



TRANSPARENCY OF GOVERNMENT SESSIONS: DECISION-MAKING BEHIND CLOSED DOORS

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Authors: Nikolina Radonjić, Marko Sošić



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Publicity of the work of the Government is regulated by the Decree on the Government, the Rules of Procedure of the Government and the Decision on the publication of materials from the sessions of the Government. Article 4 of the Government Regulation emphasizes that the work of the Government is public, that the Government has a website where it publishes information about its work, and that, in accordance with the legislation (Law on Free Access to Information and Rules of Procedure of the Government), it is obliged to provide the public with access to its work. According to the Rules of Procedure of the Government, in addition to the notice on convening the session, the Government's website provides for the publication of the proposed agenda, which contains an indication of points for discussion and points for verification, materials for individual points on the agenda, committee reports and minutes from the previous session. Article 2 of the Decision on the Publication of Materials from Government Sessions stipulates the publication of:

- 1) proposal of the agenda of the Government session;
- 2) material considered by the Government at the session for which the appropriate level of secrecy has not been determined in accordance with the law, such as: draft law, bill, report on public debate, proposals for regulations, decisions, strategies, plans, reports and information, draft, or proposal for a contract, proposal for a decision on appointment, appointment or dismissal;
- 3) the verified conclusion of the Government, which was adopted in connection with the consideration of the published material.

In April 2021, we addressed the Initiative for Increasing Government Transparency where we called for:

- 1) Publication of the complete agenda of the Government sessions;
- 2) Publication of materials that were decided without holding a meeting;
- 3) Publication of data on the work of permanent government working bodies.

The General Secretariat of the Government then rejected the Initiative, referring to the Decision on the publication

of materials from the Government session, the Decree on the Government and the Data Secrecy Act.

During the mandate of the 42nd Government, which lasted one year and four months, 67 sessions were held (2516 decisions). Ministers made twice as many decisions without holding sessions - 148 times (379 conclusions of which 35 points were deleted). 43. The Government held 56 sessions (2545 decisions) during the thirteen months, ending on June 8, 2023. The government made decisions 54 times without holding sessions (99 conclusions, of which the names of two items were deleted).

Based on the minutes from the 42nd Government sessions and conclusions without holding sessions that we obtained through requests for SPI, 5.4% of the items on the agenda are not public. The entire agenda, which also includes the names of items marked with the level of secrecy, contains 67% of the minutes. The minutes contain the complete agenda up to and including the fifth session, after that session, if there were points marked with a degree of secrecy, their names were not made public. An exception is the point whose name is public, but the level of secrecy involved is not specified. It is characteristic of the 42nd Government that almost none of the items that have been declared classified have an indication of their classified status. The only exception is the part of the point that deals with personnel matters, where it is indicated that it is about the degree of secrecy internally.

According to the minutes of the 43rd Government session, 4.35% of the agenda items are hidden. The entire agenda contains 61.26% of the minutes. Until the eighth session, the minutes contain a complete agenda, however, apart from the names of the points, there is no information about the degree of secrecy involved. From the eighth session, the minutes selectively contain information about the level of secrecy, but without the name of the point on which the ministers decided. So, somewhere it was stated that the degree of secrecy involved was internal/secret/confidential (eg 29th session, 36th session, 42nd session), and somewhere the names of the points were deleted (eg 8th-17th session). Each record of the 45th session contains information about the level of secrecy, but not the name of the item on the agenda. Although the minutes do not contain the name of the item during the video broadcast of the Government sessions, the ministers were able to state the item that they will consider, which is marked with a degree of secrecy (eg Proposal for the redirection of funds from the Current Budget Reserve to the Health Insurance Fund of Montenegro with the aim of functioning of the Meljina organizational unit in within the Kotor General Hospital - 2,269,636.53 euros). From the 52nd session (May 11, 2023), the names of points and the level of secrecy assigned to them are selectively posted on the Government's website, while the minutes do not contain the names of those points. For example, the minutes of the 52nd, 55th, and 56th sessions do not contain the names of items marked with the level of secrecy, while the announcements from the sessions state their names. The announcement from the 55th session of the Government (June 1, 2023) contains the names of the points and the level of secrecy assigned to them (internally), while in the minutes they are classified under the level of secret.

42. The government made 13% of decisions without holding a session, materials that were discussed without holding a session were never published. The General Secretariat of the Government referred to Article 10 of

the Government Regulation, according to which the Government can, at the proposal of the Prime Minister, in urgent and other justified cases, decide on certain issues without holding a session, based on the consent of the majority of members.

In response to our Initiative, the General Secretariat considered that the proposal to act in the same way regarding the publication of materials that were discussed without holding sessions, as in the case when the session was held, is without legal basis. In addition to the non-publication of materials without holding sessions, the announcements on the discussed points (especially in the part of personnel decisions) did not contain basic information. Some of the examples of what the announcements of the considered personnel decisions looked like without holding sessions are the eighteen personnel decisions adopted on March 11, 2021, announced through the sentence that the Government passed several decisions on personnel issues within its jurisdiction, or eleven personnel decisions that were said to be On April 5 and 6, the government adopted proposals for personnel solutions within its jurisdiction.

43. The government publishes materials that were decided without holding sessions. 3.74% of decisions were made without holding sessions, while 94.44% of decisions made without holding sessions were published on the Government's website. However, if the decision made was marked with a degree of secrecy, the name of that point was not mentioned in the announcement posted on the website until recently. E.g. at the telephone session held on July 11, 2022, according to the information on the Government's website, one matter was discussed, while we know from the obtained minutes that the Government decided on another point. In the event that the decisions were made without holding a session and declared secret, there is not even a word about it on the Government's website (e.g. the decision that was made without holding a session on September 8, 2022).

The work of permanent government bodies (Commission for Political System, Internal and Foreign Policy; Commission for Economic Policy and Financial System; Commission for Personnel and Administrative Issues and Commission for Allocation of Part of the Budget Reserve) is the same during the mandate of the 42nd and 43rd Government - non-transparent. The Rules of Procedure of the Government prescribe the publication of a report on the reviewed material, which contains: findings and evaluations and proposed conclusions, but this was not the practice of either the previous or the current Government. Although GSV regularly responds to requests for submission of minutes from Government sessions, this is not the case with information on the work of the Commission for the allocation of part of the budget reserve. For more than a year, we have been unsuccessfully seeking basic information about the activities of the Commission for the allocation of a part of the budget reserve through a request for SPI.

The publication of the complete agenda, which contains the names of the items marked with the degree of secrecy, the publication of materials that were decided without holding sessions, is the good will of the Government. Any subsequent Government can return the practice that characterized the mandate of the 42nd Government, when the GSV considered that there was no need to publish materials that were decided without holding a session, or the mandate of the 43rd Government, during which the names of points marked with the degree of secrecy were selectively published.



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