



RECLAIMING
THE
FUNDAMENTALS

PARLIAMENTARY OVERSIGHT OF THE POLICE AND THE EU ACCESSION PROCESS A MISSING LINK IN THE FUNDAMENTALS – FIRST APPROACH



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Connecting parliamentary oversight of the police and the EU accession process

Parliamentary oversight of police work represents a critical measure in strengthening the integrity and operational independence of the police. At the same time, these features of police work are crucial in attaining benchmarks for negotiating Chapter 24 in Serbia's EU accession process. Along with the judiciary, a functional and democratically governed police is a prerequisite for the rule of law and other fundamental principles of the EU accession process. Chapter 24 occupies an even more important position within the revised methodology for accession negotiations, since benchmarks in Cluster 1 (Fundamentals) are a precondition for advancements in all the other clusters.¹

In the Justice, Freedom, and Security field (Chapter 24), the National Assembly plays an important role, primarily by passing and amending laws in order to harmonize domestic legislation with the EU acquis.² The Action Plan for Chapter 24 recognises the role of the National Assembly in achieving benchmarks in this area, most often precisely through changes in the normative framework, i.e. adoption of new or changes to old legal regulations and confirmation of international agreements. However, the role of the National Assembly should be more significant in practice, although this cannot be precisely expressed through technical measures and activities. Defining obligations in the Action Plan might even produce a counter effect and further boost the "tick the box" approach, with the National Assembly captured by the ruling party proficient in simulating its democratic features.³

The primarily technical action plan cannot bind the National Assembly to effectively oversee the police since the problem is political - there is a lack of political will to control the security sector, the level of democratic culture is low, and the National Assembly is captured by the ruling party. It is, therefore, necessary to explore mechanisms that could make a clear bond between the political criteria which are part of the Fundamentals cluster, such as the functioning democratic institutions, and concrete measures from the action plans, like the ones aimed at strengthening police integrity. Parliamentary oversight of the police is one such connector since it is a vital democratic feature which can boost police integrity and reforms, essential Chapter 24 criteria and prerequisites for other elements of the Fundamentals cluster.

Hitherto predominant focus of the negotiating process on the executive as the key driver of reforms turned out to be detrimental and was even used as a mechanism of state capture.⁴ With the new convocation and return of the opposition MPs to the parliamentary benches, a window of opportunity for reviving parliamentary oversight over the police has been slightly opened. A stronger connection with the European integration process could be a window stopper that would prevent it from closing once again, by giving a new momentum both to the parliamentary oversight of the police and progress within the Chapter 24.

This paper will first offer an overview of the process of degrading and capturing the National Assembly by the ruling party, from the 2016 convocation onwards, since it coincides with the opening of the Chapter 24. The second section will recap some of the greatest omissions in police oversight and symptomatic cases when the National Assembly should have held the police and Ministry of Interior to account. The third and fourth sections analyse the general oversight role of the National Assembly in Serbia's EU accession process, as well as police oversight in particular. Last chapter briefly looks back at the way in which the EU monitors the work of the National Assembly and, finally, offers recommendations both for the EU and the National Assembly on how to reinvigorate police oversight and the inextricably connected Chapter 24.

Gradual capture of the National Assembly prevented police oversight

In the past decade, the National Assembly has been gradually captured by the ruling party and has been entirely deprived of its oversight role over the executive in that process. Ruling coalition MPs have dutifully rubber-stamped executive decisions and praised the government, while obstructing the opposition and preventing any kind of substantial debate or control. Such dynamics has not allowed for oversight of the police or related legislation and policies in the past two parliamentary convocations (2016-2020 and 2020-2022).⁵

The 2016 convocation was marked by different obstructions of the legislative process, which were primarily aimed at preventing opposition MPs from joining the discussion.⁶ The distinctive feature of these parliamentary maneuvers was that they were not breaking any rules but rather misused legal mechanisms to silence and obstruct critical voices in the Assembly. For years, the ruling coalition systematically avoided different kinds of obligations without directly violating the Rules of the Procedure of the National Assembly. The signature move of the ruling party during this convocation was the submission of an enormous number of almost identical senseless amendments, whose purpose was only to steal the time available for discussion.⁷ Excessive use of the urgent procedure or merging several laws into one item on the agenda to circumvent debate were also regular practices. For instance, during the 2016 convocation more than 35% of the laws were passed using urgent procedure.⁸ Also, the ruling coalition found different ways to circumvent the mechanism of posing parliamentary questions to members of the Government, by scheduling sessions right before or right after the day designated for exercising that mechanism.⁹ This resulted in only 13 sessions devoted to parliamentary questions during the 2016-2020 convocation, even though they are supposed to be organised every month.¹⁰

Since the boycott of the National Assembly in 2019 and the subsequent boycott of the 2020 parliamentary elections by a majority of opposition parties, the ruling party coalition managed to dominate parliamentary life unchallenged by the opposition and thus the misuses stopped. In the 2020 convocation, parliamentary capture reached its peak and cemented the practice of unimpeded approval of the executive policies and legislation. Moreover, in this convocation, attacks and smear campaigns against opposition politicians, the media, the civil society and other public figures who critically review the work of the executive from the parliamentary benches have intensified.¹¹ The most worrying were the attacks on the investigative outlet KRIK and their journalists who have been investigating and reporting about organised crime and the connection of representatives of state structures with people from the criminal milieu.

Capture of the National Assembly by the ruling coalition rendered police oversight practically non-existent. There was no substantial debate on police work, police-related affairs, finances or any other policies, neither in the plenary sessions nor in the competent Committee in the past two convocations.

Plenary sessions devoted to parliamentary questions have neither been regularly organised, nor has the Minister of the Interior attended them. For instance, during the 2020 convocation he attended only one session devoted to parliamentary questions.¹² The ruling majority has prevented the establishment of any inquiry committees, including those that concern police work. During the 2016 convocation, more than 40 proposals to form inquiry committees were ignored, among which the ones aimed at tackling the infamous Savamala case were the most numerous.¹³ In the 2022 convocation, the issue of inquiry committees announced the return of old misuse practices.¹⁴ Namely, upon returning to parliamentary benches, opposition MPs submitted a number of proposals for the establishment of the inquiry committees on certain highly controversial affairs and cases that were never properly discussed in the Assembly. For instance, they submitted a proposal for an inquiry committee about the Krušik case¹⁵ (emphasised in the European Commission progress reports since 2019) involving a whistleblower who exposed the story about the state-owned defence company's detrimental deals with private arms traders connected to the ruling party, more precisely to the then Interior Minister. There were also requests for inquiry committees about the Savamala case, police misconduct during the July 2020 protests, wiretapping of the President of the Republic, the Jovanjica case, etc.¹⁶ As a response, ruling party MPs buried the Assembly administration under an avalanche of their own proposals – from a suggestion to establish a committee about a rock that an MP brought to the National Assembly five years ago, to different alleged misdeeds of opposition MPs. All of these proposals were submitted by the same ruling party MPs, on the same day, with similar reasoning, which indicates an orchestrated attempt to create a smokescreen and discredit opposition MPs' requests – a proven strategy from the 2016 convocation.

Although the Law on Police of 2016 gave it quite strong powers, the competent Working body for police oversight – the Defence and Internal Affairs Committee (DIAC) - has become completely passive over the last decade. Its role has come down to formally discussing quarterly reports of the Ministry of Interior and stamping laws and international agreements.¹⁷ In the 2020 convocation, sessions devoted to discussing the quarterly reports of the Ministry were reduced to praises subg to the Minister for his successful work, but also to the President of the Republic, the Government and the ruling party.¹⁸

Missed opportunities for police oversight

Parliamentary oversight of the police is of utmost importance for strengthening the integrity of this institution and avoiding police misconduct, abuse and politicisation.¹⁹ As the primary law enforcement actor, the police have daily contact with citizens and directly affect their security. National Assembly, as the highest representative body, should undoubtedly be at the bulwark of public interests and citizens' rights. Nevertheless, while the MPs did tick the technical boxes and simulated parliamentary procedures, highly political cases passed under the National Assembly's radar and remained unaddressed. There is an entire array of cases or practices related to police work that deserved the attention of the parliament, but did not appear on the agenda. Several cases that point to the politicisation of the police, links between criminal groups and the state, police brutality and misconduct and secretive procurements are worth highlighting as illustrative cases of failed parliamentary oversight of the police.

The most prominent case, which clearly exposed the **state and police capture** and was never properly addressed in the National Assembly, is the infamous Savamala case. On the night of parliamentary elections in 2016, a group of masked men demolished several houses and buildings in the Savamala district in downtown Belgrade. On top of that, the police refused to react and protect citizens who called and reported this suspicious incident. Demolished objects got in the way of the government-backed "Belgrade Waterfront" project.²⁰ Prompt Ombudsman's investigation into the matter revealed that the police received orders "from the top" not to react.²¹ Regardless of many indications and evidence of organisation, planning and state complicity in the demolition that turned up in the coming years, political and criminal responsibility has never been established. The only person ever to be prosecuted was the police officer who received the call and refused to send the police to the scene: he was issued a five-month suspended sentence for negligence.²² He later went public with the details of the involvement of high government officials in covering up the Savamala case, and the pressures to which he was subjected. However, competent institutions remained silent once again.²³ Even though the case was very prominent in the public – it triggered a series of mass protests and gradually became an epitome of state capture in Serbia – it did not receive much attention in the National Assembly. During the 2016 convocation, opposition MPs submitted more than 35 requests for establishing a Savamala inquiry committee, but none of them resulted in any such action.²⁴ Besides these requests and occasional reminders by opposition MPs about the Savamala case, the public remained deprived of information and a comprehensive discussion about the issue.

Cases related to organised criminal groups that shed light on **connections of state officials and people** from the criminal milieu were not only disregarded by the National Assembly, but were misused to smear the opposition, whistleblowers and investigative journalists. For instance, in February 2021, an organised criminal group under the leadership of Veljko Belivuk was arrested and later convicted of brutal

murders, kidnappings, drug trafficking and illegal possession of weapons. In the meantime, there have been numerous investigative journalists' stories and testimonies about the connections of this criminal group with state and political officials.²⁵ Instead of overseeing the work of the police in fighting organised crime and going through allegations of state officials complicity in criminal activities, the MPs engaged in smearing journalists and sharing unfounded accusations that discredit their work and threaten their safety. The investigative outlet KRIK was the prime target, even though their journalists have been covering this criminal group for years, precisely because they have disclosed connections of its members with representatives of state institutions on several occasions.²⁶ Regime tabloids kicked off a media campaign to connect KRIK with the criminal group. The campaign was then transferred to the parliamentary chamber, where MPs called KRIK a criminal association connected with Veljko Belivuk's group.²⁷

The Assembly and DIAC, as the relevant Committee, missed the opportunity to discuss and condemn **police conduct and disproportionate use of force** during the July 2020 protests triggered by the Government's announcement of the re-introduction of the COVID 19 lockdown just a few days after the parliamentary elections which were held without any restrictions.²⁸ Based on the video clips that circulated on social media and live media broadcasts, but also based on the collected testimonies, journalists identified at least 26 cases of police brutality in dealing with protesters.²⁹ Ombudsman's office also initiated 25 cases on the basis of citizens' complaints about the excessive use of force.³⁰ Despite these evidence-supported conclusions, DIAC members did not discuss cases of police brutality, instead praising the work of the police and MoI while discussing the report for the given period. Regardless of the Ombudsman's report, various recordings and testimonies that clearly indicate excessive use of force and brutal treatment of the protesters, DIAC members also failed to request a report on police conduct during the protests or debate the case in any way.³¹

Neither DIAC nor plenary discussions were devoted to evaluating the MoI budget or significant procurement in the past two convocations. Thus, a **controversial procurement** of patrol vehicles for the MoI back in 2017 and 2018 passed without a substantive parliamentary debate. MoI purchased 710 patrol cars in September 2017 and pompously showcased them in a public ceremony in front of its headquarters, along with media promotion.³² It was only when the public became interested in the procurement itself – the process, value, vendor and similar – that it became clear the procurement was classified. Classifying the procurement of (marked and promoted) patrol vehicles as confidential is a textbook example of why the National Assembly and other overseers of the security sector should be more active in monitoring budget spending of security institutions. The possibility of proclaiming a procurement confidential due to reasons of national security opens up the space for various misuses and creates the risk of over-classification to conceal malpractices. Members of DIAC can still monitor these procurement processes by obtaining a certificate necessary for accessing confidential data. Practice so far has demonstrated that only a small number of MPs are actually issued these certificates, necessary to effectively oversee the security sector.³³

The degraded oversight role of the National Assembly over the EU accession process

In practice, the role of the National Assembly in Serbia's EU accession process has been primarily legislative. The Assembly's essential function has been to adopt laws while harmonising the national legal framework with the EU *acquis communautaire*.³⁴ The quality of its oversight role in the European integration process has never been particularly high, but has been significantly lowered since 2016 and the process of complete capture of the National Assembly by the ruling party.³⁵

The National Assembly has done very little to hold the Government accountable and monitor its activities in the EU integration process, especially since 2017 onwards. Even though the executive is the protagonist of the EU accession process, the National Assembly should not be merely a background extra, but a strong supporting character. As the core representative body, the National Assembly should carefully oversee the accession process, frequently use control mechanisms at its disposal to hold the Government accountable, and evaluate implementation of the reforms on the EU path. The oversight role is essential in gauging the political course of the EU integration, as well as the sectoral issues within the individual negotiating chapters. Nevertheless, in a captured National Assembly, oversight of any government activities and policies is only simulated, with a purpose of maintaining a democratic facade, including the ones regarding Serbia's accession to the European Union.

All EU-related documents and discussions go through the European Integration Committee, central body responsible for European affairs within the National Assembly.³⁶ It considers all the laws submitted by the Government, which harmonise national regulations with the EU *acquis* and occasionally discusses relevant documents drafted by the EU institutions, such as the European Commission's progress reports. Members of the European Integration Committee also maintain relations with the EU institutions, primarily the European Parliament or individual MEPs in charge of Serbia or the Western Balkans region.

The European Integration Committee has undeniably done a great deal of work in the legislative area. It has organised more than 100 sessions in the past two convocations and has considered a multitude of laws from the "European" agenda. The committee has also organised sessions aimed at discussing the Government reports on Serbia's accession to the European Union, European Commission progress reports, as well as some Resolutions drafted by the European Parliament.

Even though these are exemplary practices on paper, in the National Assembly that is completely captured by the ruling elite such sessions and documents often remain deprived of its main democratic purpose. For instance, in the last convocation, the European Integration Committee adopted a conclusion on the European Commission's

progress report for 2021 and passed it on to the National Assembly with a proposal to organise a plenary session on the matter. The conclusion however highlighted only praise, not missing the opportunity to applaud the efforts of the Ministry for European Integration, the Government, and even the President of the Republic in the accession process along the way, but omitting any critiques or negative assessments expressed by the European Commission.³⁷ Moreover, the ensuing plenary session hosted a debate with the European Commission report outlines, but essentially served to praise the government and clear its name of any critique, commend the Open Balkan initiative endorsed by the ruling party, and discredit the then ongoing ecological protests.³⁸

In November 2022, opposition MPs refused to sign a similar conclusion on the EC progress report which failed to grasp the essence of the report, and even less the state of the rule of law in practice. Although the EC report noted only “some level of preparation” or “limited progress” in Cluster 1, especially in critical areas such as the independence of the judiciary, freedom of the media and the fight against corruption and organised crime, the European Integration Committee interpreted it differently. It concluded that Serbia “has taken important steps in the area of the rule of law, especially by implementing constitutional reforms aimed at strengthening the independence of the judiciary and the fight against corruption and organized crime.”³⁹

Unsurprisingly, the European Commission progress report was debated in a plenary session of the National Assembly for the first time only in 2020 – when opposition MPs were absent from the parliamentary benches due to the previous election boycott.⁴⁰ Organisation of such parliamentary debates is commendable, but their essence should be monitored and substantial discussion on reforms and progress on the EU path should be encouraged. Considering that a plenary session on the EC report for 2022 can be expected soon, it should be closely scrutinised and should not turn into a political skirmish and platform for smearing the opposition - a practice that could be seen in the hitherto plenary sessions in the current convocation.⁴¹

Sectoral approach to EU-related matters missing in the National Assembly

Undoubtedly, the European Integration Committee does not have the capacity to cover all sectoral issues and to substantially monitor progress and reform path in all individual chapters. Still, other “sectoral” committees rarely monitor the European integration aspect of their fields, except for putting a stamp on the *acquis*-alignment laws and negotiating positions of individual chapters. The sectoral committees also fail to merge sessions with the European Integration Committee to discuss common issues or sectoral laws. In the 2016 convocation, the European Integration Committee had a good practice of holding joint sessions, for instance, with the Committee on Human and Minority Rights and Gender Equality or the Committee on Finance, State Budget and Control of Public Spending.⁴² This format enabled them to discuss topical issues (the position of the LGBTI community in Serbia, the two-year economic reform program) within the EU framework. Nevertheless, last session of that kind was held in 2017 and the practice has completely stopped during the 2020 convocation. The National Assembly could take a more thematic approach to overseeing the European Integration process by including other sectoral committees, or by creating separate working bodies to discuss specific topics.

When it comes to police integrity and the Chapter 24, the competent body, Defence and Internal Affairs Committee (DIAC), has not looked at police work through the EU lens in the last two convocations (with the exception of legal changes within the EU *acquis* alignment process and the adoption of the negotiating position for the Chapter 24).⁴³ For instance, DIAC has not organised sessions devoted to discussing biannual reports of the Ministry of the Interior on the implementation of activities envisaged in the Action Plan for Chapter 24, nor has it dedicated any sessions to deliberating European Commission’s progress reports in the areas within the scope of the Chapter 24. In fact, last parliamentary activities specifically devoted to Chapter 24 took place as far back as 2017.⁴⁴

DIAC has not joined its sessions with the European Integration Committee in the past two convocations, which should be of great importance, especially after the adoption of the renewed accession methodology and the Chapter 24 position within the Fundamentals cluster. **Joint sessions** could disburden the European Integration Committee of the necessity to familiarise itself with thematic issues in-depth, while simultaneously providing an opportunity for DIAC members to discuss the police reform within the EU accession framework. Moreover, joint sessions with other Committees related to the Fundamentals cluster (i.e. Committee on the Judiciary, Public Administration and Local Self-Government, Committee on Finance, State Budget and Control of Public Spending etc.) could enable connections among Chapters and political criteria and help in tackling horizontal issues that span over different areas.⁴⁵

Individual MPs are often overburdened since they simultaneously cover the work of several committees, delegations or other working bodies of the National Assembly. Hence, their expertise and availability in specific matters remains limited and not all MPs can be expected to be equally involved. Formation of a **sub-committee** specialised in monitoring the Chapter 24 and police work, with several knowledgeable and interested MPs, could be a practical solution in overcoming this challenge.

Moreover, lack of capacity could be compensated through constructive **cooperation with civil society organisations**. For instance, DIAC could regularly meet and exchange information with members of the Working Group for Chapter 24 of the National Convention of the European Union. The Working Group consists of diverse civil society organisations that cover a variety of topics related to Chapter 24 – the migration and asylum policies, the fight against organised crime, the fight against terrorism and police cooperation. Moreover, these CSOs are well acquainted with the EU accession process itself and could be a useful source of expertise for the MPs. Nevertheless, the last meeting in that format was held back in 2016.⁴⁶

DIAC could also organise **public hearings** with the interested public – civil society, academia, government officials and others, and thus create a platform for substantial dialogue on important topics within the Chapter 24 framework. For instance, a public hearing on biometric surveillance with representatives of both government officials and civil society would be of great importance. Namely, the highly controversial Draft Law on Internal Affairs (which, among other things, aimed to legalise biometric surveillance) was put up for public debate in 2021 but was quickly withdrawn due to a sharp reaction of the public. The Draft Law is still being amended and can be expected to enter into procedure in the forthcoming period.⁴⁷ A public hearing could help DIAC members to evaluate alignment with the EU *acquis*, but also to grasp the essence and understand challenges of biometric data processing in practice.

DIAC has a set of mechanisms at its disposal to strengthen and connect police oversight with the EU accession process. All of these mechanisms are however highly dependent on political will. Besides the ruling party majority that is not eager to substantially monitor the work of the police or progress in Chapter 24, an additional problem is that a large number of DIAC members - including the President of the Committee - come from parties that are either Eurosceptic or openly against the idea of Serbia joining the EU.⁴⁸ Therefore, their proactive action in this field can hardly be expected in the 2022 convocation.

EU oversight of the work of the National Assembly

The European Union should pay greater attention to the essence of the National Assembly's work than to the formalities, numbers and technical issues. Technical "progress" commendations have so far been misused to simulate democratic practices, showcase success and enable further smooth rubber-stamping of government decisions.

For instance, the European Commission criticised different misuses and filibustering practices conducted by the ruling party until 2019. It later started commending the reduction of such mechanisms, without placing it into the political context in which the Assembly functions. At the first glance, the National Assembly became much more efficient, with fewer misuses of parliamentary procedures (the urgent procedure, the submission of a great number of amendments, late scheduling of sessions, etc.) from 2019 onwards. However, its efficiency was predominantly the result of the absence of the opposition. In the previous convocation, the above mechanisms were used to obstruct the work of opposition MPs and were abused to simulate oversight of the security sector, which is why the opposition decided to boycott the work of the National Assembly in 2019 and, among other things, to also boycott the next parliamentary election in 2020. With the opposition gone, the ruling coalition had no need for procedural manipulations, as it could confirm the government's decisions unhindered.⁴⁹ The same was the case with parliamentary questions sessions, whose regular organisation has been positively highlighted by the European Commission after 2019. It was not taken into account that these were in fact simulated questions (or even compliments) posed by the ruling party MPs, and that some ministers' attendance was far from regular.⁵⁰ On multiple occasions, representatives of the ruling coalition have used precisely these European Commission evaluations to showcase progress and democratic improvements in the National Assembly, an institution completely stripped of its basic functions in practice.⁵¹ These commendations have enabled the ruling party to present the public with a distorted and selective interpretation of the European Commission report. Overly technical "tick the box" approach to the accession process, which allows candidates to show some formal progress without achieving any substantial reforms can do more harm than good and help in maintaining essentially autocratic practices.⁵²

The European Commission should include democratic oversight of the police in its monitoring and reporting mechanisms. Progress reports have so far offered general assessments of the National Assembly's work. The European Commission reports cover civilian oversight of security sector, however, by focusing solely on the intelligence services. Since police reform is a precondition for all the other democratic improvements, and parliamentary oversight is a primary tool in strengthening police integrity, it deserves a particular attention in the European Commission annual progress reports.

Not only can the National Assembly take a more thematic approach to overseeing the European integration process, but the connections of MPs with European institutions can also be more focused on sectoral cooperation. For instance, DIAC members could establish stronger and regular relations with the Committee on Civil Liberties, Justice and Home Affairs or the Security and Defence Committee of the European Parliament. In that way, they could share expertise in the design and implementation of the security policies, oversight of police work or police cooperation

Recommendations

1. The European Union should insist on the essence of National Assembly's role as the backbone of a democratic system and refrain from commending technical improvements and numbers detached from the political context. More focus should be put on state actors outside of the executive branch, in order to stop further "capturing" of the negotiating process by the government and misusing the process itself for state capture.
2. The European Union should particularly monitor parliamentary oversight of the police, as the primary tool for holding the police accountable and strengthening its integrity. As the primary law enforcement actor whose democratic governance conditions the functioning of all other institutions and reforms in other chapters, integrity of the police should be regarded as a prerequisite.
3. Parliamentary oversight of the police should be more closely connected with the EU accession process through the oversight of progress in Chapter 24. Joint sessions of parliamentary committees relevant for monitoring the Fundamentals cluster and the European Integration Committee could help in bridging horizontal issues that appear in different chapters.
4. The oversight role of the National Assembly in the European integration process should be strengthened and a more thematic approach should be encouraged by involving other sectoral committees. Political oversight of the EU accession process should be invigorated, especially taking into account the new swing given to political steering in the revised EU enlargement methodology.
5. The National Assembly should foster a constructive and regular dialogue with the civil society and use relevant CSOs as a source of expertise on specialised issues, especially when it comes to the EU accession process.

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