinary measures in calendar days, while the provisions of the Regulation, specifically article 65/2, point 4, define the calculation in working days. This has caused clashes between the majority and the opposition regarding the expiration of the 10-day deadline.

XIII. As per the provisions of the Parliamentary Regulation, the obligation of the Assembly and its bodies, to respect the rules of ethics in parliamentary communications, extends to the Speaker of the Assembly, the Prime Minister, members of the Council of Ministers, leaders/representatives of constitutional institutions or established by law as well as to other persons present in the Assembly, but the monitoring data shows **that the principle of equal treatment (among MPs of the entire political spectrum) has not been observed**. In many cases, the use of improper and unparliamentary language, insulting or threatening language by the Prime Minister, ministers or majority MPs has been proven, however, no disciplinary measures have been taken against them.



XIV. The Assembly has consciously ignored several important procedures and rules of parliamentary activity, **by approving decisions with an accelerated procedure or by violating legal deadlines in other initiatives, by delaying the documentation of legal acts and public consultation**, as well as by ignoring almost all practices of the review mechanism for the approval of laws in the session. In the parliamentary sessions held between October 30 - December 21, no counting of votes took place. This was replaced but a formal declaration, taking for granted that 100% votes were cast in favor of the majority.

XV. **ISP staff identified several cases when heads of parliamentary committees held individual consultations in their offices with leaders of institutions and interest groups**, without any protocol and without reporting them in the parliamentary documentation. Such practices create doubts about the integrity of decision-making in parliament and bear witness to negative effects that informal lobbying can bring.

PRIORITY RECOMMENDATIONS

In view of the above findings, the Institute of Political Studies presents the following recommendations aimed at improving the quality of parliamentary activity so as to guarantee the development of the standards of parliamentary ethics and behavior as the only way to increase public confidence in the Assembly of Albania:

1. The Assembly faces a vital need to restore its constitutional position and to return to normality, above all by respecting the constitutional provisions on its responsibilities and roles, its Regulations, its parliamentary procedures and the provisions in the Code of Conduct regarding ethics, conflict of interest and ethical parliamentary behavior. The return to normality means that there is a vital need to resume institutional dialogue between the main political groups and to return to a consensual decision-making regarding parliamentary calendar and agenda.
2. The Assembly must exercise its electoral functions in a timely and qualitative manner. It should put an end to the practice of condoning exceeded legal deadlines for the appointment of public officials, leading to the continuation of the expired mandates of the officials serving in the institutions that have to be appointed by the Assembly. The duration of these mandates is defined in the Constitution and in organic laws that have to be respected, not negotiated.
3. The crisis of recent years highlights the great need of the Assembly to reform its Regulation and its internal regulatory acts related to the identification of parliamentary groups, the right of deputies to change parliamentary groups and the establishment of coherent relations between ruling majority and minorities in the parliament. The legislature cannot be held hostage to an election result achieved on the basis of a coalition, allowing the identification of political parties in parliament at the beginning of each session.



4. The Assembly must respect and uphold the constitutional principle of investigative commissions. This requires a wholesome change in the parliamentary and procedural approach, concerning the approval in principle of the initiatives and the negotiation of the object and the technical work calendar of the investigation commissions. The majority must give up on its unrestrained arrogance and an on its a priori rejection of all initiatives to establish investigative commissions. On the other hand, the opposition must adopt a constructive approach in terms of establishing parliamentary investigative commissions that are actually related to the objectives of parliamentary control.
5. The Assembly needs to urgently reform its representative structure, the way the Conference of Speakers and the Bureau work, as well as the way the legal initiatives of deputies are handled, the obligations for interpellations and question sessions, as well as the representation in ad-hoc commissions, ensuring inclusiveness, transparency and accountability. The Plenary Session Service, as the service responsible in the Assembly for providing technical and legal assistance to the Speaker of the Assembly and deputies during the conduct of parliamentary work in the plenary session, should adopt a different approach, which should be more professional so as to deliver on its responsibilities during the parliamentary proceedings in the plenary session.
6. The Assembly must reform its structures, especially the Council for Legislation and the Secretariats for Procedures, Voting and Ethics. The first must guarantee the implementation of the decisions of the Constitutional Court and legal improvements in cases of disputes between laws, the second must guarantee a fair and reliable decision-making process in compliance with the principles of the Code of Conduct and Regulations. The Secretariat, as the responsible body of the Assembly that follows and supervises the procedural activity of the Assembly in the plenary session, can and should fully and transparently document the decision-making process in cases of ballot voting.
7. The Assembly should change and overcome the individual-based approach of the heads of the committees by documenting, formalizing and institutionalizing their consultations with interest groups and independent institutions, as well as by documenting the content of these meetings in the parliamentary archive.
8. The Assembly must significantly reform the mechanisms of parliamentary reporting to independent institutions, playing a real supervisory role, by monitoring the implementation of the law, as well as avoiding the manifestations of conflict of interest, preferential treatment or partisan reading of the products of the institutions under reporting. The Assembly has the right and obligation to submit proposals for constitutional and/or law-created bodies to parliamentary debate. The discussions serve as an instrument for the public to know more about the proposed candidacies and evaluate their election or not in the institution where they compete.
9. The need for unification of legislation norms for the purpose of avoiding future conflicts between constitutional and legal provisions is one of the important recommendations addressed to the Assembly. Practices such as the interpretation



of the constitutional principle of immunity and rights of the deputy, must be analyzed and addressed institutionally to avoid disputes and possible crises.

10. The Assembly must make available sufficient information to enable citizens to judge the integrity and honesty of individual MPs. The Assembly can and should create a transparent system of declaration, verification and publication of the Register of Conflict of Interest, the Register of Gifts, and other elements of the Code of Conduct, in accordance with the Detailed Guide of Conduct in the Assembly (approved by decision of the Bureau of the Assembly) in order to raise standards of integrity and reliability.
11. The Assembly should establish a working group in charge of keeping track and following up with the implementation and resolution of local issues raised by the deputies, and should support a practice that obliges the Minister of State or the Deputy Prime Minister to periodically report to the Assembly on all the local issues raised by the deputies. This would make the parliament more functional, the debate more productive and the position of the deputy closer to the citizens of the area he or she represents.
12. The Assembly should adopt an organic law concerning the institution of the President of the Republic, to concretize the powers defined by the Constitution, to regulate the way of cooperation between the President and the Assembly, without excluding the President's relations with other constitutional and state bodies. In this framework, the Assembly has the right and the obligation to submit the decrees of the President of the Republic for the appointment and dismissal of ministers to the parliamentary debate.
13. As per the normative framework in place, the Bureau of the Assembly is obliged to draft and publish an annual report regarding the cases of violation of the Code of Conduct as well as the disciplinary measures taken against the MPs for these violations. Despite this, this legal provision has not been implemented. Transparency in the implementation procedures of the Code of Conduct is an indicator of the effectiveness of the Code as it shows in detail the violation of the parliamentarians and the sanctions applied. This transparency increases public trust in parliament and promotes a culture of accountability.
14. The Assembly must establish standards of integrity and transparency in the drafting of the parliamentary calendar, the agenda, and the observance of deadlines, avoiding "last minute" changes in the agenda, formal procedures and the a priori imposition of the opinion of the executive power. The work calendar of the Assembly, regarding the forecasting of the issues in the plenary sessions, should be drawn up keeping in mind the 7-day deadline provided for the reports of the commissions for the review of draft laws. The review of legal initiatives according to the terms and rules provided in the Regulations and internal acts of the Assembly helps in the quality of the legislation.
15. The parliamentary officials in charge of leading plenary sessions can and should exercise their competence in issuing disciplinary measures in cases where the



deputy votes on behalf of another colleague who is not present in the hall. The implementation of the legal definition for a preliminary verification of the voting cards by the leader of the plenary session avoids the possibility of voting for third parties, guarantees the legitimacy of the decision-making of the Assembly and presents a complete and real overview of the decision-making process on the ballots. The responsible bodies of the Assembly must apply the same disciplinary measures for the same cases, regardless of the political affiliation and the position of the deputy in the Assembly (prime minister, minister), always prioritizing ethics and principles of conduct, as well as the public interest and the values of parliamentarism.

16. The Assembly should enable for greater access to civil society and the media, especially regarding the recommendations and reports that come from them, to ensure a more proactive approach and to get maximum benefit from their findings, criticisms, suggestions and concrete recommendations. Civil society has no obligation to provide such recommendations, but the Assembly has a vital need for internal self-evaluation, and in its absence, the contributions from civil society are an additional investment for the Assembly and the deputies, and as such this investment deserves attention, evaluation and constructive reaction.

The full report in Albanian can be find at: <https://isp.com.al/parlamenti-qe-sduam-bilanci-parlamentar-2023-gjetje-dhe-rekomandime/>

