

**Inicijativa za jačanje zakonodavnog  
procesa ZAPADNOG BALKANA**

**Roles and Responsibilities of Legislative Services in Parliaments  
Casta-Papiernicka  
5. – 7. November 2014**

**Introduction**

The following paper summarizes recommendations gathered during the regional workshop “Roles and Responsibilities of Legislative Services in Parliaments” organized by the National Council of the Slovak Republic (NCSR) and National Democratic Institute (NDI) in Casta – Papiernicka, Slovakia from November 5-7, 2014.

The workshop was a part of NDI’s Western Balkans Legislative Strengthening Initiative (WBLSI), which assists parliaments in strengthening their law-making, oversight, and representation capacities. With funding from the National Endowment for Democracy (NED), NDI organizes forums to support regional cooperation and information sharing, fostering a network between the Western Balkan legislatures and their European Union counterparts.

The event brought together members of parliament (MPs) including legislative and constitutional committee chairs, deputy-chairs and members, committee staff and parliamentary legal experts from Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The participants drew on each other’s experiences--as well as those presented by colleagues from the Czech Republic, Slovakia and Poland--regarding how parliamentary legislative services operate and provide assistance.

**Recommendations**

- 1) Legislative services (departments) within ministries or in the Office of the Government are inadequate to fulfill this role for the parliament, which should conduct its own independent review of legislation. Hence it is necessary to establish a legislative department with the parliamentary administration in order to assess draft laws and provide opinions to MPs and staff.
- 2) Legislative experts should be a part of an independent parliamentary service.
- 3) Employees should be lawyers with university degrees/masters in law. They should be experts on legislative technique and operate independently of committees and other parliamentary departments.

- 4) Legislative services should be separated from legal services. The legal services sector should draft contracts between the parliament and legal or natural entities and represents the parliament in court. The legislative service sector should evaluate draft bills and provide opinions for MPs and staff.
- 5) Legislative services should serve all committees and MPs, not just committees with an express mandate to address legal and constitutional affairs.
- 6) Experts from the legislative services should preserve their neutrality and independence by avoiding close links with specific committees.
- 7) The legislative services should prepare at least a basic legislative review (**brief opinion**) on every bill submitted to the parliament and a more detailed review on bills (**standpoint to bills**) to be reviewed in committee, which includes legislative-technical comments that can be introduced by MPs as amendments.
  - The basic legislative review (brief opinion) should concisely check on formal legal requirements of a draft bill before it is introduced to the parliamentary procedure (i.e. before the first debate on it in the plenary or in the committees). Such preliminary legal/legislative opinion usually serves as background information for the Speaker of the Parliament or for the Speaker's Conference when scheduling session agendas.
  - The standpoint to the bill should be a written legal/legislative opinion reviewing compliance of the bill with the constitution, with the domestic legal order, with European law and with international law. It should also include legislative-technical comments (corrections) and review the bill's proposed date of entry into effectiveness.
- 8) Legislative opinions should be stored in the internal parliamentary database and made available to all MPs and parliamentary staff members through the intranet (Internal Network).
- 9) Legislative opinions should have a recommendatory nature and should not be binding for MPs or committees. Legislative-technical comments (corrections) included in the opinion may serve amendments submitted by MPs.
- 10) The experts of the legislative services shouldn't draft legislative proposals (bills) for MPs. This should be done by the MP's assistants or a caucus staff member. Legislative services staff should provide technical advice and expert legislative technique consultations.
  - In instances where MPs have very limited access to assistance, experts of the legislative department can provide assistance with actual legal drafting. In these cases the preparation of a legislative opinion should be vested with a different legal advisor not involved in the drafting process to secure an objective view.
- 11) At least one parliamentary legislative expert should follow the progress of each bill from its initial introduction to parliament until its submission for publication in the country's collection of laws.

- 12) A parliamentary legislative expert should be present during each committee's review of a bill to provide expert advice, explain legislative–technical comments included in the legislative opinion, and answer additional questions.
- 13) A parliamentary legislative expert should assist MPs in drafting amendments, keep track of all proposed amendments, and prepare the final report of all amendments approved in committee for the second reading in the plenary session.
- 14) A parliamentary legislative expert should check the consolidated version (final text) of each draft law to ensure it is accurate before it is signed by the Speaker and forwarded to the President for promulgation.
- 15) A parliamentary legislative expert should emend the wording of an adopted law before its publication in the Official Gazette.
- 16) When there is insufficient time to prepare a legislative opinion on a draft bill, an expert from the legislative services should at least verbally note compatibility challenges or other legislative-technical irregularities with the proposer of the bill.
- 17) Every bill submitted to the parliament should be reviewed for EU law compatibility; in particular, an opinion on the bill's compatibility with the *Acquis Communautaire* should be prepared.
- 18) Parliamentary legislative experts are usually in the highest salary class in the parliamentary service.
- 19) It is important not only to store documents resulting from the legislative process (legislative reports included) on the parliamentary website, but to make sure different databases are linked and interconnected so that materials such as reports, amendments, and voting records resulting from the committee bill review process are easily accessed and linked.

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