

**Organization for Security and Co-operation in Europe
MISSION IN KOSOVO**

**Pillar III (OSCE) Report 02/2008
On the Monitoring of the Assembly of Kosovo
16 February 2008 – 31 March 2008**

Highlights

- Assembly holds an extraordinary session to declare the independence of Kosovo
- Assembly approves 19 laws related to “Comprehensive Proposal for Kosovo status settlement”
- Assembly endorses in principle 27 draft laws
- Assembly encounters difficulties with regard to verbal reporting of independent agencies
- Government failed to answer four questions submitted by Members of the Assembly
- Records of electronic votes not yet published on the Assembly website

1. Background

This fifty-sixth monitoring report is drafted in accordance with the Terms of Reference for UNMIK Pillar III for Institution Building (OSCE) Monitoring of the Assembly of Kosovo dated 26 November 2002 and is based on compliance with the Rules of Procedure adopted at the plenary session on 20 May 2005, as amended at the plenary session on 1-2 June 2006 and 18 September 2007 plenary session.

Pillar III (OSCE) monitored the Assembly’s extraordinary plenary session on 17 February and five regular plenary sessions, on 19 and 20 February; on 26, 27, 28, 29 February and 3 March; on 12 and 13 March; on 14 March and on 28 March as well as five Presidency meetings, on 17 February, 18 February, 21 February, 10 March and 25 March. Pillar III (OSCE) monitored 24 out of 41 Committee meetings and one public hearing.

2. Overview

The 17 February extraordinary plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Jakup Krasniqi (Democratic Party of Kosovo/PDK), who was assisted by Member of the Presidency Eqrem Kryeziu (Democratic League of Kosovo/LDK).

- One hundred and nine Members of the Assembly were present at the 17 February extraordinary plenary session.
- Main agenda items of the 17 February extraordinary plenary session:
 - Declaration of independence of Kosovo
(Declaration was approved unanimously of those who were present.)
 - Endorsement of the flag and emblem
(Flag and emblem were endorsed unanimously of those who were present.)

The plenary session held on 19 and 20 February was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- One hundred and nine and one hundred Members of the Assembly were present, respectively, at the 19 and 20 February plenary session.
- Main agenda items of the plenary session held on 19 and 20 February:
 - First and Second Readings of the Draft Law on Ministry of Foreign Affairs
(The draft law was endorsed in principle in the first reading but was returned to the Government during the second reading.)
 - First and Second Readings of the Draft Law on Privileges and Diplomatic Immunities
 - First and Second Readings of the Draft Law on Citizenship
 - First and Second Readings of the Draft Law on Kosovo Police
 - First and Second Readings of the Draft Law on Kosovo Police Inspectorate
 - First and Second Readings of the Draft Law on Travel Documents
 - First and Second Readings of the Draft Law on Use of State Symbols
 - First and Second Readings of the Draft Law on Special Protected Zones
 - First and Second Readings of the Draft Law on Local Self Government
 - First and Second Readings of the Draft Law on Municipal Administrative Boundaries
(All nine draft laws were approved *en bloc* with 74 votes in favor and four votes in opposition.¹)

The plenary session held on 26, 27, 28, 29 February and 3 March was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Members of the Presidency Mr. Džezair Murati (7+/Vakat), Mr. Xhavit Haliti (PDK) and Mr. Eqrem Kryeziu (LDK).

- Ninety four, seventy nine, seventy four, seventy one and sixty seven Members of the Assembly were present, respectively, at the 26, 27, 28, 29 February and 3 March plenary session.
- Main agenda items of the plenary session held on 26, 27, 28, 29 February and 3 March:
 - Questions to the Government for Oral Answer
 - Replacement of the AKR Budget Committee member
 - First reading of the Draft Law on Amending the Provisional Criminal Code
(The draft law was endorsed in principle with 73 votes in favor and two votes in opposition.)
 - First reading of the Draft Law on Amending the Provisional Code of Criminal Procedure
(The draft law was endorsed in principle with 74 votes in favor and two votes in opposition.)
 - First reading of the Draft Law on Benefits to Former High Officials
(The draft law was endorsed in principle with 73 votes in favor and two votes in opposition.)
 - First reading of the Draft Law on Amending of the Law on Farmer's Cooperatives
(The draft law was endorsed in principle with 78 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Civil Use of Explosives
(The draft law was endorsed in principle with 77 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Contested Procedure
(The draft law was endorsed in principle with 79 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Executive Procedure
(The draft law was endorsed in principle with 69 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Declaration of the Origin of the Property of Public Senior Officials
(The draft law was endorsed in principle with 80 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Amending the Law on Execution of Penal Sanctions
(The draft law was endorsed in principle with 79 votes in favor and no votes in opposition.)

¹ The above-referenced laws were approved in two days according to the procedural motion passed by the Assembly at the 15 February plenary session. As noted in the previous report, the Constitutional Framework provides that all proposed laws having budgetary implications must be accompanied by financial statements. Therefore, the procedural motion waiving the requirement to provide these financial statements is not valid and such statements are required. See previous report 01/2008 for more details.

- First reading of the Draft Law on Out Contentious Procedure
(The draft law was endorsed in principle with 76 votes in favor and one vote in opposition.)
- First reading of the Draft Law on Deterrence of Money Laundering
(The draft law was endorsed in principle with 80 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Notary
(The draft law was endorsed in principle with 81 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Environmental Strategic Assessment
(The draft law was endorsed in principle with 78 votes in favor and one vote in opposition.)
- First reading of the Draft Law on Amending of the Law on Social Assistance Scheme
(The draft law was endorsed in principle with 46 votes in favor and 19 votes in opposition.)
- First reading of the Draft Law on Amending the Law on Labor Inspectorate
(The draft law was endorsed in principle with 61 votes in favor and nine votes in opposition.)
- First reading of the Draft Law on Material Support to Families of Children with Permanent Disabilities
(The draft law was endorsed in principle with 77 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Sale of Apartments with Tenure Rights
(The draft law was endorsed in principle with 59 votes in favor and ten votes in opposition.)
- First reading of the Draft Law on State Aid
(The draft law was withdrawn by the sponsor. See below section entitled “Legislative process”.)
- First reading of the Draft Law on Food
(The draft law was endorsed in principle with 72 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Final and Matura Exam
(The draft law was endorsed in principle with 72 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Vocational Rehabilitation and Employment of People with Disabilities
(The draft law was endorsed in principle with 73 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Energy Efficiency
(The draft law was withdrawn by the sponsor. See below section entitled “Legislative process”.)
- First reading of the Draft Law on Amending the Law on Support to Small and Medium Enterprises
(The draft law was endorsed in principle with 71 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Value Added Tax
(The draft law was withdrawn by the sponsor. See below section entitled “Legislative process”.)
- First reading of the Draft Law on Genetically Modified Organisms
(The draft law was endorsed in principle with 70 votes in favor and one vote in opposition.)
- First reading of the Draft Law on Environmental Impact Assessment
(The draft law was endorsed in principle with 71 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Accommodation Tax
(The draft law was endorsed in principle with 68 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Construction Land, Privatization and Lease of Construction Land
(The draft law was endorsed in principle with 75 votes in favor and one vote in opposition.)
- First reading of the Draft Law on Farming Inspectorate
(The draft law was endorsed in principle with 77 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Environmental Protection
(The draft law was endorsed in principle with 68 votes in favor and no votes in opposition.)

The plenary session held on 12 and 13 March was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- Eighty seven and one hundred and three Members of the Assembly were present, respectively, at the 12 and 13 March plenary session.
- Main agenda items of the plenary session held on 12 and 13 March:
 - First and Second Readings of the Draft Law on Ministry of Foreign Affairs and Diplomatic Service of Kosovo
 - First and Second Readings of the Draft Law on the Ministry of Security Forces of Kosovo
 - First and Second Readings of the Draft Law on Security Force of Kosovo
 - First and Second Readings of the Draft Law on Establishment of the Security Council of Kosovo
 - First and Second Readings of the Draft Law on the Rights of Communities and their members
 - First and Second Readings of the Draft Law on Management of Public Finances and Responsibilities
 - First and Second Readings of the Draft Law on Local Government Finances
 - First and Second Readings of the Draft Law on Civil Aviation
 - First and Second Readings of the Draft Law on Special Prosecution of Kosovo
 - First and Second Readings of the Draft Law on Jurisdiction, Case Selection and Allocation to EULEX judges and prosecutors in Kosovo(All ten draft laws were approved *en bloc* with 83 votes in favor and seven votes in opposition. Refer to footnote 1.)

The 14 March plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Xhavit Haliti (PDK).

- Ninety four Members of the Assembly were present at the 14 March plenary session.
- Main agenda items of the 14 March plenary session:
 - Questions to the Government for Oral Answer
 - Review of the report of the Public Procurement Regulatory Committee for 2007 (The item was postponed. See below the section entitled “Procedural motion”.)
 - Review of the proposal of the Government with regard to the appointment of members to the Central Census Commission (Appointment of members to the Central Census Commission was endorsed with 54 votes in favour, 29 votes in opposition and six abstentions.)
 - Review of the proposal of the Government with regard to the appointment of the Managing Director of the Central Banking Authority of Kosovo (The appointment of the Managing Director was endorsed with 49 votes in favor, 14 votes in opposition and 13 abstentions.)
 - Review of the recommendation of the Committee for Public Services, Local Administration and Media and *ad hoc* Committee with regard to the appointment of two members to the Independent Media Commission Council (The appointment of members was endorsed with 78 votes in favor and one vote in opposition.)

The 28 March plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- Ninety eight Members of the Assembly were present at the 14 March plenary session.
- Main agenda items of the 28 March plenary session:
 - Questions to the Government for Oral Answer

- First Reading of the Draft Law on Plant Protection Products
(The draft law was endorsed in principle with 75 votes in favor and no votes in opposition.)
- First Reading of the Draft Law on Integrated Prevention Pollution Control
(The draft law was endorsed in principle with 85 votes in favor and no votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Distribution of Draft Legislation

- The Draft Law on Benefits to Former High Officials and the Draft Law on Civil Use of Explosives were distributed to Members of the Assembly on 28 January 2008, while the Draft Law on Deterrence of Money Laundering and the Draft Law on Notary were distributed on 8 February. Thus, the draft laws were distributed, respectively, 20 and 11 working days prior to their first reading at the 26 February plenary session.

The Draft Law on Amending of the Provisional Criminal Code was distributed on 25 January, Draft Law on Amending of the Provisional Code of Criminal Procedure was distributed on 28 January, and the Draft Law on Contested Procedure was distributed on 1 February. The Draft Law on Executive Procedure, the Draft Law on Declaration of the Origin of the Property of Public Senior Officials and the Draft Law on Amending of the Law on Execution of Penal Sanctions were distributed on 6 February, while the Draft Law on Out Contentious Procedure was distributed on 8 February, and the Draft Law on Environmental Strategic Assessment was distributed on 11 February. Thus, the draft laws were distributed, respectively, 22, 21, 17, 14, 12 and 11 working days prior to their first reading at the 27 February plenary session.

The Draft Law on Amending of the Law on Social Assistance Scheme and the Draft Law on Amending the Law on Labor Inspectorate were distributed on 11 February, while the Draft Law on Material Support to Families of Children with Permanent Disabilities and the Draft Law on Sale of Apartments with Tenure Rights were distributed on 12 February, and the Draft Law on Environmental Impact Assessment was distributed on 21 February. Thus, the draft laws were distributed, respectively, 12, 11 and four working days prior to their first reading at the 28 February plenary session.

The Draft Law on Food, the Draft Law on Final and Matura Exam and the Draft Law on Vocational Rehabilitation and Employment of People with Disabilities were distributed on 13 February. The Draft Law on Amending of the Law on Support to Small and Medium Enterprises was distributed on 14 February, the Draft Law on Environmental Protection was distributed on 22 February, and the Draft Law on Genetically Modified Organisms was distributed on 25 February. Thus, the draft laws were distributed, respectively, 11, ten, four and three working days prior to their first reading at the 29 February plenary session.

The Draft Law on Accommodation Tax was distributed on 14 February, the Draft Law on Farming Inspectorate was distributed on 15 February, and the Draft Law on Construction Land, Privatization and Lease of Construction Land was distributed on 21 February. Thus, the draft laws were distributed, respectively, 11, ten and six working days prior to their first reading at the 3 March plenary session.

The Draft Law on Plant Protection Products and the Draft Law on Integrated Prevention Pollution Control were distributed on 11 March. Thus, the draft laws were distributed 11 working days prior to their first reading at the 28 March plenary session.

Rule 35.1 requires that the first reading of the draft law shall take place no earlier than ten working days and no later than three working weeks from the day of its distribution. Most of the draft laws above were reviewed in first reading in compliance with Rule 35.1, which represents an improvement over previous reporting periods. However, eight draft laws were reviewed in first reading after three working weeks or earlier than ten working days from the dates of their distribution, which was not in compliance with the Rule above. Distribution of above-referenced draft laws only six, four and three days prior to their first reading did not give sufficient time to Members to study the draft laws.

Legislative process

- At the beginning of the 26 March plenary session, Minister of Energy and Mines Mrs. Justina Pula-Shiroka requested to withdraw the Draft Law on Energy Efficiency with the justification that it needed to be revised. The President of the Assembly called for a vote on Minister's request, which was approved with majority of votes in favor and one vote in opposition. Mr. Gani Koci (PDK) proposed that the Draft Law on State Aid and Draft Law on Value Added Tax should be returned to the Government for further revision. Minister of Finance and Economy Mr. Ahmet Shala, whose Ministry sponsored both draft laws, agreed with Mr. Koci and requested to withdraw the draft laws in question. Thus, the President of the Assembly called for a vote on the request to withdraw two draft laws in question, which was approved with majority of votes in favour and two votes in opposition. Mr. Ardian Gjini, Alliance for the Future of Kosovo (AAK) parliamentary group leader, raised an objection that the Assembly should have debated on the withdrawal of above-mentioned draft laws prior to the vote.

Withdrawal of the Draft Law on Energy Efficiency, Draft Law on State Aid and Draft Law on Value Added Tax was in compliance with the Rule 35.3, which stipulates that “[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place (emphasis added).” Therefore, the President of the Assembly was not obligated to call for a vote on withdrawal of draft laws in question by their sponsors. Furthermore, when the sponsor requests to withdraw a draft law, a debate is not required.

Reporting of independent agencies

- At the 14 March plenary session, during the discussion on the Public Procurement Regulatory Committee² (PPRC) annual report for 2007, Mr. Gani Koci (PDK), the Chairperson of the Budget Committee, proposed that PPRC Chairperson should verbally present the report to the Assembly according to Article 82.2 of the Law on Public Procurement which could be followed by Members' discussion. Mr. Hajredin Kuçi (PDK) likewise agreed with Mr. Koci and reasoned that PPRC Chairperson was appointed by the Assembly and should therefore verbally present the annual report to the Assembly. The Chairperson of the session responded that he did not have objections for the PPRC Chairperson to present the report verbally to the Assembly but that the Presidency had decided that the Budget Committee Chairperson should present it. Therefore, he asked parliamentary group leaders whether they were in favour of the PPRC Chairperson presenting the report verbally to the Assembly or not. Mr. Ramë Buja, PDK parliamentary group leader, proposed that the item should be postponed arguing that the PPRC Chairperson could not present the report at that day's session because he was not officially invited by the Assembly to do so. Mr. Sabri Hamiti (LDK) argued that there was no need for the PPRC Chairperson to report verbally and that only Members of the Assembly could address the Assembly. Mr. Kuçi reiterated his argument that PPRC Chairperson was appointed by the Assembly and therefore had the right to address the Assembly. The Chairperson of the session called for a break in order for the Presidency members and parliamentary group leaders to agree on how to proceed with the debate on the PPRC annual report. After the break, the Chairperson of the session stated that the Presidency members and parliamentary group leaders had agreed that there was no need for the PPRC Chairperson to report verbally to the Assembly and that the Budget Committee Chairperson should present the report and recommendations instead. Nevertheless, on behalf of PDK, Mr. Kuçi proposed a motion to postpone the debate on PPRC annual report for another session. Alliance New Kosovo (AKR), LDD and AAK parliamentary group representatives objected to the postponement of the debate on PPRC annual report. The Chairperson of the plenary session however stated that according to Rule 30.2 he was obligated to put Mr. Kuçi's

² The Public Procurement Regulatory Commission is an independent regulatory agency established by the Law on Public Procurement in Kosovo, promulgated by UNMIK Regulation 2004/3 as amended by UNMIK Regulation 2007/20. This issue has arisen now for the first time because the 2007 amendment converted the PPRC into an independent institution reporting to the Assembly, where this had not previously been the case. According to this Law, the PPRC Chairperson and members are nominated by the Government and appointed by the Assembly.

motion to a vote. Therefore, he proceeded calling for a vote on Mr. Kuçi's motion to postpone the debate on PPRC annual report, which was approved with 52 votes in favour, 28 votes in opposition and seven abstentions.

Neither Constitutional Framework nor the Assembly Rules of Procedure do not regulate the issue of reporting of independent agencies. According to Section 82.2 (i) of the Law on Public Procurement, which was referred to by Mr. Koci, the PPRC prepares and submits to the Government and the Assembly an annual report analyzing public procurement activities in Kosovo occurring in the respective calendar year and setting for any recommendations for the improvement of public procurement system and/or the Law itself. Section 82.2 (i) stipulates that the PPRC should submit the annual report to the Assembly, which does not necessarily mean to present the report verbally to the Assembly. Nevertheless, Section 82.2 (i) does not prohibit the PPRC to present its annual report verbally to the Assembly.

During the previous legislature, at the 17 November 2006 plenary session, the Chairperson of the Telecommunications Regulatory Agency (TRA), which is also an independent regulatory agency, was allowed by the Assembly to present verbally the TRA's annual report. Moreover, during the 22 March 2007 plenary session, the TRA Chairperson reported on the licensing of the second mobile telephone operator, at the Assembly request. In this case, the Chairperson of the same independent regulatory agency was allowed to report verbally to the Assembly twice.

It is recommendable for the current Assembly, especially the Committee for Mandate, Immunity and Rules of Procedure to regulate explicitly the issue of the reporting of independent agencies during the revision of the Rules of Procedure.

Questions to the Government

- At the 26 February plenary session, two out of four questions received responses, so two remaining questions were postponed for the next plenary session. At the 14 March plenary session, seven out of eight questions received responses. Two questions that had not received responses at the previous session were repeated at the 14 March session, of which only one received a response. The President of the Assembly stated that the question, which did not receive response in two sessions would be published in the Assembly bulletin. At the 28 March plenary session, two out of five questions received responses. The President of the Assembly stated that questions which did not receive response would be repeated at the next plenary session. Ms. Gjylnaze Sylja (AAK) raised an objection that her question was not included in the agenda of 28 March plenary session, arguing that she had submitted it 48 hours before the session in accordance with Rule 26.2. The President of the Assembly countered that Ms. Sylja's question did not meet the requirement of 48 hours as it was submitted at 13hrs on 26 March. He added that Ms. Sylja's question would therefore be included in the agenda of next plenary session.

Question periods at the two above-referenced plenary sessions were carried out by the Assembly in compliance with the Rule 26 on "Questions to the Government for oral answers", which provides that the agenda of each session shall include a period up to 50 minutes for Members' questions to the Government, with one minute for the question, three minutes for the Minister's answer, one minute for a follow-up question, and two minutes for the response to the follow-up question.

According to Rule 26.2, a question to the Government for oral answer must be submitted in writing to the Table Office no less than 48 hours prior to the session. Ms. Sylja's question was submitted 45 hours prior to the 28 March plenary session. The decision not to include Ms. Sylja's question in the 28 March plenary session agenda was not in violation of Rule 26.2.

Under Rule 26.11, "[i]f a question has not been answered within two plenary sessions, the question will be published in the Bulletin of the Assembly." The first bulletin of this Assembly term was published on 18 March 2008 but does not contain the question, which did not receive a response by the Government for the second time at the 14 March session. It is required that the Assembly publishes in its bulletin questions of Members that had not received responses within

the timeframe set forth in Rule 26.11, which could contribute to raising the accountability of the Government in relation to the Assembly.

4. Equal Access and Participation of Communities

- At the 27 February plenary session, during the first reading of the Draft Law on Declaration of the Origin of the Property of Public Senior Officials, Mr. Džezair Murati (Vakat/7+) raised an objection that there was no interpretation into Serbian/Croatian/Bosnian language adding that “some Members are not able to follow the discussion” on the draft law in question. The President of the Assembly did not comment on the remark made by Mr. Murati.

According to the Rule 54 on the use of languages in the Assembly, meetings of the Assembly and of its committees must be conducted in Albanian and Serbian languages with interpretation being provided as needed. The President of the Assembly or any Member of the Presidency chairing the session must ensure that interpretation in both official languages is constantly provided during the Assembly plenary proceedings.

5. Access

During the reporting period, Pillar III (OSCE) received access to the plenary sessions, Presidency meetings and committee meetings under review. Pillar III (OSCE) also received copies of documents considered by the Assembly and transcripts of plenary sessions.

6. Transparency

As announced by the President of the Assembly, at the 15 February plenary session, copies of the records of electronic votes began to be distributed to all Members of the Assembly from 17 February extraordinary session. However, the President of the Assembly had announced that the records of electronic votes would be likewise published on the Assembly website, which did not yet happen. In order to enhance the transparency of the Assembly, particularly Members’ accountability to their constituencies, the Assembly should make the records of electronic votes available to the public through its website, as announced by the President of the Assembly.

Radio Television Kosovo provided live television coverage of the plenary sessions under review. Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly has a website (www.kuvendikosoves.org, www.skupstinakosova.org, www.assembly-kosova.org) containing biographical details of Members of the Assembly, information about the structure and functioning of the Assembly, minutes and transcripts of Assembly sessions and Committee meetings, copies of laws and resolutions adopted by the Assembly, along with other information.

ENDS.