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Parliamentary Boycotts in the Western Balkans

Western Balkans
Democracy Initiative



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Introduction

Parliamentary boycotts have become an increasingly common occurrence in parliamentary life in the Western Balkans. The practice of official or unofficial boycotts of the work of the main legislative institution, the key representative institution for citizens, has become a norm in political life in Western Balkan countries.

In recent years, or even decades in some cases, parliamentary boycotts of some sort and with limited or extended duration have taken place in Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Kosovo and Serbia. These have ranged from boycotting a single vote to boycotting parliament as a representative institution altogether for an extended period of time. They have contributed to political and electoral crises in Western Balkan countries. Often the decision to boycott parliament seems to have reflected an opposition view that it is being sidelined and it has limited or no influence on decision-making and lawmaking, or minimal opportunities for parliamentary oversight.

In situations when parliaments have been boycotted there has been a deterioration of the main parliamentary functions, mainly oversight and representation. Legislative practices in Western Balkans countries when there have been no opposition parties present have enabled MPs to negatively influence regulatory environments and change the processes through which parliaments function (mainly through changes in parliamentary rules of procedure). Boycotts have contributed to negative tendencies in the relations between independent institutions and parliaments. Citizens' interests have not been represented and boycotts have contributed to extended electoral and political crises.

In order to better understand the phenomenon and its potential implications for governance support projects for parliaments in the Western Balkans, the Westminster Foundation for Democracy (WFD) commissioned this research study on the causes and effects of parliamentary boycotts. The objectives of this research study were:

- To better understand the causes of parliamentary boycotts, especially the political context in which they have taken place and are taking place.
- To better understand the effects of parliamentary boycotts on political practice and culture.
- To understand the effects parliamentary boycotts have had on legal and regulatory frameworks in Western Balkans countries and the operational environment in which parliaments function.
- To understand the effect parliamentary boycotts have had on the relationship between parliaments and independent institutions (for example: state audit offices, fiscal councils, ombudsman's offices).
- To understand the effect parliamentary boycotts have had on the representation of citizens in parliament.

For the purpose of this research study a parliamentary boycott was defined as any of the following:

- Political parties or MPs choose to abstain from voting on specific issues to make a political statement.
- Political parties or MPs choose to abstain from participating in committee or plenary sessions but continue to perform some types of parliamentary function (representation).
- Political parties or MPs participate in plenary or committee sessions only on specific issues and, although parliament is formally functional, the limited frequency of work creates a *de facto* boycott.
- Political parties or MPs choose to abstain from entering parliament at all for any amount of time to make a political statement.
- Political parties or MPs announce certain political, electoral and/or legal preconditions which must be met before participating fully in parliamentary life.

In conducting the research, this study sought to answer questions on the *causes of boycotts*:

- In which political circumstances have boycotts occurred in the country?
- What were the primary motives for opposition politicians/parties/MPs to engage in some form of boycott of parliament in the country?
- Which actions from governing parties tended to have triggered opposition boycotts?
- Which political practices did boycotting parties/MPs attempt to address with boycotts?
- How frequently and on how many occasions have there been various forms of boycott in the country?
- How has the phenomenon developed over time? Has there been a radicalisation or escalation of forms and durations of boycotts?
- Which power dynamics do opposition parties object to in order to justify a boycott?

The study also sought to analyse what were *the effects of boycotts*:

- What direct or indirect effects of the boycotts can be seen on:
- Regulatory and legal environments (have laws been passed through emergency procedures and how many over which period of time).
- Operating environments in parliaments (have rules of procedure of parliaments changed and has there been a significant change in parliamentary practices which has reduced opportunities for opposition parties upon their return to parliament).
- Have there been changes in election legislation as a result of boycotts and if so what type of changes?
- How have ruling parties responded to boycotts in the country? What kinds of laws have been passed in the absence of the opposition?
- What kinds of changes to the institutional setting have been implemented in the absence of the opposition (changes in judicial institutions, prosecutors, executive branch institutions, independent institutions or media regulatory frameworks)?
- How have opposition boycotts of parliament affected public perceptions of politics and of political parties?
- What has been the perception and does boycotting parliament generally create a perception of opposition parties being stronger or weaker?
- How effective has boycotting parliament been as a political instrument if measured by changes in government following a boycott?
- How effective has boycotting parliament been as a way to draw attention to certain issues?
- Which visible gains have been made in legal, electoral and political terms as a result of boycotts of parliament?

We hope that the study will contribute towards a wider discussion on parliamentary reform in the Western Balkans and an improved understanding of the causes and effects of parliamentary boycotts.

This regional study is a compilation of country-based studies on Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia. The Westminster Foundation for Democracy would like to thank the following for working on the completion of the country studies and the regional study: Afrim Krasniqi from the Institute for Political Studies from Albania; Damir Dajanovic, Researcher from Zasto NE in Bosnia and Herzegovina; Artan Murati from the Kosovo Democratic Institute; Milica Kovacevic from the Centre for Democratic Transition in Montenegro; Darko Aleksov, Rosana Aleksoska, Zlatko Dimitrioski, Lidija Daniloska-Jurukoska and Aleksandra Jurukoska from Citizens Association MOST from North Macedonia; and Vujo Ilic, Tamara Brankovic, Tara Tepavac from CRTA Serbia.

The Westminster Foundation for Democracy is the UK public body dedicated to supporting democracy around the world. In August 2018 the WFD launched a new three-year regional initiative for the Western Balkans entitled “Western Balkans Democracy Initiative”. The initiative is funded by the British government’s Conflict, Stability and Security Fund.

Emil Atanasovski
Director Western Balkans
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Executive Summary of discussions and conclusions from the discussion

The diverse ethnic, political and legal environments in the Western Balkans mean that when analysing parliamentary boycotts it is necessary to take into account the different contexts in different countries.

Causes for parliamentary boycotts in the Western Balkans have ranged from:

- Ethnic
- Pre/post elections purposes
- Lack of visibility of opposition parties
- Need to generate communication on specific issues
- Coalition-building between various political parties
- The nature of Western Balkan parliaments – legislative in nature with no developed oversight practices have contributed to ideas to opt for boycotts.

Effects from parliamentary boycotts have contributed to:

- Negative perceptions of the work of parliaments.
- Boycotts are not “value for money”.
- Parliamentary boycotts do create political capital but there were views that this capital has been short-lived.
- Investments in boycotts have contributed towards short-term electoral and political dividends with long-term institutional and regulatory repercussions.
- There is evidence that political parties in parliament were in a worse regulatory and operating environment when they returned from boycotts with the exception of the regulatory framework for elections in some cases.
- Boycotts have contributed to a fundamental change in political culture:
 - De-institutionalisation
 - Parliaments seen as less central to political dialogue. Closed proportional election systems have shifted political capital to political parties.
 - De-legitimisation
 - Parliament seen as less central to decision-making
 - There has been an increase ↑ of passing laws using urgent procedures and a decrease ↓ of oversight and main representation functions.

Boycotts have contributed to establishing a practice of setting up “technical” governments to lead the preparation and conduct of “credible” of elections.

There are wide-ranging views from MPs and researchers who discussed these findings at a regional roundtable that Western Balkan parliaments are legislative in nature with representatives elected by proportional electoral systems with less direct accountability to constituents and more accountability to political parties. This creates fertile ground for more boycotts in the future. The reasons for this are that representative and oversight functions are underdeveloped and create incentives for potential future boycotts.

Parliamentary Boycotts
in the Western Balkans

Case Study: Albania

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EXECUTIVE SUMMARY

Albania stands out amongst former Eastern Bloc countries for most actively experimenting with almost all forms of parliamentary boycott. The Albanian way of resorting to boycotting is related to a host of widely unaddressed deficiencies and gaps in its democratic mindset, embodied in an endemic culture of permanent political confrontation between elites formed during the communist era, in the widespread application of a “winner take all” model, in the personalisation of politics, and in the incapacity of the constitutional bodies to forestall hostile takeovers of the state system.

The intensive use of boycotting as the ultimate instrument to resort to for pursuing political goals through extreme means has significantly weakened the role of parliament in the Albanian national political system. The boycotted parliamentary sessions have produced fewer laws; they have been able to do precious little to exercise parliamentary controls over the executive, and as a consequence the impact of parliament on designing and effecting reforms has come to suffer. Frequent boycotts have stimulated the unchallenged application of shortened and simplified parliamentary procedures for passing bills, unilateral changes in the Rules of Procedure of the assembly, and unilateral changes in the independent and constitutional institutions, undertaken by the ruling majority, left “alone at home” in parliament.

Parliamentary boycotting has not been able to bring any regime change or, for what it is worth, any significant changes in the government; as a rule, boycotts have not been able to push forward any sweeping reform. Boycotts have been usually followed by international mediation resulting in short-term solutions that have not been able to avert the periodical repetition of political crises. Boycotts in Albania have traditionally resulted in repeatedly missed deadlines for reforms and for integration into the EU.

Albania’s last six parliamentary legislatures have been marred by parliamentary boycotts and challenges to the legitimacy of parliament by parties on the losing side in elections. Over 80 per cent of the boycotts came as a result of unresolved arguments about electoral rules and electoral results; the rest of the boycotts were caused by the need of the opposition parties to promote their political initiatives, by political incidents or by the arrogant behaviour by ruling majorities.

All second government mandates of ruling majorities have been marred by parliamentary boycotts staged by opposition parties. On rare occasions, boycotts have been used from within ruling majorities. Usually, boycotts have been staged in conjunction with political protests, public rallies and social tensions. The combination of these factors has negatively influenced Albania’s social and economic progress and its political stability. The parties resorting to boycotts have usually failed to garner popular support, and they periodically paid the price for this in the earliest local or parliamentary elections.

Several Albanian political leaders have resorted to boycotting to strengthen their personal grip on power, by imposing vertical power management structures within their parties, which have suffered from an increasing level of personalisation in their decision-making. Boycotts have damaged internal democracy in political parties, since during boycotts extremist political militants tend to dominate the liberal groupings inside parties. This domination tends to extend also into the structure of representation of extremists vs. liberals in the parliamentary elections following a boycott. In Albania, a parliamentary boycott is to be considered more of an instrument to promote instability and a threat to democracy, rather than a measure of last resort to uphold the democratic system.

A thorough study of parliamentary boycotting reveals Albania’s need for a greater and more sustained investment in political dialogue, in the promotion of constructive and institutional behaviour by its political actors, and in the strengthening of political institutions for the purpose of curtailing the unrestricted and unchallenged power of leaders over their parties and over their fundamental policy decisions. Albania urgently needs to win back its citizens, its parliament, its institutions and its political parties for the purpose of building up truly democratic institutions based on fair competition, accountability and transparency.

1. INTRODUCTION

Albania stands out amongst the countries of the former Eastern Bloc in the period 1991 to 2019 for most actively experimenting with almost all forms of boycotting: as of 2019, its mainstream parties have gained a rich experience with boycotting parliamentary institutions, by refusing to take their seats in the parliament after elections, boycotting parliamentary sessions for protracted periods of time, waiving collectively parliamentary mandates, boycotting parliamentary commissions, boycotting the appointments to constitutional bodies by parliament, boycotting specific parliamentary debates or parliamentary initiatives, internal boycotting of their own parliamentary groups in the assembly and boycotting their own coalitions, just to mention a few examples.

The constitution of Albania places parliament at the centre of the country's legislative and policymaking edifice. Kuvendi (Albania's parliament) is, in formal and legal terms, fully in charge for lawmaking, performing constitutionality checks, monitoring the government and the independent institutions and for guaranteeing the overall functioning of representative democracy. The functioning of parliament is directly connected to the quality of the rule of law and of democracy in Albania.

The Albanian way of promptly resorting to parliamentary boycotting is closely related to an endemic culture of permanent political confrontation, tainted by killings of top politicians, detention of high-profile political opponents, contestation of electoral rules, abuse of administrative resources during elections, unilateral political decision-making on issues of national interest, and open disagreement on national priorities.

Albania has a fragile tradition of functional democracy. Its present political elite came of age during the last phase of Communist indoctrination; the establishment of the multi-party system was dominated by a handful of names, who still control things today; the theoretical reliance on strong democratic institutions was superseded in practice by the reliance on strong leaders able to wield wide-ranging control over institutions.

The intensive use of boycotting as the weapon of choice in Albania's political scene has produced a long list of constitutional reviews. There are by now several Constitutional Court decisions in relation to parliamentary boycotts. In one of its reviews, the Constitutional Court of Albania discusses the difference between boycott as part of the regular political competition and boycott as a form of bypassing constitutional institutions (parliament). The court maintains that "the first case is related to political activities and normal party politics", whilst "the boycott of Parliament for whatever reason is an anti-constitutional action, unacceptable to the rule of law. From the moment elections are certified, and parliament is constituted, the participation of MPs in the normal functioning of parliament is obligatory in the constitutional sense, for the purpose of forming what is considered as "the collective mandate of parliament" and "the political will of the voters."¹

1 Constitutional Court of the Republic of Albania: Decision No. 25 dated 08.05.2012 (V-25/12).

1.1. Circumstances and Motives behind the Current Boycott of Parliament

Taking into due account the high rate of the application of boycotting in Albanian politics, we conclude that in general, specific occurrences of this phenomenon fall into one of four large categories:

- a. Boycotts coming as a result of contested electoral processes, contested electoral legislation, and the contested legitimacy of electoral results. This category accounts for the most of the cases of boycotting experienced by Albania to date, especially in relation to the occurrence of protracted boycott situations. Election-related arguments are frequently cited to argue in favour of boycotting parliament before, during and after the electoral processes.
- b. Boycotts coming as a direct result of the need of opposition parties to address issues left off the parliamentary agenda because of the refusal of the ruling majority to take them on board. This category includes cases of boycotting on account of the failed inclusion in the parliamentary agenda of high-profile issues such as decriminalisation of politics, vetting of politicians, freedom of the media, media censorship or similar.
- c. Boycotts resulting from grave incidents occurring in or outside parliament, such as the case of the murder of the top opposition politician Azem Hajdari, the physical violence against an MP in 2014, the arrest of the opposition leader in 1993, the shooting of an MP in 1997, and so on;
- d. Boycotts resulting from the need of the opposition parties to find inroads to push against the majority so as to weaken its grip on power and to block its most important political decisions. The following boycotting actions fall under this category: the boycott related to the adoption of the constitution of Albania in 1994, the boycott of the legal initiative on human rights in 1993, the boycotts related to the political crisis of 1996-1997, the boycott related to the refusal to adopt the so-called EU integration package in 2011-2013, those related to the controversy about parliamentary immunities in 2012, the constitutional changes of 2008, and related to the pressure to establish a technical government in 2017.

Each of the above categories accounts for several occurrences of parliamentary boycotting.

Albania's political shortcomings in terms of a widely missing culture of dialogue and an entrenched understanding of politics in terms of relations of permanent conflict inside parliament have greatly exacerbated the situation, by often pushing party leaders to take extreme decisions, including long-term parliamentary boycotts, or boycotts of the elections.

The last boycott consisted of the voluntary handover of their parliamentary mandates by most opposition MPs in early 2019.

2.

A BRIEF BACKGROUND ON THE HISTORY OF PARLIAMENTARY BOYCOTTS IN ALBANIA FROM 1991 TO 2019

Several partial boycotts took place in the parliamentary session of 1992-1996. The left-wing opposition boycotted parliament to block majority-sponsored changes to the law on public administration.

Later on, the opposition boycotted a parliamentary hearing with the head of the secret services, and later boycotted plenary sessions so as to stop the adoption of further legislation proposed by the ruling majority. In 1993 the most famous boycott of parliament was related to the endeavours of the ruling majority to impose upon the opposition the establishment of a parliamentary commission supposedly to work on drafting a new constitution.

At that point, parliamentary boycotting became the weapon of choice for protesting against the detention of the opposition leader in the same year. Boycotting returned in 1995 in relation to the efforts of the opposition to stop legislation containing measures against the former leaders of the Labour Party and against those collaborating with the Communist Secret Service. Boycotting was also extensively used to counter efforts to pass electoral legislation against the will of the opposition.

The 1996-1997 legislature saw another surge of opposition-led boycotts. In the next legislature of 1997-2001, the opposition boycotted parliament twice for longer periods of time: the first boycott lasted from July to September 1997, coinciding with the election of the president of the republic, the constitution of the new government and with changes applied on some constitutional institutions.

The second wave of boycotts came in the period September 1998-July 1999 as a result of the high profile arrests of DP politicians, and was interrupted owing to the situation in Kosovo.

The opposition engaged once again in prolonged boycotts in the 2001-2005 legislature stretching from September 2001 to January 2002. This time the protests addressed purely electoral issues. A host of shorter boycotts took place in January 2004, in relation to the motions made against the prime ministers. Over this year, eight short-term boycotts took place, some of which coinciding with protest actions of the DP-led opposition.²

Of these parliamentary boycotts, some managed to claim a permanent place in Albania's political memory, because of their political significance and prolonged duration. These are briefly described in the below section:

2.1. The Parliamentary Boycott of 1996

The boycott of the 1996 parliamentary elections took place at the very end of the counting of the ballots; the ensuing refusal of the opposition to enter parliament marks the first case of the massive application of such an extreme political action in Albania to its final consequence.

The 1996 parliamentary elections marked a crucial moment for the right-wing ruling majority, which first came to power in 1992 on the collapse of the communist regime. The polls pointed to a slight advantage of the right wing in power. The

² Krasniqi, Afrim (2007). *Political Parties in Albania, 1912-2006*, ISP, Tirana.

main goal of the right-wing ruling majority was not to just win the elections by a narrow margin, but to obtain a solid majority able to control over three fifths of the parliamentary seats needed for the re-election of the president of the republic due in 1997.

On the other side, the primary goal of the left-wing opposition was to eventually prevent the ruling majority from obtaining a second government mandate, and to most certainly block a renewal of its second right-wing-controlled presidential term. These political objectives defined the salient developments of 1995-1996, of which the most important one was the adoption of a law barring politicians accused of cooperating with the security services of the former communist regime from running in elections, and other pieces of legislation targeting a large number of the candidates of the left-wing opposition, which was the heir of Albania's labour party.

The 1996 elections were the first elections to be held in Albania that saw an opposition leader running his party from a prison cell as he was detained on the grounds of questionable corruption charges pressed by the DP majority. On 26 May 1996, as the last hours of the voting were coming to a close, the opposition claimed it possessed sufficient proof of massive vote rigging and manipulation of election results.

On these grounds it announced the withdrawal of all of its commissioners and candidates from the rest of the electoral process. Following from the withdrawal of the SP commissioners 70 per cent of electoral bodies were left with only representatives of the ruling majority, which led to a situation of total insecurity in relation to the final counting of votes. The ruling majority declared its absolute victory, leaving the opposition with only 10 mandates. The US and the EU called for a partial repetition of elections in 40 electoral areas, yet the ruling majority accepted only a part of this request, with the opposition declining to participate in elections. The opposition's decision to withdraw from elections led to the total contestation of the electoral results. The situation escalated very quickly. On 28 May the boycotting party announced its intention to stage protests in the streets. There were incidents of unrest and violent confrontations. The opposition MPs started a hunger strike. Out of the 10 MPs of the opposition, only one accepted his mandate.

The opposition soon became entangled in a sharp political conflict inside its own ranks. It decided to participate in the local elections held in October 1996, which it also lost by a wide margin. At the beginning of 1997, Albania was hit by the collapse of fraudulent pyramid schemes, which led to violent confrontations between angry mobs and state authorities in several areas across the country. The opposition joined the protesters, and by the end of February the situation had spiralled out of control.

Facing total destabilisation, in March 1997 the government and the opposition, with the intermediation of the OSCE, struck a deal to hold new parliamentary elections, to establish a joint temporary government and to reassert the authority of the state throughout the country.

Further to signing up to this deal, the SP parliamentary group consisting of nine MPs finally entered parliament, whilst the prime minister of the temporary government was nominated by the left-wing opposition. The crisis of 1997 questioned the very existence of the state in Albania and unleashed the powers of civil conflict on the country, accounting for the most dramatic turn of events in post-communist Albania.

The solution came through a forced electoral process, the resignation of the right-wing president and by the return of the left wing to power – at the end of the day the left-wing opposition took full control of the government, parliament and the presidency.

2.2. The Parliamentary Boycott of 1997-1998 and the Constitutional Referendum

The parliamentary elections of June 1997 took place amidst exceptional circumstances, marked by armed conflict, an armed population, and widespread lack of state control over the territory, which was at the hand of armed groups mostly hostile to the outgoing right-wing government. The international community went to great lengths to create the basis for mutual understanding between the opposing parties, asking them to behave as political opponents rather than as deadly enemies.

The parties were induced to agree on a set of basic propositions, including the recognition of the legitimacy of the upcoming elections, and the acceptance of their result. The opposition was entitled to appoint the head of the High State Audit and the chairs of several parliamentary committees. The agreement was negotiated by the chairs of the Catholic Saint Egidio Community in Rome. It was signed on 23 September 1997, six days before national elections took place. The elections were won by a landslide by the Socialist opposition.

In September 1998, the new left-wing government embarked upon a campaign aimed at the detention of opposition leaders considered responsible for the outbreak of unrest one year earlier. The arrests exacerbated the political climate, which quickly escalated after the murder of an important leader of the opposition on 12 September 1998. The murder was executed by individuals holding high positions in the Albanian State Police, so the DP-led opposition held the government directly responsible for it. The funeral ceremony of the murdered politician soon escalated into a violent riot marked by the use of firearms leading to several dead and wounded from both camps. The prime minister and most of the government ministers abandoned their offices.

The opposition was forced to back down from taking physical control of key state institutions by the strong intervention of the international community, which managed to strike another deal to pacify the two political camps – the resignation of the prime minister and of his government was traded against the withdrawal of the opposition.

Nonetheless, despite agreeing to retreat from the institutions, opposition decided to boycott the parliament. The boycott lasted until 21 December 1998. Whilst the boycott was ongoing, the opposition staged regular protests in the streets of the capital, even though the reduced number of the protesters was meant to show symbolic, rather than massive resistance. In order to show strength through numbers, the opposition staged a hunger strike with Tirana university students. In the meantime, emerging developments in Kosovo, marked by the first public appearance of the Kosovo Liberation Army, and the launch of Serbia's military operations in its breakaway southern province started to influence politics in Tirana.

In view of the new situation, the Socialist Prime Minister Pandeli Majko agreed to meet the Opposition Leader Sali Berisha. The meeting, held on 21 December 2018, brought a political agreement that ended the students' hunger strike. The government agreed to launch an international investigation into the above-mentioned murder. The government and the opposition agreed to hold a unified front in relation to the Kosovo issue.

In October 1998 Albania held a national referendum on a new draft of the country's constitution. The opposition was not involved in the process. The new constitution had strong international backing. The main foreign diplomats present in Tirana were actively involved in a campaign aimed to convince the Albanian citizens to vote in favour of the draft. The DP-led opposition, unable to block it through the popular vote and interested to continue its conflict with the international community, declared its intention not to recognise the result of the referendum. Whilst it sent commissioners to administer the process, it did not take part in the voting. The constitutional referendum of 1998 represents the first

time when one of Albania's main parties boycotted a voting process. The boycott shifted the attention of public opinion from the content of the constitutional amendments to the validity of the referendum.³

2.3. The 2009 Boycott over Opening the Ballot Boxes and the 2011 Boycott over Closing the Ballot Boxes

The 2009 parliamentary elections and the 2011 local government elections were marked by numerous complaints, leading to a boycott of parliament by the SP-led opposition. In both cases, the SP claimed that the elections were rigged, and asked for investigations into the alleged electoral crime and for the repetition of the elections. In 2009, the opposition asked for the ballot boxes to be opened, whilst in 2011 it asked for the ballot boxes that were opened at the request of the ruling majority, to be closed so that no recount could be made.

On the opposite side, in 2009 the ruling majority rejected the request to open the ballot boxes so as to identify and address possible irregularities, whilst in 2011 the ruling majority was able to win the elections in Tirana after opening the ballot boxes and recounting the votes erroneously cast in them.

In 2009, the SP-led opposition declared its boycott of parliament until its demands for an investigation into the possible manipulation of the elections had been met through: the establishment of an investigative committee tasked to open ballot boxes in three regions, the cancellation of the decision to fire certain public officials after the elections, and the full disclosure of the reasons behind the murder of one of its MPs. The SP-led boycott took place amidst periodic protests staged in Tirana and in other cities, some of which were marred by violent incidents, street blockades and other "traditional" forms of conducting political protests in Albania.

The boycott of parliament by the Socialists lasted for six full months. It ended in March 2000, once it was clear that the mandates of 64 SP MPs would finally expire should they decide not to enter parliament. The boycott of 2009 was politically ineffective. It did not lead to more popular support for the SP. It took lots of energy to organise protests and rallies in front of parliament, yet all the efforts seemed to fail to produce any direct results. In the long run however, the boycotting action definitely weakened the real power of the ruling majority to implement reforms and to raise standards of governance.

Further to the end of the boycott, the ruling majority did not reflect upon the demands made by the opposition. As a result of this, one month after its return to parliament, the opposition walked out again, this time in protest against the tariff Albanian citizens would have to pay so as to be provided with an ID card. The protests over this issue escalated into a hunger strike staged in May 2010, just a few meters away from the office of Prime Minister Berisha. The hunger strike saw the participation of 203 political activists, including 23 MPs from the Socialist Party. A meeting between the SP leader Edi Rama and DP leader Sali Berisha took place in Strasbourg, France, mediated by the European People's Party (EPP) and Party of European Socialists (PES). It failed to produce any results. After three weeks of resistance, the international community, mostly led by representatives of EU political parties, was able to have the SP terminate the hunger strike and return to parliament.

Regardless of the two subsequent failures to get a result out of boycotting, it continued to be featured at the top of the possible actions the opposition had in store in its quest for a political impact. In July 2010 the opposition announced that it would continue to make its relations with parliament conditional on its demands being met in relation to the 2009 elections. This approach amounted to a partial boycott of parliament, as the opposition made it clear it would vote on no law until its demands were met.

³ OSCE/ODIHR. The Republic of Albania Referendum on the Constitution 22 November 1998, 1 February 1999.

The 2010 parliamentary session was marked by a major success of the ruling majority in relation to the liberalisation of the visa regime in the Schengen area. The visa liberalisation came after one year of delay because of the political crisis.

In January 2011 the SP-led opposition held a massive rally in Tirana in an attempt to radicalise its political position to the point of ousting the DP-SMI ruling coalition from power. The focus of the protest was a high-level political scandal, involving the leader of the Socialist Movement for Integration (SMI) Ilir Meta, who was also the deputy prime minister of Albania, in a corruption affair. Meta resigned.

The ensuing protest was set up so as to trigger violent incidents with the police. This caused a disproportionate reaction from both sides, culminating in the killing of four protesters by the security forces. Under other circumstances, the killing of protesters would bear a high political cost for the government; but in view of the destructive behaviour of the opposition, the international community refused to side with it.

The four killings and the tense political climate informed the decision of the opposition to boycott parliament once again. On 10 February 2011 the opposition announced the boycott, whilst on 18 February it resumed its street protests, demanding early elections and measures against corruption.

The political crisis happened to coincide with the local government elections scheduled for 8 May 2011. The opposition decided to participate in the elections, where the main race was the one for the Tirana mayor. The leader of the opposition, Socialist Edi Rama, ran for his fourth consecutive mandate against the rising star of the ruling majority Minister of Interior, Lulzim Basha. The Central Elections Commission (CEC) first announced that Rama won by a margin of just 10 votes. Yet the government decided to appeal the result and demanded the counting of the votes cast in the wrong boxes during the voting. Further to the opening of these boxes, the full recount gave the victory to the government-backed candidate by a margin of less than 100 votes. The opposition reacted by holding a series of mass protests in front of the CEC office in Tirana and in several cities across Albania.

The protests and the boycott of parliament following the local elections of 2011 did not last long owing to international pressure, which forced the SP to enter parliament whilst continuing to organise rallies outside of it. Nonetheless the SP announced that its activities in parliament would be limited – the opposition boycotted the parliamentary committees and the plenary sessions until the Electoral College had issued a final verdict on its appeals.

2.4. The 2017 Parliamentary Boycott

In September 2017, only four months before the date of the next parliamentary elections, the DP-led right-wing opposition (ousted from power by the Socialists in 2013) announced its decision to boycott parliament. It was the first time that a full-scale parliamentary boycott was announced on the eve of parliamentary elections. The DP announced its decision after staging a large protest against corruption and governance problems in Tirana.

It maintained that elections could not possibly be held in the absence of a technical government which would act as a buffer to interference by the SP in the electoral process. The DP followed up with acts by planting a large tent in front of the Prime Minister's Office in the Tirana main boulevard. The tent hosted the DP supporters for a permanent protest that lasted for 90 consecutive days.

The situation became tenser once the opposition announced an intention to boycott the upcoming elections in addition to boycotting parliament. That would prevent the authorities from setting up the electoral bodies as required by

the legal framework in force. Under these circumstances, the international community engaged in an intense series of negotiations, conducted primarily by the EU and the US, through their envoys, David McAllister (EU) and Hoyt Brian Yee (US). The compromise proposed by McAllister was first rejected in April, yet on 18 May the opposition and the government reached a compromise on what came to be called the McAllister Plus platform.

For the first time in Albania's post-communist history, an Albanian government accepted the conditions of the opposition to remove seven of its key ministers from cabinet, and to replace them with independent technical experts. The government also removed several high-level officials from the public bodies involved in the administration of the electoral process. In return, the opposition agreed to participate in the elections which were by consensus postponed by a few days to allow for the registration of the political subjects as coalitions after the expiry of the legal deadline. This decision harmed over 40 small political parties on the left and the right sides of the political spectrum. The international community was able to bring the opposition back into the electoral process.

The 2017 agreement resulted in an almost absurd electoral campaign which saw the leader of the ruling majority acting in tandem with the opposition leader in a relationship based on the open recognition of each other's merits, on a tacit mutual understanding on pushing the smaller political opponents aside, and on the fact that over half of the government ministers were controlled by the opposition, some which openly engaged in campaigning against their own prime minister.

The after-effects of the 2017 crisis over the opposition's decision to boycott parliament were the following: first, the boycott was seen, for the first time in the history of its application, to produce large-scale positive results for the opposition, as a major governmental overhaul came as a result of it; secondly, the political compromise was able to end the boycott, but it nullified its positive effects by forcing the country into a pre-determined electoral scenario.

2.5. The 2018 Boycott and the Waiving of Parliamentary Mandates In 2019

In the period January-July 2018, the DP-led opposition engaged in partial/conditional relations with parliament. This period saw a massive application of the partial boycott (of parliamentary committees, or of certain plenary sessions) of parliament, combined with the total boycott of all parliamentary activities. The main argument brought forward by the opposition concerned the investigations against the former Minister of Interior Saimir Tahiri on account of his alleged connections with the criminal underworld responsible for the burgeoning cultivation of cannabis in the country in the period 2016-2017.

The opposition pointed at unpunished high-level corruption affairs, and asked for an amendment to the constitution so as to stipulate the vetting of politicians in it. In May 2018, the opposition abandoned the plenary session, after the Speaker interrupted the address of its leader. In June, the opposition abandoned the plenary again so as to protest against a special law proposed by the government for the purpose of demolishing the historic building of the National Theatre of Albania. In December, the opposition walked out of the plenary once the ruling majority refused to review the state budget that had been returned by the president for further improvements.

The opposition pursued a two-pronged approach– it adopted boycotting of parliament as a way to express its protest, or, alternatively it sent large numbers of MPs to block the functioning of the parliamentary committees so as to raise their causes and attract public attention. The opposition tried to compensate for its absence from parliament through frequent press conferences or protests. The blocking of parliamentary committees by the opposition greatly hampered the normal functioning of parliament.

Starting from 3 September 2018, the opposition decided to boycott both plenary sessions and parliamentary committees, so as to attack the rejection of its proposal for the vetting of the politicians. This action was not considered as an official

boycott by the opposition; according to the latter, it was only a form of conditional relationship with parliament, as the opposition was only waiting for parliament to adopt the proposed constitutional amendments on the vetting of politicians.

According to the parliamentary practices in place, such initiatives are to be preceded by consultations and debates in parliament; also the opinion of the Venice Commission is usually asked for. In terms of timelines, such initiatives require more than 90 days to complete; nonetheless, the opposition declared its “conditional” relationship with parliament, equalling a boycott in practical terms, on the very day it made its proposal. The opposition participated in the debate session in the parliamentary commission, but only to make a public statement; upon making the statement, it walked out of the room. In December 2018, the Venice Commission gave its opinion on the proposed legislation and the opposition returned to parliament so as to participate in a special session held about its proposal.

The opposition started to participate in several plenary sessions held in January 2019. These sessions were marked by harsh accusations in relation to elections, corruption and several emerging scandals. On 16 January the opposition walked out of the plenary after the ruling majority refused to hold a debate on the nomination of some new ministers in the government. Further to this, the opposition announced the organisation of a large rally, which took place on 16 February 2019.

At the end of the protest, DP leader Lulzim Basha announced his initiative to radicalise the protest through the collective waiving of the parliamentary mandates of the opposition. Further to this announcement, the DP chairmanship and the DP National Council, followed by five parties allied to the DP including the Socialist Movement for Integration, approved the decision to boycott parliament and to hand over the MPs’ mandates.

On 1 March the opposition MPs started to officially tender their resignations. According to the Albanian electoral legislation that is built on the regional proportional system with a closed party list, for each resignation, the Central Elections Commission is obliged to invite the next candidate included on the party list. The parliamentary seat remains vacant only if all the listed candidates reject the mandate. During March 2019, some of the candidates included in the lists of 2017, especially those coming from the ranks of the smaller parties allied to the DP and SMI and included in their proportional candidates’ lists, accepted the mandates, by thus going against the political decision of the opposition.

Regardless of the attempts of the ruling majority to pressure some of the opposition MPs not to waive their mandates, as of March 2019, the parliament of Albania has no opposition. For the first time in the history of the Albanian transition, the opposition has applied the extreme measure of relinquishing parliamentary mandates. The main demands of the opposition in relation to this extreme step are the establishment of a technical government to lead the country in early parliamentary elections, and wide-ranging electoral reform. The ruling majority controls over 78 out of 140 MPs in the Albanian parliament; therefore it has the numbers to proceed seamlessly with parliamentary decision-making.

Numbers and formal majorities aside, Albania has entered into a deeper and more complicated crisis than the one it was able to overcome in 2017.

3.

BOYCOTTING IN ALBANIA: A FINAL ANALYSIS OF ISSUES AND BOTTLENECKS

The analysis of the use and abuse of boycotting in Albania shows it as a political instrument that has become the ultimate weapon for escalating political conflict in Albania. Boycotting has exerted a decisive influence on: Albanian political developments, the internal developments in political parties, the relations between parties and the electorate, the country's reform agenda and the functioning of its representative institutions.

In certain cases boycotting has brought positive results in symbolic terms, especially with regard to promoting causes and issues ignored by the parliamentary majority. Yet, in general, boycotting as a weapon of choice for the conduct of political competition has greatly hampered the country's democratic development, its political and electoral system, and the relations between the institutions that are the pillars of democracy in Albania. The paragraphs below provide a non-exhaustive analysis of the main features of boycotting in Albania, its use and implications.

3.1. Transition from Parliamentary Boycott to “Extended” Boycott

The frequent use of parliamentary boycotting usually leads to the spillover of boycotting actions in other dimensions, including local governance, politically balanced institutions or other institutions based on consensual decision-making.

Over the last decade, boycott has been used to escalate parliamentary conflict from the hall of the National Assembly to municipal councils, the CEC, the Authority of Visual Media and other public institutions where withdrawal of political representation can be used as a tool of political leverage.

Albania still relies on a bipartisan elections administration system. The two big parties (Socialists and Democrats) control over 90 per cent of the electoral structures. The electoral system enables both parties to veto any decision in the electoral administration zones. The 2013 elections were administered by a CEC that was boycotted by an opposition interested to extend its parliamentary boycott to other institutions. Over the last two parliamentary sessions, 25 to 30 per cent of the local councils were regularly boycotted by the right or left as a result of boycotting at the parliamentary level. The 2019 parliamentary elections witnessed a boycotted CEC, so elections were bound to be administered only by the ruling parties.

The most flagrant boycotts on record in Albania occurred during the political crisis of 1997-1998 when the right-wing boycott also extended to the handover of local governments on several occasions, or during the 2000 local government elections, when the right wing decided to boycott the whole second round of the elections. As a result of this, the participation in elections fell significantly whilst the opposition bore the cost in terms of parliamentary power. Also, the election administration structures lost the necessary quorum needed to take valid decisions. At that time, the OSCE pointed the finger at the high level of discord and polarisation between the ruling majority and the opposition, by thus dividing the responsibility between the two conflicting parties.⁴

⁴ Republic of Albania, *Local Government Elections – 1 and 15 October 2000*, OSCE/ODIHR Final Report, p. 4.

The left wing applied similar approaches to boycotting in the mid-nineties and in the period from 2010 to 2017. The 2003 elections were the first local government elections since 1992 that saw no boycott applied by the losing party in some local government units.⁵

3.2. The Permanent Boycott in the Election of the President of the Republic of Albania

Albania's president is elected by parliament. For the period 1991-2008, the Albanian legislation provided that the president of the republic could be elected in three to five rounds of voting in parliament to win three fifths of the total number of votes. The three-fifths threshold should in theory impose on the president political compromise between the ruling majority and the opposition. Yet, practice showed that parties were able to bypass this intention by either securing the necessary three-fifths of the votes through controlling the voting process (ruling majorities) or by blocking the election process altogether (oppositions).

The ruling majorities were able to elect the president of the republic in 1991, 1992, 1996 and 1997 through solid majorities of three fifths of the parliamentary votes. These solid majorities were usually obtained through contested parliamentary elections. The majorities that elected the president of the republic in 2002, 2007, 2012 and 2017 controlled less than the 84 votes needed to elect, therefore they resorted to other ways to get the votes.

In 2002, the president was elected through a consensual vote between the opposition and the majority. This was a forced consensus, pushed by the EU in exchange for its recognition of the validity of the parliamentary elections of 2001.

In 2007, the president was elected through a so-called "fluid alliance", as some of the opposition MPs deviated from the political position of their party and joined the majority so as to gather sufficient votes to elect the president. One year later, the big two of Albania's political system agreed to amend the constitution, including the provisions for the election of the president. According to the new formula anchored in the revised constitution, the election of the president required three fifths of the votes in the first three voting rounds. Should parliament fail to elect the president by then, it could proceed with a simple majority vote (50 per cent plus one vote) in the fourth and fifth round. Regardless of this, the opposition boycotted the election of the president in 2012 and 2017.

In total, out of eight presidents of the republic elected by the Albanian parliament in the period 1991-2017, only three presidents (1991, 1992, and 2002) were elected in the presence of the opposition. The election of the remaining five (1996, 1997, 2007, 2012, 2017) took place in the absence of opposition MPs.

These five examples of parliamentary boycotting are related to presidential candidates coming from the top tiers of the ruling majorities of the day (in 1996 and 2017 the candidates were party chairs, in 1997 and 2007 they were the general secretary of the ruling party and the deputy chair of the ruling party, whilst in 2012 the candidate was the minister of the interior).

In 1991 and 1992 the winning presidential candidates came from the top tiers of the political system (party leaders); yet at that time Albania was at the very beginning of its democratic processes, so the active use of boycotting was still largely unexplored. In all of its recent post-communist history, Albania has had only one president who did not come from the party system, and that happened in 2002 following to a consensual decision of the opposition and the ruling majority.

Albania's political parties have resorted to parliamentary boycotting in five out of six cases in the last elections of the president of the republic. This is a clear sign of the demise of the culture of trust, an inability to strike political compromise and attempts by the parties to delegitimise the institution of the president of the republic.

⁵ Final OSCE/ODIHR Report – Elections for the Local Government Bodies, 12 October 2003 – 25 January 2004, p. 3.

It should be noted that the majority that voted for a given president upheld its political support for him only in one out of five cases (the president elected in 2012). In the remaining four cases the respective majorities ended support for their presidents at the end of their first year or at the beginning of their second year in office. The ruling majorities tended to consider the president as someone they just sent to the presidency, rather than an independent constitutional institution able to work above the parties, as stipulated in the constitution.

3.3. Hunger Strikes of MPs as one of the Extreme Forms of Boycotting and Protesting

One of the most extreme forms of protest applied by Albanian political parties in their parliamentary activity is the hunger strike, as a form of personal sacrifice for a cause with a direct bearing on public opinion.

The first hunger strike by a parliamentarian on record was by Azem Hajdari, an MP from the Democratic Party who joined the formerly politically persecuted persons in a hunger strike they were staging to demand their rights. His symbolic and political act constitutes the only case when an MP decided to go on hunger strike against his own ruling majority. The first case on record in relation to a collective hunger strike staged by MPs came in June 1996 when the opposition Socialist Party decided to protest through this extreme form against the manipulation of parliamentary elections. The hunger strike took place inside the SP headquarters. Its impact was more international than domestic.

Other cases with more limited participation took place in 1997. In August 1997, the right-wing MP Pjeter Arbndori, a former Speaker of parliament and a former political dissident who had spent 28 years in prison because of his political convictions, staged a hunger strike inside parliament asking for balanced political coverage by the state media. His hunger strike lasted for several days. Under multiple channels of pressure, the ruling majority conceded his request. Three months later, four more opposition MPs (Hajdari, Minarolli, Memia and Vejsiu) started another hunger strike in front of Albania's only TV channel at that time, Albanian Radio Television, against state censorship.

In November 2008, a group of 10 MPs from smaller parties staged a hunger strike in the plenary hall of parliament. The reason behind the strike was the monopolisation of the electoral administration by the two main parties – the Socialists and the Democrats. The former Socialist Prime Minister Ilir Meta, at that time Chairman of the Socialist Movement for Integration, took part at that strike. Their action did not succeed as the main parties had international backing. In 2010, a large group of SP MPs staged a 20-day hunger strike asking for transparency in the 2009 elections.

3.4. Boycotting as an Instrument of Internal Political Rivalry inside Parties and Coalitions

Internal developments in Albania's main political parties have not escaped boycotting. The case that first made headlines went on record immediately after the 2001 parliamentary elections which saw the left-wing ruling majority under Fatos Nano win its second mandate. At first, the SP Chair Nano, who at that time sought the position of president of the republic, tried to reinstate his control over the government led by Ilir Meta, a strong personality inside the SP. The rivalry between the two soon escalated in tactics of political conflict which included the use of boycotting inside the ruling majority. Nano took the opportunity given by the absence of the opposition in parliament (at that time the opposition was boycotting parliament on its own right) and started to boycott plenary session along with his loyalists. This action prevented reaching the quorum needed for the functioning of parliament.

Several government then ministers resigned. In order to replace them, the quorum was necessary. The Nano loyalists blocked parliament by refusing to attend its sessions, so in January 2002 the prime minister had to resign. These unusual developments are known as "fluid alliances" between the boycotting opposition and a part of the ruling majority, which concur on the need to oust the prime minister in the short run, whilst holding widely different objectives for the long run.

At the beginning of 2002, the “fluid alliance” between the ruling majority under the aegis of SP Chair Nano and the opposition led by former President Berisha led to the discharge of the General Prosecutor Arben Rakipi, of the Head of the Intelligence Service Fatos Klosi, and the resignation of the Speaker of Parliament Namik Dokle – as all three were supporters of the President of the Republic Rexhep Mejdani, who at that time was on a collision course with the powerful SP Chair Fatos Nano.

Further to pressure from the EU in view of the start of the Association and Stabilisation Agreement, the SP and the DP made a deal to elect the new president in a consensual manner. The ruling majority was blocked from September to November 2002⁶ as it failed to find sufficient votes to appoint the new government ministers because of the intense rivalry inside the SP. The crisis of the majority and the boycott of the opposition considerably slowed down the pace of reform.

Another form of internal boycott concerns the internal races for party chairs. In 2009, the candidate for the SP chair, Arben Malaj, running against the current SP Chair Edi Rama withdrew his leadership bid at the last moment before elections took place on the grounds of alleged manipulations and irregularities. His decision to boycott the process was followed up by several media appearances and public meetings in which the outgoing candidate voiced his criticism of the leader and his way of avoiding decisions that ought to be taken by the party. At the end of this process, the four SP MPs who supported him (Malaj, Harasani, Ismali and Bello), described as “the movement for another opinion”, were removed from the list of candidates for the next elections, whilst the fifth MP associated with them was removed later on.

In the spring of 2016, when SP Chair Rama decided to call a referendum of SP members for the purpose of linking his mandate as party chair with the mandate of the Prime Minister, two MPs critical of him called for the boycott of the referendum, accusing Rama of relying on populist and false electoral processes. Both of these MPs were subsequently removed from the party structures.

The same situation repeated itself inside the Democratic Party, the second-largest party in Albania. The critics of the party Chair Lulzim Basha, which included three former deputy chairs of the party (Topalli, Patozi, and Imami), announced that they would boycott the voting of the party chair by the party members, pointing at heavy allegations of abuse and manipulation of the process.

They and their followers did not take part in the voting process; as a result they were removed from the list of party candidates in the next parliamentary elections and barred from getting important positions within the party.

3.5. Main Negative Effects of Parliamentary Boycotts

Parliamentary boycotts have in common a negative impact on Albania’s EU and North Atlantic integration processes. Political strife was instrumental in delaying Albania’s accession to the Council of Europe in the period 1993-1995. At that time Albania was usually considered as a success story in terms of democratic advancement until accusations of manipulation of elections combined with heavy-handed boycotts, and followed by severe social and political unrest, undermined its standing as a promising emerging democracy.

Politically motivated violence greatly harmed the efforts to achieve democratic stability in the period 1997-1998. The political boycott of the country’s main institutions at the local and central level played a major role in the deterioration of the situation.

⁶ Report before the OSCE Permanent Council, Ambassador Osmo Lipponen, Head of the OSCE Presence in Albania, 20 November 2003.

In the period 2011-2013, Albania lost precious time and energy in its effort to obtain EU candidate status and to benefit from visa liberalisation with the EU. The continuous political boycotts of 2014-2017 damaged Albania's chances to come closer to the European Union. In 2019, the opening of the discussions for possible membership in the EU was made impossible because of the unprecedented crisis arising from the opposition's waiving of parliamentary mandates.

One of the most negative consequences of parliamentary boycotting, especially of prolonged boycotting or post-electoral boycotting, is related to its disproportionate effect on the life of the democratic institutions. When the opposition has chosen to boycott parliamentary sessions and commissions, ruling majorities have used the absence of the opposition to put its own supporters in coveted positions.

The post-electoral boycotts usually made it easier for ruling majorities to take full control of independent institutions. Further to the boycott of the opposition in the period 1997-1998, the ruling majority was able to discharge the president of the Constitutional Court and the president of the High Court, thus taking full political control over these formally independent institutions. The same situation repeated itself in the periods 2009-2010 and 2011-2012, after the boycotts staged by the left-wing opposition and in the period 2014-2018 after the boycotts staged by the right-wing opposition.

The absence of the opposition in parliament enabled the ruling majority to simply proceed unhampered by any form of scrutiny or criticism. The monitoring of the functioning of the assembly of Albania in the period September-December 2018 showed that in a situation marked by the parliamentary boycott by the opposition, the only thing the ruling majority cared about was not substantive arguments about reform, but the achievement of the formal quorum needed to take decisions in the commissions and in the plenary sessions.

As a result, many important parliamentary processes, including the replacement of the members of the CEC, which in the past was conducted through cross-party consensus, was proceeded with quickly and without any public debate. The decisions on the appointment of the High State Audit, the amendments in the law on the mandate of the High Inspector for the Control and Declaration of Assets and other legislation of key importance in the fight against corruption were just adopted with simplified procedures and without further ado.

Political boycotting of parliament and other political decision-making fora has been reflected also at the level of Albania's representation in the European Parliament. More than two thirds of the joint resolutions on Albania have been contested by at least one of the political parties present in the Albanian delegation, even though all parties have EU integration prominently featured in their programmes, and there exists practically no Euro-sceptic party in Albania.

Boycotting has greatly damaged the Albanian political elite's image in the international community. It has also demonstrated the fragility of the country's democratic institutions. A 2012 report on Albania noted: "Albania will be able to make significant progress with the reforms only when all parties will start understanding in real terms what it means to be in the government and what it means to be in the opposition in a democratic system."⁷

Boycotting was detrimental to electoral processes as well. Subsequent opposition parties frequently boycotted parliament for one or more plenary sessions in 1996, 2000, 2001, 2003, 2006, 2008 and so on. In several cases, this tactic has actually caused the postponement of elections. In January 1991, the newly established right-wing opposition announced it would boycott the first pluralistic elections if the elections were not postponed so as to allow it additional time to prepare for the electoral campaign. The Communist regime had to concede the request and postponed elections by 45 days.

⁷ Report of the Head of the OSCE Presence in Albania in the OSCE Permanent Council, 20 September 2012.

In 2007 the left-wing opposition refused to register as for the election by demanding guarantees for a valid voters list and voter IDs. After intense negotiations, these demands were met and elections were postponed by 30 days.

On the eve of the 2017 parliamentary elections, the right-wing opposition refused to take part, asking for a new government with technical ministers and other extraordinary measures meant to guarantee a neutral role of the state in the election campaign. After many negotiations with international involvement, most of the demands of the opposition were met so as to make sure that it would participate in elections.

3.6. Impact of Boycotts on Parliamentary Decision-Making

Parliament has suffered from being relegated into an insignificant role during boycotts, as its decision-making role and capacity have suffered. Before 2008, in certain cases, parliament was able to put some pressure on the executive coming from the same ruling majority – in 1995, the parliamentary majority refused the request of the president and of the prime minister to investigate two ministers on corruption charges. Also, parliament effectively countered demands from the executive to discharge the President of the High Court.

In 2001 and 2002, ruling majorities dismissed the demands of their own prime ministers with regard to the appointment or removal of government ministers. The 2008 constitutional changes increased the powers of the prime minister to the point of making it virtually impossible for parliament to impose anything on the prime minister. Over the last couple of years, the power of the executive has spiralled out of control, to the point of giving rise to many criticisms against the non-existing role of parliament and its total disability to exercise parliamentary oversight on the executive, usually controlled by strong leaders widely applying the principles of one-man-rule on the political leadership.

The widespread use of parliamentary boycotting has enabled the ruling majorities to change the rules of game at will; for example, in the absence of the opposition, ruling majorities have changed the Rules of Procedure of the assembly as they saw fit and have taken decisions with far-reaching economic, ideological and electoral implications. In one case, whilst the opposition boycotted parliament, the ruling majority changed Parliament's Rules of Procedure in the period 2011-2012 and 2018-2019. The same approach was used in the last decade of the previous century. The unilateral changes in the rules and regulations of the assembly during times of boycott have been usually justified by the need to proceed with reform, yet it is a widely known fact that most of the changes have been applied to further strengthen the control of the majority over parliament.

Since changes in the constitution require two thirds of the votes (92 out of 140 MPs), and the changes in the organic laws require three fifths of the votes (84 out of 140 MPs), boycott has been traditionally used to block such initiatives. Important changes could be made only in the few cases when ruling majorities could acquire the necessary strength in numbers (1992, 1997, 2005) by entering into alliances with smaller parties. These changes were applied on the justice system institutions. Nonetheless, since the period 2006-2008, the ruling majority and opposition parties have tried to follow the path of political consensus on such high-level interventions.

On the other side, parliamentary boycotting has become a sizeable obstacle to adopting laws that were brought forward as obligations towards the EU or other important international organisations. In the period 1993-1994, the opposition refused to give its consent to the voting of some laws related to the human rights chapters in the relevant UN conventions. In 2012, the refusal of the opposition to vote on three crucial laws became the dominating topic of discussion along that calendar year. From 2016 to 2017, the voting of the justice system reform was a hallmark of international pressure on Albania and of the internal political debate.

Because of the 2006 boycott, the ruling majority passed one third of the laws proposed in parliament, through an extraordinary shortened procedure. Most of this legislation consisted of sublegal acts on the vetting and registration of immovable properties subject to concessionary arrangements⁸, on some changes in the law on audio-visual media, on forests, and so on. In 2017, only 16 out of 173 decisions of parliament received cross-party support or were based on some sort of political agreement⁹. As the boycott was ongoing for over one year, it was very difficult to identify a consensual parliamentary body tasked to initiate the vetting procedures. That was the key step to be taken so as to give impetus to justice system reform.¹⁰

In all cases of boycotting, the oppositions have tried to take advantage of the need to reach a consensus for achieving political objectives beyond the actual power of their numbers, whilst the ruling majorities have used boycotts to obtain international backing and to channel it against the oppositions, by thus diverting the attention of everyone from the actual problems in the country. In 2011, 2012, 2015 and 2016, the political parties in the ruling coalitions resorted to so-called “citizens’ petitions” targeting the boycotts of the oppositions, so as to create the false image that “civil society” squarely opposed the use of boycotting actions.

3.7. Cases of Positive Impact of Boycotting as an Instrument used to Correct Political Decisions

The rich history of parliamentary boycotts in Albania has registered rare cases when they actually produced positive results. The positive repercussions of boycott actions fall into two broad categories: political parties used the boycott to bring under public scrutiny hasty or plainly wrong decisions of ruling majorities; and political parties used the boycott to draw attention to important concerns wholly and unjustly ignored by parliament.

The first case lists a few examples of boycotts staged by left- or right-wing opposition, such as: the boycotting of acts related to politically motivated firings in 1992; the boycotting of voting on repressive measures to be taken against the members of the opposition in the mid-nineties; the boycotting of the voting of legal initiatives that create electoral inequalities (1995, 1996, 2001, 2012, and so on), the boycott of sessions held in violation of the parliamentary Rules of Procedure, the boycott of the sessions after right-wing MPs were physically assaulted by Socialist MPs found to act in collusion with organised crime, the boycott of the commissions and of sessions held in violation of the constitutional requests advanced by right- or left-wing oppositions.

The second category lists the 2014 boycott of the right-wing opposition further to the rejection of its request to parliament for the adoption of a decriminalisation law, for the purpose of removing from parliament and from top decision-making positions persons with criminal records.¹¹ From the beginning, no attention was paid to the request of the opposition and to the ensuing boycott; yet, once the criminal records of some MPs from the ruling majority were published, pressure coming from the public, the international community and by the media forced the ruling majority to adopt the law, and to remove from parliament at least eight MPs with criminal records.

In several cases, short-term boycotting has proven effective in promoting good causes and to ensure more transparency and accountability in parliament. One of the most successful and meaningful examples in this regard was the boycott staged by the opposition to counter the adoption of a highly abusive, *ad hoc* law to authorise demolition of the historic

8 ISP (2016). *Parliamentary Monitoring Report*, January-July 2016.

9 Albania 2016 Report, DPS (2016) 364, Brussels, 9 November 2016.

10 ISP (2017) *The Parliament and local representations*.

11 OSCE/ODIHR, *Final Monitoring Report on Albania’s Local Government Elections of 21 June 2015*, p. 6.

building of the National Theatre of Albania to enable a private developer to build a large commercial complex on a parcel of largely publically owned land located at the centre of the capital.

The same can be said of the boycotts staged against proposed concessionary contracts with private companies, which caused strong national outcry and which were subsequently covered by several international reports.

3.8. Effectiveness of Boycotting as a Vehicle for Enacting Changes in the Government

In most cases, boycotts have not led to any change in the government, especially during the first two decades of Albania's transition. Only rare occurrences of such changes exist on record, when boycotts, backed by massive protests, led to major disruptions of the civic and political life. For example, the crisis situations of 1997 and 1998 led to changes in the government, yet in these cases the boycott was only an additional instrument applied in a situation marked by deep social crisis, which accounted for most of the weight behind the decision to change the government.

Boycotting was largely responsible for the changes in the SP-led government in 2017. In this single occasion, the prime minister agreed to replace half of his cabinet ministers with technical ministers appointed by the opposition in exchange for the participation of the opposition in the upcoming elections (which the ruling majority won). As a result of the boycotts inside the ruling majority, there were partial changes in the government in the period 2001-2002.

3.9. Reactions of Ruling Majorities against Opposition-Led Boycotts

Ruling majorities have traditionally tended to approach opposition-staged boycotts through several stages. In the first stage, majorities have tested the effects of the boycotts by launching repeated attacks on the leader of the opposition and on the leadership of the opposition as a whole. Should the action of the opposition turn out to be isolated, then the majority has proceeded by strongly refusing any compromise. Facing international pressure, it has offered a partial compromise.

For example, in response to the boycotts of 2014 and 2011, the right- or left-wing oppositions offered compromise solutions which were applied after more than one year, or which were never applied. When boycotts have resulted in weak public responses, the ruling majorities have staunchly resisted offering any compromise, but have capitalised on the weaknesses of the opposition.

On the other hand, if the boycott received public support, owing to developments that were greatly affecting the country, or if failure to react to it would have consequences for Albania's stability or its EU integration process, the political parties have tried to shift the political confrontation from the cause of the boycott to a series of negotiations with international partners. In all these cases, international pressure coming mostly from the US and EU has enabled crises to be settled. Yet, these interventions have given the impression to the Albanian political actors that boycotting is a highly effective political tool.

Another form of government reaction to boycotts is given by its attempt to incriminate those staging it. All the important boycotts (1994, 1996, 1997, 1998, 2001, 2006, 2009, 2011, 2014, 2017 and 2019) have been backed up by massive rallies in Tirana and in other areas. In each of these cases, the government has proceeded to arrest supporters of the opposition, by using particularly harsh language against protesters, combined with the heavy-handed treatment of protesters by the security forces. In 1998 and 2011, protesters were killed by security forces. This of course fuelled further protests and changed the direction of political developments in the country.

Ruling majorities tend very rarely to apply the available institutional mechanisms to provide political solutions to opposition-backed requests and to minimize the repercussions of boycotts. All major political compromises were externally imposed deals, including: the first large-scale compromise between the ruling majority and the opposition resulting in a coalition government followed by early elections; the second large-scale compromise of 1998 resulting in the suspension of political strife because of the Kosovo situation complemented by the compromise of 2002 on the consensual president; the 2015 compromise on decriminalization and the 2017 compromise on the inclusion of a few technical ministers appointed by the opposition in the SP-led government. These were successful because of the lack of ways out at the internal level, rather than actual examples of dialogue between political elites.

3.10. Boycotting and its Repercussions – Stronger Versus Weaker Opposition

The history of parliamentary boycotting in Albania has been traditionally a matter of life and death for the opposition rather than for the ruling majority. Boycotting tends to become the only way out for the opposition to keep its causes going, through protests, harsh rhetoric and populist politicians.

Boycotting has greatly damaged liberal groups and moderate politicians in political parties. Each round of boycotts has enabled party leaders to kick out critical voices from the party ranks. Back in 1996, the SP decision to boycott elections resulted in the firing of four deputy chairs of the party. The 1997 boycott resulted in the removal of all critical voices from the DP. The SP-led boycott of 2010-2012 resulted in the expulsion of all rivals of SP party chair Rama from the party. The three-month-long DP-led boycott of 2017 was used to remove several moderate politicians from the party, including one candidate for the party chair.

Albanian political leaders usually use boycotts to strengthen their grip on their party loyalists, by thus crushing all efforts to have internal dissent or different viewpoints inside their parties. Boycotts are perfect opportunities to promote hard-core party supporters at all levels. Boycotts enable party leaders to engage in personal lobbying with foreign leaders and to establish contacts with top politicians of the European Peoples Parties or with diplomats and envoys sent to monitor and/or solve the crisis.

Opposition parties are well aware of the fact that boycotting does not increase consent from society. Yet, boycotting is a useful “release valve” for accumulated hard feelings amongst their own ranks and a good justification for electoral debacles. In general, this justification has always worked – those staging boycotts have almost always bought time to negotiate, whilst in the meantime asserting total control over their own party.

From the media point of view, boycotts are sure to produce daily news for the organisers. The declarations of the boycotting party are covered by the media. Charismatic politicians use boycotts to extend their personal influence in society and to improve their relations with the media. Politicians from opposition parties are sure to dominate the audience of TV channels, as political strife moves from the streets to the TV studios or to the social media.

3.11. Arguments of the Opposition for the Boycott

Once the decision to stage a boycott is made, opposition parties work in two main directions: to mobilise party structures so as to stage rallies and protests, and to obtain international support. It should be noted that none of the major rallies of the last three decades in Tirana has been a product of only citizens of the capital. Traditionally, political parties stage these rallies by organising transport to bring large numbers of party supporters from other cities into the capital. Almost all protesters who were killed, wounded or arrested during such protests came from outside Tirana – mostly from the SP strongholds in Southern Albania or from the DP strongholds in Northern Albania.

At the international level, the EPP or PES has played a major role to support the actions of the respective Albanian opposition parties. The parties at the EU level have supported, regardless of their reservations, the boycotts staged by their Albanian allies, thus indirectly legitimising this practice and promoting the leaders responsible for it.

When the Albanian opposition leader was arrested on corruption charges in 1993, most of the foreign diplomats supported this measure. In 1998, when a top leader of the opposition was killed and the country entered into a dangerous spiral of violence, most of the relevant foreign diplomats supported the government. Again, when four protesters were shot and killed during an opposition rally in 2011, most of the Western diplomats supported the government. It is clear that in most of the cases, foreign diplomacy has been informed by the need for stability, which has always been considered as more important than the need for more justice and democracy in Albania.

3.12. Political Parties and the Declaration of Boycotts

Almost all boycotts of more than three plenary sessions or an equivalent number of committee meetings have been ordered by a party chairmanship or a parliamentary group. In all cases the proposal to stage a boycott has been made by the party chair and decisions to actually engage in boycotts have been unanimous. In specific occasions in 2010 and 2017, the boycott was first announced by leaders in open-air rallies. It is by now a tradition for opposition leaders to announce their boycott initiatives. To this end, the leaders work on public opinion through preliminary speeches, so as to have a solid basis on which to announce the boycott and to disable any possible controversy inside their own party ranks.

3.13. Boycotts and Public Perception of Party Politics

At the beginning of Albania's transition, public opinion was very eager to witness political debate as a vehicle for desperately needed social change. Therefore, boycotts and other high-tension clashes leading to Constitutional Court verdicts were sure to be high in the attention of public opinion. As the years went by, especially after the crises of 1997 and 1998, protests and boycotts received less enthusiastic popular support. Most boycotts staged in the first four years of a ruling majority mandate were of a blocking, problematic nature. They tended to irritate citizens and to bring little support to the causes of the opposition.

Boycotts staged during the second mandates of ruling majorities have usually had more impact – mostly because of the inability of ruling majorities to act on their reform promises and to engage in effective policymaking and policy implementation, especially if compared to their first mandates. Usually, the second mandates of ruling majorities in Albania have been marred by high-profile corruption scandals. Boycotts staged in this phase were therefore able to draw actual popular support for the left-wing opposition during the second government mandates of the right-wing in the periods 1996-1997 and 2009-2013. The same can be said for the right-wing boycotts staged against left-wing majorities in the periods 2001-2005 and 2017-2019.

The dwindling participation of Albanians in elections from a rate of 90 to 98 per cent in the period 1991-1996 to a rate of 40 to 48 per cent in the last parliamentary elections of 2013 and 2017 clearly indicates a growing scepticism and fatigue with party politics in the country. Periodical and long boycotts by political parties have not been able to attract more public support, or to widen the basis of their support amongst the citizens.

4. CONCLUSIONS

Albania has by now established a rich tradition of use and abuse of parliamentary boycotting. This clearly points to the fragile nature of its democracy and to the inability of its political elites to solve their disagreements inside institutions. As Albania relies on a scant democratic tradition and weak democratic institutions, its leadership models have been traditionally built on strong vertical hierarchies focused on one-man-rule (the prince, the king, the dictator). The absolute character of Albania's political leaders and their quest to extend their grip on power well beyond their time-limited mandates have had a direct impact in the high level of personalisation of politics, leading to a very high level of political conflict.

The eternal repetition of the cycles of parliamentary boycotting has created a closed circuit for the circulation of elites and rotation of power. In Albania, power rotation usually comes to pass as a direct result of the failure of the ruling party to govern the country, rather than as a result of an inspiring, competent opposition.

In this situation, boycotting is considered as a primary tool to mobilise support and to keep the party in check, as other political achievements and accomplishments are not available to the opposition leaders. In most cases, boycotts are interrupted thanks to personalised, non-transparent deals which justify the leaders responsible for making them. These deals often result in obscure arrangements of an economic nature, which wipe out any possibility for meaningful political reform coming from new political movements.

Boycotting has traditionally received added attention because of the lack of internal democracy in political parties. The implications of boycotts in terms of hampering the rule of law and in slowing down the establishment of a functional democracy are clear. The frequent use of boycotting has repeatedly delayed Albania's EU integration process, and has greatly damaged efforts to reform the country's institutions. Boycotting remains a source of instability and a mechanism that directly challenges democratic institutions.

This study has provided a multilevel analysis of Albania's engagement with parliamentary and political boycotting during its transition to democracy. It has provided a list of cases and has categorised types of boycotting by also discussing causes and repercussions. Albania's considerable experience with boycotts highlights the need of the Albanian society for social dialogue, constructive and institution-based policymaking, investment to support the advancement of a genuinely democratic structure, and parties and institutions that are more open. Albanian politics urgently needs more openness, new leaders, new leadership styles and more mutual trust between the state institutions and the political actors responsible for coming up with meaningful political and electoral alternatives.

Parliamentary Boycotts
in the Western Balkans

Case Study: Bosnia and Herzegovina

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EXECUTIVE SUMMARY

In Bosnia and Herzegovina, three parliaments were considered in this analysis: the state parliament (BiH) and two entity parliaments (FBiH Parliament and Parliament of Republika Srpska). All parliaments are bicameral, with the House of Representatives and the House of Peoples having the same legislative power in the BiH and FBiH parliaments, which is not the case with the Council of Peoples in Republika Srpska.

This is one of the reasons that parliaments at the state and FBiH levels have similar dynamics, while the Parliament of Republika Srpska is different from the other two. Large parliamentary boycotts were not a common occurrence in any of the three parliaments from 1996 to 2019, but that does not mean that the parliaments were functioning well.

In the BiH and FBiH parliaments, a majority is usually formed between incompatible political parties, such as the SDA and HDZ, which leads to an unstable majority. These parties often cannot agree on the most important laws and they then opt to not hold sessions of these parliaments. Although this is not a parliamentary boycott in a traditional sense, it does stop the work of parliament. Other most common causes for boycotts are of an ethnic nature and usually relate to actions of politicians of other ethnicities. It is not rare for the parties who form the majority to boycott parliament due to some ethnic disagreement, and towards every election there is an escalation of rhetoric. In this kind of situation, an opposition boycott of parliament is meaningless, since parliament is boycotted by the ruling parties.

Boycotts in Republika Srpska can be divided into two groups: boycotts from Bosniak and Croat parties, due to ethnicity-related actions, and boycotts of other opposition parties which are related to procedural and corruption issues. Usually, there is no escalation of boycotts. One boycott escalated after opposition protests against the forced resignation of the Chief Auditor. After the opposition representatives interrupted two consecutive sessions, the police stopped them from entering parliament. The majority's response to boycotts in Republika Srpska was either to ignore them (Bosniak and Croat boycotts), or discredit the opposition parties.

The effects of this situation are similar in all parliaments: poor legislative environment with around 40 per cent of laws being passed through urgency procedures and a total deinstitutionalization of the parliaments. Some important laws and documents, such as budgets or a labour law (FBiH) have also been adopted without the presence of the opposition.

Due to the facts there is no extraordinary election and the majority parties are boycotting the parliaments (BiH and FBiH), boycotts are not an effective way of changing the government. This is evidenced by the latest election results. This situation leads to a decline in public trust in politics, which is evidenced by low voter turnouts (around 50 per cent) in the last few elections. Bosnia and Herzegovina is also far behind on harmonising its legislation with the EU due to the fact that the parliaments are simply not working.

In order for things to change, parliaments in Bosnia and Herzegovina need to become the focal points of the legislative process again, and the majority parties, especially in FBiH and at the state level, need to lead that effort, since usually they are the ones creating the use of boycotting.

1. BACKGROUND

1.1. Political system and parliaments in Bosnia and Herzegovina

Bosnia and Herzegovina is a country with one of the most complicated political systems in the world. After the Dayton Peace Accord, the country has been divided into two entities: the Federation of Bosnia and Herzegovina and the Republic of Serbs (Republika Srpska), with an area around the town of Brčko in the north being a district which is not a part of either entity. The Federation of Bosnia and Herzegovina is then further divided into 10 cantons.

This kind of arrangement leads to the situation in which Bosnia and Herzegovina, a country populated by only 3.5 million people (2013 census) has 13 parliaments, each with its own set of duties and responsibilities, and also 13 governments. These 13 parliaments are as follows: Parliament of Bosnia and Herzegovina (state level), Parliament of Federation of Bosnia and Herzegovina (entity level), Parliament of Republika Srpska (entity level) and 10 cantonal parliaments.

For the purpose of this research we will focus on the state and two entity parliaments since these are the most important parliaments in the country.

The Parliament of Bosnia and Herzegovina encompasses a House of Representatives and a House of Peoples. The 42 Members of the House of Representatives are directly elected via a system of proportional representation, where 28 Members are elected in the federation and 14 in the Republika Srpska.

The 15 Members of the House of Peoples are indirectly elected by the entities' parliaments, with two-thirds of Members from the federation (five Croats and five Bosniaks) and one-third from the Republika Srpska (five Serbs). Both houses of parliament are equally important in the legislative process, since all laws must be adopted by both houses.¹

At an entity level, both the federation and the Republika Srpska have significant autonomy.

Parliament of the Federation of Bosnia and Herzegovina is a bicameral parliament consisting of a House of Representatives and a House of Peoples. The House of Representatives has 98 representatives who are elected directly in general elections. The House of Peoples is comprised of 58 delegates, who are not elected directly, but are nominated from cantonal parliaments. Of the 58 delegates, 17 have to be from each of the three constituent ethnicities (Bosniaks, Croats and Serbs) and seven delegates are from the so-called Others (delegates who do not declare themselves as any of the three constituent ethnicities). This chamber of the parliament is often not filled accordingly, due to the fact that not enough Serbs are elected in the cantonal parliaments.

As at the state level, the two chambers of parliament are equally important in the legislative process since each law must be adopted by both houses of the parliament.²

1 Constitution of Bosnia and Herzegovina (http://www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_bos.pdf).

2 Constitution of Federation of Bosnia and Herzegovina, https://predstavnickidom-pfbih.gov.ba/upload/file/ustav/ustav_precisceni_tekst.pdf.

Republika Srpska also has a bicameral parliament which consists of a National Assembly of Republika Srpska and the Council of Peoples of Republika Srpska.

The National Assembly of Republika Srpska has 83 representatives who are elected directly in general elections. The Council of Peoples is the second chamber of parliament and it has 28 delegates who are not elected directly in elections but are chosen by representatives of the National Assembly of Republika Srpska. Out of these 28 delegates, eight are representatives of each constituent ethnicity, while four are “Others”.³

Even though the Parliament of Republika Srpska is by definition a bicameral parliament, the Council of Peoples is not equally important in the legislative process, since it does not have to vote on every law that goes through parliamentary process.

2. Parliaments in Bosnia and Herzegovina

2.1. State Parliament (Parliament of Bosnia and Herzegovina)

2.1.1. A brief background of the parliament and history of boycotts from 1996 to 2010

The first elections in Bosnia and Herzegovina were held in 1996, and in the same year the Parliament of Bosnia and Herzegovina was formed. As was the case in the pre-war elections in 1990, parties with the most seats in parliament were the right-wing parties SDA (19), HDZ (eight) and SDS (nine). From 1996 to 2018, there have been seven assemblies of the state parliament. In just one instance, from 2000. to 2002 during the so-called “Alliance”, none of these three parties were part of the government. To this day, the SDA and HDZ remain two of the strongest parties in parliament, with the SDS ceding its place to the SNSD in 2006.⁴

Boycotts were not a common occurrence in the Parliament of Bosnia and Herzegovina from 1996 to 2010. Two key facts explain why they were not.

First, during the period from 1996 to 2000, Bosnia and Herzegovina was a country that had just emerged from a war and it had only just started its transition to a democratic country. There was a lot to be done, in terms of setting the foundations and the legislative framework of the country, and so both the opposition parties and the majority parties worked in unison.

Secondly, during the period from 1996 to 2010, the Office of the High Representative in Bosnia and Herzegovina had a much more hands-on approach than it has at the moment, since it was not uncommon for the OHR to use its powers to enact laws on which the parliamentarians could not agree, or to suspend certain politicians from political life. This approach prevented the politicians from boycotting. After the 2010 elections, the role of the OHR was significantly diminished, not in terms of its powers but rather due to the fact that the OHR chose not to act on them. This can be clearly seen in the decisions the OHR since 2011.⁵

3 Constitution of Republika Srpska, https://www.narodnaskupstinars.net/sites/default/files/upload/dokumenti/ustav/lat/ustav_republike_srpske.pdf.

4 Parlamentarna skupština Bosne i Hercegovine, Sarajevo 2010.

5 Decisions of the Office of High Representative in Bosnia and Herzegovina, http://www.ohr.int/?page_id=1196.

However, although there were not many boycotts, the efficiency of the Parliament of Bosnia and Herzegovina was deteriorating mostly due to the uncharacteristic political system in Bosnia and Herzegovina. Parties that often formed the majority in parliament were parties that were fundamentally different in their political stances. That is why the majority in parliament was often non-existent. A good example of parliamentary disfunctionality is the fact that in the 2006-2010 mandate the Parliament of Bosnia and Herzegovina rejected 130 laws in total, with 49 (or 40 per cent) of the rejected laws being in proposed by the Council of Ministers, which was comprised of the same political parties that formed the “majority” in Parliament.⁶

2.1.2. Overview of the 2010-2014 parliamentary term

The October 2010 elections gave Bosnia and Herzegovina a shift of powers on the political scene. The SDP emerged as the strongest political party in the federation with eight representatives, the SDA had seven, the SBB four, the SBiH two, the HDZ 1990 two and the NSRzB and DNZ one each. The situation in Republika Srpska remained unchanged, with the SNSD leading with eight representatives, the SDS four and the PDP and DNS one each.

2.1.2.1. Problems with constituting parliament – HDZ boycott

This shift of powers on the political scene came at a time when the SDP was also the leading political party in the Federation of Bosnia and Herzegovina and it wanted to form a government without the HDZ for the first time since 2002. This led to some serious problems in terms of parliamentary functionality.

In order to form a House of Peoples of the Parliament of Bosnia and Herzegovina, delegates must be chosen in the House of Peoples of the Federation of Bosnia and Herzegovina.

Delegates of the House of Peoples (FBiH) are chosen from cantonal assemblies, with each canton giving a certain number of delegates of every ethnicity based on (at the time) the 2011 census. After realizing that the majority and the government could be formed without them, the HDZ and HDZ 1990 decided not to choose the delegates from three cantons: canton 10, West-Herzegovina canton and Posavina canton. This led to delays in constituting the House of Peoples (FBiH), and in turn to delays in constituting the House of Peoples (BiH).

After extensive pressure from the international community, this boycott ended in April 2010 and the House of Peoples (FBiH) was finally fully constituted. Two months later, the House of Peoples (BiH) was also formed, and parliament could work to full capacity.

The primary cause of this HDZ boycott was to leverage other parties into forming a majority with them. Although the boycott essentially originated at a lower level of government, due to the complexities of Bosnia’s political system, the consequences were also felt by the higher levels of government.

2.1.2.2. Sejdić-Finci decision and undermining the role of parliament

On 22 December 2009, the European Court of Human Rights made a decision in *Sejdić-Finci v. Bosnia and Herzegovina* which meant that Bosnia and Herzegovina needed to amend its constitution because it was in violation of the European Convention on Human Rights (ECHR).⁷

⁶ CCI BiH: Monitoring rada Parlamenta BiH, Mandat 2006-2010.

⁷ Decision on *Sejdic-Finci v. BiH*.

Sejdić and Finci argued that despite possessing experience comparable to that of the highest elected officials, they were prevented by the Constitution of BiH and the Election Act 2001 from being candidates for the presidency and the House of Peoples of the Parliamentary Assembly solely on the ground of their ethnic origins. This meant that they had been prohibited from participating in public life in a discriminatory manner, in violation of Article 14 ECHR (non-discrimination) taken together with Article 3 of ECHR Protocol No.1 (right to free elections), as well as Article 1 of ECHR Protocol No. 12 (general prohibition of discrimination).

The Parliament of Bosnia and Herzegovina was the institution in charge of implementing the verdict, and this was a most important condition for Bosnian authorities in order for the process of rapprochement with the European Union to be continued.

However, during the entire 2010-2014 term there was not a single discussion on the implementation of this verdict in the Parliament of Bosnia and Herzegovina. Instead of being a focal point of debate on this decision, the Parliament of Bosnia and Herzegovina was completely bypassed. The talks on how to implement this decision were instead held in informal settings, attended only by the heads of political parties.⁸

While this situation was not a boycott in a traditional sense, it has seriously undermined the authority of parliament as the highest legislative institution in the country. Despite the outrage from civil society organisations and citizens, the ruling parties never did anything to return this discussion to parliament. This created the perception that parliament is simply a place where representatives just raise hands, instead of being a focal point of legislative activities.

2.1.3. Election results and forming the majority after the 2014 elections

The election held in October 2014 produced a slight change in the political landscape at the state level. The Social-democratic Party (SDP), which was the strongest party in the 2010-2014 mandate did not remain the strongest, and was overtaken by the Party of Democratic Action (SDA). The strength of parties from Republika Srpska also changed in relation to 2010, with the block around the Party of Independent Social Democrats (SNSD) now tied with the block around the Serb Democratic Party (SDS).

The division of mandates in the House of Representatives was as follows: SDA 10, Democratic front – Željko Komšić five, SBB-Fahrudin Radončić four, HDZ BiH four, SDP three, HDZ 1990 one, BPS-Sefer Halilović one, SNSD six, SDS five, PDP-NDP one, and DNS one.⁹

In the House of Peoples, ethnic caucuses were comprised as follows: Bosniak: SDA three, DF one, SBB one; Croat: HDZ three, HSS one, HDZ 1990 one; Serb: SNSD two, SDS two, DNS one.

After extended negotiations, a parliamentary majority was formed on 31 March 2015, and it consisted of the SDA, DF, HDZ BiH, SDS and PDP-NDP. This majority, however, did not last long, and it was reconstituted towards the end of 2015 with the SBB replacing the DF. The defining characteristic of this parliament is the fact that from 2014 to 2018 the majority was very loose, and the majority coalition partners did not see eye-to-eye on many important issues, which hindered the work of parliament but also led to such unusual situations as the ruling parties boycotting or delaying the work of parliament.¹⁰

8 <http://ba.n1info.com/Vijesti/a285834/Slucaj-Sejdic-Finci.html>.

9 2014 Election, Confirmed Results, <http://www.izbori.ba/Potvrđjeni2014/Finalni/PredsjednistvoBiH/Default.aspx>.

10 CCI BiH: Mandatni izvještaj o monitoringu rada Parlamenta BiH, mandat 2014-2018.

2.1.3.1. Boycotts in the 2014-2018 parliamentary term

During this mandate there were several major boycotts of parliament which we will address in the remainder of this paper.

❖ *The SNSD and DNS boycotting Džaferović*

Even before a majority in parliament was formed, the first boycott occurred. The House of Representatives of Bosnia and Herzegovina has one Chairman and two Vice-Chairmen who are from different political parties and different ethnicities. It is customary that the first Chairman is from the party that has the most seats in the House of Representatives. In this case, the first Chairman was Šefik Džaferović from SDA.

In January 2015, allegations of Džaferović covering up war crimes surfaced, which prompted representatives from SNSD and DNS to request his replacement. They requested a discussion on his replacement at the beginning of every session and, when it was not granted, the entire caucus left the session. Since the Chairman of parliament is rotated every eight months, this was an intermittent boycott of parliament in 2015 and 2017.¹¹

However, it is important to note that the SNSD was not always consistent in boycotting the parliament presided by Džaferović. In April 2017, while Džaferović was presiding over the House of Representatives, members of the SNSD-DNS caucus attended the session on which the excise law was debated.

This boycott by the SNSD was especially significant in terms of paving the way for the narrative of their 2018 pre-election campaign. That narrative was that other Serb parties (SDS-PDP-NDP) were not protecting the interests of Republika Srpska in the Bosnian parliament, that they were working with people (e.g. Džaferović) who wanted to abolish Republika Srpska, and that they were the only viable option in the fight for Republika Srpska.

❖ *Serb Caucus in House of Peoples boycott due to revision of Bosnia and Herzegovina claim against Serbia¹²*

In March 2017, delegates from Republika Srpska in the House of Peoples refused to attend a session of the House. The reason for not attending the session was the submission of an application for to revise the claim of Bosnia and Herzegovina against Serbia before the International Court of Justice in The Hague.

❖ *The SNSD and resignation from committees¹³*

In July 2017, Nikola Špirić (SNSD) was dismissed from his position as the Chairman of the Joint Committee for Oversight of the Intelligence-Security Agency of Bosnia and Herzegovina, due to accusations of falsifying conclusions from the committee meetings.

Following his dismissal, the SNSD Executive Committee decided that all Members of the SNSD would resign from all parliamentary committees. On 31 July all SNSD Members handed in their resignations in the committees.

11 <https://www.nezavisne.com/novosti/bih/Zbog-Dzaferovica-i-dalje-bojkotuju-zasjedanje/291851>.

12 <https://www.klix.ba/vijesti/bih/zastupnici-iz-rs-a-bojkotuju-sjednicu-parlamentarne-skupstine-bih-zbog-revizije-tuzbe/170215068>.

13 <https://www.nezavisne.com/novosti/bih/SNSD-povlaci-kadrove-iz-komisija-u-Parlamentu-BiH/436521>.

This move led to fewer committee sessions being held until the end of the mandate, and the joint committee on the Intelligence-security Agency never held a meeting until the end of the mandate.

The resignations were also followed by the SNSD narrative that their rival political parties were not doing anything to protect the interests of Republika Srpska at the state level.

❖ *Bakir Izetbegović and the Kosovo controversy*¹⁴

On 13 November 2017 an interview in which Bakir Izetbegović, a Member of the presidency of the BiH and President of SDA, was published stating that Bosnia and Herzegovina should have already recognized Kosovo.

This interview led to unrest among parliamentary representatives from Republika Srpska, which resulted in all of them boycotting the parliamentary session scheduled for 15 November. This was especially interesting due to the fact that both the position and opposition representatives boycotted this session.

❖ *The SNSD and Bakir Izetbegović*¹⁵

On 20 April 2018 the SNSD representatives in the Parliament of Bosnia and Herzegovina called an emergency session on which the alleged war-mongering statements from Bakir Izetbegović were supposed to be discussed. Representatives from the SDA, DF, SDP and SBB did not attend this session, and thus there was no quorum.

❖ *HDZ and the election law*¹⁶

On 26 April 2018 a session of the House of Peoples of the Parliament of Bosnia and Herzegovina was supposed to be held, and amendments to the election law were to be discussed. These amendments concerned improvement to the voting process, such as introducing electrical scanners at polling stations. However, the session was not held due to the lack of a quorum. Three Members from the Croat caucus in the House of Peoples did not attend the session.

During 2017 the HDZ attempted to amend the Election Law of Bosnia and Herzegovina, but these amendments were not adopted by parliament. Since these amendments (to change how the presidency is elected and how the House of Peoples of Bosnia and Herzegovina is constituted) were the focal point of their political platform, they would not support any other amendments to the election law until the issues of the presidency was resolved. This was also a focal point of their campaign in the 2018 election.

❖ *The confusion with the excise law*

The adoption of amendments to the excise law was the highlight of the functioning of parliament in the last term. These amendments were supposed to increase the excises on fuel, which would in turn lead to higher gas prices. There have been multiple attempts to introduce these amendments by one part of the parliamentary majority (the SDA and HDZ), and these amendments were repeatedly struck down by their coalition partners from SDS-PDP-NDP, who either abstained from voting or voted against the amendments. This situation in turn led to an *ad hoc* reconstitution of the ruling majority with the SNSD, DNS and HDZ 1990 ultimately giving the key votes for this law to be adopted.

14 <http://source.ba/clanak/BiH/452789/Novi-pokusaj--Za-29-novembar-zakazana-sjednica-Predstavnickog-doma-hoce-li-se-blokada-nastaviti>.

15 <http://balkans.aljazeera.net/video/propala-vanredna-sjednica-parlamenta-bih>.

16 <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/zbog-nedostatka-kvoruma-nije-odrzana-sjednica-doma-naroda-psbih/298150>.

The reason for this *ad hoc* (and one-time) reconstitution was due to the fact that the adoption of this law was heavily lobbied for by the EU which promised that significant resources from the European Bank for Reconstruction and Development and the International Monetary Fund would be made available upon adoption. Due to the fact that the SNSD formed the government in Republika Srpska, it had more incentive to pass this law since the majority of funds would go to the entity levels.

2.1.4. Effects of the boycotts

As evidenced from the events above, boycotts are not an uncommon occurrence in the Bosnian parliament. Throughout the history of the Bosnian state parliament, we cannot say that opposition boycotts, or any boycotts in the traditional sense, were the dominant method of expressing political stances. However, it also cannot be said that the state parliament was working well from 1996 to the present day.

Due to the complicated political system of Bosnia and Herzegovina, the ruling majority was mostly composed of parties that declared themselves as Bosniak, Croat or Serb ethnic parties. Traditionally, these parties did not have same views on how the country should be governed, which then led to the fact that the majority was usually unstable.

Because of this uncertainty, and due to the fact that the majority is often fluid and changes from session to session, the legislative environment is of course affected. Laws being passed through urgency procedures is a common occurrence in the Bosnian parliament, with around 40 per cent of the laws being passed through urgency procedures since 2006.

The instability of the majority has harmful effects on the work of parliament. It is not uncommon for the state parliament to have huge gaps between sessions. In the last two mandates there have been three occasions when parliament has not had a session for over three months. In that sense, it can be said that, when the state parliament is concerned, the parties that form the majority are the ones that are effectively boycotting parliament since they are responsible for convening the sessions.

Changes to important legislation are also difficult to implement because of this. The election law in Bosnia and Herzegovina is due for an overhaul; but, because of the inability of the ruling parties to agree on the changes, this most likely will not be done soon. In the last parliamentary term, both the SDA and HDZ introduced in parliament their own proposals to amend the election law, but neither were able to gain sufficient support.

Since 2010 the situation in parliament worsened. The fact that all relevant political parties decided to hold talks outside the state parliament on implementing the Sejdić-Finci verdict, was a huge blow to the credibility of parliament which is the institution that is supposed to implement these changes. An institution that was supposed to be the most important legislative institution in the country effectively became an institution which acts simply as a tool to pass legislation previously agreed by the leaders of political parties.

Because of this, the public perception of politics is also continuously deteriorating. Voter turnout in the last general election was 53.36 per cent, which shows that do not want to take an active part in political life in Bosnia and Herzegovina. This also makes it difficult for the opposition to promote their policies and to operate in general. Since the public perception of parliament is that parliament usually does not work, it makes no sense for the opposition to boycott parliament on the occasions it does have its sessions, thus effectively removing boycotting as a tool of political competition.

2.2. Entity Parliaments

2.2.1. Parliament of the Federation of Bosnia and Herzegovina

2.2.1.1. A brief background on the parliament and history of boycotts from 1996 to 2010

The situation in the Parliament of the Federation of Bosnia and Herzegovina usually mirrors the situation in the state parliament. After the first elections were held in 1996, the parties with the most seats in the House of Representatives of Bosnia and Herzegovina were the SDA (78) and HDZ (36). This kind of election result continued throughout 2010, with the only exception being the period from 2000 to 2002 when the majority was formed by the Alijansa za promjene (Alliance for Change) led by the SDP.

As with the state parliament, the period from 1996 to 2000 was a time when the legal framework of the country was to be built, and the parties worked in unison, despite their differences.

From the 2006-2010 mandate, a problem with parliamentarians simply not coming to sessions arose; but this cannot be attributed to any specific political statements, but rather to the attitudes of the representatives.¹⁷

2.2.1.2. Overview of 2010-2014 parliamentary term

The 2010 general election brought a shift of power in the Federation of Bosnia and Herzegovina. The SDP emerged as the strongest party in FBiH, winning 28 seats in the House of Representatives. The SDA came in second with 23, the SBB had 13, HDZ BiH 12, SBiH nine, NSRzB five, the HDZ 1990 – HSP BiH coalition had five seats with the A-SDA, DNZ and SNSD winning one seat each. After the election, the SDP announced that it would try to form the government without the HDZ, which led to a troubled parliamentary term.¹⁸

2.2.1.3. House of Peoples boycott – the HDZ and HDZ 1990 refuse to send their delegates to the House of Peoples

Shortly after the election it became clear that the SDP, as the winning party, would not be forming a government with the HDZ.

However, for the Parliament of the Federation of Bosnia and Herzegovina to attain full functionality, both the House of Representatives and the House of Peoples needed to be constituted. Since the delegates for the House of Peoples are chosen from cantonal assemblies, delegates from each canton have to be confirmed by their cantonal assembly.¹⁹

Due to the specific ethnic structure of Bosnia and Herzegovina, certain political parties have total control over some cantonal assemblies, and in 2010 this was the case with the HDZ and the HDZ 1990 in three cantonal assemblies, Canton 10, West-Herzegovina Canton and Posavina Canton.

Even though the deadline for choosing the delegates to the House of Peoples is 20 days after the first session of the assembly, these two political parties decided they would not choose the delegates from these three cantons, effectively blocking parliament and the formation of the new government.

¹⁷ CCI BiH: Mandatni izvještaj o radu parlamenta FBiH, mandat 2006-2010.

¹⁸ 2010 election results, <http://www.izbori.ba/Potvrđjeni2010/Finalni/PredsjednistvoBiH/Default.aspx>.

¹⁹ <https://www.radiosarajevo.ba/vijesti/bosna-i-hercegovina/formiranje-vlasti-za-pocetnike-narodi-i-propisi/48306>.

Extended talks on how to overcome this problem were held between the leader of the Platform (led by the SDP) and both HDZs, but they could not come to a solution. Even though the SDP offered them an opportunity to participate in the government, the HDZs wanted to control all ministries from the Croat quota, which the SDP was not prepared to give up. After the talks broke down, the SDP decided to form the government without the HDZs, and in order to do that, they had to appoint the new president of the federation both in the House of Representatives and in the House of Peoples. The session of the House of Peoples was held without delegates from the three cantons, and was also boycotted by other delegates from the two HDZs.

In this session, a new President of the Federation, Živko Budimir, was chosen. The HDZs deemed his appointment unconstitutional, and Lidija Bradara (HDZ), the acting President of FBiH, stated she would not surrender the post to Budimir.²⁰ In the aftermath, the Central Election Committee of Bosnia and Herzegovina made a ruling that the elections for HoP delegates were not conducted in all of the cantons in accordance with the election law, and that the conditions for constituting the House of Peoples were not met, thus rendering the Budimir appointment invalid. This decision was overturned by the Office of the High Representative in BiH, and so the government was formed.

The delegates to the House of Peoples were finally chosen in April 2011, ending the crisis in parliament.²¹

2.2.1.4. Election results and forming the majority after the 2014 elections

After the 2014 election, the political landscape in Bosnia and Herzegovina was significantly different to the one in the 2010-2014 term, with the SDA again becoming the lead political party instead of the SDP. The mandates in the House of Representatives were distributed in the following manner: SDA (29), SBB (16), DF (14), HDZ BiH (12), HDZ 1990 (four), BPS (four), Stranka za BiH (three), A-SDA (two), Naša stranka (one) and Laburistička stranka (one).²²

The House of Peoples had the following composition:

- Bosniak caucus: SDA (10), DF (three), SBB (three), A-SDA (one)
- Croat caucus: HDZ (13), HDZ 1990 (one), SBB (one), Laburistička stranka (one), Stranka dijaspore (one)
- Serb caucus: SDP (six), SNSD (three), Naša stranka (one), Narodna stranka Radom za Boljitak (one), DF (one), LS BiH (one)
- Others caucus: SDP (four), Naša stranka (one), DF (one), Laburistička stranka (one)

The majority in parliament was formed on 31 March 2015 and it consisted of the SDA, HDZ BiH and DF, a total of 55 representatives. The same majority was also formed in the House of Peoples.

This majority, as was the case in the state parliament, did not last long. The Democratic Front (DF) was a part of the majority for less than 100 days, and was replaced by the SBB towards the end of 2015.

²⁰ <https://www.slobodnaevropa.org/a/2342530.html>.

²¹ CCI BiH: Mandatni izvještaj o radu parlamenta FBiH, mandate 2010-2014.

²² 2014 election results (<http://www.izbori.ba/Potvrdjeni2014/Finalni/PredsjednistvoBiH/Default.aspx>).

The SBB, however, adopted a role of “corrective factor” inside the ruling majority, not wanting to identify themselves as “full-time” members of the government. This led to a situation where they would often vote against their coalition partners.

As in the state parliament, the defining characteristic of this parliament was that it operated without a clear majority for almost its entire term, with the situation escalating towards the end of the term, as the general election loomed.

2.2.1.5. Boycotts in the 2014-2018 parliamentary term

During this mandate there were several situations in which some sort of boycott was happening in parliament, and we will cover them in the text below.

❖ *Labour Law of the Federation of Bosnia and Herzegovina*

On 30 July 2015, the House of Peoples of the Federation of Bosnia and Herzegovina held a session in which the most important item on the agenda was a new labour law. The parties in the majority (now just the SDA and HDZ since the DF was by that time already out of the government) pushed for the urgency procedure to adopt this proposed law, since this legislation was a big part of the “Reform Agenda” or the German-British initiative.²³

Since this bill was deemed important, one on which a broader discussion should be held, Members of some opposition parties moved to remove this bill from the agenda (the SDP, DF, SBB and Naša stranka). When their motion to remove it from the agenda did not pass, they decided to leave the plenary session.

In the aftermath, opposition delegates filed an appeal to the Constitutional Court of the Federation of Bosnia and Herzegovina, due to the fact that the procedure for adoption of this law was unconstitutional. In February 2016, the Constitutional Court ruled that the procedure was indeed unconstitutional, and the law had to go back to parliament. On 31 March 2016, the proposed labour law was again introduced into the House of Peoples where it passed the vote.

❖ *The SBB abstaining from voting in parliament due to Radončić being in prison*

Although a part of the majority coalition with the SDA and HDZ in the ninth session of the House of Representatives, which was held on 22 and 23 March 2016, Members of the SBB abstained from voting on almost every item on the agenda.

The SBB parliamentary caucus decided to boycott this session because their president, Fahrudin Radončić, was in jail awaiting trial at that time, and was reportedly denied medical treatment. This, of course created a crisis of government, with the House of Representatives holding only three more sessions before October 2016.²⁴

❖ *Serbian caucus refuses to participate in the House of Peoples*

On 2 June 2016 the Serbian caucus in the House of Peoples of FBiH held a meeting in which it decided it would not participate in the session in the House of Peoples scheduled for that day until a vice-president from their caucus was appointed. Up until that moment the House of Peoples was working without a complete leadership for almost a year and half.

²³ <https://www.klix.ba/vijesti/bih/opozicija-tvr-di-ovo-je-silovanje-doma-naroda/150730056>.

²⁴ <http://starmo.ba/politika2/item/51744-sbb-suzdrzani-po-svim-tackama.html>.

On 23 June, Drago Puzigaća (SNSD) was appointed Vice-President of the House of Peoples in a controversial decision whereby he was not supported by the Serb caucus, but only by Bosniak and Croat caucus, due to the fact that opposition parties had a majority in the Serb caucus.²⁵

❖ *Damir Mašić and HDZ/HDZ 1990*

In the 18th extramural session of the House of Representatives, the House adopted a *Resolution of the House of Representatives on condemning the initiative for the federalisation of the state and entities with the aim of ethno-national division and strengthening of separatist tendencies*, which was proposed by Damir Mašić (SDP). Per Damir Mašić, this resolution was adopted as a response to HDZ lobbying for federalisation of Bosnia and Herzegovina in the EU Parliament.²⁶

Representatives from the HDZ and HDZ 1990 left the plenary session before the vote. In the interviews after the session and in the next few weeks, the HDZ officials deemed this resolution as an attack on Croats in Bosnia and Herzegovina. This was one of the dominant narratives in the HDZ until the end of the mandate and in the pre-election campaign.

❖ *The SDA and HDZ clash on several laws*

In addition to not having a reliable third partner in the majority (first the DF then the SBB), the SDA and HDZ also had difficulties between themselves because of different stances on many bills, which led to many sessions being interrupted or not being held at all, thus creating an atmosphere of parliamentary boycotting.

The first law that the ruling majority could not agree on was a bill on gambling in the FBiH (Zakon o igrama na sreću). This bill proposed, among other things, higher taxation of bookmakers in the FBiH. The SDA was in favour of the law, and they introduced it repeatedly during 2016 and 2017. The bill was opposed by the HDZ each time and, in 2016, representatives of the HDZ even made holding the sessions of the House of Representatives conditional on whether that bill would be adopted in the House of Peoples. After 2017 there were no more attempts to introduce this law. During the period of that SDA/HDZ clash, the House of Representatives did not hold a session for several months.²⁷

Another proposed law that was problematic for the ruling coalition was on pension and disability insurance (Zakon o PIO). This bill was introduced on many occasions, but it was always struck down in the House of Peoples with HDZ delegates voting against it.²⁸ The problem with this proposed law was that the SDA and HDZ could not agree on the coefficient for calculating the pensions. Many sessions of parliament were either cancelled or interrupted due to this fact. The law was finally adopted in January 2018.

❖ *Damir Mašić and ethnic prefixes*

In the 26th session (19 December 2017) of the House of Representatives, after many hours of deliberation, the House put on the agenda a *Conclusion on erasing ethnic prefixes from names of public companies* proposed by Damir Mašić, an SDP representative in the House. Members of the HDZ and HDZ 1990 left the session before the adoption of the agenda. They stated that this was another attack on Croats in Bosnia and Herzegovina.²⁹

²⁵ <https://www.nezavisne.com/novosti/bih/Srbi-nece-ucestvovati-u-radu-Doma-naroda-FBiH-bez-potpredsjednika-iz-reda-srpskog-naroda/372478>.

²⁶ <https://www.tacno.net/sarajevo/heroj-dana-je-damir-masic-parlamenta-fbih-usvojio-rezoliciju-o-osudi-inicijative-za-federalizaciju-drzave/>.

²⁷ <https://www.klix.ba/vijesti/bih/igranje-s-procedurom-da-li-ce-zakon-o-igrama-na-srecu-biti-oboren-u-domu-naroda-pfbih/160913023>.

²⁸ <https://istinomjer.ba/reforma-penzionog-sistema-ceka-dogovor-sda-hdz/>.

²⁹ <https://nap.ba/news/41538>.

Because of that conclusion, representatives from the HDZ and HDZ 1990 did not attend the 24th extramural session (28 December 2017). This led to the budget for 2018 and the law on pension and disability insurance not being adopted.

❖ *The law on election units and number of mandates of parliament FBiH and parliamentary crisis of 2018*

Pre-election year was marked by struggles between different political blocks on how the results of the 2018 election would be implemented. The main problem arose out of an appeal by Božo Ljubić to the Constitutional Court which left a gap on how the House of Peoples would be populated.

Members of opposing parties (the SDP and DF) proposed a law on election units and the number of mandates of parliament FBiH which aimed to solve this issue. In order to debate and eventually adopt this bill, representatives from these parties scheduled an extramural session on 23 January 2018. However, this session was boycotted by members of the SDA, HDZ and HDZ 1990 and could not be held.³⁰

Six months after this session, the SDA had a change of heart and it coordinated their stance with the SDP, DF and SBB, and helped adopt this law in the 30th extramural session of the House of Representatives (20 June 20). Representatives from the HDZ and HDZ 1990 boycotted this session. As a response to the adoption of this law in the House of Representatives, the HDZ and HDZ 1990 also boycotted a *Thematic session: Challenges and Perspectives of Federation of Bosnia and Herzegovina on the road to EU*, which was held on 26 June.³¹

This law, however, was never discussed in the House of Peoples of Bosnia and Herzegovina. On 19 July 2018, a session of House of Peoples with just one item on the agenda was supposed to be held; but the President and Vice-President of the House of Peoples, Lidija Bradara and Drago Puzigaća, decided that this law was destructive for vital national interests. This session was interrupted after it was determined that delegates from the Bosniak and Serbian caucuses were not present.

2.2.1.6. Summary and effects

The functioning of the parliament of the Federation of Bosnia and Herzegovina is, at its core, similar to the state parliament. Due to the bicameral nature of parliament, the parties that form the majority often have fundamental differences. As explained before, boycotts of parliament are not a common occurrence in the usual sense of the word. Instead, sessions are simply not being held for extended periods of time, and even when there are boycotts, they usually happen in connection with one of the parties that is actually in the government.

This kind of situation renders parliament nearly obsolete, as the focus of attention in terms of legislation is not on parliament but rather on the presidents of the political parties and their deals and meetings.

This situation also renders meaningless potential parliamentary boycotts by the opposition, since the parliament is not in session most of the time anyway. Due to the fact that the election law of Bosnia and Herzegovina does not allow extraordinary elections, the effectiveness of boycotting as a parliamentary practice is questionable, since the best outcome of the boycott is the eventual reconstitution of the majority, which is almost always not possible, due to the House of Peoples.

30 https://www.oslobodjenje.ba/vijesti/bih/o-mandatima-bez-sda-i-hdz-a-bih?fb_comment_id=1871569519551322_1871632812878326.

31 <https://www.klix.ba/vijesti/bih/kome-su-se-zvanicnici-eu-obracali-u-parlamentu-fbih-prazne-klupe-iz-osvete/180626069>.

This has taken its toll on the legislative environment in which the parliament operates. Laws being passed through urgency procedures is a common occurrence in parliament, even with some key laws, such as the labour law in the 2014-2018 mandate. Around 40 per cent of the laws have been passed by way of urgency procedures in each term since 2006. The fact that laws are passed through urgency procedures has a direct effect on the ability of the opposition to do its jobs in terms of possibly amending some laws.

In terms of motives for boycotting parliament, we can identify several.

First, and most important, is the fact that the two parties who were in the majority for the entire mandate (the SDA and HDZ) had different views on several laws (law on pension and disability insurance, law on gambling, etc.) which led to situations where they would either vote against each other, or strike down their proposals in the House of Peoples.

Second, most important are the HDZ boycotts in regards to “attacks on Croats in Bosnia and Herzegovina”, which ranged from Damir Mašić’s initiatives to the law on election units.

Public perception of politics in the Federation of Bosnia and Herzegovina has never been good; but due to the constant inability of parliament to function it has deteriorated even more. In the 2018 general election only 51.25 per cent of voters exercised their right to vote, which shows that they have little interest in participating in political life. This constitutes a problem for the opposition parties since the SDA and HDZ have a loyal electoral body and, for the opposition to become stronger, the percentage of voters has to increase.

In terms of drawing attention to issues, a boycott is effective in that the issue will be in the news cycle for some time. However, there are often no visible gains due to boycotts in terms of changes in government policy.

2.2.2. Parliament of Republika Srpska

Since the Council of Peoples of Republika Srpska does not have the same legislative power as the National Assembly of Republika Srpska, nor were there any boycotts in the previous term, in this paper we will cover only the National Assembly of Republika Srpska.

2.2.2.1. A brief background of the Parliament from 1996 to 2014

After the election in 1996, the SDS was the strongest political party in Republika Srpska, with 45 seats in the National Assembly, while the SDA was in second place with 14 seats. The SDS remained the strongest political party in Republika Srpska until the 2006 election, when it ceded its place to the SNSD, and the SNSD has remained the strongest political party since then. During the period from 1996 to 2006, the SDS was not part of the ruling majority only for a brief period between 1998 and 2001. As of 2006, a coalition led by the SNSD and supported by the SPRS and DNS has been the ruling majority in the National Assembly without any changes.

Although the Parliament of Republika Srpska is bicameral, the fact that the Council of Peoples has significantly less legislative authority than the National Assembly means the dynamics of this parliament are significantly different to the state and to the parliament of the Federation of Bosnia and Herzegovina. This is mostly underlined by the fact that, contrary to the other two parliaments, boycotts that occur in the National Assembly are always led by the opposition. However, there is a similarity with the other two parliaments in that boycotts are not a common occurrence in the National Assembly of Republika Srpska.

Prior to the current term, there have been only a few boycotts in the National Assembly, and these boycotts were always in relation to actions of the ruling majority, mostly due to not including opposition representatives in the work of the assembly.

In July 2012, the opposition SDS, NDP and PDP refused to participate in the session of the National Assembly due to several of their law proposals being taken off the agenda. The ruling majority claimed that this boycott was part of a pre-election campaign for the 2012 Local Election.³²

Another boycott from the opposition parties occurred in December 2013 when the representatives from the same parties pulled out their microphones and refused to speak at the special session on the adoption of the budget of Republika Srpska. The opposition claimed that the majority parties did not want to engage in an open discussion with the opposition.³³

2.2.2.2. Election results and forming the majority after the 2014 elections

After the 2014 general election, forces in the National Assembly of Republika Srpska were as divided as it gets. The coalition around the ruling SNSD party got 42 seats (SNSD – 29, DNS – eight and SPRS – five), while the opposing block had 36 seats (SDS – 24, PDP – seven and NDP – five), with the Domovina coalition (a coalition of Bosniak and Croat parties) gaining five seats.³⁴

This meant that a majority could be formed without the SNSD for the first time since 2006. However, soon after the election, two Members who won their seats as candidates of opposing parties, Ilija Stevančević (PUP/SDS) and Vojin Mitrović (NDP), declared themselves as supporters of the SNSD and the current government which became known as the “Dva papka” affair.³⁵ The government was confirmed with 44 votes for and 37 votes against, with two representatives not present at the sitting. This vote constituted a majority around the SNSD with 44 votes, which would only grow bigger during the term, unlike the majorities in the Parliament of Bosnia and Herzegovina and the Parliament of the Federation of Bosnia and Herzegovina.

The National Assembly of Republika Srpska was the most stable of all parliaments during the 2014-2018 term.

2.2.2.3. Boycotts in the 2014-2018 parliamentary term

The boycotts that occurred in the assembly can be divided in two categories. The first is boycotts by the Domovina coalition, which were provoked by decisions against their national interests, while the others were led by the SDS, PDP and NDP, which were provoked by political pressure on the Chief Audit Office.

❖ *Domovina boycotts the session on census results*

On 21 June 2016, the National Assembly of Republika Srpska held a session with only one item on the agenda. That item was “Information on realization of activities in regards to the 2013 Census” (Informacija o realizaciji aktivnosti na popisu

32 <https://www.klix.ba/vijesti/bih/poslanici-snsd-a-kod-dodika-na-konsultacijama-zbog-bojkota-opozicije/120717051>.

33 <http://balkans.aljazeera.net/vijesti/protest-opozicije-u-narodnoj-skupstini-rs>.

34 <http://www.izbori.ba/Potvrđeni2014/Finalni/NarodnaSkupstinaRS/Default.aspx>.

35 <https://www.klix.ba/vijesti/bih/klix-ba-u-posjedu-snimka-na-kojem-cvijanovic-govori-o-kupovini-zastupnika/141115059>.

stanovništva, domaćinstava i stanova u BiH 2013. godine). In this session, the majority of the representatives deemed unacceptable and unlawful the decision of the Statistics Agency of Bosnia and Herzegovina to publish the results of the census without agreement from the Statistics Bureau of Republika Srpska.

The problem was the fact that, in the view of Serb representatives, 196,000 people who were enumerated as residents of Republika Srpska did not live in the territory of this entity. This posed a problem for representatives of the Domovina coalition, since it was presumed that the majority of those 196,000 people were of Bosniak ethnicity, and they viewed it as an attempt to minimize the number of Bosniaks in Republika Srpska even more.

Representatives of the Domovina coalition left this plenary session after the agenda was confirmed, due to the fact that the National Assembly of Republika Srpska does not have jurisdiction over the Bosnian Agency of Statistics and thus this plenary session was viewed as unnecessary.

In 2017 Republika Srpska published its own results of the 2013 census.

❖ *Domovina boycotts the session in which the law on the day of Republika Srpska is adopted*

On 25 October 2016, the National Assembly adopted the Law on the Day of Republika Srpska. This law states that 9 January will be celebrated as the Day of Republika Srpska. This date was deemed unconstitutional by the Constitutional Court of Bosnia and Herzegovina because it does not represent the feelings of every ethnic group accordingly. Because of that fact, representatives from the Domovina coalition did not attend the session in which the law was adopted.³⁶

❖ *Domovina Members boycott the session on a referendum*

On 7 February 2017, the National Assembly discussed the Report on the Referendum on the Day of Republika Srpska. In the referendum, which was conducted in September 2016, residents of Republika Srpska voted on whether 9 January should be the official Day of Republika Srpska. Representatives from Domovina boycotted the session due to the fact that 9 January was deemed unconstitutional by the Constitutional Court of Bosnia and Herzegovina because it does not represent the feelings of every ethnic group accordingly.

❖ *Opposition boycotts in relation to audit reports and the replacement of the Chief Auditor*

In September and October 2017, the biggest boycott of the National Assembly occurred. In July 2017, the Chief Audit Office of Republika Srpska published a *Consolidated Financial Report for Budget Users for 2016*. This report showed that the uncovered deficit in Republika Srpska amounted to at least KM 175.6 million, and that budget users had created liabilities of at least KM 118 million more than available funds. This report was disputed by the Ministry of Finance of Republika Srpska, and the Chief Auditor, Duško Šnjegota, was ultimately forced to resign on 31 August 2017. On 12 September 2017, the representatives were supposed to discuss the Consolidated Financial Report, but the report was taken off the agenda by the ruling majority. After almost an entire day of deliberation on whether the report would be discussed in the session, Members of opposing parties physically blocked the work of the Assembly by standing on the podium where the Assembly leadership sits. The session was interrupted and was scheduled to be continued on 13 September.³⁷

36 <http://ba.n1info.com/Vijesti/a119181/Poslanici-Koalicije-Domovina-najavili-bojkot-rada-NSRS.html>.

37 <https://www.blic.rs/vesti/republika-srpska/haos-u-skupstini-srpske-policija-blokirala-opoziciji-ulazak-na-nastavak-sednice/5lcyhfh>.

On 13 September the session was continued in a small room of the National Assembly, and the opposition representatives were physically prevented from attending the sitting by the police.

On the next session, held on 27 October 2017, opposition representatives once again interrupted the session by standing on the podium of the leadership and whistling, after their demand to abolish the decision on the dismissal of Chief Auditor Duško Šnjegota was not put on the agenda. The session was once again interrupted and finished in the small room the following day without the presence of opposition representatives.

2.2.2.4. Effects of the boycotts

In terms of the effects the boycotts have had on this parliament, the results are the following.

The regulatory and legal environment in Republika Srpska has not been affected by the boycotts. In terms of legislation, a large percentage of laws was adopted through emergency procedures, around 42 per cent from 2006 until today. In terms of the operational environment in the National Assembly, the Rules of Procedure were changed in the last term with one key change affecting the working of the National Assembly during boycotts: the quorum for the National Assembly was reduced from 43 representatives to 28 representatives.

There is a pattern to the reactions of the ruling parties to opposition boycotts in Republika Srpska. Whenever a boycott occurs, the ruling parties accuse the opposition of not wanting to work with them, and undermining the institutions of Republika Srpska. In the last parliamentary term (2014-2018) this has been especially noticeable, since the opposition parties at the entity level were in the government at the state level, and were thus constantly being accused of undermining the institutions of Republika Srpska.

Public perception of politics in Bosnia and Herzegovina, and thus Republika Srpska, has never been good, which is evidenced first by voter turnout in this entity. Albeit higher than in the Federation of Bosnia and Herzegovina, the 57 per cent of voters who voted in the last general election is still quite small.

In terms of strength of opposition parties, especially towards the general election in 2018, the public perception was that they could perhaps overturn the sitting government, since the opposition central gathering in Banja Luka was significantly larger than the one organised by the ruling SNSD. However, the election results proved otherwise, and there was no change in the government after the election. This also shows that boycotts, at least in the case of the National Assembly of Republika Srpska, are not an effective way of changing the government.

3. THE BOSNIAN BOYCOTT PARADOX

Usually, when we talk about a parliamentary boycott, we talk about opposition parties boycotting the work of parliament in order to make a political statement or to raise awareness on certain issues.

However, when we talk about boycotts in Bosnia and Herzegovina, we have a somewhat different picture, especially in the state parliament and in the parliament of the Federation of Bosnia and Herzegovina. Due to the bicameral nature of these parliaments, when attempting to form a majority the parties in charge have to take into account the structure of not only the House of Representatives but also the House of Peoples. Due to this fact, the majorities on BiH and FBiH levels are often composed of parties who have fundamental differences in their political platforms.

This gives us a situation where a ruling majority often cannot agree on a lot of important issues. From 2010 onwards, the response of the majority parties was simply to not hold meetings of parliament when they could not agree. From 2010 to 2019 both of the parliaments mentioned had multiple gaps in their work that lasted for several months. This kind of behaviour led to a somewhat paradoxical situation where the opposition parties were the ones that demanded that the sessions of parliament to be held, while the majority parties are effectively boycotting parliament.

In January 2018 we witnessed a situation that had never before happened in the parliament of the Federation Bosnia and Herzegovina. After the parliament had not been working effectively for a few months, the opposition party representatives invoked a provision of the rules that enables them to convene a session of parliament. This session was then boycotted by the Members of the ruling coalition (the SDA and HDZ).

This kind of behaviour by the ruling political parties is largely possible due to deficiencies in the constitution and in the Bosnian election law. Bosnia and Herzegovina, unlike many other countries, does not have the option of an extraordinary election. As agreed in the Dayton constitution, a general election in Bosnia and Herzegovina is held once every four years. This fact has huge implications on political and parliamentary life in Bosnia and Herzegovina. Since there is no possibility to hold extraordinary elections, even after the majority in parliament is lost, the government stays in power until a new majority is assembled. This puts the ruling parties in a comfortable position since the possibility of losing their positions is virtually non-existent until the next general election.

The consequences of this situation are the already mentioned paradox in which the opposition parties are the ones who advocate that parliament work more, while the ruling parties do not care about the functioning of parliament.

4. OCTOBER 2018 ELECTION RESULTS AND AFTERMATH³⁸

The best way to measure success for any political party is its performance in elections. As witnessed in this report, ruling majorities both at state and entity levels have had their share of bad publicity and strong challenges from the opposing parties. However, the results of the general election held in October 2018 were not especially successful for the opposing parties in any of the parliaments.

In the House of Representatives of the Parliament of Bosnia and Herzegovina, seat distribution is as follows: SDA (nine), HDZ (five), SDP (five), DF (three), SBB (two), Naša stranka (two), Nezavisni blok (one), PDA (one), A-SDA (one), SNSD (six), SDS (three), PDP (two), DNS (one) and Socialist Party (one).

The ruling parties that were a part of the majority in the previous mandate at all times (SDA-HDZ-SDS-PDP-NDP) won 19 seats, compared to 20 seats in the previous term. However, since the election, the SNSD took control of at least one representative from the SDS, effectively reducing them to two seats, and so the coalition around the SNSD (DNS and Socijalistička partija) now has nine seats, compared to seven in the previous term.

This means that we will probably see a change in the government at the state level, since the SNSD and its block will replace the SDS and its block.

38 2018 Election results http://www.izbori.ba/rezultati_izbora?resId=25&langId=1#/1/0/0/0/0.

However, the probable ruling majority already has some pressing issues which will not be easy to agree on, especially concerning NATO membership and the amendments to the election law. At this point, it is clear that in terms of parliamentary stability it is hard to expect a situation better than in the 2014-2018 term.

On the entity levels, the situation is also not that different. The constant instability of the SDA-HDZ axis in the Parliament of the Federation of Bosnia and Herzegovina has not had much influence on their election results. The SDA lost two seats in the House of Representatives, while the HDZ gained four seats, and these two parties will almost certainly be a part of the new majority. We can therefore assume that the dynamics of their work will not change much, since the problems remain the same.

Among those that gained seats in parliament are three new parties, which are all founded by people who were members of the SDA in the previous term: PDA (Party of Democratic Action), Nezavisni blok (Independent Block) and Narod i Pravda (People and Justice).

The seat distribution in the House of Representatives of the Federation of Bosnia and Herzegovina is as follows: SDA (27), SDP (16), HDZ (16), DF (10), SBB (eight), Naša stranka (six), PDA (four), Nezavisni blok (four), A-SDA (two), HDZ 1990 (two) and Narod i Pravda (two).

The results for the National Assembly of Republika Srpska showed that the SNSD boycotts and narrative on the betrayal of Republika Srpska by Savez za promjene (SDS-PDP-NDP) were much more successful than the anti-corruption narrative used in the National Assembly boycotts.

The seat distribution in the National Assembly for the 2018-2022 mandate is as follows: SNSD (28), SDS (16), DNS (12), PDP (nine), Socijalistička partija (seven), Zajedno za BiH (four), NDP (four) and Ujedinjena Srpska (three). The majority block (SNSD-DNS-Socijalistička partija-Ujedinjena Srpska) had 50 representatives, which is a significant improvement from the past term. This majority became even bigger after the election when some representatives from NDP and SDS joined the majority bringing it to 54 representatives. The government of Republika Srpska and the majority have already been formed in December 2018.

The National Assembly of Republika Srpska will probably remain the most stable parliament in Bosnia and Herzegovina in the following term also.

5. CONCLUSION

From 1996 to 2019, parliamentary boycotts were intermittently used as a method of political action in all three of the parliaments observed in this study.

There were some similarities among all three parliaments in terms of why the boycotts started. In all three of the parliaments, we witnessed boycotts based on alleged discrimination on ethnic/national identity. This is why every party which was a part of the parliament boycotted the parliament on at least one occasion.

In the past term we also had a somewhat unorthodox situation where parties from Republika Srpska were a part of the majority at the state level and part of the opposition at the entity level and vice versa. This led to a situation where there was constant tension and boycotts from both sides, but on different levels of government.

The SNSD and the parties around it adopted a narrative whereby the SDS and their allies betrayed the interests of Republika Srpska by collaborating with the SDA, whereas the SDS adopted a different narrative in which it blamed the SNSD for a constant deterioration of the standard of living in Republika Srpska and growing corruption in this entity.

In the Federation of Bosnia and Herzegovina, the situation was completely different and paradoxical. Opposition parties were the ones who supported the work of parliament, while the parties that held the majority often boycotted parliament by either not attending the sessions or leaving them. This situation happened mostly because of the fact that two main coalition partners, the only ones who were a part of the majority for the entire mandate, had problems in regards to several laws (law on pension and disability insurance, law on gambling, etc.), and could not find a way to overcome them. Legislative activity in all parliaments suffered due to these facts, with each of them adopting fewer laws than in the previous term. The fact that around 40 per cent of all laws adopted were adopted through urgency or rushed procedures is especially concerning.

The parties in power (except the SDS and its block) did not suffer any major consequences in the general election of 2018 due to boycotts in the parliaments. It is fairly certain that the same parties will form the axis of majorities in all three parliaments. This means that in the next parliamentary term we can expect a similar situation in regards to functioning of the parliaments, since the problems and reasons for boycotts are not yet resolved. Some consequences of this kind of situation are already visible. Due to all of the problems in the functioning of the state parliament, and the parliament of the Federation of Bosnia and Herzegovina, the people do not view these parliaments as the most important legislative institutions. Instead, in the eyes of the people, that power was transferred to the heads of political parties, who often do not hold any position in the legislative or executive branches of government.

There are also consequences for the most important aspect of Bosnian foreign policy – accession to the EU. Despite the fact that Bosnia and Herzegovina submitted a formal application for EU membership on 16 February 2016, there are no indications that Bosnia and Herzegovina will be given candidacy status soon. The process of synchronising the Bosnian legislature with the EU is going really slow due to the fact that the state parliament and the parliament of the Federation of Bosnia and Herzegovina have problems functioning because of what is happening between the majority parties. Since the 2018 election results probably mean that we will have similar majorities in the parliaments, we can only hope that the situation will be better. All parliaments in Bosnia and Herzegovina need to stop being simply institutions where hands are raised only to pass the laws that have been previously agreed upon.

6.

APPENDIX A – DECISION-MAKING PROCESSES IN STATE AND ENTITY PARLIAMENTS

6.1. Parliament of Bosnia and Herzegovina

6.1.1. House of Representatives

In accordance with the Rules of Procedure of the House of Representatives, the decisions are made by the majority of all representatives attending and voting. The votes “abstained” shall be counted towards a quorum but shall not be added to the votes “in favour” or “against” respectively. Representatives make efforts to include at least one third of the representatives from the territory of each entity in the majority, unless otherwise provided by the BiH Constitution and these Rules of Procedure.

In case a representative does not vote “in favour”, “against” or “abstained”, but he/she is present at the session during the voting, he/she is considered “abstained”.

In all cases, the number of votes cast must be equal at least to the quorum which shall, in accordance with the Rules of Procedure, comprise 22 representatives, provided that there is a minimum of one third of the representatives present from each entity unless the decision-making procedure in certain matters is otherwise regulated by the BiH Constitution and the Rules of Procedure.

If the majority of votes does not include one third of the votes from the territory of each Entity, the Speaker may call for a break of up to 60 minutes. During the break, the Collegium shall attempt to find a solution, in cooperation with Chairs of caucuses and independent representatives.

In case the controversial issue is not solved after the break, the Speaker convenes the Collegium, which, working as a Commission, makes efforts to find a conciliatory solution within the next three days.

If the Collegium manages to reach an agreement, the House shall be informed about it and a vote shall follow pursuant to the Article 79 of the Rules of Procedure.

If the Collegium fails to reach a consensus, or if it reaches consensus about a new solution that was not subject to the voting procedure of the House, the decision shall be passed by a majority of the total number of representatives attending and voting, provided that dissenting votes do not include two thirds or more of the representatives elected from either entity.

If a quorum is not met and, after the break, the Speaker verifies, or the vote reveals, that the lack of a quorum persists, the respective issue shall be postponed for the next session.

6.1.2 House of Peoples

Nine Members of the House of Peoples constitute a quorum necessary for decision-making, provided that at least three Bosniak, three Croat and three Serb delegates are present. According to the Rules of Procedure of the House, decisions in the House are made by a majority vote of the delegates who are present and who vote. Delegates make efforts to include at least one third of the delegates elected from the territory of each entity in the majority, unless otherwise stipulated in the BiH Constitution and the Rules of Procedure.

If a delegate has not voted “for”, “against” or “abstained” and is present in the Hall during the vote, he or she shall be considered to have “abstained”. In all cases, the number of counted votes must be at least equal to the quorum, except if otherwise stipulated in the BiH Constitution and the Rules of Procedure of the House.

If the majority vote does not include one third of votes from the territory of each entity or if it is established that a quorum does not exist, the Speaker may order a 60 minute break during which attempts will be made to find a solution. In case there is no majority and if the contentious issue is not resolved after the break, the Speaker shall convene a Collegium within the next three days for the purpose of reaching an agreement and shall inform the delegates about the agreement without delay. If the Collegium fails to reach an agreement the decision shall be made by the majority of the total number of delegates who are present and who vote, provided that the votes “against” are not cast by two thirds or more of the delegates elected from each entity. The House session shall be convened for the purpose of voting within the shortest period possible after the session of the Collegium and not later than three days thereafter.

Parliamentary Boycotts
in the Western Balkans

Case Study: Kosovo

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EXECUTIVE SUMMARY

Parliamentary boycotting is a political tool used by certain political groups to oppose or advocate for a specific issue. Through boycotting, political entities not only seek to block a certain development, but they also seek to deliver a message contrary to what is actually happening in parliament. This tool has been used in many countries all over the world, and it has lately reached Kosovo too.

As the newest country in Europe, Kosovo has only recently established its parliamentary life and practices. The first composition of parliament occurred in the year 2000, just after Kosovo's liberation after the 1998-1999 war. However, despite no longstanding experience with parliament, parliamentary boycotting as a phenomenon has always been present, marking parliamentary life in Kosovo.

Although Kosovo does not have a long parliamentary tradition, parliamentary boycotting is a well-known concept for political parties and citizens in the country, especially since 2015. The increased dynamic of political life in Kosovo, both inside the county and abroad, has created new political situations which have introduced new political means of opposing issues either by opposition parties or other specific parties represented in parliament.

Parliamentary boycotting in Kosovo has been caused by two main actors: Kosovo Albanian opposition parties in one hand, and the Serbian List in the other. Causes that lead to parliamentary boycotts by Albanian parties were the Agreement on Association of Serb Municipalities, the Agreement on Border Demarcation with Montenegro during 2015 – 2017, and the tendency to deliver political message to the governing coalition that they have no majority in parliament and that they need the opposition even to pass basic laws in 2018. The boycotts by the opposition parties have been justified as a means of protecting national interests, not allowing Kosovo to be divided and “to become a new Bosnia and Herzegovina”, to prevent Kosovo from losing land to Montenegro and generally to serve the best interests of Kosovo citizens. Meanwhile, the Serbian List has justified the boycott as a mean of protecting Serbian interests in Kosovo.

The boycotting itself has had a negative impact on the legislative agenda and oversight of the government since many laws could not be passed and oversight of the government was generally weak. However, statistically speaking, the assembly has always kept working and delivering. In general, there has never been a complete blockade of parliament by the opposition parties. Even when the opposition boycotted the plenary sessions, they did not boycott parliamentary committee meetings.

1. INTRODUCTION

This paper presents an analysis of boycotting in parliamentary life in Kosovo during its six legislatures with a special emphasis on the fifth and sixth legislatures (2015 – 2018) when the boycotting phenomenon has been present.

The paper is composed of three main parts. The first part addresses the parliamentary system of the Republic of Kosovo, the composition and organisation of this institution. Moreover, in this section is presented the current political structure within the assembly and the division of seats between the parliamentary majority and the opposition. In order to make it easier for the readers to understand the boycott and the political context in Kosovo, a short overview of the main political parties represented in parliament is presented.

Special space in this analysis is given to the parliamentary boycott of the Kosovo Assembly, when it has begun to be used by parliamentary political entities and under what circumstances it has occurred in order to understand the reasons for the boycott. This paper also highlights the way the assembly has functioned when this institution has faced boycotts from certain parliamentary groups.

Finally, the last part of the paper analyses the effects of the parliamentary boycott in the functioning of the work of the assembly and in meeting the requirements of the political entities that have used the boycott as a mean of achieving their goals.

2. PARLIAMENTARY SYSTEM AND POLITICAL PARTIES IN KOSOVO

In order to better understand the political system and its context in Kosovo, this section briefly explains the parliamentary system in Kosovo. Moreover, in order to fully understand the political actors involved in parliamentary boycotts over the last years, a specific section is devoted to the political parties to introduce their concepts, ideologies and political power.

2.1. Parliamentary System

Kosovo is a democratic republic based on the principle of the separation of powers and the control and balancing between them defined by its constitution.¹ Based on the constitution, the assembly of the Republic of Kosovo is the highest lawmaking institution which consists of 120 deputies elected directly by the citizens for a four-year mandate. The seats in the assembly are divided among all parties, coalitions, civic initiatives and independent candidates in proportion to the number of valid votes won by them in the elections for the assembly. Within this division, 20 out of 120 seats are guaranteed to represent communities that are not in the majority in Kosovo.² Ten out of 20 guaranteed minority seats belong to Serbian MPs, whereas the remaining 10 seats belong to other non-majority communities such as Turkish, Bosnians, Roma, Ashkali and Egyptians. The composition of the assembly of Kosovo respects the principles of gender equality, applying the gender quota of 30 per cent, which is also provided by the law on general elections in the Republic of Kosovo.

1 Constitution of Kosovo, Article 4(1).

2 Constitution of Kosovo, article 64(1) and 64(2).

Currently, the assembly of Kosovo is in its sixth legislature, which emerged after 2017's snap elections held on 11 June. None of the legislatures so far has managed to complete its four-year mandate. The first and second legislatures were held before Kosovo's declaration of independence on 18 February 2008, during the administration of the United Nations Mission in Kosovo (UNMIK). The third legislature of the Assembly was composed after 2007's elections, the last one before independence. MPs of the fourth legislature were the first ones to begin their mandate in independent Kosovo, since it was composed after 2010's snap elections. The fifth legislature functioned from 2014 till 2017.

2.2. Political Parties

Since Kosovo has a multiparty system, at the present time there are 56 political entities registered with the Central Election Commission (CEC).³ However, from the total number of political parties registered with the CEC, from all legislatures of the Kosovo assembly, the largest number of parties that have been represented in a legislature is 20 (third legislature). Nevertheless, only a few political parties have continuously been involved in Kosovo's parliamentary life and have shaped Kosovo's parliamentarism.

At the present time, the largest group in parliament is the Democratic League of Kosovo (LDK), which has 25 MPs. The LDK was founded on 23 December 1989 by a group of intellectuals in Kosovo as a political movement against the Milošević regime which had already suspended Kosovo's constitution and its autonomous status in the Yugoslav federation⁴. The LDK is a centre-right party and an associate member of the European People's Party (EPP). The LDK at the beginning was not a political party, but more a popular movement which enjoyed broad support among Albanians living in Kosovo and abroad. Moreover, the LDK was the first democratic political party formed in areas inhabited by the Albanian majority in the Balkans. Since 2000, the party has only been in opposition twice, during the fourth legislature (2010 – 2014) and in the present legislature.

The second biggest parliamentary group is the Democratic Party of Kosovo (PDK), which has 23 MPs. The PDK is also the largest political group in the current governing coalition. It was originally a social democratic party coming out of the demilitarised KLA (Kosovo Liberation Army) after the war. During its congress in January 2013, it positioned itself as a centre-right party. The party was founded on 14 May 1999 from the political wing of the Kosovo Liberation Army. The party has increased in size over the years, since 2007 has never been in opposition, and has continuously won the elections in Kosovo. In the last elections, the PDK joined a pre-election coalition with many smaller political parties and they managed to win 39 seats all together. The party is now in the decline based on the latest local elections results.

One of the main political subjects of the recent years, especially when it comes to parliamentary boycotts and opposition movements, is Levizja Vetevendosje (LVV). LVV reached its political peak in the 2017 elections when it secured 32 mandates in parliament. However, the party soon split up and they currently have 19 MPs. Vetevendosje is the only political party in parliament which has never been part of any governing coalition at the centre. The party, however, won local elections in the capital city, Pristina, in 2013 and 2017, and also in Prizren, which is the second biggest city in Kosovo. This party has led all boycott initiatives since it entered parliament in 2010. The LVV was founded on 10 June 2005, initially as a citizens' movement which opposed the international presence in Kosovo, especially the UNMIK but also other political processes such as Standards before Status and the Ahtisari Package. In 2010, it converted to a political party and it has continuously increased its popular support, despite often being rejected and neglected by the

³ The register of political parties in the Central Election Commission: http://www.kqz-ks.org/wp-content/uploads/2018/06/KQZ_Regjistri-i-Partive-Politike.pdf.

⁴ Balkan Insight, *Key Political Parties in Kosovo*. Available at: <https://balkaninsight.com/2010/09/27/who-is-who-political-parties-in-kosovo/> (accessed on 16 March 2019).

international community. The LVV is a left-wing party with nationalist elements. One of the key policies of the party for a very long time has been the unification of Kosovo and Albania.

The Alliance for the Future of Kosovo (AAK) is currently the fourth political force in Kosovo, with 13 MPs in parliament. Ramush Haradinaj has been the leader of the AAK since the party was established and he is the current prime minister of Kosovo. The AAK has drastically changed its views on processes and partners, especially if one takes into account the fifth and current sixth legislatures. From 2015 till 2017, the AAK was one of the main political parties which was boycotting parliament, jointly with the LVV, thus heavily criticising the government composed of the PDK and LDK. However, after 2017's snap elections, the AAK has joined initially a pre-election coalition with the PDK, and after the elections they have jointly formed the current government. The AAK was founded on 29 April 2001 as a centre-right party by former KLA warlords and small political parties who had functioned before and after 1999 in Kosovo as a small opposition to the LDK.

The fourth biggest parliamentary group is the Social Democratic Party (PSD). Even though the PSD did not win any seats in parliament during the last elections, the party currently has 12 MPs. PSD MPs won their mandates as Members of the LVV; however, in 2018 the LVV parliamentary group split up and currently 19 MPs remain part of the LVV while 12 others have joined the PSD.

The Serbian List (SL) is another political party who has made itself famous for parliamentary boycotting. It has nine out of 10 reserved seats for Serbian MPs in the assembly. The SL is well known for its links with the Serbian government and especially with Serbia's president, Aleksandar Vucic. Party leaders publicly announce that they travel to Belgrade to consult for everything the party does in Pristina. They have constantly been part of governing coalitions in Kosovo since its establishment in 2014.

Finally, Nisma per Kosoven (NSD) is another left-wing party, whose leaders split from the PDK in 2014. The NSD was in opposition in the fifth legislature, and actively boycotted parliament together with the AAK. Currently, it is a member of the governing coalition and has eight MPs.

3.

PARLIAMENTARY BOYCOTT IN KOSOVO: CAUSES

In recent years, Kosovo's parliamentary life has been characterised by boycotts, tear gas and other political measures, mostly taken by opposition parties, to oppose certain political and legal developments in the country. Even though Kosovo does not have longstanding experience with parliamentarism due to its recently breaking away from Yugoslavia, nevertheless the country's legislative life has been a debated issue not only within the country but also abroad. Within the last four years, Kosovo has witnessed different political campaigns of both opposition and governing parties, which included boycotting, violence and massive protests inside and outside parliament.

Prior to 2015, parliamentary life in Kosovo had been rather quiet and not characterised by high political polarisation between parliamentary subjects. Only two minor cases of boycotting were recorded from 2000 to 2015: first, the boycott by LDK MPs to prevent voting on privatisation in Kosovo⁵ in 2010, and secondly, PDK MPs and other governing coalition MPs

5 KIPRED (2010): *Causes of political crisis in Kosovo* (AL). Available at: http://www.kipred.org/repository/docs/Shkaqet_dhe_Shkaset_e_Kriz%C3%ABs_Institucionale_n%C3%AB_Kosov%C3%AB__30963.pdf (accessed on 14.03.2019).

leaving the plenary session to endanger the quorum and interfere with the voting related to privatisation in Kosovo.⁶ These actions were described at that time as “unprecedented”;⁷ however, comparing them to the actions taken from 2015 onwards they are quite incomparable.

The next section provides details on some of the most recent and biggest cases of parliamentary boycotting in Kosovo, focusing on the time from 2015 to 2018.

3.1. Jablanovic Case

Soon after the new government formed by the PDK, LDK and SL after 2014’s elections began work, it had to face the first boycott and political crisis. The year 2015 started with massive and violent protests by the opposition and supported by citizens who supported the dismissal of the then Minister for Community and Return, Aleksander Jablanovic, over a public statement where he offended the mothers of war victims in the city of Gjakova. Jablanovic’s statement concerned an incident in front of an Orthodox Church in Gjakova on the Orthodox Christmas Eve when a bus with about 40 Serbs was stoned during a protest by Albanian mothers of missing persons. Jablanovic referred to the women protesters as “savages” for preventing Serbs from visiting the church and completing their religious rituals. Huge pressure from public opinion forced Prime Minister Isa Mustafa to dismiss the minister.⁸ To oppose the government’s dismissal of their leader, the Serbian List boycotted the work of the assembly for three months (February 3 to April 27). As the SL was a member of the governing coalition, not only did its MPs but also its ministers boycott political activities during this period. However, in the first half of this year, despite the boycott of the Serbian List, the assembly had managed to increase the dynamics of the work, since the remaining parties in the governing coalition provided enough votes to pass laws and keep the dynamics of legislative life developing.

3.2. Association of Serb Municipalities Agreement and Border Demarcation Agreement with Montenegro

The summer of 2015 more or less decided the political fate of Kosovo for at least the next three years. During August 2015, two agreements were signed, one in Brussels and the other in Vienna, which triggered the biggest parliamentary boycott and domestic political crisis in Kosovo’s history. The Agreement for the Association of Serb-majority Municipalities and the Agreement of the Demarcation with Montenegro were two topics that deeply polarised the governing coalition and the opposition and were the starting point for a total blockade of the work of the assembly. These two agreements caused the longest parliamentary boycott of the work of the assembly in its history, from 2015 to 2017.

The opposition parties criticised the government for a lack of transparency in the dialogue process with Serbia that led to the signing of the agreement on the general principles of the Association of Serb-majority Municipalities (25 August 2015) and the signing of the Demarcation Agreement with Montenegro (26 August 2015). This resulted in opposition MPs blocking plenary sessions and boycotting parliamentary committee meetings.

At the beginning of the autumn session of the assembly’s work in 2015, opposition parties began to express their dissatisfaction with these two processes by blocking plenary sessions using tear gas during the plenary sessions. Parliamen-

6 KDI (2013): *Over ten years of Parliamentarism in Kosovo*. Available at: http://kfos.org/wp-content/uploads/2013/09/Over-10-years-of-parliamentarism-in-Kosovo-ENG.pdf?fbclid=IwAR1s0wKbaPAN5lw1ZxT7xc__Qmar3yQdB6oGv7YN2D16056j6CZSuwpcow (accessed on 14 March 2019).

7 *Ibid* (7), p.16.

8 Kosovo PM Dismisses Controversial Ethnic Serb Minister. <https://www.novinite.com/articles/166338-Kosovo+PM+Dismisses+Controversial+Ethnic+Serb+Minister> (accessed on 14 March 2019).

tary boycotts by opposition parties became more radical over time. The LVV, AAK and NSD not only boycotted working sessions of parliament, but they took other actions. First, Prime Minister Isa Mustafa was pelted with eggs in September 2015 as soon as parliament begun its autumn session. Tear gas followed, along with other non-parliamentary behaviour such as throwing water and bottles at MPs and others, whistling during the plenary sessions to prevent MPs from speaking and blocking the microphone of the Speaker of the assembly.⁹

In this situation, the presidency of the assembly took the decision to hold plenary sessions in alternative halls, excluding opposition MPs and using the police to prevent them from participating in plenary sessions. The Kosovo prosecution issued a warrant for the arrest of MPs who used tear gas. Consequently, 13 opposition MPs were escorted to the police station, some were released under house arrest and some remained in detention. In a recent court ruling, one MP was found guilty and sentenced to six months imprisonment for throwing tear gas in parliament.¹⁰

The boycott eventually was ended first by the LVV at the end of 2016 when its MPs decided to return to the assembly in order “to prevent the government from adopting agreements on Border Demarcation and establishing an Association of Serb Municipalities”. The AAK and NSD did not return to the assembly alongside with LVV.¹¹ However, they returned in May 2017 to vote for the motion of non-confidence in Prime Minister Mustafa, which turned out to be the last plenary session of the fifth legislature as the assembly was dissolved and Kosovo went to snap elections.

The Agreement on General Principles of Association/Community of Serb-majority Municipalities in Kosovo was reached on 25 August 2015 between Prime Minister Mustafa of Kosovo and Prime Minister Aleksandar Vucic of Serbia. This agreement derives from the First Agreement of Principles governing Normalisation of Relations, signed on 19 April 2013. In its 22 points, the general principles agreement establishes the details of the formation of the Association of Kosovo Serbs in Kosovo by providing the legal framework, objectives, organisational structure, relations with central authorities, legal capacity and budget issues. According to opposition parties, this agreement endangers the constitutional system of Kosovo, by creating a fourth branch of power, and also sliding Kosovo towards partition of the country and “becoming a new Bosnia and Herzegovina”.

As a result of the political crisis created at that time in Kosovo, former Kosovo President Atifete Jahjaga addressed the Constitutional Court to request an interpretation of the compliance of the principles of the association with the constitution of Kosovo. Thus, on 23 December 2015, the Constitutional Court of the Republic of Kosovo suspended the agreement four months after it had been reached. In its 39-page decision, the court found that the principles of the agreement were not in accordance with the spirit of the Constitution of the Republic of Kosovo, namely in: Article 3 Equality before the Law, Chapter II Rights and Fundamental Freedoms and Chapter III Communities and their Members. The court ruling fuelled the opposition boycott and resistance to the agreement.

Meanwhile, the border demarcation agreement with Montenegro was signed by Foreign Minister Hashim Thaçi in Vienna. This agreement was opposed by the opposition parties because it was believed that its ratification would lose Kosovo at least 800 hectares of land. The governing coalition, although having a majority in the assembly, did not face the opposition to debate the issues it was opposing, such as the ratification of the agreement on the definition of the

9 For instance, this videos shows how an usual plenary session of Kosovo’s assembly developed during 2015 and 2016: <https://www.youtube.com/watch?v=O8ePCyZG2Ec>; or, <https://www.youtube.com/watch?v=toKcKe1WJTI> (accessed on 13.03.2019).

10 Ex-LVV MP Fisnik Ismajli was sentenced to six months imprisonment for tear gas, https://www.koha.net/arberi/151246/gjykata-shpall-fajtor-deputetin-ismaili-per-hedhje-te-gazit/?fbclid=IwAR0tph_wYeJAiXEVm59ld--eFdQP7glrLnCv1cm79WuYKBfN_RAOknptVy8 (accessed on 18 March 2019).

11 LVV returns to the assembly, AAK and NSD request new elections, <http://gazeta-shqip.com/lajme/2016/06/07/aak-dhe-nisma-duan-zgjedhje-te-parakohshme-vv-kthehet-ne-kuvend/> (accessed on 11 Marsh 2019).

border line with Montenegro. That occurred because the LDK was going through a crisis within its parliamentary group as some of its MPs had come out openly against the demarcation agreement with Montenegro.

On the other hand, the European Union pressured the government and the assembly to ratify the agreement of the demarcation with Montenegro as the last visa liberalisation requirement. The governing coalition was unable to conclude this issue as the two largest parties, the PDK and LDK, in early 2017 had begun to show disagreements within the coalition. These disagreements led to early elections since the motion of no-confidence initiated by the opposition against Prime Minister Mustafa was also supported by the prime minister's coalition partner, PDK.

3.3. Law on Trepça and Serbian Community Interests in Kosovo

In October 2016, parliament passed a law on Trepça, the biggest and most important industrial complex in Kosovo. After this law had been adopted, Serbian List MPs decided to freeze participation in the work of the assembly of Kosovo. The SL stated that, in the interests of the Serbian people and democracy, “with disgust [it rejects] the political and legal violence of the Kosovo parliament” on the Trepça issue. Further, the Serbian List through a news release noted that it did not recognise any decision regarding Trepça, which was approved without the agreement of the Serb political representatives. SL estimated that the decision of the Kosovo assembly on the ownership of Trepça was illegal and it was a violation of the interests of the Serb people in Kosovo.¹²

This boycott, however, brought troubles within the SL itself. Some MPs and also ministers did not agree to continue the boycott and publicly stated that they would return to their work in Kosovo's institutions. A former Minister of Local Governance, belonging to the SL, actually returned to her office only later to be sacked by the party, directly by Serbian Prime Minister Aleksandar Vucic. This has been confirmed by the SL leader of that time, Slavko Simic, stating that “Aleksandar Vucic is the only chief of our single government and his authority is undeniable for us and all the Serbs in Kosovo”. Moreover, Simic stated that “the lawmakers of the Serbian List in the parliament of the provisional institutions in Kosovo announce that we will implement all Vucic's decisions and” freeze “our work in the parliament and the government of Kosovo”.¹³

The boycott ended in March 2017, two weeks before SL MPs would reach six months of parliamentary boycott. SL Members only returned to save their mandates as MPs, because as stated by the Rules of Procedure of the parliament, an MP loses his or her mandate if in a six-month period he or she does not participate in any assembly meetings.¹⁴

3.4. SL Withdrawal and Lack of Majority of the Governing Coalition

Characteristic of the functioning of the assembly during the current legislature was the boycott of opposition parties in the proceedings of the assembly. The opposition boycott has intensified since June 2018 when part of the opposition, specifically the LDK and LVV, partially boycotted the work of the assembly. LDK and LVV MPs have actively contributed to the review of draft laws and various reports in parliamentary committees but have not participated in plenary sessions. The rest of the opposition, the PSD together with the two “Alternativa” MPs who split from the LDK, have participated in

¹²Insajderi: Serbian List boycotts the Parliament. Available at: <https://insajderi.com/lista-serbe-bojkoton-pjesemarrjen-ne-kuvendin-e-kosoves/> (accessed on 11 March 2019).

¹³Insajderi: Serbian List recognises Vucic as Prime Minister, boycotts Kosovo institutions. Accessible at: <https://insajderi.com/lista-serbe-serish-bojkoton-punen-e-kuvendit-dhe-qeverise/> (accessed on 11 March 2019).

¹⁴Kosovo's Assembly Rules of Procedure, Art. 25(1)(e). Accessible at: https://www.kuvendikosoves.org/common/docs/Rr_K_RK_29_04_2010_2.pdf (accessed on 11 March 2019).

the proceedings of the assembly and made up the quorum for the conduct of plenary sessions. The reason for non-participation of the opposition in the proceedings of the assembly was largely political – to send the message that the ruling coalition did not have the majority needed to carry out its affairs in the assembly. In some cases, the boycott has also emerged as a reflection of tense relations in parliament, largely after fierce discussions between MPs and the impossibility of reaching political consensus and meeting some of the opposition MPs' demands.

The issue of securing the numbers in the assembly has also continued with the new boycott by the Serbian List. As a governing coalition partner, the SL has consistently shown a lack of consistency in its work in the assembly, including low participation in assembly proceedings. The SL boycott of the assembly was formalised following the arrest of the coordinator of the so-called Office for Kosovo in the government of Serbia, Marko Djuric. Although SL deputies did not attend the sessions, they participated in the work of parliamentary committees. The Serbian List eventually boycotted the work of the assembly after establishing a 100-per-cent tax by the government of Kosovo for Serbian and Bosnian products. From that moment on, the members of the Serbian List have no longer taken part in the proceedings of the assembly, either in plenary sessions or parliamentary committees.

Another development in the work of the assembly during 2018 was the division of the Vetevendosje Movement and the creation of a new parliamentary group by the Social Democratic Party (PSD). The Vetevendosje Movement won 32 mandates in the elections held in 2017 and was the largest parliamentary group. The creation of the parliamentary group of PSD directly affected the political forces in the assembly, especially those in opposition. From the situation created in the LVV, the LDK took the position as the largest parliamentary group in the assembly. Moreover, the 12 deputies who left the LVV have directly influenced the work of the assembly, becoming an active part of the proceedings in the assembly, either by voting in draft laws envisaged in plenary sessions or by enabling the quorum needed for voting on the agenda.

4.

EFFECTS OF PARLIAMENTARY BOYCOTTING IN KOSOVO

After presenting some of the most notable cases of parliamentary boycotts witnessed in the parliament of Kosovo, this section will elaborate on the effects of the parliamentary boycott in the country. According to the continuous parliamentary monitoring that we have conducted during the boycotting period, there are three main effects that boycotting has had: political effects, effects on the legislative agenda and oversight of the government, and effects on Kosovo's EU agenda.

4.1. Unique tear gas protests

Parliamentary boycotting in Kosovo has introduced a whole new way of protest inside and outside parliament: tear-gas protests. Opposition parties in 2015, namely the LVV and AAK, while protesting and boycotting parliament over two agreements that were signed in August 2015, became famous for their quite unique methods of protesting inside parliament too. Tear-gas protesting became a habit for the opposition, not only against the above-mentioned agreement, but against almost anything the opposition did not like. Tear gas was thrown even while the assembly was voting on the draft law on budget for the year 2016.¹⁵ Kosovo's parliamentary life became famous for its tear gas, and this phenome-

¹⁵ BBC: Kosovo parliament hit by fresh tear-gas protests. Available at: <https://www.bbc.com/news/world-europe-35096489> (accessed on 21 March 2019).

non got the attention of the media worldwide.¹⁶ Nevertheless, despite tear gas and parliamentary boycotting, the opposition could not stop the ratification of the border agreement with Montenegro. The agreement was ratified on 21 March 2018,¹⁷ and to date this was the last time that the opposition (Levizja Vetevendosje) has thrown tear gas in parliament.

4.2. Public Perception and Political Gains

Boycotting the work of parliament has been beneficial for almost all of the political subjects who were involved in boycotting the parliament during the past years. Four parties involved in the parliamentary boycott (VV, AAK, NSD and SL) have increased their popular vote in the elections after the parliamentary boycott has occurred. Even though there has not been any public opinion polling conducted to measure if public opinion supports a boycott or not, some drastic changes in the elections results of 2017 proved that parties and individuals involved in parliamentary boycotting have gained more votes than they had in previous elections.

With the aim of analysing the effect of parliamentary boycotting, a parallel was drawn between the parliamentary elections of 2014 and those of 2017. The voting trend went up slightly in favour of those political parties and leaders who caused the parliamentary boycott during 2015 and 2016. Three main political parties involved in parliamentary boycotts were “rewarded” by the democratic vote. Statistically speaking, LVV from 99,398 votes in 2014, doubled its votes into 200,135 votes in 2017. LVV not only doubled its popular vote, but the party also doubled its seats in parliament: from 16 seats from 2014’s elections, they won 32 in 2017’s elections. Only the PAN coalition, composed of three big parties – the PDK, AAK and NSD – won more seats than the LVV in the last elections. PAN all together won 39 seats. The AAK and NSD also participated in parliamentary boycotting; however, a comparison is difficult as these two political parties stood in 2017’s parliamentary elections as part of the PAN coalition, jointly with the PDK who in the previous government was the main partner of the governing coalition. The same trend of benefits in the popular vote is applicable for the Serbian List as well. The SL also grew its popular vote, from 38,199 in 2014 to 44,499 in 2017.^{18, 19}

Moreover, the effect of parliamentary boycotting on voters’ preferences was also reflected on the individual votes boycott leaders obtained. The leader of the LVV, Albin Kurti, went from 63,602 votes in 2014 to a total of 143,621 in 2017; Ramush Haradinaj (AAK), won 50,388 in 2014, while in the parliamentary elections of 2017 he was voted for 102,127 times; and Fatmir Limaj, the NSD leader, raised his votes from 26,789 in 2014 to 31,431 in 2017.

These statistics demonstrate the benefits that the political parties and political leaders derived from the parliamentary boycott they lead during the 2015 – 2017 period.

4.3. Legislative Agenda and Oversight of the Government during Boycotting

In 2015, despite the opposition boycotting and blocking the work of the assembly, the parliamentary majority made efforts to continue its work. Though there was no proper functioning of the legislature, the assembly adopted 47 laws

16 For example, see the article in the British newspaper *The Daily Telegraph*: <https://www.telegraph.co.uk/news/worldnews/europe/kosovo/12049683/Kosovo-opposition-fires-tear-gas-during-parliament-session.html> (accessed on 21 March 2019); or, *New York Times*: <https://www.nytimes.com/2016/02/20/world/europe/kosovo-opposition-tear-gas-parliament.html> (accessed on 21 March 2019).

17 *USA Today*: Even tear gas didn’t stop parliament for passing the border deal. Available at: <https://www.usatoday.com/story/news/world/2018/03/21/kosovo-opposition-uses-tear-gas-upend-parliament-vote-border-deal/446212002/> (accessed on 21 March 2019).

18 The complete results of the 2014 parliamentary elections can be found at the Central Elections Committee page: <http://www.kqz-ks.org/an/zgjedhjet-e-pergjithshme/zgjedhjet-per-kuvend-te-kosoves-2014/> (accessed on 16 March 2019).

19 The complete results of the 2017 parliamentary elections can be found at the Central Elections Committee page: <http://www.kqz-ks.org/an/zgjedhjet-e-pergjithshme/zgjedhjet-per-kuvend-te-kosoves-2017/> (accessed on 16 March 2019).

or 34 per cent of the planned agenda for that year. Parliamentary oversight was not very effective, but statistically the performance of the assembly was not too weak. Considering the blockade in the assembly, and the absence of proper conditions for conducting hearings in 2015, the deputies submitted 216 questions to members of the cabinet, initiated three interpellations and 16 laws were monitored.²⁰ These statistics show a “not too poor” performance considering the political situation and the ongoing boycott that the assembly faced in this period.

In 2016, the assembly of Kosovo experienced frequent quorum absences, both in sessions and committee meetings. The adoption of laws, especially in the autumn session, in almost any plenary session did not happen on the day it was planned, but had to be postponed to another day. Although the boycott was considered a democratic means of expressing disagreement or protest on a particular matter or action, this had become a phenomenon in the assembly of Kosovo which directly affected the intensity of work in the assembly.

The political crisis in Kosovo had greatly contributed to the non-functioning of the assembly. The opposition had not given up on boycotting even in the spring session in 2016, which directly impacted on productivity at work and constructiveness in the debates during meetings held by the committees. The absence of the opposition also affected the holding of parliamentary committee meetings, as the absence of a quorum meant 19 committee meetings failed to be held during the reporting period, a clear example of how parliamentary boycotting had short-time effects on parliamentary life. The boycott of SL MPs, for instance, affected the work of the Committee on Rights, Interests of Communities and Return, where the majority of the Members of the committee were from the non-majority communities. In two cases during 2016, voting in this committee occurred without the necessary quorum. Nevertheless, despite the non-participation of the opposition in the assembly during this period, significantly higher dynamics in the adoption of laws was observed in the spring session where 35 laws were adopted.²¹

The same situation is relevant in 2018’s boycott as well. Despite the partial boycott of the work of the assembly by opposition parties, opposition MPs voted on the vast majority of laws adopted in 2018. A total of 38 of the 75 laws adopted that year were laws deriving from the Stabilization and Association Agreement (SAA), the European Reform Agenda (ARE) and international agreements, which were voted on by opposition parties as well. The rest of the draft laws, although approved without the votes of the LDK and LVV, were voted because the quorum was powered by the third opposition group, the PSD.

The assembly during 2018 was active in supervising the work of the executive. A total of 13 opposition interpellations were initiated, and 19 parliamentary debates held, the largest number compared to previous calendar years among the previous legislatures. During 2018, 275 parliamentary questions were raised and 61 per cent of them received a response from the cabinet. Executive officials reported 81 times to parliamentary committees.

4.4. EU Integration and Foreign Policy

Kosovo’s EU-integration path has been rocky and unpaved since the country was offered “a European perspective” by the European Commission a long time ago. Despite the general shortcomings of Kosovo’s institutions in fulfilling EU agenda requirements, parliamentary boycotts directly affected the country’s movement towards further European integration.

²⁰ KDI’s monitoring report of the work of the assembly (2015). Available at: <http://kuvendi5.votaimo.org/Public/Article#publications> (accessed on 17 March 2019).

²¹ KDI’s monitoring report of the work of Assembly (2016). Available at: <http://kuvendi5.votaimo.org/Public/Article#publications> (accessed on 17.03.2019).

The dialogue process between Kosovo and Serbia has become one of the key conditions for both states on their paths towards the EU. Ironically, one of the agreements of the EU-facilitated dialogue caused controversy in Kosovo and became one of the leading causes for a parliamentary boycott. The agreement on Serb Municipalities Association drastically divided the political scene in Kosovo, leading the opposition parties to boycott the assembly and embark on various methods of protests against it. This boycott drastically slowed down the work of parliament, and it had also stalled the fulfilment of certain aspects of the Stabilization and Association Agreement (SAA).²²

The only positive aspect with regards to the assembly of Kosovo during the boycotting period was the adoption of the Law on Ratifying the Stabilization and Association Agreement between Kosovo and the European Union, which marked the first contractual link between Kosovo and the EU. Moreover, on 18 March 2016, the assembly established the Parliamentary Committee on the Stabilisation and Association Agreement (SAA). The establishment of such a committee was made with the purpose of implementing the SAA. The committee is composed of 16 parliamentarians composed of Members of all the parliamentary groups in the assembly.

Parliamentary boycotting had a direct impact on the visa liberalisation issue for Kosovo's citizens as well. Ratification of the border demarcation with Montenegro was imposed by the EU as one of the conditions for Kosovo to fulfil in order to be granted with visa-free access to the Schengen zone. However, due to a parliamentary boycott, massive protests and splits in the LDK parliamentary group, the agreement could not be ratified in a favourable time for Kosovo to receive visa-free access. This agreement was finally ratified in March 2018 by a different alliance of political forces. MPs of AAK and NSD, who earlier strongly opposed the agreement, voted in favour of its ratification, alongside some of the LDK MPs who were refusing the agreement during 2015 and 2016. The only two parties who remained consistent on the demarcation issue were the PDK, who continuously supported the agreement, and the LVV, who continuously opposed it. The LVV even released tear gas in 2018 to try to stop the ratification, but it was unsuccessful. The necessary quorum for a positive vote on the agreement was provided by ex-LVV now PSD MPs, who eventually voted against the agreement. However, 2018 found the EU in a whole different political situation, facing the refugee crisis and in the middle of a Brexit process. Thus, the readiness of the EU member states to lift the visa regime for Kosovo's citizens was gone, along with the opportunity Kosovo missed in 2016 to obtain visa liberalisation for the EU.

The boycott that arose in 2018 also could have some negative impacts on EU-related issues. Continuous boycotts of voting by two opposition parties in parliament blocked, among others, the adoption of the IPA and Erasmus+ funds in late July, risking the loss of €48 million for the country. However, from September, the opposition stopped blocking at least EU-related reforms, and voted all relevant laws deriving from the European Reform Agenda and the SAA.

²² Express: Only half of the SAA measures have been fulfilled during 2016: <https://www.gazetaexpress.com/lajme-vetem-gjysma-planit-kombetar-per-zbatimin-e-msa-se-eshte-realizuar-ne-vitin-2016-444620/?archive=1> (accessed on 16 March 2019).

5. CONCLUSION: HAS BOYCOTTING ACTUALLY CHANGED ANYTHING?

The parliamentary boycott in Kosovo has been caused by two main actors: Kosovo Albanian opposition parties in one hand, and Serbian List in the other. Causes that lead to parliamentary boycotting by Albanian parties were the Agreement on Association of Serb Municipalities, the Agreement on Border Demarcation with Montenegro during 2015 – 2017, and the tendency to deliver political messages to the governing coalition that they have no majority in parliament and that they need the opposition even to pass a basic law in 2018. Boycotting by the opposition parties has been justified as a means of protecting national interests, not allowing Kosovo to be divided and “to become a new Bosnia and Herzegovina”, to prevent Kosovo from losing land to Montenegro and generally to serve the best interests of Kosovo citizens.

In the other hand, Serbian List boycotting was always ethnically motivated. The SL boycotted parliament every time the party considered that the interests of the Serbian community in Kosovo or Serbian interests in general were threatened. The SL has usually acted after party officials were directly advised by high-profile politicians in Serbia, including Serbia’s former prime minister and now president, Aleksandar Vucic.

Although the boycott is considered a democratic means of expressing disagreement or protest against a matter or a certain action, this has become a phenomenon in the assembly of Kosovo. Both groups (opposition and SL) have returned to work in the assembly, though without fulfilling their goals before the boycott. Moreover, as well as returning without fulfilling their agendas, the boycott itself created fractions between political groups who initiated it in the first place.

However, parliamentary boycotting has been effective in raising public attention to the issues that caused the boycott. Opposition parties have been especially vocal on the issue of the Serb Municipalities Association and border demarcation with Montenegro and these two issues have dominated not only debates on the political scene but in public opinion as well. This is not applicable to boycotts by the SL, since public opinion was less sympathetic to issues which lead to parliamentary boycotts by the SL.

In all cases of boycotting, governing coalitions were relatively weak in address the boycott arising either from the opposition or from a coalition partner, the SL. Government high officials usually issued statements that they would welcome boycotting parties to return to parliament, but did not pave the way for political dialogue and refused to take concrete measures to bring the boycotters back to parliament.

Public opinion has been rather divided on the boycotting issues, depending on what categories of citizens were asked about the phenomenon. Nevertheless, if election results of 2017 are to be taken as a test on how public opinion reacted to the boycott, it can be witnessed that all political parties involved in the parliamentary boycotting and their leaders have actually gained more votes that they won in previous elections.

Despite boycotting, there was no initiative either from the government or the opposition to deal with election issues. Despite an initial agreement on electoral reform in 2010, no other serious steps have been taken in this regard. New Rules of Procedure have been voted on in first reading by the assembly, and there are new amendments included which better regulate violent means used by parties during plenary sessions and appropriate parliamentary behaviour of MPs.

The boycotting itself had a negative impact on the legislative agenda and oversight of the government since many laws could not be passed and oversight of the government was generally weak. However, statistically speaking, the assembly always kept working and delivering. In general, a complete blockade of parliament by the opposition parties never oc-

curred. Even in 2018, despite the fact that the opposition parties boycotted most of the plenary sessions, the assembly adopted 75 laws, and only 11 of them were not voted on by the opposition parties. What is more, even when the opposition boycotted the plenary sessions, they did not do the same with parliamentary committee meetings.

Therefore, Kosovo is yet to face a total boycott by any parliamentary group which would completely block the work of parliament. Having in mind Kosovo's fragile position both internally and externally, MPs should perform at the highest level and serve with their best efforts their mandates provided by the free vote of their constituents. A faster dynamic is crucial for Kosovo to achieve the goals which its citizens have set, and which unfortunately have not been met yet.

Parliamentary Boycotts
in the Western Balkans

Case Study: Montenegro

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4. CONCLUSIONS

EXECUTIVE SUMMARY

The disclosure of the “Recording” affair in early 2013 was a turning point at which Montenegro stumbled into governance and institutional crises that continue today. The cycle of almost constant, shorter or longer, boycotting of parliament by the opposition in Montenegro began after the presidential election held in 2013. From then on, almost all opposition parties were, at some point, part of the parliamentary boycott.

Throughout these periods of boycotting, the Montenegrin parliament continued to work almost without interruption, as it still possessed a sufficient majority and quorum to pass legislation. However, the quality of the parliamentary work has declined, which was especially apparent during the period from November 2016 until October 2017, when the entire opposition fully boycotted parliament. Parliamentary debate decreased to a minimum, and the legislation was adopted without proper discussion in a timeframe that resembled the emergency procedure. Also, without opposition, parliament’s control (oversight) function was significantly reduced.

This is also the period in which the bases of democracy, conditions for free and fair elections and democratic representation came into focus in political communications. Affairs that emerged have indicated that the governing party misused public resources in order to ensure better election results. Opposition parties, as well as the major part of civil society were unanimous in the demand for the improvement of the electoral framework that would ensure conditions for fair elections that would not be contested.

In this process, different actors chose different paths – from riots and other radical methods, through boycotting and protests, to participation in the dialogue and institutional mechanisms. All these efforts together put the fundamental democratic demand for better elections high on the national agenda, and high amongst demands of the international community. Effects of parliamentary boycotting can be observed only through this wider picture, and it cannot be claimed that boycotting itself made any significant difference. It is only one piece in a puzzle, which sometimes helped the common cause, while sometimes resulted only in short-term political gains for individual actors.

Public opinion polls showed that the ruling Democratic Party of Socialists (DPS) has been on the decline since 2013; but it has succeeded in recovering enough before elections. Affairs seem to have had an effect on their electorate; but party loyalty remained strong and electoral volatility was comparatively low. On the other side of the spectrum, opposition voters shifted more often, looking carefully at and sometimes judging harshly their parties’ decisions on boycotts, protests or cooperation with the ruling parties.

The “Recording” affair started the period of political turbulence in 2013; but by 2019 it does not seem to have been resolved. In January 2019, the “Envelope” affair emerged, pointing to illegal financing of DPS electoral campaigns. This produced a new cycle of protests and boycott. Ongoing political crises remain for consideration in some future analyses.

1.

INTRODUCTION

This paper describes the causes of parliamentary boycotting in Montenegro and its effects on: the functioning of democratic institutions, public trust in institutions of representative democracy and influence on political parties' rankings. It focuses on the period from 2013 until now, which is marked by a permanent political crisis and total or partial opposition boycotting of the national parliament.

This is not the first political crisis or first boycott of the parliament of Montenegro since the introduction of the multiparty system. The most significant crises in previous periods occurred in early 2003 when the opposition parties left parliament in protest over the decision of the public broadcaster, Television of Montenegro, to terminate its live coverage of parliamentary sessions. This boycott collapsed in October 2004, when the then-largest opposition party, the Socialist People's Party, returned to parliament. Today many analysts agree that this boycott did not bring any advantage to the opposition parties. Instead, it had a negative influence on their image in the media and public opinion, and subsequently on their election result.

The period before 2006 was not covered by this analysis. Political developments were very different. Montenegro was not an independent state, and the entire political scene was heavily determined by relations between Montenegro and Serbia in their dysfunctional union. While the effects of prior boycotts are still interesting for analysis, a little can be gained by analysing their causes, or used for recommendations.

We offer this analysis of the current political crisis in Montenegro, which manifests in different forms of protests including the boycotting of parliament, for the attention not only of Montenegrin decision makers and policymakers, but also for followers of Montenegro abroad. We hope it will contribute to a better understanding of the situation, and help in designing and providing support for the resolution of the crisis and continuation of the European integration of Montenegro.

2.

MONTENEGRO IN ENDURING POLITICAL CRISIS

2.1. Boycott of the Parliament of Montenegro and its Effects in 2013

The 2013 presidential election took place immediately after the release of the "Recording" affair, when the daily newspaper *Dan* published transcripts from meetings of the DPS.¹ In addition to these transcripts, also audio recordings were published in which the highest officials of the DPS talk about employing their supporters and misusing state resources in order to achieve the best possible results in the parliamentary elections held in October 2012.

The ruling DPS had nominated the incumbent president of Montenegro, Filip Vujanovic, while his opponent was the leader of the opposition Democratic Front (DF), Miodrag Lekic, who was then formally proposed as an independent candidate. Both presidential candidates declared victory on election night. The State Election Commission (SEC) announced the final results on 21 April, according to which around 64 per cent of voters took part in the election, of which 51.21 per cent sup-

¹ Recordings are available at <https://www.dan.co.me/ekskluzivno/index.php>.

ported Vujanovic and 48.79 per cent supported Lekic².

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) mission report stated that the presidential election was administered professionally and efficiently. "Candidates campaigned freely and fundamental freedoms of expression, movement, and association were mostly respected... Allegations of the misuse of state resources and mistrust in public institutions and the judiciary diminished public confidence in the electoral process and should be addressed."³

However, both the opposition and the then ruling DPS made many allegations of election fraud that, in their opinion, had a decisive influence on the final results of the election.

Two days after the election, the DF announced that it would not participate in the work of parliamentary bodies and the plenum until the competent authorities made an official decision regarding the presidential election. They held a protest rally, demanding the adoption of a special law which would annul the results of the presidential election.⁴ The proposed law was not passed by the competent parliamentary committee.

The rest of the opposition did not join the boycott, but supported through parliament the initiation of a process to improve elections and the launching of a parliamentary committee of inquiry to thoroughly investigate the "Recording" affair. DF MPs announced that they would participate in parliamentary sessions but "only when there were discussions about those issues that have a wider social interest". They actively participated in the working group and the inquiry committee, thus starting a selective boycott of the parliament of Montenegro.

The Inquiry Committee began its investigation into the "Recording" affair at the beginning of June 2013. At the beginning of August, Members of the parliament of Montenegro adopted a "Technical Report" on the work of the committee in establishing facts related to the "Recording" affair, which contains the basic information on the number of sessions of this body and the number of hearings held.⁵ The Technical Report was adopted after voting on none of the three proposed conclusions reached the required majority.

At the end of June, a special parliamentary working group was established with the task of preparing and proposing by the end of September 2013 a set of electoral and other laws directly related to the electoral process, namely citizenship, residence and domicile. The working group consisted of six representatives each from the government and the opposition with a co-decision system. In addition to this, the conclusions also addressed the ongoing amendments to the constitution related to the depoliticisation of the judiciary. The Working Group for Building Trust in the Election Process held a total of 34 sessions by the end of 2013.⁶ The sessions were open to the public, with constant monitoring and reporting by the media in Montenegro. By the end of the year, the working group did not determine the proposals for the laws on amendments to the planned laws.

2 State Election Commission. (2013). *Final Results of the elections of the President of Montenegro*. Retrieved from: <http://old.dik.co.me/doc/2013/21.04.%202013.%20KONACNI%20rezultati.doc>.

3 OSCE/ODIHR. (2013). *Montenegro, Presidential Elections 7 April 2013, Limited Election Observation Mission Final Report*. Warsaw: OSCE/ODIHR. Retrieved from: <https://www.osce.org/odihr/elections/103093?download=true>.

4 Radio Slobodna Evropa. (20 April 2013). *Opozicija sa protesta u Podgorici zatražila nove izbore*. RFE. Retrieved from: <https://www.slobodnaevropa.org/a/opozicija-protestuje-u-podgorici/24963376.html>

5 Skupština Crne Gore. (2013). *Tehnički izvještaj Anketnog odbora za prikupljanje informacija i činjenica o događajima koji se odnose na rad državnih organa, povodom objavljivanja audio snimaka i transkripta sa šednica organa i tijela Demokratske partije socijalista*. Retrieved from: <http://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/257/131-2036-00-63-17-13-38.PDF>

6 More details are available at <http://zakoni.skupstina.me/25saziv/index.php/me/radna-grupa-za-izgradivanje-povjerenja-u-izborni-proces/aktuelnosti>.

The parliament of Montenegro held 25 regular sessions in 2013, which lasted altogether 76 days or 299 hours and 46 minutes. Parliament held 15 control and 28 consultative hearings, which is the average level of parliamentary activity.⁷ [Article 75 of the constitution provides that control hearings are those at which “responsible representatives of the government or other state administration authority” respond to an issue in a committee, whereas article 73 enables committees to hold consultative hearings with scientific and professional workers or representatives of state authorities and non-governmental organisations to hear opinions.] The most important piece of legislation adopted in this year were amendments to the constitution of Montenegro aimed at increasing the independence and professionalism of the judiciary. Constitutional amendments were adopted on 31 July 2013, and all parliamentary parties participated in the discussion and the vote.

Political events in 2013, including the boycotting of parliament, in their own way brought new dynamics to the political scene and launched processes leading to the greater democratisation of society. In addition, they also had a strong influence on public opinion, as well as on the behaviour and actions of international actors. Our assessment is that the “Recording” affair had the most significant influence on the dynamics of political processes as it triggered the intense action of political parties, civil society and the international community. Their actions, and not the boycotting of parliament, had a major influence on the political developments that year.

2.2. Continued Selective Boycotting in 2014 and 2015

In 2014, the DF continued to selectively boycott activities of parliament, occasionally participating in sessions of the working bodies and the plenum of the parliament of Montenegro.

This was the year when the judicial reform was finalised and members of the Prosecutorial Council and the Judicial Council were elected after the amendments to the constitution. This was also the year when the electoral reform that started in 2013 was finalised. Another important piece of legislation that was adopted at the end of 2014 was the Law on Prevention of Corruption which codified anti-corruption regulations and laid the foundations for establishment of the Anti-Corruption Agency.

In March 2014, the parliament of Montenegro adopted by a two-thirds majority, the Law on Election of Councillors and Members of Parliament. After a repeated vote, 55 MPs from the DPS, DF, Bosniak Party (BS), Liberal Party (LP) and the Croatian Civic Initiative (HGI) voted for the umbrella law in the set of six electoral laws, while MPs from the SDP and Socialist People’s Party (SNP) voted against, and MPs of the Positive Montenegro (PCG) were abstained.⁸

A new working group tasked with preparing the Draft Law on the Financing of Political Parties was established by parliament in July 2014. The tasks of the working group referred to preparation of the Draft Law and a Proposal for the Decision on the Establishment of the Temporary Committee for Supervision over the Work of State Authorities, State Administration Bodies and Local Government Bodies regarding the consistent application of the law in order to build confidence in the election process. The working group held 17 sessions.⁹ In December 2014, the new Law on the Financing of Political Entities and Election Campaigns was adopted.

⁷ Skupština Crne Gore. (2014). *Izveštaj o radu Skupštine Crne Gore za 2013. godinu*. Podgorica: Skupština Crne Gore. Retrieved from: http://skupstina.me/images/dokumenti/izvjestaji-o-radu/Izvjestaj_o_radu_Skupstine_za_2013._godinu.pdf.

⁸ Portal Analitika. (21 March 2014). *Usvojen Zakon o izboru odbornika i poslanika glasovima DPS-a, DF-a, BS, LP i HGI*. Portal Analitika. Retrieved from <https://portalanalitika.me/clanak/139327/usvojen-zakon-o-izboru-odbornika-i-poslanika-glasovima-dps-a-df-a-bs-lp-i-hgi>.

⁹ More details are available at <http://zakoni.skupstina.me/25saziv/index.php/me/radna-grupa/aktuelnosti>.

By the end of 2014, Supreme Court judge Ivica Stankovic was elected as the new Supreme State Prosecutor. Stankovic was supported in a secret ballot by 49 MPs, or three fifths, which was sufficient to establish his election. Subsequently, in 2015 a set of laws regulating judiciary was adopted, including the Law on Special State Prosecutor's Office, Law on Constitutional Court, Law on Courts, Law on State Prosecution, and the Law on Judicial Council and Judges.

The parliament of Montenegro held 20 regular sessions in 2014 that lasted 84 days or 319 hours and 55 minutes. Parliament held 11 control and 34 consultative hearings.¹⁰

In early 2015, Lekic, the leader of the DF and an independent candidate at the presidential election in 2013, left this political alliance. He pointed out that "despite several attempts he failed to eliminate some of the shortcomings in the functioning of the DF".¹¹ After this, a few more prominent members left the DF.

In May 2015, the DF started "consultations with activists and citizens about the plan to establish a transitional technical government that would be composed of all parliamentary parties, under the pressure of citizens protesting."¹² This decision was actually an introduction to the protest rallies and full boycott of parliament that took place at the end of the year.

After the first protest rally in Berane, in September 2015 the DF began a series of rallies. Official requests were for the resignation of the current government and the formation of a transitional government, and the full implementation of electoral laws.¹³ After the first rally, a tent settlement was erected in front of the parliament of Montenegro.

At its session held a few days later, the Government of Montenegro rejected requests from the protest rally.¹⁴

From this point on, there was a period of several months of tensions related to protest rallies involving attacks on the police, overstepping police authority, etc. The more objective part of the public openly condemned both the violent behaviour of the DF and police brutality. A significant part of the public considered that there was a hidden intent behind the protests which was to prevent Montenegro from getting an invitation to join the North Atlantic Treaty Organisation (NATO).

The appeals of the president of parliament, Ranko Krivokapic, to the DF MPs to return to parliament and solve problems within institutions of the system did not help. On the other hand, most political parties did not join the DF's request to boycott parliament.

On 2 December 2015, Montenegro officially received an invitation for full membership in NATO. This decision was made unanimously by the foreign ministers of 28 member states of the Alliance at a NATO headquarters meeting in Brussels.¹⁵

10 Skupština Crne Gore. (2015). *Izveštaj o radu Skupštine Crne Gore za 2014. godinu*. Podgorica: Skupština Crne Gore. Retrieved from: http://skupstina.me/images/dokumenti/izvjestaji-o-radu/izvjestaj_o_radu_skupstine_crne_gore_za_2014.godinu.pdf.

11 Beta. (13 March 2015). *Lekić: Napustio sam Demokratski front, nastavljam samostalno*. Blic. Retrieved from <https://www.blic.rs/vesti/politika/lekcic-napustio-sam-demokratski-front-nastavljam-samostalno/cqz6z6j>.

12 MINA. (4 May 2015). *Demokratski front utvrdio plan aktivnosti za naredni period*. Vijesti.me. Retrieved from: <https://www.vijesti.me/vijesti/politika/demokratski-front-utvrdio-plan-aktivnosti-za-naredni-period>.

13 Vijesti Online. (27 September 2015). *Oko 200 građana će noć provesti u šatorima*. Vijesti.me. Retrieved from: <https://www.vijesti.me/vijesti/politika/oko-200-gradana-ce-noc-provesti-u-satorima>.

14 Murić D. (1 October 2015). *Vlada odbila zahtjeve Fronta upućene sa protesta*. Vijesti.me. Retrieved from: <https://www.vijesti.me/vijesti/politika/vlada-odbila-zahthjeve-fronta-upucene-sa-protesta>.

15 Vijesti Online, MINA. (02 December 2015). *Crna Gora dobila poziv za članstvo u NATO*. Vijesti.me. Retrieved from <https://www.vijesti.me/vijesti/politika/crna-gora-dobila-poziv-za-clanstvo-u-nato>.

At the end of 2015, Prime Minister Milo Djukanovic announced a vote of confidence in the government in as short a time as possible to determine whether it could function up to the elections.¹⁶

In 2015, there were 18 regular sessions held, that lasted altogether 75 days, or 280 hours and 15 minutes. Parliament held seven control and 43 consultative hearings in the same year.¹⁷

2.3. Transitional Government and Preparations for Elections

The first political events of the year indicated turbulent and intense politics 2016.

At the end of January, the parliament of Montenegro voted confidence in the government of Prime Minister Djukanovic. A total of 42 MPs from the DPS, Positive Montenegro and representatives of the minority parties voted confidence in the government, while 20 MPs from the DPS and other opposition parties voted no confidence.¹⁸ Interestingly, the government was supported by one opposition party and one party from the government voted against it.

In his closing statement before the vote of confidence in the government, Djukanovic accepted the plan of the Positive Montenegro party to overcome the political crisis and invited parliamentary opposition representatives to participate in further work of the government.

After this, a “parliamentary dialogue” was initiated in parliament with the aim of preparing and signing an agreement on creating the conditions for fair and free elections. This dialogue was not attended by the DF from the beginning of the process, and was later abandoned by the SNP and the newly formed Democrats of Montenegro party. The sessions of this body were attended by representatives of the European Commission in Montenegro as observers.¹⁹

At the end of May 2016, Members of the parliament of Montenegro passed *Lex specialis*, a Law on the Application of the Agreement on Creating Conditions for Fair and Free Elections. It was supported by 49 MPs, 20 of them voted against and six abstained.

The Government of Electoral Trust has also agreed, with four vice-presidents and four ministers from the opposition. The following positions were elected: Deputy Prime Ministers Miodrag Vujovic and Petar Ivanovic, Minister of Internal Affairs Goran Danilovic, Minister of Finance Rasko Konjevic, Minister of Labor and Social Welfare Boris Maric, and Minister of Agriculture and Rural Development Milenko Popovic.²⁰ At the same session, the president of the parliament of Montenegro Ranko Krivokapic was dismissed. His dismissal was initiated by the DPS and the group of minority parties. A total of 43 MPs voted for Krivokapic’s dismissal, one MP voted against, and 18 ballot papers were invalid.²¹

16 MINA. (27 December 2015). Đukanović će pokrenuti pitanje povjerenja Vladi. Vijesti.me. Retrieved from: <https://www.vijesti.me/vijesti/politika/dukanovic-ce-pokrenuti-pitanje-povjerenja-vladi>.

17 Skupština Crne Gore. (2016). *Izveštaj o radu Skupštine Crne Gore za 2015. godinu*. Podgorica: Skupština Crne Gore. Retrieved from: <http://skupstina.me/images/dokumenti/izvjestaji-o-radu/2015nn.pdf>.

18 Portal RTCG. (27 January 2016). *Izglasano povjerenje Vladi*. RTCG. Retrieved from: <http://www.rtcg.me/vijesti/politika/117190/izglasano-povjerenje-vladi.html>.

19 More details are available at <http://zakoni.skupstina.me/25saziv/index.php/me/radna-grupa-parlamentarnog-dijaloga-za-pripremu-slobodnih-izbora/aktuelnosti>.

20 He soon resigned for health reasons and was replaced by opposition candidate Budimir Mugoša.

21 Radulović M. (19 May 2016). *Krivokapic razriješen, izglasana Vlada izbornog povjerenja*. Vijesti.me. Retrieved from: <https://www.vijesti.me/vijesti/politika/krivokapic-razrijesen-izglasana-vlada-izbornog-povjerenja>.

The sessions were attended also by the DF MPs who earlier announced their termination of the boycott in order to “reveal the betrayal of the opposition”.²²

A few days later, president of Positive Montenegro, Darko Pajovic, was elected as the new president of the Montenegrin parliament. A total of 42 MPs voted for his election. There were no MPs from the opposition present during the vote.²³

The parliament of Montenegro held 16 regular sessions in 2016 that lasted 67 days in total or 297 hours and 10 minutes. Parliament held 10 control and 32 consultative hearings.²⁴

2.4. Boycott by All Opposition Parties after the 2016 Parliamentary Election

After a tense and harsh campaign, parliamentary elections were held on 16 October 2016.

The elections were held in an atmosphere of political polarisation, distrust and non-transparent party financing. The improvement of the legislative and institutional framework that preceded the elections and the improvement of various technical aspects of the electoral process contributed to better implementation of the electoral process, but did not achieve the desired positive influence on increasing citizens’ trust in the election process or the trust of political actors in the election result.

Negative campaigning and flamboyant rhetoric from the political parties, as well as the transmission of information about expected riots and about contesting the election results in the days immediately preceding the vote, had an impact on increasing tensions.

The tense atmosphere was also transferred to election day, and was augmented by the arrest of a group suspected of terrorism and criminal association, as well as by the disabling the use of Viber and WhatsApp services for two hours in the afternoon.²⁵

The boycott of parliament by the entire Montenegrin opposition began on 7 November 2016 when a parliamentary convocation was constituted. This time, all opposition parties, with 39 out of 81 MPs in total, embarked on a boycott of parliament.

The DF, Democrats, DPS, DEMOS, SNP and URA conditioned their participation in parliament upon the request for a full investigation of allegations of “a coup d’état”, since they believed that the events on voting day significantly influenced the result of the parliamentary elections.²⁶

The DF returned to parliament in October 2017, the SDP, Demos and some independents returned in May 2018, while 11 MPs from Democratic Montenegro, the URA and SNP continued to boycott parliament.

22 RTS. (3 May 2016). *Protest u Podgorici, Demokratski front se vraća u skupštinu*. RTS. Retrieved from: <http://www.rts.rs/page/stories/sr/story/11/region/2304779/protest-u-podgorici-demokratski-front-se-vraca-u-skupstinu.html>.

23 Radulović M. (1 June 2016). *Darko Pajović izabran za novog predsjednika Parlamenta*. Retrieved from: <https://www.vijesti.me/vijesti/politika/darko-pajovic-izabran-za-novog-predsjednika-parlamenta>.

24 Skupština Crne Gore. (2017). *Izveštaj o radu Skupštine Crne Gore za 2016. godinu*. Podgorica: Skupština Crne Gore. Retrieved from: <http://skupstina.me/images/dokumenti/izvjestaji-o-radu/2.pdf>.

25 Center for Democratic Transition. (2017). *Parliamentary Elections 2016. Final Report*. Podgorica: Center for Democratic Transition. Retrieved from: <https://www.cdtmn.org/izbori/izbori-analize/zavrzni-izvjestaj-parlamentarni-izbori-2016/>.

26 <https://www.slobodnaevropa.org/a/crna-gora-skupstina/28137800.html>.

The entire opposition fully boycotted parliament for the first time since the independence of Montenegro from November 2016 until October 2017. This visibly affected parliamentary dynamics. While the number of adopted laws did not differ a lot from other years, parliamentary sessions lasted significantly shorter times, which showed that parliamentary debate decreased. The parliament of Montenegro held 24 regular sessions in 2017, which lasted altogether 34 days or 123 hours and 50 minutes. Parliament held one control and 43 consultative hearings.²⁷

Figure 1: Duration of regular sessions of the Parliament²⁸

	2013	2014	2015	2016	2017
Number of sessions held	25	20	18	16	24
Duration in days	76	84	75	67	34
Duration in hours	299h and 46 min	319h and 55 min	280h and 15 min	297h and 10 min	123h and 50 min

Figure 2: Number of parliamentary hearings²⁹

	Control hearings	Consultative hearings
2013	15	28
2014	11	34
2015	7	43
2016	10	32
2017	1	43

This boycott negatively affected political life, impeded the oversight function of parliament, and blocked processes that required cross-party support, such as electoral reform or the election of the judicial authorities.

The ruling coalition tried to continue with the necessary electoral reform and to address the recommendations of the OSCE/ODIHR on its own. In October 2017, parliament established a parliamentary working group to implement the

²⁷ Skupština Crne Gore. (2018). *Izveštaj o radu Skupštine Crne Gore za 2017. godinu*. Podgorica: Skupština Crne Gore. Retrieved from: http://skupstina.me/images/dokumenti/izvjestaji-o-radu/Izvjeste%20o-radu_Skup%20tine_Crne_Gore_za_2017._godinu.pdf.

²⁸ Performance Reports of the Parliament of Montenegro, 2013-2017.

²⁹ *Ibid.*

OSCE/ODIHR recommendations on electoral reform. It was composed of ruling majority MPs only, as the opposition parties did not appoint representatives.³⁰ Interested parties were invited to provide comments and suggestions on how to implement the recommendations, but the sessions of the working group were not open to the public, nor was the legislation offered for public consultation. In December 2017 parliament adopted only the amendments to the laws which did not require support from the qualified majority – Media Law, Law on Amendments to the Law on the Voters Register, Law on Amendments to the Law on Financing Political Entities and Election Campaigns. “Umbrella“ electoral law requiring a two-thirds majority was not amended. This way parliament only partially addressed the recommendations of the OSCE/ODIHR.

On 28 April 2017 parliament adopted the Law on Ratification of the North Atlantic Treaty, the final step of national confirmation of Montenegro’s decision to join NATO. This session was also boycotted by the opposition, except the SDP MPs who made an exception and came in to vote on an issue which they consider as one of their core policies. Montenegrin citizens were deprived from hearing good parliamentary debate on this issue that marked political discourse since 2012. The law was adopted with 46 votes for. However, 35 MPs, including several that supported the NATO integration, boycotted the session.

The DPS and Demos and some independent MPs returned to parliament in May 2018 after presidential elections. Presidential elections were held in April 2018, and Milo Đukanović won in the first round, with 53.9 per cent of the vote. In May 2018, local elections were held in Podgorica and 11 other municipalities.³¹ The ruling DPS won in ten of the 12 municipalities.

The return of the biggest part of the opposition to parliament in 2018 did not bring the resolution of the political blockade. The term of office of members of the Judicial Council expired in July 2018, and there was no necessary parliamentary majority for the election of new members. In order to prevent the blockade of the Judicial Council, the government initiated amendments to the Law on the Judicial Council which stipulated that its members would continue to perform their duties until the new composition was announced. The opposition did not vote for these changes, arguing that they violated the constitution of Montenegro.

In the second half of 2018, with backing from the EU, an effort was made to restore political dialogue through the establishment of the parliamentary Committee for Electoral Reform. The committee was formed in November 2018, having Members from all parties that do not boycott parliament. However, the DF left the committee in December 2018 in protest against the arrest of their MP Nebojsa Medojevic.

A new public scandal related to campaign financing emerged in January 2019. Duško Knežević, a transitional businessman investigated by the Supreme State Prosecutor for financial crimes, fled to London and publicly claimed that he was funding the DPS with significant amounts of money. He also made series of accusations about the DPS leader and president of Montenegro Milo Đukanović. Following the release of a video in which he handed the money to high DPS official and former Major of Podgorica Slavoljub Stijepovic, the DPS was fined for illicit funding by the Anti-Corruption Agency. The Special State Prosecutor started an investigation into DPS financing.

This new affair inspired a citizens’ protest in Podgorica every Saturday. As a response to the protest organisers’ demands, the entire opposition left parliament once again. At the time of writing, this situation was continuing.

30 More details are available at <http://skupstina.me/index.php/me/radna-grupa>.

31 State Election Commission. (2018). *Final Results of the Elections of the President of Montenegro*. Retrieved from: <http://dik.co.me/izbori-2018/rezultati/>.

3. EFFECTS ON PUBLIC PERCEPTIONS

For this analysis we used the results of the public opinion polls done by the NGO Centre for Democracy and Human Rights (CEDEM). CEDEM surveys public opinion at relatively regular intervals, uses the same methodology and makes all their data publicly available.³² This allows us to analyse trends. Also, CEDEM is not commissioned by the political parties, but does surveys in order to address issues of public concern by providing accurate and unbiased data.

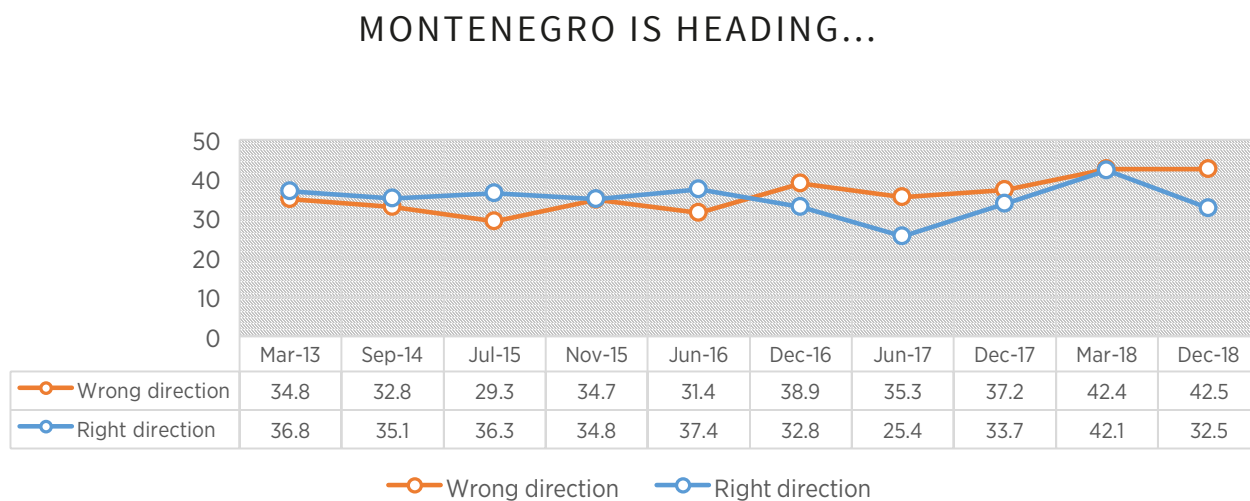
This analysis used the poll results starting in March 2013, about the time when the political crisis and boycotts begin. However, this period in Montenegro was marked with many significant political events, national and local elections, decomposition of some old and establishment of new political parties, as well as a heated and divisive political debate that lasted couple of years prior to Montenegro joining NATO. Therefore, many factors affected public perceptions, and only part of these shifts can be attributed to the parliamentary boycotting.

3.1. Optimism

Polls in the last five years show that the Montenegrin population is very much divided regarding optimism. The percentage of those thinking that Montenegro is heading in the wrong direction is rising, while the percentage of those opting for right direction varies. The highest optimism is recorded before national elections (March 2013, June 2016, March 2018), while deepest lows are seen in the middle of electoral cycles. This is the result of pre-election campaigns, but also may indicate high expectations of elections that are not met eventually.

32 CEDEM. *Political Public Opinion*. Available at: <http://www.cedem.me/programi/istrazivanja/politicko-javno-mnjenje>.

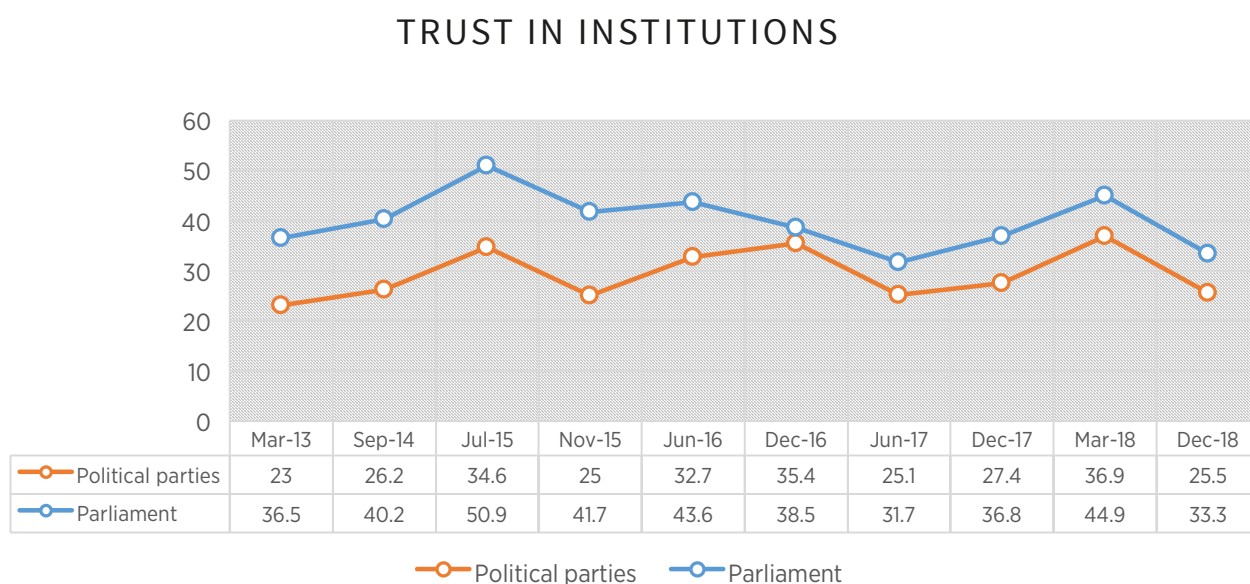
Figure 3: Citizens' divided on whether the country is moving in the right direction³³



3.2. Trust in institutions

CEDEM also regularly measures public trust in institutions. Traditionally, top ranked institutions include education, healthcare, army and church, while parliament and the political parties in particular are always closer to the lower end of the ranking. In the chart below can be seen that the highest trust in parliament was recorded in July 2015, after a period that was marked by a political consolidation to a certain extent, the adoption of electoral laws, the election of heads of prosecution, etc. A huge drop is seen in November 2015, after the failure of the violent protests of the Democratic Front.

Figure 4: Low trust in parliament and the political parties³⁴



³³ *Ibid.*

³⁴ *Ibid.*

3.3. Party ratings

In March 2013, right in the middle of the “Recording” scandal, 49 per cent of decided respondents opted for the ruling DPS, a percentage that this party has never seen since. At the same time, when asked about the scandal, 53.3 per cent of respondents condemned the DPS, 25 per cent supported it, while 21.7 per cent did not express an opinion. The DPS’s candidate, then incumbent President Filip Vujanović, won the April 2013 elections narrowly, receiving 51.2 per cent of the vote. Public support for the DPS was on a declining trend until December 2016 when it started a slow recovery. The period of the recovery corresponds with the period of the opposition boycott of parliament. It remains to be seen how the most recent affair and protest in 2019 affected DPS’s electorate.

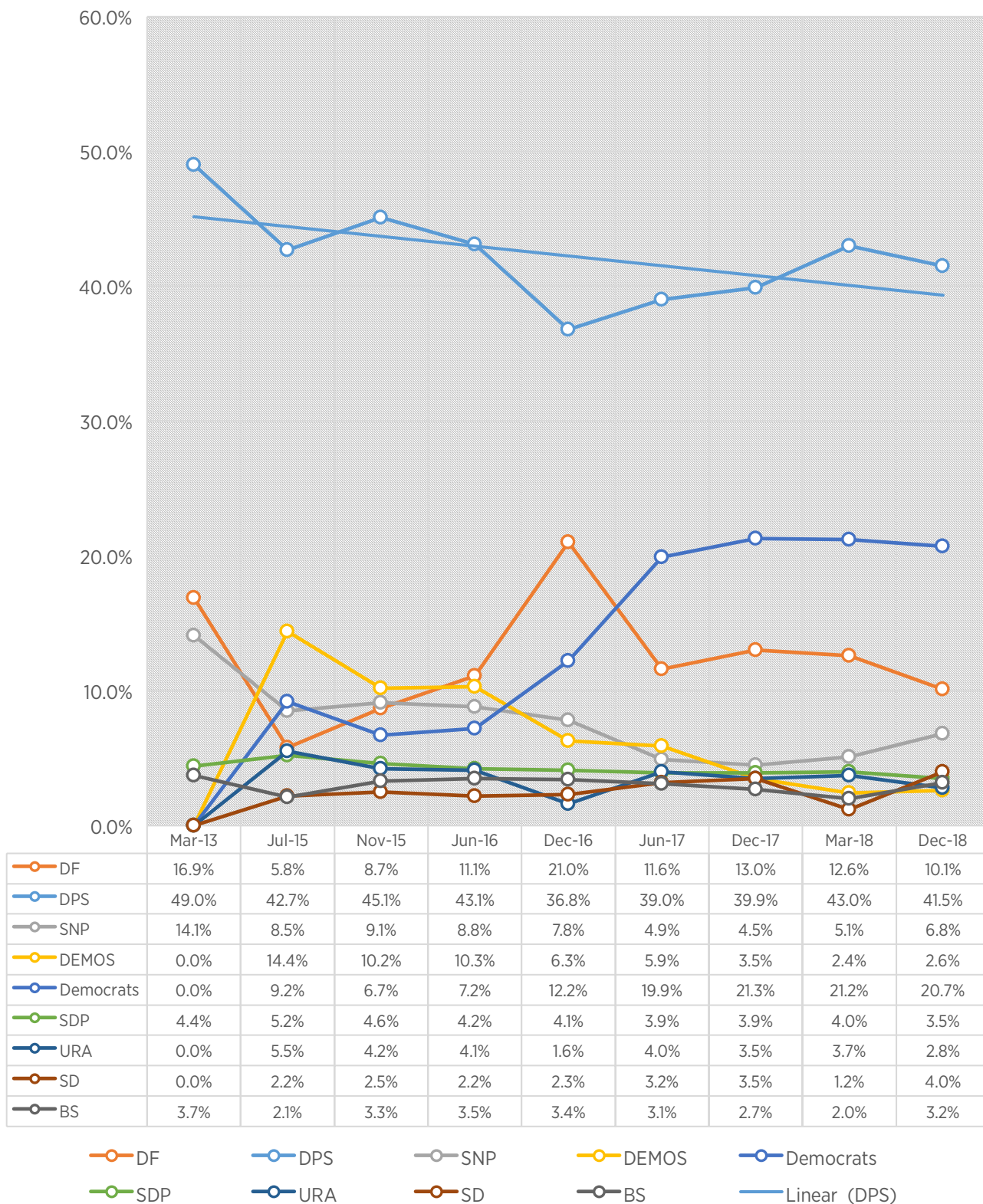
The situation in the opposition was turbulent. The Democratic Front, the strongest opposition block in 2013, split up in March 2015. Their popular leader and 2013 presidential candidate Miodrag Lekić left and formed a new party, DEMOS. In the 2015 polls, it seems like DF voters were rather inclining towards Lekić and his DEMOS than to the DF. In July 2015 the DF announced the full boycott of parliament and street protests asking for a transitional government that would organise free and fair elections. With the autumn of 2015 came an early start to the electoral season for the DF. Street protests, riots, radicalised rhetoric and behaviour, anti-NATO campaign, and finally a very expensive and effective 2016 election campaign resulted in the growth of their popularity that brought them 20.3 per cent of the votes and 18 seats in the October 2016 parliamentary election. Following the election, DF leaders faced several judicial processes, being accused of criminal association and attempted terrorism on election day as well as illicit foreign financing. This together with the limited public appearance caused by the boycott of parliament likely contributed to their decreased public support.

Other opposition parties had their own turbulence. In early 2015 Aleksa Bečić with a group of supporters left the SNP and formed a new party, Democrats of Montenegro. Several MPs left Positive Montenegro and formed the URA movement. The DPS had its own split in 2015 when the new party Social Democrats of Montenegro emerged, and the DPS left the government and joined the opposition following the invitation to NATO.

These parties took different approaches. The Democrats avoided street protests but also rejected dialogue with the DPS and participation in the transitional government. Instead, they committed to field work and door-to-door campaigning that brought them steady growth and eight seats in the 2016 elections. The Democrats have been boycotting parliament since then, and polls are showing their numbers are still rising.

The SDP, URA and DEMOS have chosen dialogue over boycott. In May 2016 they joined the so-called Government of the Electoral Trust. From this perspective, it looks like this decision has not played well in terms of popular support.

Figure 5: Ratings of political parties currently represented in parliament³⁵



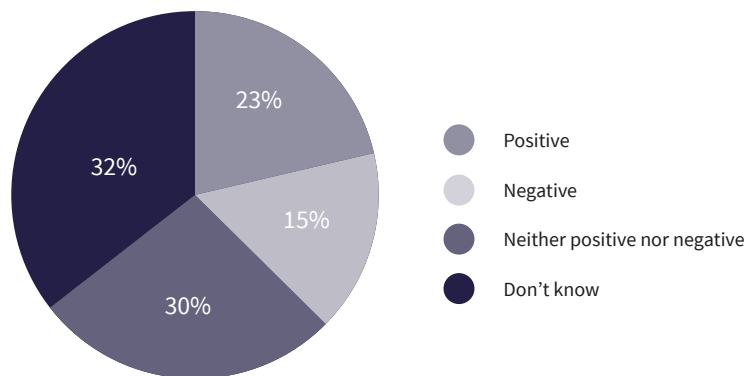
35 Ibid.

3.4. Transitional Government

In June 2016, right after the agreement on the Government of Electoral Trust was achieved CEDEM also surveyed respondents on it. Over half of the respondents either had no answer, or could not assess the transitional government either positively or negatively. Support for the agreement was highest amongst DPS voters (54.8 per cent), Positive Montenegro (52.9 per cent) and URA (51.6 per cent), and lowest amongst SNP voters (7.6 per cent), DF (9.6 per cent) and Democrats (9.6 per cent).

Figure 6: Opinion about the 2016 transitional government³⁶

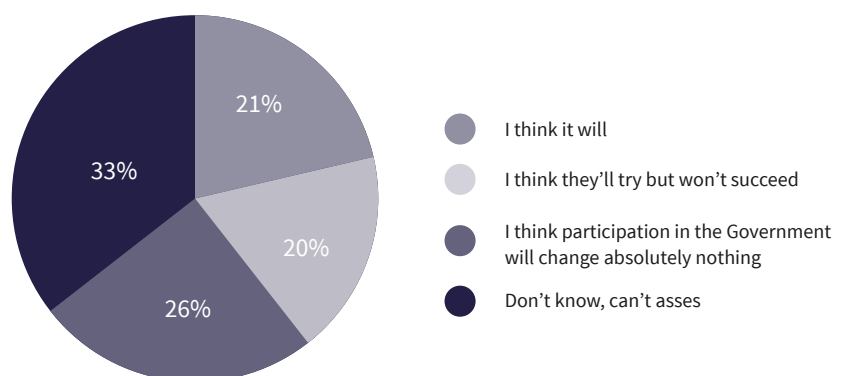
OPINION ABOUT THE GOVERNMENT OF ELECTORALTRUST



The main goal of the newly formed government was to make the electoral process better and prevent electoral irregularities. Yet only a minority of respondents believed it would succeed in that. The majority of voters of Positive Montenegro (52.9%) and DPS (51.6%) believed that this government would improve the election process. Trust was very small amongst DF (2.4 per cent), SNP (7.7 per cent) and Democrats (7.4 per cent) voters.

Figure 7: Opinion about the 2016 transitional government³⁷

WILL THE GOVERNMENT SUCCEED IN KEY GOALS?



36 CEDEM. (2017). Political Public Opinion of Montenegro, June 2017. Podgorica: CEDEM. Retrieved from: <http://www.cedem.me/programi/istrazivanja/politicko-javno-mnjenje/send/29-politicko-javno-mnjenje/1875-istrazivanje-politickog-javnog-mnjenja-jun-2017>.

37 *Ibid.*

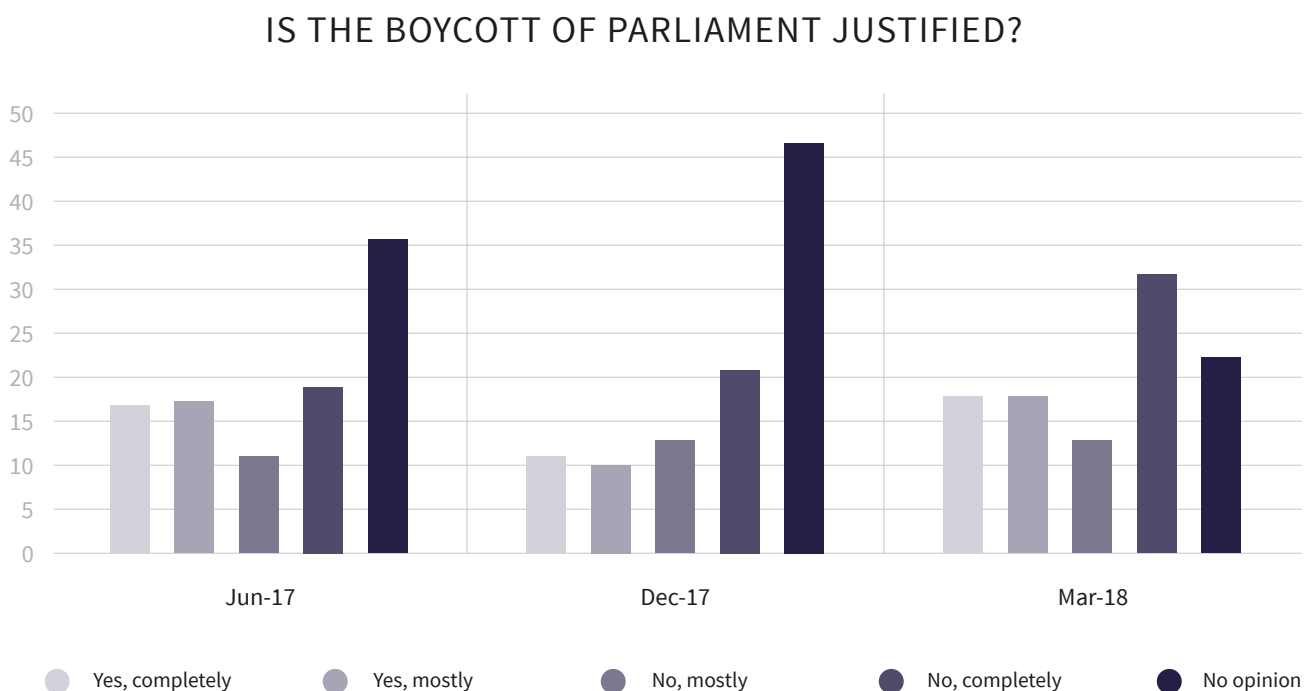
DPS and URA voters predominantly supported their parties’ decision to join the government, while DEMOS voters were divided on this issue. SNP and DF voters were the strongest opponents of the decision of the SDP, URA and DEMOS to join the government.

The Government of Electoral Trust had support from both the international community and civil society as a way of resolving the political and social crisis through dialogue and institutions. However, the “watchdog government” lasted too short a time to achieve the desired outcome on the electoral environment, or for its positive results to be properly communicated to the widest audience. The DPS ran alone in the 2016 elections and won four seats. DEMOS and the URA participated as part of a coalition together with the SNP, and won four and two seats respectively. Parties that stayed out of the political dialogue and the transitional government emerged as the strongest parties in the opposition after the 2016 elections.

3.5. Boycott

In its research, CEDEM also analysed the public perceptions of the parliamentary boycott that started after the 2016 elections. By March 2018, the numbers of both those who supported and those who opposed the boycott increased, while the number of undecided was reduced. According to the June 2017 data, DEMOS, DF and SNP voters were the main supporters of the parliamentary boycott.

Figure 8: Changes of opinion about the parliamentary boycott³⁸

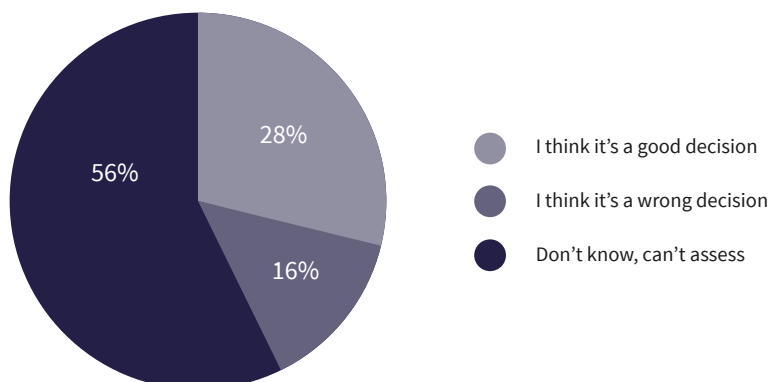


The DF announced that it was dropping the boycott and returning to parliament in December 2017. A CEDEM poll showed that the majority of citizens did not have a position on the return of the DF to parliament. Comparatively, the number of those who justified it was greater than the number of those who considered it to be the wrong decision. It also showed that opposition voters were divided over the return of the DF to parliament.

38 CEDEM. *Political Public Opinion*. Available at: <http://www.cedem.me/programi/istrazivanja/politicko-javno-mnjenje>.

Figure 9: Opinion about DF’s return to parliament, December 2017³⁹

OPINION ABOUT DF’S RETURN TO PARLIAMENT

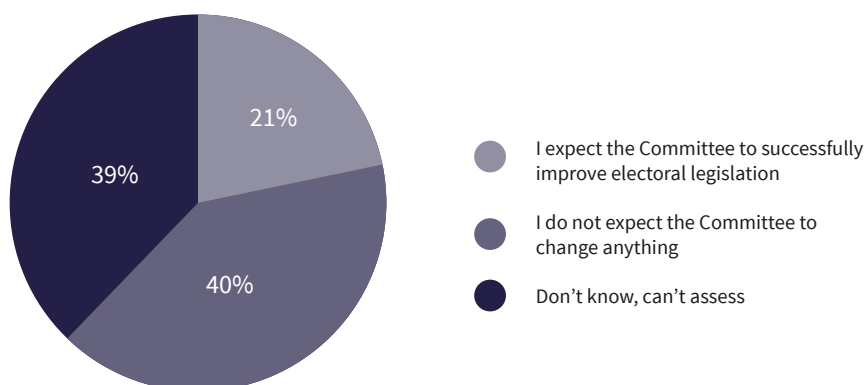


3.6. New Electoral Reform

In November 2018, the Committee on Further Reform of Electoral and Other Legislation was formed in parliament after several months of negotiations with the support of the European Commission. In December 2018, CEDEM surveyed public opinion on the committee. It found that the citizens of Montenegro mostly did not have great expectations from the committee.

Figure 10: Expectations from the Electoral Reform Committee⁴⁰

EXPECTATIONS FROM THE ELECTORAL REFORM COMMITTEE



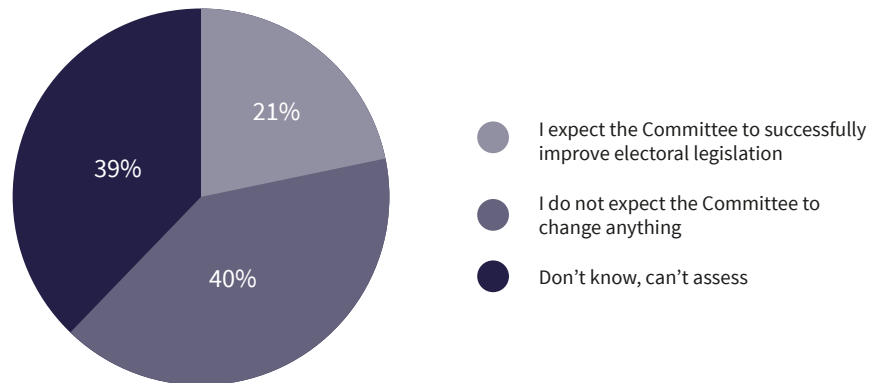
Democrat and URA MPs refused to join the committee and continued with the boycott. Citizens generally had no opinion on their boycott of the committee. Democrat and URA voters generally supported a boycott.

39 CEDEM. (2017). Political Public Opinion of Montenegro, December 2017. Podgorica: CEDEM. Retrieved from: <http://www.cedem.me/programi/istrazivanja/politicko-javno-mnjenje/send/29-politicko-javno-mnjenje/1889-politicko-javno-mnjenje-decembar-2017>.

40 CEDEM. (2018). Political Public Opinion of Montenegro, December 2018. Podgorica: CEDEM. Retrieved from: <http://www.cedem.me/programi/istrazivanja/politicko-javno-mnjenje/send/29-politicko-javno-mnjenje/1917-politicko-javno-mnjenje-decembar-2018>.

Figure 11: Opinion on the Electoral Reform Committee boycott by Democrats and the URA⁴¹

OPINION ON THE BOYCOTT OF THE COMMITTEE



4. CONCLUSIONS

The periodic boycotting of the parliament of Montenegro in the period 2013-2019 was just one of the manifestations of the political instability caused by the widespread dissatisfaction with the fairness and the quality of the electoral process. Together with other means of both non-institutional and institutional efforts it had some visible effects on setting foundations for the creation of a better electoral environment. On the other side, as expected, boycotting had a negative impact on the democratic functions of parliament.

- Boycotting together with the other manifestations of revolt exerted **pressure on ruling parties to agree on compromises**. Exposed scandals and public reactions to those prompted ruling the DPS to admit that not everything was perfect and changes were necessary. The opposition and civil society actors succeeded only partially in capitalising on popular discontent, boycotts and protests and to channel those through the institutional mechanisms. The influence of the boycott on the DPS's readiness to compromise was visible in their most recent attempts to involve the opposition and civil society in the work of the parliamentary Committee for Electoral Reform.
- Parliamentary boycotting, together with other activities of the opposition and civil society contributed significantly to **increased public awareness about shortcomings in the electoral process**. Public opinion surveys showed that citizens were more critical of the quality of democracy, and less ready to justify misuses and unjust advantages in elections. In addition to influencing domestic opinion, these developments drew the attention of the EU and other international actors to the flaws in the fundamental democratic institutions in Montenegro.
- The most tangible effect was the **improvement of the electoral framework**. Changes to the electoral legislation in 2014 brought some improvements in the regulatory and institutional framework, as well as improvements to various technical aspects of the voting process. The most significant improvements included the centralisation and automation of the voters' list, the introduction of the electronic identification of voters and improvements

⁴¹ *Ibid.*

to the transparency of public spending during the campaigns. Also, participation of opposition representatives in the Government of Electoral Trust prevented the misuse of resources to a certain extent. But these developments have not produced the desired outcome of free and fair elections, and have not increased public trust in the election process. Also they have not increased the trust of the opposition parties in the election results, where both objective reasons and political tactics are involved. However, these were important steps in the process of electoral reform which need to be continued.

- Boycotting has negatively affected **the functionality of the parliament of Montenegro**. Since November 2016, the quality of parliamentary work, its control functions in particular, has visibly declined. In the absence of critical opinion, good parliamentary debate fades away, and both committees and the plenum are steadily turning into a mechanism for rubber-stamping of the government's proposals. Government officials are not exposed to meaningful question time sessions, and can feel utterly comfortable in giving optimistic answers to desirable questions. The politics of deinstitutionalisation have done long-lasting damage to the already weak parliamentary culture, and it will take time for it to be restored.

Finally, it is only fair to underline that besides the publicly stated demands for fair elections and democratisation, boycotts and protests had other goals on the agendas of at least some of the actors. Boycotts, riots and other forms of unrest in 2015-2016 were clearly aimed at discontinuing Montenegro's NATO integration. This goal, however, failed to be achieved.

Parliamentary Boycotts
in the Western Balkans

Case Study: Republic of North Macedonia

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1.

INTRODUCTION

The parliamentary boycott can be recognised as a form of abstaining from voting on a specific issue by political parties or MPs in order to make a political statement. It can be also seen as abstaining from participating at committee or plenary sessions while continuing to perform some type of parliamentary function (representation), or it can be abstaining from entering parliament at all for any measure of time to make a political statement about a specific issue. In some cases, political parties and MPs announce certain political, electoral and legal preconditions which must be met before participating fully in parliamentary life. However, absence of a constructive and sustainable political dialogue between the ruling party and the opposition poses numerous challenges to the consolidation of democracy. The political debates taking place in parliament are vital to the process of democracy and stability of any country. Since the Republic of North Macedonia gained independence in 1991, boycotts were a very common tool used mainly by the parties in opposition in order to address specific issue or disagreement.

This research was conducted by the team of Citizens Association MOST,¹ within a regional research study commissioned by the Westminster Foundation for Democracy (WFD)² in order to examine the different perspectives on the parliamentary boycotts in the Republic of North Macedonia between 1991 and 2019. The aim of this research is to identify the situations, causes and effects of the official and unofficial parliamentary boycotts in the Macedonian parliament. Potentially, this study will contribute to the national and international knowledge base of the political situation and parliamentary practice in the last three decades. The research represents a combination of doctrinal and empirical research. Expert interviews were conducted with former and present Members of Parliament (MPs) that have witnessed the happenings and provided the context and the reasons why the boycotts have happened, as well as the effects on the society and the political system. The research was conducted in the period from 4 to 18 March 2019 in Skopje and London.

We would like to acknowledge the assistance of our interlocutors for reviving the events and for giving a live perspective to this research:

1. Naser Ziberi – Member of Parliament 1994 – 1998; 1998 – 2002;
2. Petar Goshev – Member of Parliament 1990 – 1994; 1998 – 2002;
3. Sonja Mirakovska – Member of Parliament 2008 - onward
4. Aleksandar Spasenovski – Member of Parliament 2006 – 2014.

We hope that this research will contribute to a better understanding of the causes and effects of the boycotts in the political history of North Macedonia, as well as provide some recommendations for improvement.

1 Citizens Association MOST, <http://www.most.org.mk>.

2 Westminster Foundation for Democracy (WFD), <http://www.wfd.org>.

2. EXECUTIVE SUMMARY

This research examines the different perspectives of the parliamentary boycotts in the Republic of North Macedonia between 1991 and 2019. Its aim is to identify the situations, causes and effects of the official and unofficial parliamentary boycotts in the Macedonian parliament.

Since 1991, parliamentary boycotting has played a significant role and has been used as a tool by the parties in opposition in order to obstruct the work of parliament. During the last three decades, boycotts were commonly used, taking different forms, intensities and time frames, as results from disagreements over the strategic goals of the country, different party goals, disputes over certain decisions and resolutions, etc.

The findings from the research indicate that the most common causes of boycotts were ethnic issues (the boycott of the vote on the constitution by the Albanian MPs in 1991), accusations of election irregularities (the boycott of the 1994 elections and the whole 1994-1998 term by VMRO-DPMNE) or the increasing authoritarianism and abuse of power (almost all the boycotts after 2010).

As to the effects, boycott crises negatively influenced the political system and the stability of the country. The 1994-1998 boycott left parliament without an opposition and thus the government without control which resulted in failure to conduct a successful and efficient transition of both the political and the economic systems. Boycotts often led to early elections and it can be submitted that all early elections during the 2006-2017 VMRO-DPMNE rule were more or less a result of a previous boycott by the opposition (SDSM). Boycotts also resulted in the rapid adoption of laws (which in some cases was also a cause), amending the Rules of Procedure, as well as the adoption of systemic laws without the opposition, which raised serious concerns about the rule of law, good and fair electoral processes, the independence of the judiciary, freedom of the media and good governance.

Boycott crises increased the polarisation between the main political parties from the Macedonian bloc, VMRO-DPMNE and SDSM, but also the polarisation in society which negatively affected the public perception of the political parties. As a result of this, beginning with the negotiations that led to the signing of the Ohrid Framework Agreement in 2001, the international community has become more involved as a mediator whenever a new crisis would appear. This was partly because of the benchmarks that the country had to fulfil in the EU integration process. In parallel to this, a new, unique culture of moving the political negotiations outside parliament was developed, in order to make the negotiation process more effective, but to the detriment of dialogue in parliament.

Parliament needs to substantially improve its performance as a forum for constructive political dialogue and representation while the main political parties need to find a mechanism to overcome future crises and to cooperate efficiently in order to protect democracy and the rule of law, refraining from any action which would further undermine the situation in these areas.

3.

THE POLITICAL SYSTEM IN THE REPUBLIC OF NORTH MACEDONIA

The political system is a parliamentary system with proportional representation in which the majority forms the government. The constitution determines the parliament as the highest legislative institution in the country and the representative body of citizens. Its function and organisation are regulated with the Rules of Procedure and the Law on Parliament. It has 120 MPs, elected by proportional representation from six electoral districts, each of them contributing 20 MPs, and there are also three reserved seats elected from the diaspora which are awarded only if the voter turnout is sufficient.³ MPs are elected to a four-year term and may not be recalled during their term. Parliament is presided over by a Speaker. The parliament's seat is in the nation's capital, Skopje.

3.1. Political Parties in the Republic of North Macedonia

The political party landscape is divided along ethnic lines, although parties within one ethnic group can be placed in the traditional left-to-right spectrum. The society in Macedonia is to a large extent ethnically segregated and this is reflected in the electorate.⁴ The electorate is mainly perceived as divided in two groups, ethnic Macedonian and ethnic Albanian, thus a party from one ethnicity does not compete with parties from the other ethnicity as the struggle for votes is fought within the respective ethnic group.⁵ This practice has changed during the biggest political crisis in the country for the 2016 parliamentary elections, when the SDSM addressed and gained the support of Albanian voters, which was considered as the first serious cross-ethnic support for one political platform. Other minorities still seek their place within the larger coalitions formed prior to elections. All ethnic groups are represented by at least one political party. The main political parties are the Social Democratic Union of Macedonia (SDSM) and the Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian Unity (VMRO-DPMNE) from the Macedonian bloc, and the Democratic Union for Integration (DUI), the Alliance for Albanians and BESA from the Albanian bloc.⁶ Although in theory Macedonia has representative democracy as a form of governance, institutions are functioning with rather unique specifics, common for the Balkan countries. Aimed at overcoming the political crisis, the institutions have constantly created new practices, such as frequent early parliamentary elections through self-dissolution of parliament, instead of nurturing the political dialogue. Also, there were annulments of the decisions of parliament and changing the rules of operation of the institutions.

3.2. Political Background

During the peaceful transition of the political system from a socialist state to a parliamentary democracy, the constitutional changes that were introduced in the former Socialist Republic of Macedonia (SRM) in 1989 allowed political parties to be established. Still as part of Socialist Federal Republic of Yugoslavia (SFRY) in November 1990, Macedonian citizens could vote on the first pluralistic elections ever, along with the citizens of the other five republics in SFRY. The first multiparty parliamentary elections were held in November 1990. The MPs were elected by the two-round majoritarian system while the territory of the country was divided in 120 single-mandate districts. A total of 18 political parties and 43

3 Parliament of the Republic of North Macedonia (*Sobranie.mk*, 2019), <https://sobranie.mk/home-en.nspk>.

4 Jusuf Zejneli and Bekim Maksuti (*Eujournal.org*, 2016), <http://eujournal.org/index.php/esj/article/viewFile/7440/7166>.

5 Jusuf Zejneli and Bekim Maksuti (*Eujournal.org*, 2016), <http://eujournal.org/index.php/esj/article/viewFile/7440/7166>.

6 Current parliamentary composition (*Sobranie.mk*, 2019), <https://sobranie.mk/segashen-sostav-2016.nspk>.

independent candidates ran in the elections, with coalitions formed in some of the electoral districts. The winner of the election was the VMRO-DPMNE with 38 seats, while the SKM-PDP (SDSM) won 31 seats followed by the PDP (the first party of the Albanians in Macedonia) which won 22 seats.⁷ Turnout was very high in both rounds, 84.8 per cent and 76.8 per cent respectively. The collective leadership was transformed into a single-president post, and on 27 January 1991 Kiro Gligorov became the first President of the SRM, elected by a secret vote in parliament. During the period April to June 1991, with the constitutional changes the new name “Republic of Macedonia” was established. Based on a referendum held on 8 September 1991, where 75 per cent of citizens voted and 96.64 per cent of them endorsed the independence from Yugoslavia, independence was proclaimed under the constitution adopted by parliament on 17 November 1991. Parliament adopted the Constitution of the Republic of Macedonia⁸ despite a boycott by the PDP MPs representing the Albanian citizens. According to the preamble to the constitution, Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people are provided for Albanians, Turks, Vlachs, Roma and other nationalities living in the Republic of Macedonia. This did not suit the Albanians who demanded to be acknowledged as the second constituent people of Macedonia and for the Albanian language to be defined as the second official language. Furthermore, Petar Goshev⁹ states that Albanian parties boycotted the election of the first Macedonian president, Kiro Gligorov, in parliament in 1991, thus setting the precedent for using parliamentary boycotts as a political tool when having limited or no influence at all on decision-making.

These events marked the beginning of a political crisis in the country, and 2 million inhabitants in the newly established state found themselves in a position where internal ethnic problems and challenging relations with the neighbouring countries put the future existence of the state at risk. Throughout the 1990s the reforms intended to improve minority rights progressed slowly and Macedonians were reluctant to give Albanians greater representation in state institutions, making the Albanians increasingly frustrated by the lack of both influence and recognition as a significant national minority.¹⁰ Since 1992 the government has included the main Albanian party as a partner in government. This tradition has been considered a stabilising factor during the turbulent years of inter-ethnic tension.

4.

INSTANCES, EFFECTS, CAUSES, DURATIONS AND INTENSITIES OF THE PARLIAMENTARY BOYCOTTS

Since 1991 parliamentary boycotting has played a significant role and has been used as tool by the parties in opposition in order to obstruct the work of the Parliament. During the last three decades boycotts were commonly used in parliament, taking different forms, intensities and time frames, as results of disagreements over the strategical goals of the country, different party goals, disputes over certain decisions and resolutions. It became a common practice for MPs to refuse to take their seats in parliament, thus addressing such issues as election irregularities, violation in the election code and electoral register, and irregularities at the polling stations. Furthermore, the opposition boycotted the work of parliament in situations where it did not have significant power to make desired changes, such as when voting for the state budget, or making a stand against the lack of democracy and media control. Moreover, among the various rea-

⁷ Masters thesis: The proportional electoral system with closed lists and the degrading of the political system and the democratic values in the period 2002 – 2016 in the Republic of Macedonia, D. Aleksov (2018).

⁸ Constitution of the Republic of Macedonia, <https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nspk>.

⁹ Petar Goshev, Member of Parliament in the first and third parliaments.

¹⁰ The Kosovo War in 1999 had proved that armed insurgency might lead to international intervention and increased the Albanian confidence in that minority rights could be achieved, Former Yugoslav Republic of Macedonia: Parliamentary Elections July 2006, <https://www.jus.uio.no/smr/english/about/programmes/nordem/publications/2006/1406.pdf>.

sons for boycotting parliament, there were occasions when the opposition has boycotted amendments to the preamble to the constitution, such as the amendment aimed at changing the name country name. Also, it can be noted that in several instances the opposition has joined the national masses who were protesting at that moment on the streets, displaying unity with the citizens.

Since the very first boycott in 1991 when the Albanians boycotted the vote for the constitution, it can be noted that one of the most significant and complex boycotts happened between 1994 and 1998 when the opposition (VMRO-DPMNE, DPA, MAAK, Liberal Party) remained out of parliament for four years, enabling the governing elite to stay in power without any control by the opposition or cross-party debate. This trend continued in the following years when in 2002 the LDP and VMRO-DPMNE were out of parliament for four months, and the DPA decided to completely abandon the work of parliament for three months in 2003. Furthermore, the DPA continued with the boycott practice in 2005 when it boycotted the local elections. Once again, from 2006 to 2010 the DPA boycotted on several occasions. In addition, the SDSM, LDP, LP and NSDP started a new wave of boycotting from 17 July to 4 August 2008, thus continuing the trend of using boycotts as an instrument to achieve political aims. In this context, in 2011, the SDSM, as the biggest opposition party in parliament, supported by the DPA, boycotted parliament from January to April 2011. Moreover, the SDSM continued with this practice during 2012-2013, starting after the events of Black Monday 2012¹¹ and concluding in September 2013. After the political crisis re-emerged in 2014, the SDSM with the coalition partners continued the boycott until the so-called “Przhino Agreement” was reached in 2016. After the 2016 parliamentary elections the VMRO-DPMNE became the main opposition party in the country and continued the practice of boycotting parliament. Initially, the boycotts had different effects, in some cases they resulted in reaching agreement and unlocking parliament, while in other cases they led to early parliamentary elections and in some cases they provoked the enactment of very important systemic laws that affect citizens’ everyday lives. Public opinion regarding the effects of the boycott differs, with different views from the party loyalists and mass population.¹² Predominantly, this has resulted in the division of the population into right-wing and left-wing supporters, distrust in state institutions, and no confidence in the work of parliament and the entire political system. The differences of opinion escalated during the violent entry of the opposition and protesting citizens into parliament on 27 April 2017.¹³ Ongoing political crises have led to economic instability, postponing the accession to the EU and NATO, which have an adverse effect on public opinion.

11 The ousting of the opposition from parliament on 24 December during the Budget debate.

12 <https://www.mcms.mk/images/docs/2016/javnoto-mislenje-za-politicki-rejtinzi-anketa-na-javno-mislenje.pdf>.

13 <https://www.mcms.mk/mk/za-nasata-rabota/istrazuvana-i-publikacii/1932-percepicii-i-stavovi-za-sluchuvanjata-vo-sobranieto-na-27-april-2017-godina.html>.

The table below contains all boycott instances, together with the context, the political party/parties performing the boycott and the reason for the boycott.

ELECTIONS	CONTEXT	POLITICAL PARTY/ PARTIES	ISSUE/S FOR BOYCOTT
YEAR	KEYWORDS		
1991	President Election Voting on Constitution	DPA PDP-NDP	Albanian Representation
1994	Presidential Election Parliamentary Election	VMRO-DPMNE, DP, MAAK, LIBERAL PARTY	Rigged Elections The violation of the election code and electoral register
2002	Parliamentary Election Local Election in 2005	VMRO-DPMNE, LDP, DPA	Former terrorist inclusion in the coalition between the SDSM and DUI Irregularities at the polling stations in 2005
2006	Parliamentary Election	DPA	A post-election coalition between the VMRO-DPMNE and DUI
2008	Parliamentary Election	DPA, SDSM, LDP, LP, NSDP	Rules of Procedure amendments Fast adoption of laws
2011	Early Parliamentary Election	SDSM, ND, LD, NSDP, DPA	Media outlet control (A1 TV) Lack of democratic capacity of the government
2012	Black Monday	SDSM, LDP, LP, NSDP	Annual state budget vote
2014	Parliamentary Election Presidential Election	SDSM	Irregular elections
2015	Wiretapping Scandal	SDSM	Corruption Interference with judicial independence
2017	Imprisonment and custody of VMRO- DPMNE MPs	VMRO-DPMNE	12 per cent of VMRO-DPMNE parliamentary group taken to custody
2019	Prespa Agreement	VMRO-DPMNE	Ratification of the Prespa Agreement

* Elections are set as an indicator because produce the composition of each parliament. The key words for the other three categories are just for presentation purposes. For more in-depth insights please read the relevant section of this analysis.

5. CHALLENGES OF THE MACEDONIAN DEMOCRATIC SYSTEM IN THE PERIOD BEFORE 2000, REPRESENTATIVE MODEL VS. SINGLE PARTY REALITY

The second parliamentary elections were held in October 1994, together with the first direct presidential elections. The VMRO-DPMNE, the DP and the MAAK boycotted the second round of the elections due to an alleged election fraud. According to Petar Goshev, “During the first election round, there were serious violations in the election code and the electoral register, when it was allowed for 150,000 voters to be added on the voting list on election day. In addition, there were serious breaches of the relevant laws governing the parliamentary elections, which are the following: the law on civil servants, the law on broadcasting, the criminal code and the constitution. After determining serious election irregularities, parties appealed to the Supreme Court which has denied the appeal.” The first consequence of the boycott of the second round of the elections was the decrease in the turnout from 77.7 per cent in the first round to 57.5 per cent in the second.

The government was formed by the coalition “Alliance for Macedonia” (led by the SDSM, with a total of 95 parliamentary seats) and the PDP (10 parliamentary seats), also including the LP and SPM. In this mandate, parliament functioned without an opposition because the VMRO-DPMNE decided to continue the boycott throughout the whole four-year term. Trying to build a favourable position for the next elections and to influence the reduction of electoral irregularities, the opposition remained outside parliament and did not accept the mandates.¹⁴ From 1994 to 1998, with 112 Members, the parliamentary majority was absolutely dominant in parliament, the opposition being a small parliamentary group from the Albanian parties PDPA (Party for Democratic Prosperity of the Albanians) and the People’s Democratic Party with a total of eight seats, which certainly did not represent a serious opposition in either political or numerical senses. According to Naser Ziberi,¹⁵ with this misbalance of political representation in parliament, Macedonia entered a new era in the functioning of the political system. The decisions in parliament were made without opposition and the government operated without any restraints. The boycott created a strong opposition outside the institutions of the system through protests in the streets; but the opposition could not influence the decisions taken by the state bodies. Ziberi understands that actions outside parliament strengthen the position of the boycotter and the support of its voters, but weakens the position of parliament and the government. He argues that “parliament lacked a real debate about the major issues of economic and political character; there were no proposals in the form of suggestions, alternatives and amendments to improve the government’s proposals and the parliamentary majority”. The absence of the opposition from parliament meant the government was not subject to checks and balances, such as initiating a vote of confidence and interpellation, which was also individually attributable to each holder of a public function appointed by parliament. Furthermore, Ziberi claims that such failure to hold public officials to account enabled them to be less efficient in their work and reduced their performance.¹⁶

The parliamentary majority was very strong, and the government was comfortable. Policy was dictated by the government or the president of the government and imposed not only on the executive but also on the legislature. The outcome of the actions undertaken by the opposition out of parliament prompted internal obstacles and splits within the

¹⁴ This course proved to be successful from a political point of view since the VMRO-DPMNE won a convincing victory at the next parliamentary elections in 1998 and formed the government. However, the same cannot be said about the functioning of the political system, the institutions of the state, their strengthening and the further democratisation of the country.

¹⁵ Naser Ziberi, Member of the Party for Democratic Prosperity (PDP).

¹⁶ *Ibid.*

parliamentary majority which led to the dissolution of the coalition between the two partners, the SDSM and the Liberal Party, with the latter leaving the parliamentary majority and the government in February 1996. Despite the Liberal Party leaving the ruling coalition, the parliamentary majority and the government were not subjected to any genuine oversight or control. Instead, the parliamentary majority had more than two-thirds of the seats in parliament and continued to govern without serious scrutiny.¹⁷

This situation contributed to the government becoming less responsible, making many policies in relation to the budget, reforms in the economic sector and social protection less successful. By responding to the challenges of the pressure from the parliamentary opposition on one side, and the worsening economic situation as a result of previous blockades and sanctions on the other side, the government began to take political social measures that sought to purchase social peace. There were several such solutions in the field of the economy and the economic system, pension reform and social protection, the continuation of the transformation of social capital through the privatisation of state-owned companies, the dismissal of workers and cutting their social security benefits from the budget, employment in the real-private sector by paying contributions from the budget and many other social measures. Also, as Goshev argues, the period 1994-1998 was marked by examples of abuse of administrative resources, instances of the illegal sale of state assets, corruption and the unsuitable choice of privatisation models. Looking at this period of state building from this perspective, it is to be underlined that the boycott of the opposition both directly and indirectly contributed to the failure to conduct successful and efficient transitions, first in the political system – from a socialist state to a parliamentary democracy – and second in the transition of the economic system from a planned to a market economy.

5.1. The Turmoil in the Balkans – Kosovo and Macedonia vs. the (non) Dialogue in Parliament

The party political landscape was transformed considerably in 1998 when the results of the parliamentary elections showed that the winning coalition (VMRO-DPMNE and Democratic Alternative) could form the government by itself. However, following the tradition of previous governments, it was decided a political party from the Albanian political bloc, in this case the DPA, would be included in the government. This confirmed the thesis that successful resolution and integration of the various social segments' interests depend on their proportional representation in the state institutions. This starting combination of coalition partners, that brought two radical ethnic options together with a civic one to act as a bridge between the two, could have functioned as a model for improved political life. It is difficult to identify the motives of entering into such a coalition, or to evaluate the effects of what was achieved, especially since this government combination was of a relatively short duration. Success or failure of the results could not be easily connected with the composition of this government because the determining factor of forming this coalition more or less was necessity (with no clear programme profile, based on pragmatic motivation and only for the sake of participating in the government). It is more than obvious that one cannot speak about a traditional coalition, where the participants work together to accomplish certain goals that are for their mutual interest or perceived as common ground. The fragility of such a coalition was exacerbated by the fact that the country passed through its most complicated period since independence. "Overcoming the consequences of the Kosovo War in 1999 and the ethnic Albanians' insurgency in 2001 and undergoing difficulties implementing the Ohrid Framework Agreement (OFA)¹⁸, the country was bitterly divided along ethnic and political lines. The parliament was fragmented, with the eight parties that entered it in 1998 increasing to 16 by the end of the mandate due to defections of MPs and splintering of parties. In 2001, Macedonia saw three governments, including the 'wide coalition' or 'unity government', formed during the armed conflict to unite the country's diverse political factions in dealing with the insurgency."¹⁹

¹⁷ *Ibid.*

¹⁸ 'Ohrid Framework Agreement | OSCE', (Osce.org, 2019) <https://www.osce.org/skopje/100622>.

¹⁹ IRI Election Observation Report 2002, Macedonia.

6. CHALLENGES IN THE WORK OF PARLIAMENT AFTER THE OHRID FRAMEWORK AGREEMENT (2002-2006)

In September 2002 parliamentary elections were held with a new significant change in the election system to a fully proportional representation system with closed lists. The country was divided into six electoral districts each with approximately the same number of voters, 280,000. Each electoral district had 20 seats. The election threshold of five per cent was removed. The electoral reform was part of the Ohrid Framework Agreement (OFA) signed by the four major political parties (VMRO-DPMNE, SDSM, DPA and PDP) on 13 August 2001. The OFA put an end to the 2001 armed conflict between the security forces of the country and the Albanian National Liberation Army (NLA). The NLA established a new political party, the Democratic Union for Integration (DUI). The result was a victory for “Together for Macedonia”²⁰, a coalition led by the SDSM which won 60 of the 120 seats in parliament.

It was more than evident that the new ruling coalition between the SDSM and DUI would be inevitable. As Freedom House noted: “Following four weeks of intense negotiations, the SDSM reconciled itself with the inevitable and presented its cabinet to parliament on 20 October. On 31 October, parliament ratified the new government with 72 deputies voting for it and 28 against. The SDSM would have seven ministries, the DUI four, and the LDP three. Macedonia’s new ‘guns and roses’ government has elicited both expected and less expected reactions. On the first day the new parliament convened, the VMRO and the LDP protested ‘the inclusion of former terrorists’ in the government and announced their boycott of the legislature for the rest of the year. According to VMRO party spokesman Vlatko Gjorchev, ‘This government list reflects a military, legal and spiritual capitulation for Macedonia.’”²¹ The VMRO-DPMNE returned to parliament in January 2003, after almost four months. Alongside the VMRO-DPMNE, the second largest Albanian party (the DPA) had suffered the biggest defeat since its founding and also decided not to participate in the vote for the new government after which it returned to parliament. Later, in April 2003 the DPA decided to completely abandon the work of parliament by proclaiming a political moratorium. This was one of the longest boycotts of parliament at that time since it lasted until June of the same year. Later in 2003, when the new law on territorial division of the units of local self-government was introduced in parliament, the VMRO-DPMNE fought against its enactment by filibustering and other means of obstruction. The final vote on the law was taken without VMRO-DPMNE MPs since they left the chamber.²² In the period 2002-2006, the DPA boycotted the work of parliament one last time, after the 2005 local elections. It claimed that irregularities at the polling stations enabled the DUI to win a large number of municipalities, and it cited the fact that the proposal for a law to abolish the election results in the predominantly Albanian populated municipalities was not put on the agenda of parliament as the main reasons for the boycott.

According to Freedom House: “The main principles of reform were approved by the Parliament on May 18, 2005, by a broad majority. Draft amendments were presented by the government in June, and in August the Parliament adopted 15 draft amendments that have been debated publicly. The reform was scheduled to be completed by the end of 2005.”²³ “In December the Parliament adopted constitutional amendments that envisaged a series of administrative

20 Members of this alliance were: The Liberal Democratic Party, the Democratic Party of the Serbs, the Democratic League of Bosniaks, the United Party of Romas, the Democratic party of Serbs, the Democratic Union of Vlachs, the Workers-Peasant Party, the Social Christian Party of Macedonia and the Green Party of Macedonia.

21 Freedom House, Nations in Transit report 2003.

22 List of the vote for the law on territorial division.

23 Freedom House, Nations in Transit report 2006.

reforms to improve the independence and effectiveness of the justice system, including a new procedure for the selection of judges and establishment of a separate court system for minor offenses.²⁴

This was the period in which, as described above, a series of boycotts fostered an agreement on constitutional changes reflecting needed judicial reforms. The agreement between the parties happened upon the award of candidate status for North Macedonia by the European Commission. This indicates that the boycotts in this period did not affect the country's EU integration plans, but led to reaching an agreement and to consideration being given to opposition demands for the reforms and constitutional changes.

7.

THE CHANGE OF POWER AND THE NEW COALITION BETWEEN THE VMRO-DPMNE AND THE DPA (2006-2008)

The fifth parliamentary elections were held on 5 July 2006. The VMRO-DPMNE won the elections and, together with the NSDP (formed by former members of the SDSM) and the DPA from the Albanian political bloc, formed the government. The VMRO-DPMNE partnered with the DPA, although the DUI won more seats than the DPA. In the period from 2006 to 2009, as observed by NSDP MP Sonja Mirakovska,²⁵ due to the nature of the occasions, the boycott as a tool did not occupy a significant part of the political context. On the other hand, from the perspective of the lost elections, the main opposition party was naturally focused on internal party issues arising from the emergence of more opposing blocs that wanted to have greater influence on its actions after the electoral defeat. However, the boycott was not completely abandoned, because there was strong dissatisfaction in the DUI because the VMRO-DPMNE entered into a post-election coalition with the DPA, forming the new government. At the same time, obstructing parliament stimulated some other MPs to advocate their own interests.

According to Aleksandar Spasenovski,²⁶ the main reason for the 2006 boycott by the DUI²⁷ was the party's dissatisfaction with the VMRO-DPMNE decision to form a government with the DPA. The DUI's logic was that, as the winning party in the Albanian bloc, it should participate in the government together with the winner in the Macedonian bloc. In this sense, taking a step further, the DUI advocated elevating this practice to a level of a political custom (an unwritten rule) which must be followed when forming all the governments in the future. So, practically, the boycott and the blockade in parliament confirmed the DUI view that institutions could not function normally if the post-election coalitions were not formed in accordance with their propositions. Crucially, this position was supported the old Rules of Procedure of parliament which had many mechanisms for endlessly stalling debates and, secondly, by the constitutional and legal safeguards for laws that were adopted by a double majority. Hence, in the period from 2006 to 2009, the boycott was not a commonly used tool. Mainly, these activities were manifested as blockades and disruptions of the work of parliament, especially for the laws for which the adoption of the double "Badinter" majority was required. However, according to Spasenovski, the boycott, as a form of radicalisation, has several stages and it takes a long time to escalate in order to come to full expression. There was an escalation in the DUI boycott, and its magnitude was proportionate to the rule of the new of VMRO-DPMNE/DPA government. In particular, after the 2006 elections, it took almost a year to raise the

²⁴ 2005 Country Reports on Human Rights Practices - Macedonia.

²⁵ Sonja Mirakovska, New Social Democratic Party.

²⁶ Aleksandar Spasenovski, VMRO - Democratic Party for Macedonian National Unity.

²⁷ The boycott started after the announcement of the new government coalition on 1 August 2006.

DUI's demands to the level of important political topics that cannot be ignored.²⁸ After almost a year-long boycott, the DUI returned to parliament on 30 May 2007, with a list of 46 laws that were to be voted with the Badinter majority. This deepened the crisis between the VMRO-DPMNE and DPA.

In this context, the lengthy boycott by the DUI delayed the reforms, and their reappearance in parliament and the “co-operation” with the VMRO-DPMNE generated a crisis with the then-coalition partner DPA. This negative aspect in combination with the Greek veto in Bucharest led to the dissolution of parliament and early parliamentary elections in 2008.

8.

THE VMRO-DPMNE – DUI COALITION (2008-2011)

The early elections resulted in the DPA boycotting parliament until October 2008. In addition, according to Mirakovska, the SDSM started a new wave of boycotts from 17 July to 4 August. The LDP, LP and NSDP also confirmed the decision to boycott parliament, hence boycotting the plenary sessions, the parliamentary committee sessions, and the international delegations by not delegating representatives to the parliamentary working groups or to the parliamentary delegations to the European Parliament, the Council of Europe, and the OSCE.²⁹ However, MPs did stay in their parliamentary offices and they stated their positions and views on the work of parliament and the laws ratified at news conferences and in statements. Parties have justified their decision for a boycott with a number of reasons: the fast adoption of laws, the new Rules of Procedure of parliament and the manner in which the police arrested a senior official (the detainment of the then-Strumica Mayor Zoran Zaev).

Furthermore, the SDSM decided to ask for a written agreement with the ruling VMRO-DPMNE in which the two parties would commit themselves to two things: that they would establish a system in which different opinions would be respected in parliament, and that the principle of presumption of innocence would be observed so there would be no more spectacular arrests and that people would not be judged before the court made its ruling.

As Mirakovska reveals, Macedonia had undergone a socio-economic crisis and permanent political crisis between the years 2009 and 2011. In the middle of 2009 the DPA initiated a boycott of parliament which lasted during 2010. Between April and September 2010, the opposition did not participate in the formal coordination with the President of parliament. In January 2011 the biggest oppositional party in parliament, the SDSM, supported by other opposition parties, started with a boycott of the work of parliament as a response to the freezing of the bank accounts of four media outlets (A1TV, and daily newspapers *Vreme*, *Koha* and *Shpic*), due to the investigation and the arrest of the owner. A1 TV was considered to be the media outlet most critical to the government. Furthermore, on 28 January 2011 the opposition SDSM decided to walk out of parliament in protest, citing a lack of democratic capacity of the government, and demanding early elections.³⁰ The move was followed by the smaller opposition parties in parliament, the NSDP, ND and the LP. The DPA supported the decision, but they had already been boycotting parliament since 2009.

Furthermore, the president of the SDSM, Branko Crvenkovski, demanded early parliamentary elections be held, declaring that government leader Nikola Gruevski administered an illegal parliament without an opposition. The party said it was leaving the parliamentary work not in order to condemn the A1 events, but to protest against cabinet's refusal to

28 Aleksandar Spasenovski (VMRO-DPMNE)

29 SDSM Will Not Return to Parliament, <http://micnews.com.mk/node/14506>.

30 The Macedonian parliament was left without opposition, <http://www.euinside.eu/en/news/the-macedonian-parliament-was-left-without-opposition>.

take into consideration their objections to the population census law, constitutional amendments and the controversial project Skopje 2014 for the transformation of the capital.³¹ The ruling coalition initially rejected the demand for early elections by the opposition, citing as main reasons the strong public support in the polls, and the solid parliamentary majority against the opposition's demands. The other three opposition parties – the NSDP, LP and ND – said that the attack against the television channel and the dailies was a sign that there was no democracy and that the ruling coalition was trying to control the media. The international representatives in Macedonia criticised the decision of the opposition to walk out of parliament, but at the same time voiced concerns over media independence. The OSCE mission and the EU delegation in Skopje stated that a lawmakers' place was in parliament as this was the only way to guarantee a political dialogue, which was essential for the country's European integration. The SDSM asked for a revision of the voters list and the magnitude of the electoral districts prior to the elections; they also asked for a new law which would stop the government from advertising in the pro-government media. In addition, the opposition parties underlined the lack of political dialogue with the ruling party. Although the consultation process was established and the SDSM returned to parliament on 21 March, the voting for the amendments of the electoral code was boycotted by the oppositional parties. On 15 April parliament was dissolved by 79 of the 120 MPs and early parliamentary elections were called for 5 June by the President of parliament.³² According to the 2008 amendments to the election code (Official Gazette of the RM, No. 136/08), for the first time three MPs were elected through out-of-country voting, by which the total number of MPs was increased to 123. The VMRO-DPMNE won the elections.

Therefore, the boycott did not meet expectations, and the opposition was deceived by the party in power which did not respond to their demands. This once again led to the dissolution of parliament and new elections were organised. Additionally, these were the elections where the opposition got the closest to victory in the period 2008-2014, but at the same time are considered as the first ones in which the then-ruling party began the blurring of the lines between the state and the party, as evidenced by the 2015 wiretaps and the subsequent court cases.

9.

24 DECEMBER 2012 – BLACK MONDAY

At the end of 2012, the governing coalition went to extreme lengths to approve the 2013 national budget, forcibly ousting journalists and opposition Members from parliament during the vote. "Black Monday," as the date of these events came to be known, exacerbated the already difficult relationship between the ruling VMRO-DPMNE and the opposition SDSM, resulting in a political crisis that virtually paralysed governance in 2013. Without any media coverage and political opposition, the majority approved the budget for 2013. Following the ousting, the SDSM and several of its coalition partners began a boycott of parliament.³³ On 2 January 2013, the SDSM announced that it would boycott the municipal elections unless several demands were met. The opposition also called for civil disobedience, organised protests and set up blockades in front of government buildings and on the streets of Skopje. The governing VMRO-DPMNE and the SDSM were not able to find a compromise to end the ensuing political crisis. Even though both political parties were aware that the crisis negatively affected the country's EU integration process, neither showed any willingness to overcome differences. Instead, both sides hoped they could improve their position and were mentioning early elections, revealing the polarised nature of Macedonian politics. The boycott of parliament and the municipal elections ended on

31 "The Macedonian parliament was left without opposition", <http://www.euinside.eu/en/news/the-macedonian-parliament-was-left-without-opposition>.

32 "Four months of parliamentary boycott by the opposition led Nikola Gruevski to call early general elections in Macedonia", <https://www.robertschuman.eu/en/doc/oe/oe-1225c-en.pdf>.

33 https://freedomhouse.org/sites/default/files/17.%20NIT14_Macedonia_final.pdf.

1 March when the European Union mediated an agreement between the leaders of the two parties. Although the political crisis nearly delayed the vote on the European Commission's spring report, the annual progress report published in October acknowledged several positive developments in Macedonia and stated the country was still on track toward EU membership. Nevertheless, the name dispute with Greece led the European Council to postpone the beginning of accession negotiations for a fifth consecutive year. Political deadlock in the first half of 2013 jeopardised Macedonia's spring progress report and stalled accession negotiations with the EU.

The events of Black Monday in December 2012 and the ensuing political crisis negatively influenced dialogue between government and journalists in 2013 and halted negotiations with the Association of Journalists on important issues regarding media freedom. Although both sides reached agreement on the decriminalisation of defamation in 2012, which was noted as progress, high court fees and related expenses in civil lawsuits continued to threaten media pluralism. In April 2013, the government introduced two draft-laws, the law on media and the law on audio and audio-visual services, both of which were adopted in a quick, non-transparent process in December 2013. Several media organisations and independent experts criticised the laws, pointing out they aimed to regulate all media, including print and online, through the same government-dominated media regulator, with seven of its members serving nine years and its head eight years. In addition, the proposed laws included the definition of a journalist, placed blanket prohibitions on content, provided for hefty fines and contained vague provisions that could be subject to abuse. Responding to concerns that the adopted laws were not in line with Council of Europe and OSCE recommendations, at the end of the year the Ministry for Information, Society and Administration promised to draft amendments.

The political crisis following the removal of opposition MPs and journalists from parliament in December 2012 also had consequences at the local level. Most of 2013 was characterised by political battles which hindered tangible progress on several pressing issues, such as decentralisation and fiscal independence from the central government. After local elections in March, both the governing and opposition parties repeatedly accused each other's local representatives of abusing their position.³⁴ However, the opposition continued to obstruct the work of parliament until 16 September when another agreement for collaboration was signed by the opposing parties, which secured the necessary support for Euro-Atlantic integration.

As a result, the events of Black Monday and the subsequent boycott of parliament caused a change in the Rules of Procedure which limited the debate on EU laws to three days, and the debate on the budget to 10 days, shrinking time for the opposition in parliament.

10. CAUSES AND EFFECTS OF THE 2014 POLITICAL CRISIS

On 27 April 2014 dual elections took place in Macedonia – presidential and early parliamentary. A few minutes before the closing of the polling stations, the SDSM announced that it would not recognise the results of the elections and expected its 34 subsequently elected representatives not to take part accept their mandates. The State Election Commission validated the mandate of the 34 SDSM MPs, thus automatically making them MPs. Considering that the elections had been irregular, the SDSM party decided to boycott parliament. The opposition formulated several conditions for its return to parliament, including: the separation of party and state activities, better regulation of the media, improvements to electoral laws, the holding of a national census and the formation of a caretaker government. While the leaders of the ruling

34 'Elections In North Macedonia | OSCE' (*Osce.org*, 2019), <https://www.osce.org/odihr/elections/fyrom?page=1>.

party considered examining some of these requests, they refused to consider forming a transitional government and organising early elections. Two post-electoral visits were organised by the Parliamentary Assembly of the Council of Europe (PACE), on 10 July 2014 and 28-29 April 2015, with a delegation composed of Robert Walter (United Kingdom, EC), then rapporteur on the post monitoring dialogue, Stefan Schennach (Austria, SOC), then Chairperson of the Monitoring Committee and Andreas Gross (Switzerland, SOC), then Chairperson of the Socialist Group. In July 2014 the delegation condemned the boycott, urging the opposition to take their seats and to conduct politics in parliament. At the same time, it urged the Macedonian authorities to carry out the reforms needed to ensure that the shortcomings identified during the elections, and the legitimate concerns of the opposition, were thoroughly addressed.

In April 2015, the delegation was entrusted by the Monitoring Committee to discuss the political crisis. It invited the Speaker of parliament and the Prime Minister to address the issue of the 31 seats (out of 123) left vacant by the opposition for six months, and to take the necessary steps to comply with the constitutional and legal requirements,³⁵ including organising by-elections. The authorities however believed the revoking of the opposition MPs mandates would only worsen the situation,³⁶ and that they should “leave the door open” to enable the opposition Members to take up their seats whenever they so wished. Parliament at that time continued to work, and could pass legislation, with the exception of constitutional amendments which required a two-thirds majority.³⁷ The adoption of seven constitutional amendments was therefore postponed. The Venice Commission, which prepared an opinion on the draft amendments, also pointed out that “the current political situation where the opposition was boycotting the parliament’s work was not the most opportune moment for introducing constitutional amendments”. It urged “all political forces to enter into constructive dialogue and cooperation during the further consideration of the amendments.”

The opposition further boycotted the inauguration of President Gjorge Ivanov on 12 May 2014 and was absent at the ceremonial handing of Members of Parliament certificates on 7 May. The DUI also boycotted the inauguration of the President. Although the parties had ruled together since 2008 and at that time they were talking about the formation of a new government, the party stayed away. There were also no foreign dignitaries present at the inauguration. The SDSM boycott created political turbulence in the ethnically divided country and hampered its ambitions to join the European Union. The NDR boycott was largely symbolic and, as they held only one seat, did not change anything beyond adding weight to the opposition claims of “electoral fraud”. However, the ruling VMRO-DPMNE did not accept holding new elections, as the opposition demanded.

The boycott created a political deadlock whereby parliament could not function properly, something Macedonia had already experienced in the past. This is also true about the EU integration process which was already blocked due to a Greek veto on the start of EU accession negotiations and further NATO membership. In addition, in December 2014 student protests³⁸ started against the introduction of externally controlled state-run graduation exams as they demanded more student involvement and consultation in the reform of the education law. The student community organised street protests, set up “student and teacher plenums” and organised boycotts of classes. This movement was one of the first multi-ethnic mobilisations of young people in the country.³⁹

35 Article 65 of the constitution stipulates that, should Members of parliament be absent from parliament “for longer than six months for no justifiable reason, the mandates of the MPs can be revoked by the parliament, by a two-thirds majority vote of all representatives”. The electoral code governs the designation of new parliamentarians when mandates are revoked.

36 The committee dealing with immunity issues had been seized, and had prepared a report with conclusions. This was however not transmitted to the plenary to be debated.

37 See article 131 of the constitution. The amendments concerning the judicial council would have required a “double qualified majority”, which includes the majority of the candidates representing ethnic minorities.

38 Student Protest Blocks Macedonian Capital, available at: <https://balkaninsight.com/2014/12/10/mass-student-protest-clogs-skopje/>.

39 Student Protests For Youth Participation In FYROM/Macedonia - YEU International, (YEU International, 2019), available at: <http://www.yeu->

11. POLITICAL CONSEQUENCES OF THE RELEASE OF THE WIRETAPPED CONVERSATIONS IN 2015

In its 2015 progress report⁴⁰ the European Commission indicated that the country had faced its worst political crisis since 2001, marked by a divided political culture, a lack of compromise and a breakdown in dialogue, the boycott of parliament by the main opposition party and further erosion of trust in public institutions. It noted that the crisis deepened further with the publication of intercepted conversations including senior government and governing party officials suggesting breaches of fundamental rights, interference with judicial independence, media freedom and elections, and politicisation and corruption in various fields. The political crisis worsened in 2015 after the SDSM started to release illegally wiretapped conversations, allegedly revealing: large-scale corruption, interference with the justice system, illegal surveillance of 20,000 people including ministers, electoral fraud caused by manipulation of the voters' lists, stuffing of ballot boxes in some polling stations, covering up the death of a political activist,⁴¹ interference in a judicial case known as the "Monster case" and setting up the arrest of former Minister of Interior Ljube Boshkoski on 5 June 2011 allegedly for illegal funding of his political campaign. The VMRO-DPMNE and Prime Minister Gruevski claimed that the tapes were fabricated by unnamed foreign intelligence services and given to the opposition to destabilise the country. After the publication of the first tapes, an investigation was opened against SDSM leader Zaev for illegally obtaining the material. On 3 April 2015, Zaev was charged with attempted blackmail and for soliciting bribery. In the meantime, the former Director of the Security and Counter-Intelligence Agency (UBK), Zoran Verushevski, was arrested and convicted in the "Putsch case" for unauthorised wiretapping and audio recording, espionage and violence against representatives of the highest state authority. His detention was commuted to house arrest on 29 December 2015.

The political crisis and publication of leaked tape conversations led to street protests: on 17 May 2015, the SDSM staged a peaceful mass rally in Skopje, tents were installed in front of the government building by the opposition demanding Gruevski's resignation and in front of parliament by pro-government supporters. The crisis was worsened by President Ivanov's decision to pardon 56 officials investigated over the wiretapping scandal, which led to street protests and the cancellation of an election set for June 5. Under pressure from the domestic public expressed through the "Colourful Revolution" and the international community, Ivanov then revoked his decision to pardon the officials, removing an obstacle to possible prosecutions. The escalation of the crisis, and the potential destabilising effect of the alleged revelations, prompted the international community to react. In its Resolution of 11 March 2015, the European Parliament expressed its concern, as did the EU Council in its conclusions of 21 April 2015. Three Members of the European Parliament, Ivo Vajgl (Slovenia, ALDE), EP rapporteur on the country, Eduard Kukan (Slovakia, EPP) and Richard Howitt (United Kingdom, S and D), former EP rapporteur, undertook to facilitate the discussions and contribute to the resolution of the crisis. They organised a series of private meetings with the leaders of the four parties in May 2015 in Skopje and at the European Parliament building in Strasbourg to reach an agreement. For its part, at the request of four political groups, on 22 May 2015 the PACE organised a current affairs debate on "the situation in 'the former Yugoslav Republic of Mace-

international.org/en/publications/newsmail/intro/student-protests-for-youth-participation-in-fyrommacedonia.

40 European Commission.

41 One taped conversation suggested that the government covered up official responsibility for the murder of Martin Neškovski by a police officer, while he was celebrating the victory of the VMRO-DPMNE. This prompted Neškovski's family to call for a protest in front of the government building on 5 May, which ended up in violent clashes with the police, and in the arrest of 42 persons, out of which 12 people were sent to pre-trial detention, and three people were under the suspicion that they committed the "participation in a mob that will prevent a police officer performing his duty".

donia”⁴². The four main political parties entered into negotiations in order to find a solution to the crisis, and on 2 June reached the so-called Przhino Agreement for reforms in key political areas, together with its Protocol signed on 15 July. In line with this agreement, the opposition returned to parliament on 1 September 2015 after a 16-month boycott and agreed to stop releasing the wiretaps. The agreement, *inter alia*, called for the resignation of the prime minister 100 days before the elections (which were initially scheduled for 24 April 2016), as well as the formation of a technical government that would provide conditions for fair and credible elections.

The Przhino Agreement contained several actions to be taken during “a transitional period” within certain deadlines to resolve the political crisis “in the interest of all citizens and communities”. It was meant to pave the way for the organisation of early, free and fair elections, scheduled on 24 April 2016. It was also agreed to implement “all recommendations to be issued by the European Commission to address systematic rule of law issues” and to include structural reforms “that need to be taken in the areas of [EU accession negotiations], representation in and independent functioning of relevant state bodies, greater media freedom and fully aligning with Venice Commission Opinions and recommendations”. These expected reforms were highlighted in the report prepared by a group of experts, including a former senior EC officer, as well as a list of “urgent reform priorities” to be fulfilled by the country “in the fields of rule of law and fundamental rights, de-politicisation of the public administration, freedom of expression and electoral reform”. Since conditions for credible elections had not been met (an assessment given by the SDSM, civil society and the international community), the elections have been postponed twice, the first time for 5 June, and the second time indefinitely. Therefore, on 20 July 2016 the four main political parties reached another agreement by which the conditions for free and fair elections were narrowed to the voters list audit and the media. On 31 August the four parties agreed on elections to be organised in December. Therefore, the technical government was formed on 2 September, parliament dissolved on 17 October and the early parliamentary elections were announced the following day, 18 October. The elections took place on 11 December 2016.

Given the fact that this was the longest and worst political crisis since independence, all aspects of social, economic and political life were severely affected. This boycott of parliament cannot be analysed from the prism of consequences, since the trigger of this action by the opposition was much bigger than just adopting fast or corrupt laws or political disagreement. The definition of “captured state” as stated in the EU Progress Report gives serious justification for the boycott showing that the need to repair the system was much more important than late legislation or any other issue. In the period immediately after the 2016 elections, parliament started its session to constitute itself but a Speaker of Parliament was not elected due to a filibuster by the VMRO-DPMNE MPs. As a conclusion, it was very difficult to estimate when parliament would finish its constitutive session and when the normal political process would begin. As an addition to this, regular local elections were scheduled to take place in the first half of May; but since they had to be announced by the Speaker of Parliament, they were de facto been postponed indefinitely. The SDSM and DUI agreed to form a government and the leader of the SDSM provided 61 signatures from elected Members of Parliament to the president of the country as required. Still, the president of the country did not extend the mandate for forming the government, stating that there is no place for the so-called Tirana platform in the government.

On 27 April 2017 the parliamentary majority elected Talat Xhaferi as the Speaker of Parliament, which paved the way for a government to be formed by a coalition between the SDSM and parties from the Albanian bloc. Moments after the election of Xhaferi, some 200 supporters of the VMRO-DPMNE stormed the premises of parliament. The special police, which were headed by a VMRO-DPMNE official, waited for around two hours before intervening. The outcome of this one was

42 Council of Europe Parliamentary Assembly, “Post-monitoring dialogue with the former Yugoslav Republic of Macedonia”, <http://website-pace.net/documents/10643/1384596/AS-PER-2015-PV-02-EN.pdf/f32e2703-0c3e-477b-9264-abc0029fbfbc>.

that several dozen people were injured, including MPs, presidents of political parties and journalists, and parliament was damaged. On 17 May 2017, President Ivanov finally offered SDSM leader Zaev a mandate to form a new government. On 31 May 2017, the Macedonia's parliament elected a new government, ending a six-month political stalemate. The period of the last political crisis (2014-2017) was difficult, exhausting and stressful for Macedonia. The crisis was not just a political crisis; it crossed over into economics, society, morals and ethics. There were a series of protests and counter protests, trials and counter trials, investigations and counter investigations, confirming the trend of boycotts in parliament was far from over.

In December 2017 the VMRO-DPMNE decided to boycott the work of parliament due to the imprisonment of MPs Krsto Mukoski, Ljuben Arnaudov and Sašo Vasilevski who were in the pre-trial Shutkaprison, as well as MPs Johan Tarculovski, Žaklina Peshevska and Ljupco Dimovski who were under house arrest. According to VMRO-DPMNE officials, 12 per cent of their parliamentary group has been taken to custody and therefore there were no appropriate conditions for them to participate adequately in the work of parliament.⁴³ The pre-election claims supported the allegation of a “captured state”, looking at the 27 April events from this perspective of time.

12. SIGNING OF THE PRESPA AGREEMENT AND THE LAW ON THE USAGE OF LANGUAGES

The change of the official name of the country was another historic landmark with the Prespa Agreement on 12 June 2018 between Greece and North Macedonia, under United Nations auspices, resolving a dispute over the latter's name. As of February 2019 the Former Yugoslav Republic of Macedonia is a name that is no longer used in the country. All government institutions renamed themselves, adopting the new name, Republic of North Macedonia. As a result, Macedonia amended its constitution, adopting the new name of the country with a two-thirds majority vote. Two weeks later, the Greek parliament also ratified the agreement. The country signed the Accession Protocol with NATO on 6 February, and Greece became the first country to ratify it two days later. However, the largest party in opposition, the VMRO-DPMNE and its coalition partners, decided to boycott parliamentary proceedings over the ratification of the name agreement with Greece because they contend that principles, laws, parliament's Rules of Procedure, the constitution and the integrity of parliament were violated. They said that they were “not planning to be accomplices in an agreement which damages the Republic of Macedonia”. However, the SDSM as the party in power called on the opposition to vote for the agreement, calling it a patriotic act for a better future for the coming generations.

In addition, the VMRO-DPMNE and the Coalition for a Better Macedonia continued with demands to boycott the implementation and application of the law on usage of languages,⁴⁴ urging central and local government institutions to ignore and boycott the law. With the adoption of this law in July 2018, the usage of the Albanian language as a second official language has been expanded to more areas.

⁴³ ‘VMRO-DPMNE Will Boycott Work In Parliament’ (*Meta.mk*, 2019), <http://meta.mk/en/vmro-dpmne-will-boycott-work-in-parliament/>.

⁴⁴ <https://balkaneu.com/vmro-dpmne-calls-the-institutions-to-boycott-the-law-on-languages-sdsm-reacts/>.

13. CONCLUSIONS

It can be concluded that Macedonia has an extensive history of boycott crises which has negatively influenced the political system and the stability of the country. From the very first boycott within the first parliament when the Albanian parties boycotted the election of the president of the country and the vote on the constitution, boycotting as a mechanism has become a commonly used tool. During the most vital period of state building during the 1990s the institutions, primarily parliament, have been left without an opposition. The lack of checks and balances had serious implications for building the political system and setting the democratic culture and the values of the society. The most negative consequences were witnessed within the economic system. Moreover, the intensity and duration of the boycotts were different depending on the context and the issue argued. In the period 2008 to 2013, the duration of the boycotts was increased from 20 days to six months, and further increased to up to a year and a half by the DPA. It is important to note that at the time of the boycott of the opposition in the period from 2008 to 2013, a huge number of laws were adopted. In 2008, in just one day, 172 laws were passed using the urgency procedure.⁴⁵ In addition, in 2011, about 200 laws were adopted without the presence of the opposition.⁴⁶ Moreover, in 2013, 90 laws were passed without the presence of the opposition.⁴⁷ A number of systemic laws were adopted or amended which raised serious concerns about the rule of law, good and fair electoral processes, the independence of the judiciary, freedom of the media and good governance. As with the 1990s when the economic transition of the country affected many citizens, the above mentioned areas have the same impact on people's everyday life, as well as on the political system, especially the separation of the state from the party. All this contributed to dividing the population to left-wing and right-wing political supporters and has negatively affected the public perception of the political parties.⁴⁸

Ongoing political crises and boycotts in the country have led to the development of a new unique culture of moving the political negotiations outside parliament and to greater involvement of the international community in resolving crises, which started with the 2001 conflict. This can be illustrated by political negotiations held in the parliamentarians club, or other locations, for instance negotiations for the Przhino Agreement when the main political parties negotiated with mediation from the European Union and achieved a political agreement.

It can be concluded that in most of these cases the boycotts were deriving from the lack of the political dialogue, insufficient nurturing of the multi-ethnic culture and the lack of courage to implement the country's strategic goal, Euro-Atlantic integration. Parliament needs to substantially improve its performance as a forum for constructive political dialogue and representation. The focus needs to be on active participation of all parliamentary parties, proper consultation and impact assessment prior to the enactment of legislation. The main political parties need to find a mechanism to overcome future crises, in cases when boycotting is used by the opposition, stressing the need for compromise and bearing in mind the duty of elected MPs to work collectively within the parliamentary process for the benefit of citizens. In other words: to put the public interest before the party interest. Therefore, all political parties need to make their contribution and to cooperate efficiently to protect democracy and the rule of law, refraining from any action which would further undermine the situation in these areas.

45 Annual Report of the Parliament of the Republic of Macedonia 2008, sessions 27 and 28.

46 MOST: Final Report - Early Parliamentary Elections 2011.

47 ALARM: Employments before the elections, loans and laws without opposition.

48 <https://www.mcms.mk/images/docs/2018/argumenti.pdf>.

Parliamentary Boycotts
in the Western Balkans

Case Study: Serbia

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Belgrade, 2 April 2019

EXECUTIVE SUMMARY

This case study describes the boycotts of parliament in Serbia since the multi-party elections in 1990, with a special focus on the 2019 boycott, as well as the main reasons behind and the effects of these boycotts. The research used: the data from the literature and newspapers about the parliamentary boycotts from 1990 to 2019, the Open Parliament Initiative data on the conditions in parliament in the current session, as well as the original data obtained on the 2019 boycott through a survey of MPs and opinion polling.

Our study shows that boycotts in Serbia are not a frequent phenomenon. The ethnic minority parties first started boycotts of parliament as early as the first multi-party elections in 1990. The first boycott of parliament by a nationwide group of opposition parties was in 1995 and was caused by the ending of live broadcasts of parliamentary sessions. On two occasions a single opposition party boycotted parliament for a prolonged period of time in 2000 and 2005. Finally, the 2019 boycott of parliament is only the fourth identified boycott, and the most radical since 1995.

Due to the importance and the relevance of the ongoing boycott, we focus on the conditions in the 2016 parliament, especially the blocking of the minority's role in the legislative and oversight functions of parliament, as well as the specific phenomenon of majority filibustering, effectively disabling the debate about the laws, which became a permanent feature in parliament from December 2017.

The 2019 boycott was in the making since the "boycott of warning" in May 2017; however it accelerated from autumn 2018 in the context of mass protests and the formation of a coalition of opposition parties. Out of 88 opposition MPs, 55 MPs participate in the boycott. They explain their decision in terms of dissatisfaction with parliament's performance and the reaction to the demands of the protesters. Their primary stated aim is to put pressure on the majority and change practices in parliament. However, polling in March 2019 showed that support for the boycott is not as widespread in the general public.

Boycotts in Serbia usually occur in circumstances of pronounced power asymmetry between the majority government and the opposition minority. Boycotts are primarily a means for the minority to resolve the inability to communicate their messages to their voters through parliament. They usually happen in conjunction with other political developments, such as elections, mass protests and the formation of opposition party coalitions. As such, they are a product of the need to attain both internal (fixing parliamentary procedures) and external (mobilising voters) goals. In the Serbian experience they usually lack a clear strategy and do not escalate over time.

As for the effects, in the short term, the effects on the legal/regulative environment are not significant. The boycotts might however have some effects in institutional terms, particularly on the legitimacy of appointees by parliament. The majority usually responds initially to the boycotts with disdain, however it might ultimately respond to the demands of the minority. The support for the boycotts is mixed in the electorate, and very low among international political actors. Finally, if prolonged/escalated, or continued into an election boycott, the boycott of parliament might lead to either further marginalisation of opposition actors or of parliament itself.

1. INTRODUCTION

Parliamentary boycotts are becoming increasingly common in the Balkans. In Serbia they are not a frequent instrument of political conflict; however they have occurred in different forms ever since the introduction of the multi-party system in 1990. The current boycott of parliament which started in February 2019 by the MPs from several opposition groups is only the second one of that kind, and is the most drastic form of boycott since the democratic changes of 2000.

Having in mind the political relevance of these ongoing events, the main purpose of this paper is to offer systematically collected data on the latest developments in the current boycott. The primary sources of data are interviews with almost half of the MPs who are not part of the ruling majority, which included representatives of all political groups. The interviews focused on the reasons for the boycott, which primarily pointed to the situation in parliament, and the MPs' perspectives on the possible effects of the boycott. This data is supplemented with the polling done in March 2019 which offers an insight into public support for the boycott as an instrument of political struggle.

The paper also offers a detailed analysis of the events and circumstances that preceded the boycott of parliament. In doing so, it builds upon the data collected by the Centre for Research, Transparency and Accountability (CRTA) and the Open Parliament Initiative and tracks the deterioration of parliamentary procedures in the last several years. Finally, the paper takes a longer look back into the 1990s and 2000s in order to establish the patterns in which similar boycotts have happened before. In doing so, it relies on news databases and literature on parliaments and political chronologies.

The structure of the paper is chronological. It starts with an analysis of previous parliamentary boycotts, followed by the analysis of the context in which the current boycott occurred, proceeding into the analysis of the causes and effects of the current boycott, and closing with the analysis of the boycotts in Serbia as a phenomenon.

2. THE BOYCOTTS, 1990-2016

As in most democracies, parliament has been a common focus of political struggle in Serbia. The conflicts between the majority and minority revolved around the boycott of elections and of the work of parliament on more than one occasion. Boycotts of elections and of the institution are often interconnected, and they resurface when street protests raise the tensions between the governing and the opposition parties.

The debate about boycotts marked the first multi-party elections of 1990.¹ The newly founded opposition parties were faced not only with the electoral law which introduced a two-round majoritarian electoral system, likely to favour the incumbent Socialist Party of Serbia (SPS), but also that party's overwhelming organisational structure and strong grip on the media. The opposition parties disagreed on whether to boycott the elections or participate hoping to win at least some voice in parliament. The argument of proponents of a boycott was that a unified opposition stance would delegitimise the new regime, whereas the opponents argued the new parties should participate in the campaign and expose the illegal actions of the ruling party in the process.² These arguments have been a constant in all ensuing debates about boycotts. The parties which advocated participation in 1990 finally prevailed, and the other opposition parties joined the elections in order to avoid marginalisation. In spite of winning 46 per cent of the popular vote, the Socialist Party of Serbia won an overwhelming majority of members of the parliament (194 of 250). The unified opposition front could not under the existing conditions confront the advantages the governing party had.

The first boycotts were a feature of ethnic minority parties. The 1990 elections were boycotted by the Albanians in Kosovo which also continued to be a regular feature. On the other hand the Albanians from Southern Serbia participated in the 1990, 1993 and 1997 parliamentary elections,³ however they boycotted the following elections and continued to do so until 2007.⁴ The first instance of a partial boycott of parliament is registered by another minority party. The Bosniak minority Party of Democratic Action (SDA) participated in the 1990 elections, winning three seats, their leader coming fourth in the presidential elections. However, with the political crisis in neighbouring Bosnia impeding and tensions in Sandžak region rising, the MPs left the National Assembly in 1991.⁵

During the same year, Belgrade was hit with the largest mass demonstrations against the government which demanded the opening of the media. In the midst of the wars and economic sanctions in 1992, a new country, Federal Republic of Yugoslavia, was formed. The elections for the federal assembly were the first boycotted by the opposition in Serbia. This was done because of the disagreement with the undemocratic way the new federation was formed, and again because of the electoral system, which this time was a specific mix of proportional and majoritarian systems. The boycott was not successful as more than half of registered voters turned out; however, it had a partial effect in terms of the perceived legitimacy of the government, and a political crisis led to two new rounds of elections (under different electoral conditions) occurring in 1992 and 1993 in which the opposition participated.⁶

The 1993 parliament was the stage for the first boycott by national political parties. The SPS had formed a government with a slim majority, including one of the parties which had run in the elections as part of the opposition coalition. The opposition in parliament was numerous and increasingly challenged the majority party. When in July 1995 the majority voted to cease live broadcasts of sessions, the opposition parties left parliament and did not return in the same full capacity until the end of the mandate.^{7,8,9} The winter of 1996-1997 was another instance of mass mobilisation in Serbian cities, when citizens protested against what they said was attempted electoral fraud at the 1996 local elections. An attempt to create a “parallel parliament” with the Serbian Radical Party nevertheless failed.¹⁰ The opposition parties were not united about boycotting the upcoming general elections either, and in the end the opposition block dissolved with the Democratic Party, the Democratic Party of Serbia and the Civic Alliance boycotting the 1997 elections, a first instance of the relevant opposition parties boycotting the general elections, while the Serbian Renewal Movement, Serbian Radical Party and the others ran.^{11,12}

The 1997 elections were once more won by the Socialist Party of Serbia which stayed in power until its defeat in December 2000.¹³ During this time another violent conflict in Kosovo occurred and, after a mostly unified opposition stood in the 2000 federal elections and mass demonstrations occurred on 5 October, the Socialist Party of Serbia government was replaced. In this period, there was a second instance of a parliamentary boycott. The Serbian Renewal Movement, which participated in the 1997 elections that most of the other opposition parties boycotted, left the plenary sessions of parliament in January 2000, while still participating in the work of the committees¹⁴ where they were trying to negotiate the improvement of electoral conditions.¹⁵ The same party was calling for the boycott of the federal elections of 2000,¹⁶ but ran their candidate in the end, splitting the vote of the unified opposition. After the transition of power in 2000, the political circumstances had stabilised for a while, at least compared to the tumultuous 1990s, and boycotts of both elections and parliament became rarer.

However, instances of boycotts of elections and parliaments did occur after 2000. After the assassination of the Democratic Party Prime Minister Đinđić in 2003, the Democratic Party of Serbia led by Vojislav Koštunica formed the majority in 2004, with the outside support of the Socialist Party of Serbia. Already in June 2004, Democratic Party candidate Tadić won presidential elections, leading to a period of cohabitation. After the Democratic Party lost two mandates in parliament due to administrative decisions, the party of President Tadić had left parliament, symbolically perhaps, on 5 October 2005, and did not return until 21 November 2005.^{17,18,19} This was the only instance of a major national opposition

party leaving parliament for a long period of time between 2000 and 2019. As the situation with electoral conditions was in general considered adequate in the period, the elections were not boycotted in this period either. The only instance of an organised boycott by several political parties was recorded in 2006 during the constitution referendum.²⁰

Throughout this time, from 1990 to 2019, sittings were boycotted by some MPs on numerous occasions. In the early years of the multi-party parliament, political tensions were often high, with both the ruling majority and the opposition abusing the rules of procedure. Opposition MPs often lost their mandates (Democratic Party in 1992, Serbian Radical Party 1993, Serbian Renewal Movement 1996-1997, League of Social Democrats of Vojvodina 1998 etc.)²¹ and the electoral rules were constantly changed.²² The rules of procedure at the time allowed numerous amendments and long speeches which favoured filibustering. The marathon sessions were usually forced to end by the opposition leaving parliament.²³ This was most often scorned by the ruling majority. In 1993 when opposition MPs left the session to protest the new electoral law, the Speaker told them to “please close the doors after you leave”.²⁴ When the opposition left parliament in 1995, the Speaker commended their act saying that parliament will be more efficient without their obstruction.²⁵

After 2000 there were also many instances of MPs leaving the sittings of parliament, either plenary or in committees, as a form of protest against the majority’s actions or because of external events. For example, In 2001 MPs of the Socialist Party left parliament while Milošević was being arrested.²⁶ In 2009 the MPs of the Radical Party, which were already protesting the way the majority Democratic Party was leading parliament,²⁷ left the administrative committee in protest against the health of their party leader being discussed.²⁸ In 2012, when the Serbian Progressive Party won the presidential election and created the new majority, opposition MPs boycotted the inauguration of the new president.²⁹ The list of these instances grew, and in the coming years, especially from 2014: Democratic Party in 2014,³⁰ Radical Party 2016,³¹ 2017,³² 2018,³³ 2018,³⁴ Enough is Enough 2016,³⁵ even the majority MPs of Social Democratic Party of Serbia left the parliament in 2018 in protest against the verbal abuses of the MPs of the Radical Party.³⁶

To sum up, the boycotts in Serbia since 1990 had happened in different forms. Partial boycotts in which single parties boycotted different aspects of parliamentary life happened throughout this period. However to the best of our knowledge only on three occasions did non-minority parties boycott the work of a plenary for a prolonged period of time. Twice it was a decision of only one party: Serbian Renewal Movement in 2000 and Democratic Party in 2005. The boycott of 1995 was more complex and it has some similarities – but also a few differences – with the current boycott of 2019. The 1995 boycott was a decision of four opposition parties: Democratic Party, Serbian Renewal Movement, Serbian Radical Party and Democratic Party of Serbia. It was caused by a long-lasting misuse of parliamentary procedures and electoral disadvantages, primarily in the sphere of media availability. It happened at a period of heightened political polarisation: the opposition was developing a strategy of building parallel institutions (with a limited success), mobilising voters for demonstrations in 1996 and continuing with the boycott of elections in 1997. On the other side was the ruling majority which controlled the media, resources and the electoral process, and which was working on an image of “guarantee of stability” in the region.

The major effect of the boycott strategy in the late 1990s was to open space for the rise of the Serbian Radical Party.³⁷ The absence from parliament of any moderating voices meant that many laws which later proved to have profound effects for society were passed without significant opposition in parliament. In 1998 parliament enacted the notorious Information Law which led to the closure of many outlets critical of the government, and the University Law which led to the diminishing of its autonomy and the sacking of many academics. The same parliament organised a referendum in 1998 which rejected any foreign mediation in the accelerating crisis in Kosovo. The calamitous path towards the war in Kosovo started in this period, and the lack of participation of the whole opposition in parliament and the elections made that path at least a little bit steeper.

3. THE 2016 PARLIAMENT

In order to grasp the wider context in which the most recent parliamentary boycott was launched, the following section provides a brief overview of the functioning of parliament and the main circumstances that preceded the boycott. The practice of the majority misusing parliamentary procedures in order to ease the decision-making process or ensure the preferred outcome of a vote was more or less present throughout the previous years. Yet, despite its prevailing strong and stable majority, the ruling Serbian Progressive Party engaged for the first time in abusing the rules of procedure in order to limit parliamentary debate and reduce the visibility of opposition MPs in the plenary.

The ongoing 11th legislature of the National Assembly, which began on 3 June 2016 is marked by increasingly frequent filibustering, abuse and obstruction of parliamentary procedures and mounting political tensions between the ruling majority and the opposition, which culminated in late 2018. The analysis of the functioning of parliament shows trends toward the deterioration of its effectiveness, influence and accountability. The manner and amount in which parliament is performing its legislative and oversight functions illustrate the key challenges and patterns of reducing parliament's role to a mere "voting machine" without substantial influence in decision-making.

The government became the almost exclusive proposer of the laws adopted by parliament – it proposed 97 per cent (344/354) of laws adopted in the 11th legislature by the end of 2018. The remaining 10 adopted laws were proposed by MPs from the ruling party and the National Bank of Serbia. The other proposers of law, including opposition MPs, were *de facto* impeded from exercising their right to propose laws as guaranteed by the constitution, as the ruling majority ignored their proposals, by using a gap in the current Rules of Procedure which do not state a deadline by which a submitted law proposal must be included in the agenda.³⁸

The period from 2016 to 2019 was characterised by a trend of increased legislative activity (218 laws in 2018 compared to 89 in 2017 and 47 in 2016). However despite the significant role parliament should play in the legislative process, throughout recent years its work has been characterized by a lack of substantive debate and the prominent use of urgency procedures.

An analysis of the laws adopted by the urgency procedure reveals that throughout the current parliament the regular procedure is predominantly used for adopting ratifications of international agreements, while more than 70 per cent of new legislation, amendments and supplements to laws were adopted by the urgency procedure (graph 1). It should be noted that some of the MPs from the ruling majority justify the overuse of the urgency procedure as the consequence of the process of European integration.³⁹

Graph 1:
Urgent and regular procedure
2016-2018



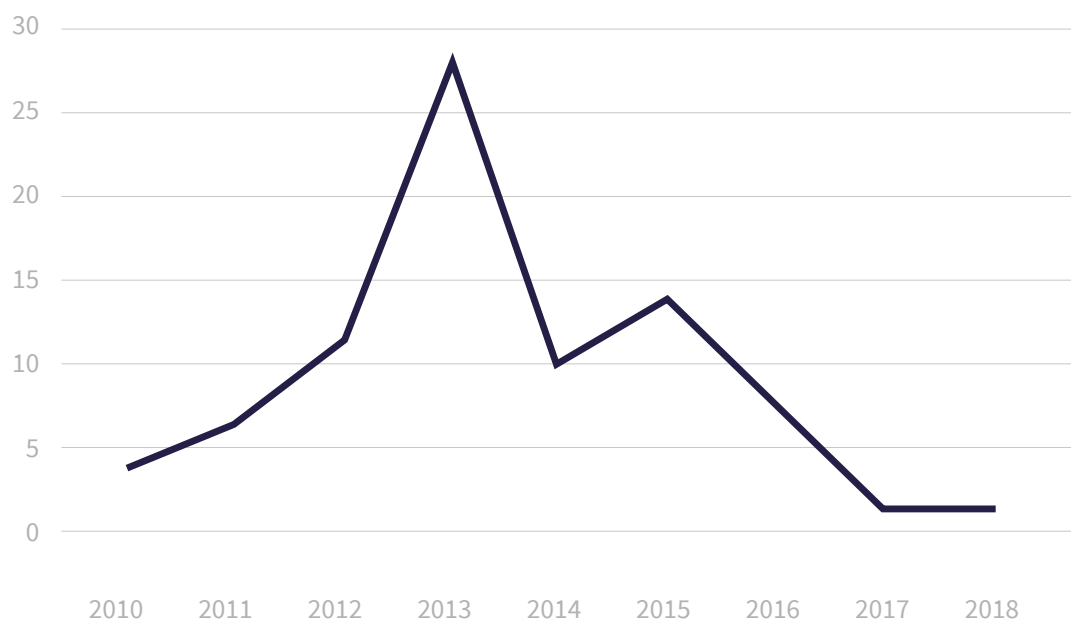
Tensions between the ruling and opposition parties intensified from 2017 with the regular abuse of the procedural rules in the plenary by the ruling majority. The ruling majority MPs engaged extensively in lengthy discussions which exhausted most of the time allocated for plenary debate. The possibility to consolidate parliamentary debate became increasingly misused by the ruling majority's MPs by combining dozens of different items in a joint discussion or submitting hundreds of amendments without relevant content. The cross-party debate in the plenum was *de facto* prevented throughout 2018. The most prominent example was the adoption of the Budget Law for 2018, adopted in December 2017 together with 29 other laws in consolidated debate, as the sixth of the 31 items on the agenda. By proposing 436 amendments on the first two items of the agenda the ruling majority's MPs used all 10 hours available for debate and later withdrew most amendments. This practice continued through 2018, ending the year with the adoption of the Budget Law in the same manner, as the fourth of 62 diverse items on the agenda.

The Rules of Procedure have not been changed at any time to allow for this majority filibustering. Instead it was solely the misuse of existing rules by the majority MPs condoned by the Speaker.

This unusual case of majority filibustering had significant effects on parliament. When the majority started using this mechanism, opposition MPs became reluctant to attend the discussions on amendments as they were left without time to discuss their proposals. In return, the majority then used the absence of opposition MPs from the plenary sessions to accuse them of disinterest and laziness. Such a lack of genuine cross-party dialogue not only undermined the quality of legislation, but the overall legitimacy of parliament. The lack of time for MPs from the opposition to present their views and proposals in the plenary, both to the parliament as well as to the citizens following the public broadcasting of plenary sessions significantly contributed to the boycott. The majority MPs ceased the practice of submitting hundreds of amendments when the opposition MPs engaged in the boycott. The majority MPs submitted 368 amendments to the first item on the agenda of a sitting in December 2018, in comparison to only four amendments to the first items on the agenda in February 2019 when the boycott had started. Such a change strengthened the argument of the boycotting MPs that the purpose of the amendments was only filibustering.

The analysis of parliament’s oversight role reveals more disturbing trends. There is a lack of substantive cooperation by parliament with the independent, supervisory and regulatory bodies which are designed to be an “extended arm” of parliament ensuring efficient and effective parliamentary oversight. The annual reports of these bodies, providing an overview of the key areas of the executive’s work, have not been considered in the plenary since 2014, despite being regularly submitted. The use of public hearings, once praised as an example of good practice in the Serbian parliament, sharply declined. In comparison to 28 public hearings in 2013, only eight public hearings were organised from 2016 to 2019 (Graph 2).

Graph 2:
Public hearings
2010-2018



The mechanism of “MP question time”, providing MPs the right to ask the government or the competent minister a question on the last Thursday of the month, was also used less often than in previous legislatures. More precisely, during the current 11th legislature it was used eight times (once a year in 2016 and 2017, five times in 2018, and once in 2019), in comparison to 18 times during the 8th legislature (11 June 2008 - 31 May 2012). Moreover, the allocated time for questions from MPs is in practice predominantly used by the government representatives, and often by using the “friendly questions” of the MPs from the ruling majority to attack political opponents rather than to ask questions of interest to the general public.

Consequently, the findings of the analyses of the use of existing mechanisms for parliamentary oversight, which are of vital importance to opposition MPs, suggest that these mechanisms are either not used at all or used in a sporadic and superficial manner that merely fulfils a symbolic “ticking the box”. Taken together, the analysis of the main roles of parliament shows a deterioration in all key aspects in the period from 2016 to 2019. This has been a main argument in the debate about the parliamentary boycott leading to 2019.

4. THE 2019 BOYCOTT

The current boycott of parliament started with the special sitting on 28 January 2019 and continued with the extraordinary sittings from 11 February onward. It is a partial boycott, both in terms of the opposition parties, and in terms of its scope. Several opposition political parties and independent MPs have started to abstain from participating in the plenary sessions, while being present in the premises of parliament and reserving the possibility to attend special sessions and some committee sessions, announcing the political and electoral conditions to be met before participating fully again.

The boycott takes place in the context of the creation of the unified opposition alliance five months earlier, the protests that had started two months earlier, and the longer trend of the democratic decline in both the working of parliament and the quality of the elections. On 2 September 2018, nine political actors formed the Alliance for Serbia. The Alliance started the campaign with the quality of democracy and the electoral conditions as the main themes. On 14 December the members of the Alliance signed the “Conditions of the opposition for free and fair elections” – a list of demands to be met in order to participate in any future elections. On 23 November one of the leaders of the coalition was physically assaulted. As a reaction to this event, a citizen-organised protest was held on 8 December in Belgrade, which since then has happened every Saturday, the protest gaining momentum and spreading across cities in Serbia, with tensions rising after the protesters entered the building of the public broadcaster on 16 March.

The boycott takes place in the context of heightened polarisation in society, manifested in the recurring protests across the country and the convergence of the opposition parties, as well as the heightened issue of electoral conditions. However, the boycott of the current parliament elected in 2016 was debated amongst the opposition for almost two years.

The calls to boycott parliament started after the presidential elections in April 2017 at which the Progressives leader Aleksandar Vučić won in the first round. The protests that followed the announcement of the election outcome were interpreted by some as an indicator that the political struggle should be escalated and that a parliamentary boycott would be a good strategy, explicitly invoking the experiences of the 1990s boycott.⁴⁰ However, no opposition party was eventually willing to stage a boycott of parliament, mostly arguing that the conditions were different from the 1990s and that it would only harm already fragile opposition.⁴¹

Even though the opposition was not for the permanent boycott in 2017, four opposition parties (Enough is Enough, Dveri, Social Democratic Party - People’s Party, New Serbia - Movement for Serbia’s Salvation) staged a one-day “warning boycott” of parliament 26 on May 2017.^{42,43,44} The main reasons for the warning boycott were the misuse of parliamentary procedures and they were formulated in a list of demands to the Speaker, including respecting the agenda, equal time for speeches, stopping the practice of joint discussions, making the question time possible, etc.

As the relations in parliament were worsening and the misuse of rules of procedures became more intense, such boycotts that lasted for a day continued through 2018^{45,46} and into 2019^{47,48} still without a decision to enter into a more permanent boycott. A special sitting of parliament was organised for the visit of the president of Slovenia on 28 January which was boycotted by most of the opposition parties, however some of the party leaders came to the House of Parliament.⁴⁹

On 6 February 2019, the Alliance members signed a document in which they obliged their Members to leave parliament and the local assemblies due to the decline of democracy and parliament and that the goal was to delegitimise the ruling majority.⁵⁰ The boycott eventually started on February 11 during the extraordinary session, when the opposition

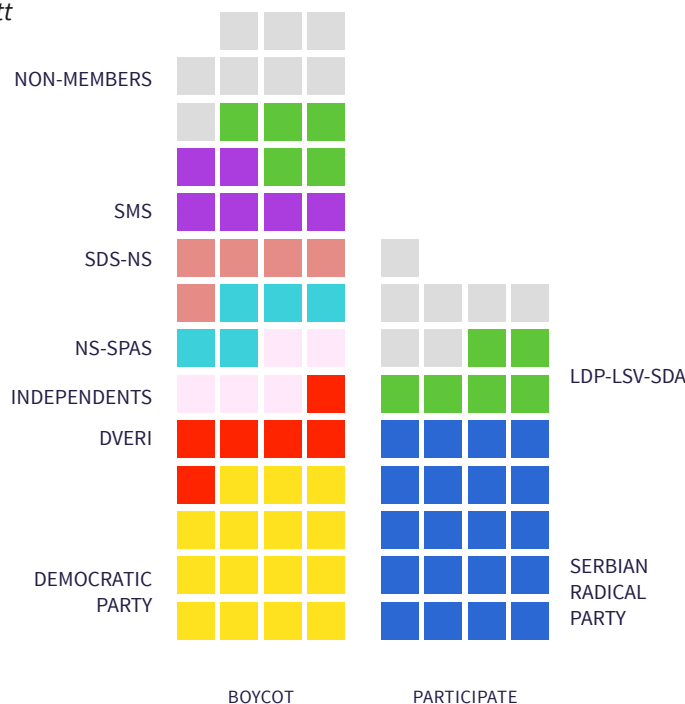
parties announced they would boycott the work of parliament by being present in the House of Parliament but not attending the plenary sessions.⁵¹ The boycott was continued during the first regular spring session on 5 March, demanding the resignation of the Speaker.⁵² The MPs also announced a “parallel parliament” where they will discuss the laws and communicate with the citizens in the House of Parliament but would boycott all plenary sessions, as well as collegiums. The strategy of boycott also spread to other assemblies. The opposition left the parliament of the province of Vojvodina⁵³, and most of the local municipal assemblies, with the Members forming an “Alliance of free deputies” on 23 February 23.⁵⁴

5. THE 2019 BOYCOTT REASONS

To understand the boycott from the perspective of its main actors, and beyond the information available in media and press releases, 42 out of 88 opposition MPs were interviewed for this research. The distribution of respondents covers all parliamentary groups not forming the ruling majority. Parliamentary groups covered by the research are: Democratic Party, Dveri, Party of Modern Serbia, Club of Independent MPs, Social Democratic Party - People’s Party, New Serbia - Movement for Serbia’s Salvation, Liberal Democratic Party - League of Social Democrats of Vojvodina - SDA Sandžak, Serbian Radical Party as well as MPs that are not members of any parliamentary group.

The data on the main reasons and expected effects of the boycott, gathered through semi-structured interviews conducted with opposition MPs, indicated some degree of coherence but also the existence of differences among parliamentary groups and individual MPs. The only opposition parliamentary group that does not participate at all in the current boycott of parliament is the Serbian Radical Party. On the other hand, MPs from political parties which have stated that they will not boycott parliament eventually joined, which is the case with some Liberal Democratic Party⁵⁵ MPs. However, what we have noticed throughout the research is that MPs generally comply with the decision of their parliamentary group. On the other hand, the opposition MPs which do not belong to any parliamentary group are divided as some of them boycott whereas others do not. At this phase of the research, we were able to determine that out of 88 opposition MPs, 55 boycott and 33 do not boycott, as presented in Graph 3.

Graph 3: MP groups in boycott
(data as of 26 March 2019)



The results of interviews with 34 opposition MPs who participate in the boycott (out of 42 interviewed) show that they tend to understand the act of boycotting, its purpose and outcomes differently. These differences are not only visible between the parliamentary groups, but are also visible within them. In addition, interviewed MPs have often made clear that they are fully aware of the fact that there is no unique approach to boycotting. This is largely the consequence of the fact that the boycott has started in an absence of a clear outcome strategy both at the level of parliamentary opposition participating in the boycott, and at the level of single parliamentary groups and political parties.

Some interviewed MPs stated that the decision to boycott parliament was imposed by the party leadership without prior consultation and discussion with their respective MPs. This also helps in shedding light on why there is no unique approach in how the boycott should be conducted, even within parliamentary groups. Opposition MPs that boycott act differently when it comes to participation in the work of parliamentary committees. Some of them state that they are not attending either plenary or committee sessions, whereas others are not attending plenary sessions but are attending committees. There were no MPs who attend the plenum, while boycotting the committees.⁵⁶

The MPs who are engaged in the boycott lack a mutual understanding on the exact date when the boycott has started. While the majority is divided on whether the boycott started with the special sitting held on 28 January 2019 or with the extraordinary sitting (11-14 February), some MPs consider that it began during the last year, or even earlier. In that sense, some of them consider the December 2018 session, at which the 2019 state budget was adopted, as the real start of the boycott, or even 2017 when filibustering emerged as a common practice.

MPs stated various reasons for boycotting parliament, which can be grouped in five main categories:

1. Dissatisfaction with the work of parliament, and the deterioration of the institution (described as: the lack of dialogue and debate, “violence” against the opposition, misuse of parliamentary procedures with the emphasis on the Rules of Procedure and submission of “bravo” or “phantom” amendments or filibustering by the ruling majority, the manner in which the plenary sessions are being called, etc.);
2. Solidarity with the citizens that are protesting in the streets;
3. Solidarity with fellow opposition MPs in boycotting parliament;
4. Avoiding being labelled pro-government and marginalized;
5. Party decision.

All of the opposition MPs, boycotting or not, share a view that the democratic deficit in parliament is the key problem that should be addressed, regardless of the parliamentary group to which they belong. However, they do not share the same views on how to address the deficit. The differences which emerge in understanding how to effectively respond to challenges within parliament are also mirrored in reasons which MPs state when answering why they boycott parliament.

For many of them the democratic deficit is the main reason for the boycott, as they believe that boycotting is a tool which corresponds to the goal they would like to achieve.

“It is a form of pressure, because those who sit in parliament lose their legitimacy, as the majority do not want to discuss the laws. The government took over the role of parliament, the presidency took over the role of the government, and thus the presidency is everything in Serbia”.

For others, the act of boycott is not considered to be the key tool for restoring democracy within the institutions, but is regarded as nurturing the dialogue and using mechanisms which they have at their disposal as MPs. For the latter group

of MPs, solidarity with the remaining opposition, but also fear from being labelled pro-government or staying marginalised, even the imposed party directive, are the main reasons why they engaged in the act of boycotting.

“Everyone has a different reason to boycott; but our main reason is to show solidarity with the opposition. Our opinion is that, at the moment, we need a dialogue and not conflict, which is why we choose solidarity”.

Some of the MPs among those boycotting the parliament are pessimistic regarding the expected outcomes. Some of them also refer to democratic deficit in the parliament as an “excuse” or an “official reason” for boycott, thus showing no personal involvement in the collective decision or even strongly disagreeing with the decision in which they still take part.

“We have not found a sufficient number of sufficiently determined MPs to stand against the decision to boycott the parliament”.

MPs which decided not to engage in the boycott state that they were elected to their positions to represent citizens and defend their interests, which is not possible while boycotting. Even though many of them agree that the atmosphere in parliament is not good, they tend to highlight the need for dialogue between the ruling majority and the opposition in solving problems they face at the moment.

6. THE 2019 BOYCOTT EFFECTS

When it comes to the effects of the boycott, MPs also share different views, and they are in general pessimistic regarding its effects. MPs’ views on the potential effects of the boycott can also be grouped into five categories:

1. Exposing the malfunctioning of parliament to the domestic and international public, pointing out that Serbia has an autocratic regime;
2. Changing the practices of parliament to normalise the situation inside, but also to strengthen democratic capacities in protecting its legislative and oversight role, changing the Rules of Procedure, and restoring checks and balances between branches of power;
3. Strengthening the opposition and encouraging citizens to keep protesting;
4. Will not bring any change, as it is not sufficient/not radical enough a game-changer;
5. Boycotting will not bring any change, as it is not the right tool.

Many of them, in particular those who feel more distant from the decision to boycott, do not have any expectations at all. Some MPs even consider that the boycott will have an adverse effect – instead of bringing democracy into parliament, they believe that it will continue working as it did “for the last 20 years”. Some of them also believe that change is not possible in this political environment, suggesting that it should be triggered outside of parliament through direct contact with citizens. However, MPs generally tend to agree that boycotting is not enough; rather they see it as good starting point towards new actions that would accelerate social and political change.

In an absence of concrete expectations, MPs rather identify that awareness raising or exposing to the public (both domestic and international) the extent to which parliament is not functioning would be the main effect of the boycott. MPs generally agree that the outcomes of boycotting parliament are intertwined with outcomes of civic protests across Serbia as well as with the efforts to ensure conditions for free and fair elections.

In spite of relatively low expectations, the majority of MPs see that the act of boycott will provide some consequences. Many of them believe that boycotting will have an impact on the work of parliament; but they observe those effects primarily as negative ones. Some opposition MPs describe the dilemma that with the boycott they are sending an undemocratic message and further harming the parliamentary dialogue. Their main concerns are related to the quality of the legislative process, as boycotting allows the ruling majority to pass laws without any constraints or review of their quality. Opposition MPs perceive that their decision to boycott diminished even those minimal opportunities for participation they had left, such as agenda setting or posing questions to the government. Some of them also believe that their absence from parliamentary sessions provides more space to the majority to provide biased perspectives and misinform citizens.

Those who see only positive consequences see them outside of parliament – as strengthening the civic protests through solidarity with citizens, demonstrating the strength and unity of the opposition to the public and raising awareness of parliamentary malfunctioning. Some MPs stated that the boycott could be a powerful tool if it would be manifested in a more radical way. Suggestions to return mandates and to keep exhausting elected lists of candidates by repeatedly returning mandates until there is no representative left in opposition emerged from conversations with some MPs. They believe that only radicalisation of this kind would lead to delegitimising the current parliamentary convocation, achieving what in their opinion is the stated goal of the boycott.

It is also worth noting that the public perception of parliament, as well as democratic institutions in general, is relatively low. CRTA polling in the last six years⁵⁷ shows a stable trend of low trust in the MPs. Only 13 per cent of citizens in 2018 thought that MPs represent the interests of ordinary people. In addition, 63 per cent agree with the statement that MPs pay more attention to party interests than they do to the interests of citizens. Such bad perceptions of the work of MPs is fertile ground for the boycott initiatives; however, it is also easy to see that boycotts might lead to further delegitimation of democratic institutions.

7. CONCLUSION

There have not been many instances of parliament boycotts in Serbia. Excluding the parties of national minorities, this paper identified four such events by the opposition parties, in 1995, 2000, 2005 and 2019. The current boycott of parliament has many similarities to the boycotts of the 1990s. It is a co-ordinated attempt of several parties perceived as an act of last instance caused by deteriorating democratic conditions in parliament and in the wider political context. As in the 1990s, it is performed in connection with other political developments, primarily the announcement of an election boycott and mass protests against the government. It happens when there is a strong asymmetry between the political actors, with the majority coalition having much stronger organisational structure and grip on the media. In such circumstances the decision to boycott is always made with potential further marginalisation of the opposition as an adverse effect and internal and external delegitimation of the ruling majority as the potential goal of the boycotting opposition.

Over this period there seems to be one reason for boycotting that persists. The boycotts are usually used as a means for opposition parties to resolve the imposed inability to communicate their messages to the electorate. The 1995 boycott started when the majority decided to cancel live broadcast on public television. In a similar way, the reasons behind the 2019 boycott were the misuse of parliamentary procedures producing a lack of debate, which prevented opposition MPs from challenging the ruling majority or the government Members in the plenary sessions. Even though the 2005 DS boycott was primarily explained by their MPs loss of a mandate, this boycott was intended more as a communication

device indicating to their voters a willingness to escalate the political struggle with the majority.

The changes that the MPs want to achieve are primarily inside parliament: the return of live broadcasts, the return of lost mandates, or the return of the debate in the plenary. But, as the boycotts also happen in the context of larger political struggles, they are usually also aiming to improve the conditions for electoral competition either through equal media coverage or by changes of the electoral laws and mobilising the electorate through non-institutional means (protests, shadow parliament, etc.). It should be taken into account that even though the boycotts so far in Serbia have not escalated to more radical action, the interconnectedness with external dynamics such as protests might lead in this direction, as some of the MPs have indicated in their responses.

The direct effects of the boycotts on the regulative and legislative activity of parliament are low. The 1995-1996 sessions of parliament did not have very high legislative activity and there were no major changes of the systemic laws, except perhaps the laws on the retirement and labour laws.⁵⁸ During the short 2005 DS boycott there were no changes of the laws, but there were several decisions on judicial appointments.⁵⁹ In general, the existence of any legislative effects of the boycotts are hard to argue. The opposition parties did not have the ability to influence proposed laws almost as a rule in all of the boycotts; but what triggered the leaving of the plenary was the inability to communicate their messages and debate the laws and government actions.

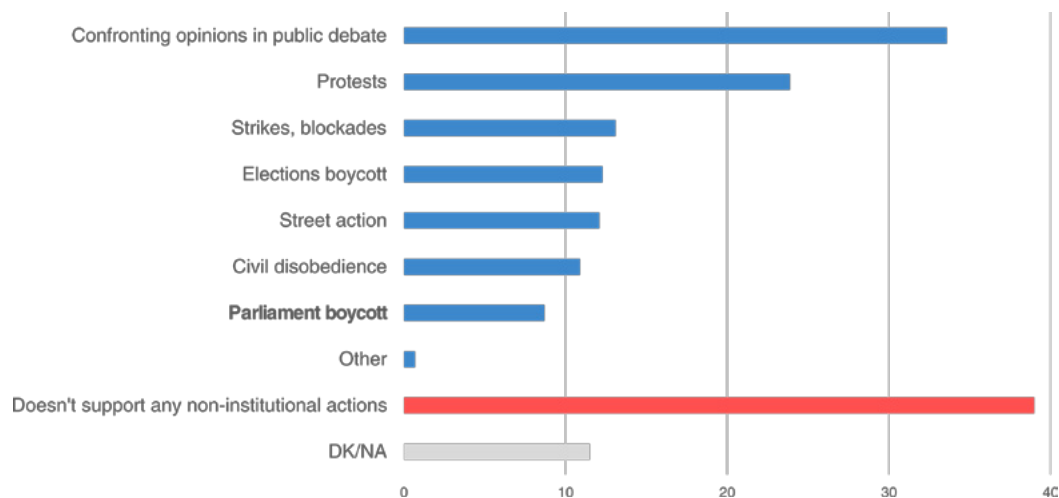
A possible consequence of the current boycott is the question of legitimacy of the new Commissioner for Information of Public Importance and Personal Data Protection. The previous commissioner, Rodoljub Šabić, was elected in 2004 for the first mandate, re-elected in 2007 after the new constitution and elected in 2011 for the second seven-year mandate, all three times without any votes against. His mandate ended in December 2018, however the procedure to appoint the new commissioner has not started in a timely manner.⁶⁰ A group of over 60 civil society organisations initiated a campaign focused on the Members of the Culture and Information Committee of parliament, outlining the experiences with the work of the commissioner so far and requesting a transparent process which would yield the best possible candidate.⁶¹ However in the light of the current boycott of parliament there is an issue not only of the quality of the process of appointment of the new commissioner, but also the legitimacy of such a choice.

There does not seem to be any possible effects of the boycotts on the EU integration agenda. The previous boycotts happened while Serbia was out of the framework of EU integration, and it is hard to say that the Democratic Party boycott in 2005 had any long-term effects which could have accelerated it. The EU appealed for the end of the current boycott and the return of the opposition to parliament.⁶²

Even though the Rules of Procedure and electoral regulations have usually not been affected by the boycotts, the majorities have usually reacted to the demands, albeit after prolonged periods of time. The majority would always treat the boycott with contempt. However when some of the opposition parties returned to parliament after the 1997 elections, the live broadcast of the sessions continued as if it was never an issue in the first place. Hinting in a similar direction, the majority in 2019 made some moves early in the boycott. The first law proposed by an MP outside of the ruling majority was included in the parliamentary agenda some days after the parliamentary boycott in March 2019, for the first time since 2015. Moreover, the draft law on financing of the Autonomous Province of Vojvodina and the draft resolution of the National Assembly on Vojvodina, proposed by three MPs from the opposition League of Social Democrats of Vojvodina, represented the only two points of the agenda of the urgently scheduled session (although not adopted).⁶³ The particular timing of this move by the Speaker, along with the efficient processing of proposals submitted only one month earlier, sparked interest in the wider public.⁶⁴

The polling done for the CRTA by the Ipsos Strategic Marketing in March 2019 on a representative random sample gives us another element of the puzzle: an insight into public support for the boycott of parliament. When asked which forms of political struggle they supported in general, and offered multiple answers, they chose engaging in debate (34 per cent), protests (24 per cent), strikes and blockades (13 per cent), election boycott (12 per cent), street actions (12 per cent), civic disobedience (11 per cent) while the lowest number of answers supported parliament boycott (nine per cent). A considerable number of citizens answered they do not support any of political struggle outside institutions (39 per cent) and 12 per cent did not know or would not answer. The boycott of parliament had significantly higher than average support in Belgrade, among higher educated, and supporters of the opposition Alliance for Serbia, while it had significantly lower support among rural, older (over 60), primary educated, and voters of the ruling coalition.

Graph 4. Public support for the boycott, as of March 2019



The responses of the majority together with the data from the polls show mixed views of boycotting as a political instrument in 2019. The experience of the 1990s as well as justified doubts of the MPs expressed in the interviews show that being sidelined is a serious threat to boycotting MPs. In the conditions of significant asymmetry of power between the ruling majority and the boycotting opposition, it is hard to see how the opposition MPs will avoid further marginalisation through this strategy. Again, going back to the experience of the 1990s boycott, the institutional retreat of the opposition had negative effects not only on the legislative process but also on the political life in the country in general.

However, if persistent, the boycott might extract some concessions from the majority. Even though the opposition MPs strongly disagree about boycotting as a political tool (55 for, 33 against), they share a negative view of the conditions in parliament and the quality of parliamentary procedures, which is at the heart of the parliamentary boycott. As indicated earlier, some changes in the practice of the Speaker and the ruling majority have been noticed since the beginning of the boycott, highlighted by some as signals for the opening of the legislative and deliberative process to the opposition. Whether this is genuine or not is beside the point; but this quick response of the majority to the boycott indicates that the procedures could potentially change. If this was to be pursued, amending the Rules of Procedure, adopting a Code of Conduct and changing the existing practices in which both the majority and the opposition MPs would have to operate would be the way to de-escalate relations in parliament and open the way to improving conditions for the 2020 regular elections.

The deteriorating trends in both the parliamentary and the electoral processes are of course not at all easy to reverse. But if the boycott was to serve the purpose of opening the space for improving democratic conditions, it seems like it might have already accomplished it, and that the space now has to be filled with specific demands and clear benchmarks. Regardless of the choice of the opposition, drafting a clear and prioritised list of demands for ending the boycott should be the priority for MPs who are boycotting. Moreover, the process of drafting these demands should be open, transparent and inclusive, with the participation of all MPs engaged in the boycott and respecting democratic procedures within the parties. Finally, recommendations developed through various analyses in civil society and academia could contribute as a baseline for such a process. The fact that some MPs have maintained their presence in the committees indicates that this could be the space for pursuing a dialogue about the implementation of the demands.

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