



Monitoring Reports

Compilation

1 December 2007 - 31 December 2008

Assessment of the work of the Assembly of Kosovo



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Executive summary

The OSCE Mission in Kosovo (*Organisation for Security and Co-operation in Europe*) began monitoring the Assembly of Kosovo in December 2002 at the request of the Special Representative of the Secretary-General of the United Nations Mission in Kosovo (UNMIK). The objective of monitoring the Assembly is to observe and report upon the proceedings and deliberations of the Assembly to monitor and help ensure compliance with the rules of procedure of the Assembly and with democratic principles and standards concerning, *inter alia*, equal access to and participation in Assembly proceedings by all members of the Assembly, the legislative process, the voting process, parliamentary oversight of the executive and ease of access by the public to information on the Assembly's deliberations.

In the period from 1 December 2007 to 31 December 2008, the OSCE Mission in Kosovo produced six analytical monitoring reports focusing on the above topics, which are included in this compilation. During the review period, the OSCE Assembly monitors have monitored forty-three plenary sessions, thirty-five presidency meetings, one hundred and seventy-eight committee meetings and four public hearings.

During the review period, the OSCE Assembly monitors noted an overall positive trend in Assembly proceedings, but also observed some challenges and deficiencies in the legislative process, parliamentary oversight of the executive and accountability to the public, as described below.

Following the November 2007 parliamentary elections and at the beginning of its third mandate, the Assembly Committee for Mandate, Immunity and Rules of Procedure started to review the rules of procedure, as is required by the current rules of procedure. As part of this review, the committee conducted a seminar in Ohrid, Former Yugoslave Republic of Macedonia in July, facilitated by OSCE, which provided an opportunity to prepare an initial draft of revised rules of procedure. Based upon the findings and observations of its monitoring team during the second mandate of the Assembly, the OSCE provided a number of procedural suggestions and inputs for revision of the rules of procedure. In November, the committee finalised the draft of the rules of procedure, which was endorsed in principle by the Assembly at the 12 December 2008 plenary session. After the endorsement of the draft, each parliamentary group and individual members of the Assembly had the right to make suggestions, and the draft rules of procedure are expected soon to be adopted by the Assembly.

During the 15 February 2008 plenary session, the Assembly adopted a procedural motion departing from the rules of procedure in order to review and approve the laws envisaged in the UN Special Envoy's "Comprehensive Proposal for Kosovo Status Settlement" (hereinafter, Comprehensive Proposal). During the reporting period, the Assembly approved forty laws related to the Comprehensive Proposal. According to the procedural motion, the laws shall be reviewed and approved within two days after their submission to the Assembly and financial statements of laws shall be submitted by the government to the Assembly within 60 days and no later than 180 days after the approval of laws. Nevertheless, during the reporting period, it appeared that the government had not submitted financial statements for a considerable number of laws related to the Comprehensive Proposal, which were nonetheless approved by the Assembly during the 180 day period, allowed by the procedural motion.

The legislative process improved noticeably, but the committees had difficulties in scrutinizing draft legislation in a timely manner. According to the rules of procedure, when a committee has been designated to scrutinize a draft law, it shall report its recommendations to the Assembly *no later* than two months after the first reading, unless an extension is approved by the Assembly. The OSCE Assembly monitoring reports noted that the Assembly committees routinely submitted recommendations to draft legislation well after the deadline referred to above, without asking the Assembly to extend the deadline. Therefore, during the revision of the rules of procedure described above, the OSCE recommended to the Committee for Mandate, Immunities and Rules of Procedure to extend the deadline for the scrutiny of draft legislation in order to give more time to committees to scrutinize draft legislation in a qualitative manner.

With regard to the oversight of the executive, four interpellation motions have been submitted to the government and debated in plenary sessions during the review period. Additionally, members of the Assembly have submitted 326 questions for oral answers to the government, to which 204 received answers. Despite some positive developments, the Assembly had difficulties in managing the question

periods in an efficient way and securing the full response of the government. The members of the Assembly submitted a large number of questions, which resulted in many questions being postponed from one session to another, because the time for the question period expired before all questions could be addressed. In addition, the absence of ministers resulted in many questions being postponed. In its monitoring reports, the OSCE recommended that the Assembly should either extend the question period or limit the number of questions per member in order to give the opportunity to all members who submit questions to put them forward and receive a response. Additionally, the OSCE advised that the Assembly should make more efforts and use its authority to ensure the government's presence at plenary sessions, which is an important aspect of parliamentary oversight.

At the 15 February 2008 plenary session, the president of the Assembly announced that the Assembly would publish on its website the records of electronic votes of plenary session decisions starting from the 17 February 2008 session. Following the president's announcement, the Assembly published on its website the records of electronic votes of several plenary sessions until the 2 June 2008 plenary session, but failed to do so after this date. The OSCE has continued to strongly recommend that the Assembly publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, especially members' accountability to their constituents.

At the 4 December 2008 plenary session, the Assembly decided to end the mandate of Mr. Sabit Rrahmani (PDAK), representing the Ashkali community, as a member of the Assembly. On 13 September 2008, Mr. Rrahmani reached the limit of six months of abstention from Assembly proceedings. According to the rules of procedure, if a member of the Assembly throughout a period of six months attends none of the sessions of the Assembly or of a committee, of which he/she is a member, and cannot show good cause to the satisfaction of the president of the Assembly, the president shall propose to the Assembly that the member concerned cease to be a member. The rules likewise require the opinion of the Committee on Mandate, Immunity and Rules of Procedure on such a matter. Therefore, based on the rules of procedure, the president of the Assembly recommended that Mr. Rrahmani's mandate be ended, which was supported by the Committee on Mandate, Immunity and Rules of Procedure. This was the first time that the Assembly of Kosovo decided to end the mandate of one of its members.

Through this compilation of analytical monitoring reports, the OSCE endeavours to offer recommendations to members of the Assembly, which may assist in the efficient functioning of the Assembly and enhancement of democratic parliamentary practice.



Pillar III (OSCE)

Report 01/2008

On the Monitoring of the Assembly of Kosovo

1 December 2007 – 15 February 2008

Highlights

- Third Assembly of Kosovo holds its inaugural plenary session
- President of Kosovo, Prime Minister and Government elected
- President of the Assembly and Presidency members elected
- Assembly endorsed an initiative to amend the Constitutional Framework
- Assembly decides to depart from the Rules of Procedure in order to approve the laws related to the "Comprehensive Proposal on Kosovo Status Settlement"
- Assembly approves the Kosovo Consolidated Budget for 2008
- Assembly establishes thirteen standing committees

1. Background

This fifty-fifth 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.¹

Pillar III (OSCE) monitored the Assembly's inaugural plenary session on 4/9 January 2008 and two regular plenary sessions, on 31 January and 15 February as well as four Presidency meetings, on 15 January, 21 January, 28 January and 13 February.

2. Overview

The 4/9 January inaugural plenary session of the Assembly of Kosovo was initially chaired by Mr. Mark Krasniqi (Albanian Christian Democratic Party/PShDK), the oldest Member of the Assembly and co-chaired by Ms. Njomza Emini (Alliance New Kosovo/AKR), the youngest Member of the Assembly.

- One hundred and twenty and one hundred and nineteen Members of the Assembly were present, respectively, at the 4 and 9 January inaugural plenary session.²
- Main agenda items of the 4/9 January 2008 inaugural plenary session:
 - Establishment of the Committee on Mandates and Immunities (See below the section entitled "The Committee on Mandates and Immunities".)
 - Oath of Members of the Assembly
 - Endorsement of the Assembly Presidency and President of the Assembly (The nomination of the President of the Assembly and five Members of the Presidency was endorsed with 88 votes in favour, one vote in opposition and no abstentions. See the first item under the heading "Voting Process".)
 - Election of the President of Kosovo (Mr. Fatmir Sejdiu was re-elected President of Kosovo in the third round with 68 votes in favour. See the second item under the heading "Voting Process".)
 - Election of the Prime Minister, Ministers and Deputy Ministers (Mr. Hashim Thaçi was elected Prime Minister together with his cabinet with 85 votes in favour, 22 votes in opposition, and four abstentions.)

1 Note that the complete list of political party names and their recognized abbreviations referred to in the report are attached to the report.

2 The figures given are the ones announced by the President of the Assembly or Chairperson at the beginning of each day.

The 31 January plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (Democratic Party of Kosovo/PDK) and co-chaired by Member of the Presidency Mr. Ibrahim Gashi (AKR).

- One hundred and eight Members of the Assembly were present at the 31 January plenary session.
- Main agenda items of the 31 January 2008 plenary session:
 - Review of the proposal on the number of Committees and their members (The proposal was approved with 86 votes in favor and no votes in opposition.)
 - Appointment of Chairpersons, Vice-chairpersons and members of Assembly Committees (The appointments were endorsed with 83 votes in favor and two votes in opposition.)
 - Appointment of two members of the Presidency from non-majority communities (The appointments were endorsed with 89 votes in favor and four votes in opposition. See below the section entitled “Equal access and participation of communities”).
 - Review of the request made by the Alliance for the Future of Kosovo (AAK) to amend the Constitutional Framework (The request was approved with 89 votes in favor and one vote in opposition.)

The 15 February plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Xhavit Haliti (PDK).

- One hundred and eight Members of the Assembly were present at the 15 February plenary session.
- Main agenda items of the 15 February 2008 plenary session:
 - Notification regarding the publication of records of the electronic voting
 - Review of a motion made by five parliamentary groups to depart from the Rules of Procedure with regard to the review and approval of the laws envisaged in the UN Special Envoy’s “Comprehensive Proposal for Kosovo status settlement” (The motion was approved with 80 votes in favor, six votes in opposition and four abstentions. See below the first paragraph under “Procedural motions.”)
 - Review of a motion to depart from the Rules of Procedure with regard to the review and approval the Draft Law on Kosovo Consolidated Budget for 2008 (The motion was approved with 86 votes in favor, ten votes in opposition and two abstentions. See below the second paragraph under “Procedural motions.”)

- First and Second Readings of the Draft Law on Kosovo Consolidated Budget for 2008
(The draft law was endorsed in principle with 75 votes in favor and 12 votes in opposition, and it was approved with 73 votes in favor and 13 votes in opposition.)
- Appointment of Naim Maloku (AAK) as member of the Presidency
(The appointment was endorsed with majority of votes in favor and no votes in opposition.)
- Appointment of Deputy Ministers
(The Assembly endorsed the appointment of deputy ministers with 81 votes in favor, 16 votes in opposition and three abstentions.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Committee on Mandates and Immunities

- At the beginning of the 4 January inaugural session, the Chairperson Mr. Mark Krasniqi (PShDK) stated that as part of regular procedure the Assembly should establish the Committee on Mandates and Immunities to verify the documentation related to the 17 November 2007 elections, including recommendations made by the Central Election Commission and documents on the certification of election results by the SRSB. He then called on political entities represented in the Assembly to nominate one member each to serve on the *ad hoc* Committee on Mandates and Immunities. After each political entity had nominated its member, the Chairperson called the Assembly to vote on the entire Committee composition, which was endorsed with majority of votes in favor and no votes in opposition. Later, Mr. Arsim Bajrami (PDK), the Chairperson of the Committee on Mandates and Immunities, presented the Committee report which confirmed the results certified by the SRSB. Subsequently, the Chairperson called for a vote on Committee report, which was approved with majority of votes in favor and no votes in opposition. *According to Rule 3.3, the Chairperson shall, at the inaugural session, request from political entities represented in the Assembly to nominate one member each to the Committee on Mandates and Immunities, which verifies the mandates of Members of the Assembly. Therefore, the establishment of the Committee on Mandates and Immunities was in compliance with the Rules of Procedure.*

Voting Process

- At the beginning of the session on 9 January, the Chairperson called on each of the political entities or communities entitled to a Presidency seat under the Constitutional Framework to nominate its representative(s) on the Presidency. Mr. Ramë Buja (Democratic Party of Kosovo/PDK) proposed Mr. Jakup Krasniqi and Mr. Xhavit Haliti, adding that Mr. Krasniqi was the candidate for President of the Assembly. Ms. Nekibe Kelmendi (Democratic League of Kosovo/LDK) named Mr. Eqrem Kryeziu and Mr. Sabri Hamiti,

while Mr. Ibrahim Makolli (Alliance New Kosovo/AKR) nominated Mr. Ibrahim Gashi, and Mr. Lulzim Zeneli (Democratic League of Dardania/LDD) nominated Mr. Nexhat Daci. Mr. Slaviša Petković (Serb Democratic Party for Kosovo and Metohija/SDSKiM) stated that ten Kosovo Serb Members of the Assembly had not yet reached an agreement and so their representative on the Presidency would be named at a later date. However, Mr. Bojan Stojanović (Independent Liberal Party/SLS) stated that his parliamentary group³ wished to nominate Mr. Slobodan Petrović (SLS) for the Member of the Presidency. Mr. Mahir Yağcılar (Parliamentary Group “7+”)⁴ stated that his parliamentary group nominated Mr. Džezair Murati (Vakat) to serve first on the Presidency representing non-Kosovo Albanian and non-Kosovo Serb communities according to a rotation plan. Mr. Yağcılar did not give any further details of the rotation plan. Mr. Sabit Rrahmani (Democratic Ashkali Party of Kosovo/PDAK) objected to Mr. Yağcılar’s proposal arguing that his party should be likewise represented in the Presidency because it has three seats in the Assembly like Vakati and Turkish Democratic Party of Kosovo (KDTP). He requested that Ashkali community should be part of the rotation plan. Mr. Numan Balić (Democratic Action Party/SDA) also objected to Mr. Yağcılar’s proposal and argued that his party with two seats in the Assembly should be part of the rotation plan as well. The Chairperson stated that two members of the Presidency from non-majority communities would be elected at one of the next sessions when they reach an agreement. He then proceeded calling on the Assembly to vote on the six nominations *en bloc*, which were endorsed with 88 Members voting in favor and one in opposition.

According to Section 9.1.7 of the Constitutional Framework and Rules 4.1-2 of the Assembly Rules of Procedure, the Presidency consists of eight members of whom (a) two members shall be appointed by the party or coalition having obtained the highest number of votes in the Assembly elections; (b) two members shall be appointed by the party or coalition having obtained the second highest number of votes; (c) one member shall be appointed by the party or coalition having obtained the third highest number of votes; and (d) one member shall be appointed by the party or coalition having obtained the fourth highest number of votes. Furthermore, Section 9.1.8 of the Constitutional Framework and Rule 4.3 provide that the Assembly shall endorse the appointment of members of the Presidency by a formal vote. Thus, the voting procedure on six above-referred nominations for the Presidency was in compliance with Sections 9.1.7 and 9.1.8 of the Constitutional Framework and Rules 4.1 – 4.3. See below the section entitled “Equal access and participation of communities” for details on the appointment of two members of the Presidency from non-majority communities.

3 Mr. Bojan Stojanović announced that five out of ten Kosovo Serb and one Gorani Members of the Assembly had formed a parliamentary group under the SLS name and that he would be the leader of the group.

4 The parliamentary group “7+” consists of seven Members of the Assembly – three Bosniaks (Vakati), three Turks (KDTP) and one Roma (United Roma Party of Kosovo/PREBK).

- After being endorsed as President of the Assembly, Mr. Jakup Krasniqi (PDK) chaired the remainder of the session. The President of the Assembly announced that the President of Kosovo Fatmir Sejdiu had resigned and that his resignation was accepted by the SRSG, and he called on PDK and LDK, as the governing coalition partners, to nominate their candidate for the post of the President of Kosovo. On behalf of PDK and LDK, Mr. Eqrem Kryeziu nominated again Mr. Fatmir Sejdiu for President of Kosovo. On behalf of the opposition parties, Mr. Ahmet Isufi (AAK) nominated Mr. Naim Maloku (AAK) as a presidential candidate, adding that he had the support of more than 25 Members of the Assembly. The President of the Assembly announced that the voting procedure would be in full conformity with the Constitutional Framework: voting would be carried out by secret ballot and a two-thirds majority would be required in the first two rounds of voting. The President of the Assembly started the election procedure, calling on one observer from each parliamentary group to witness the placement of ballots in the ballot box and the counting of votes. In the first round, Mr. Sejdiu received 62 votes and Mr. Maloku received 37 votes, while 16 ballots were declared as invalid, out of total 115 ballots cast. Since neither candidate received the necessary 80 votes, the procedure was repeated. In the second round, Mr. Sejdiu received 61 votes and Mr. Maloku 37, while 17 ballots were declared as invalid, out of total 115 ballots cast. In the third round of voting, Mr. Sejdiu was re-elected President of Kosovo with 68 votes in favor, while Mr. Maloku received 39 votes in favor and 11 ballots were declared as invalid, out of total 118 ballots cast.

The procedure used to elect the President of Kosovo was in compliance with Section 9.2.8 of the Constitutional Framework and Rule 16, which require that the President of Kosovo shall be elected by secret ballot and that election in either of the first two rounds of voting requires the candidate to receive the votes of a two-thirds majority of the members of the Assembly and a majority of the votes of all Members of the Assembly in subsequent round. The opposition's nomination of a candidate was likewise allowed by Section 9.2.8, which provides that "[a] nomination for the post of President of Kosovo shall require the support of the party having the largest number of seats in the Assembly or of at least 25 members (emphasis added)."

The appointment of observers from each parliamentary group was not required by the Constitutional Framework or the Rules of Procedure but it was a welcome action that served to make the voting process more transparent.

- After Mr. Sejdiu was re-elected President of Kosovo and gave an acceptance speech, he formally nominated Mr. Hashim Thaçi (PDK) as Prime Minister of Kosovo. Mr. Thaçi presented a list of proposed Deputy Prime Ministers, Ministers and Deputy Ministers to the Assembly, noting that some Deputy Ministers from non-majority communities would be nominated later after some more consultations. The Assembly elected Mr. Thaçi together with proposed Deputy Prime Ministers, Ministers and Deputy Ministers with 85 votes in favor, 22 votes in opposition, and four abstentions. At the 15 February plenary session, the Assembly endorsed the nominations of

three additional deputy ministers belonging to non-majority communities. The Deputy Minister for Education, Science and Technology and Deputy Minister for Local Government Administration were nominated by Vakaf (Bosniak community), while the Deputy Minister for Internal Affairs was nominated by SLS (Kosovo Serb community). All three nominations were endorsed *en bloc* with 81 votes in favor, 16 votes in opposition and three abstentions.

Pursuant to Section 9.3.8 of the Constitutional Framework, following Assembly elections, the President of Kosovo shall, after consultations with the parties, coalitions or groups represented in the Assembly, propose to the Assembly a candidate for Prime Minister. The Prime Minister shall be elected together with the Ministers by a majority of Members of the Assembly, which means by the support of at least 61 Members of the Assembly. Additionally, according to Section 2.1 of the Regulation 2004/50, On the Establishment of New Ministries and Introduction of Posts of Deputy Prime Minister and Deputy Ministers in the Executive Branch, the Deputy Prime Ministers and Deputy Ministers shall be appointed by the Prime Minister upon endorsement of the candidates concerned by the Assembly. The voting procedure on the election of the Government and subsequent deputy ministers was in compliance with the Constitutional Framework and Regulation 2004/50.

Amendment to the Constitutional Framework

- On 8 January, AAK Deputy President and Member of the Assembly Ahmet Isufi submitted a letter to the Presidency in which he requested the initiation of the procedure to amend Section 9.1.7 of the Constitutional Framework in order to allow AAK's representation in the Presidency. In the same letter, AAK proposed Mr. Naim Maloku to serve on the Presidency. At its 28 January meeting, the Presidency agreed with the request and decided to include it in the agenda of the 31 January plenary session for consideration. At the 31 January plenary session, when the Assembly discussed the AAK's request, leaders of each parliamentary group supported the request. Mr. Sabri Hamiti (LDK) however stressed that there was no urgency to amend the Constitutional Framework or expand the Presidency with one additional member. After the debate was over, the President of the Assembly called for a vote on the request to amend Section 9.1.7 of the Constitutional Framework, which was approved with 89 votes in favor, one vote in opposition and four abstentions. The request was forwarded to the SRSG who has the authority to amend the Constitutional Framework. Following the Assembly request, on 8 February, the SRSG amended Section 9.1.7 of the Constitutional Framework adding a new subparagraph (e) after the existing subparagraph (d), which provides that "one member of the Presidency shall be appointed by the party or coalition having obtained the fifth highest number of votes in the Assembly elections." At the 15 February plenary session, the Assembly formally endorsed the nomination of Mr. Naim Maloku (AAK) as member of the Presidency with majority of votes in favor and no votes in opposition, out of 108 Members present at the session.

According to Section 14.3 of the Constitutional Framework, the SRSG, on his own initiative or upon a request supported by two thirds of all members of

the Assembly, which means at least 80 votes, may amend the Constitutional Framework. Thus, the procedure to amend Section 9.1.7 of the Constitutional Framework and subsequent appointment of Mr. Maloku as member of the Presidency were carried out in compliance with the Constitutional Framework, respectively its amended version.

Procedural motions

- At the beginning of the 15 February plenary session, the President of the Assembly stated that six parliamentary groups proposed a procedural motion to depart from the Rules of Procedure in order to review and approve in short procedure the laws envisaged in the UN Special Envoy's "Comprehensive Proposal for Kosovo Status Settlement" (hereinafter, Ahtisaari's proposal). According to the proposed procedural motion:
 - (1) the first reading of draft laws shall be carried out within 24 hours after their submission to the Assembly. Such draft laws should be reviewed by an *ad hoc* Committee within 24 hours. Without prejudging the contribution of the main committees, the *ad hoc* Committee shall exercise the duties of a functional committee. The second reading of draft laws shall be carried out no longer than two days after their submission to the Assembly.
 - (2) the *ad hoc* Committee shall consist of nine members with equal representation of all communities in the Assembly. Its composition shall reflect the representation in the Assembly Presidency.
 - (3) substantial changes to draft laws shall be made only if two-thirds of committee members deem it to be necessary. The draft laws shall be approved by the Assembly with the support of the majority of Members of the Assembly. The laws shall become effective after the Constitution becomes effective and shall be signed by the President of Kosovo.
 - (4) each parliamentary group shall be allowed five minutes to comment on the laws during their second reading.
 - (5) financial statements of laws shall be submitted to the Assembly within 60 days and no later than 180 days after the approval of laws."

Mr. Bojan Stojanović, the leader of SLS parliamentary group, stated that his group did not object to the motion but wished to abstain since it was not present in the previous Assembly, when Ahtisaari's proposal had been approved. Six parliamentary groups nominated its members to the *ad hoc* Committee, while SLS parliamentary group leader stated that his group had not yet decided and would do so later.⁵ Some Members of the Assembly objected to the proposed procedure considering it very hasty and not compliant with parliamentary practice. Nevertheless, the Assembly approved the procedural motion to depart from the Rules of Procedure with 80 votes in favor, six votes in opposition and four abstentions.

Pursuant to Rule 61, "[d]epartures from the provisions of the Rules of Procedure may be decided upon the decision of two-thirds of the Members of the Assembly present." Thus, the Assembly has the right to depart temporarily

⁵ The *ad hoc* Committee consist of nine members in which PDK and LDK parliamentary groups have two members each, while AKR, AAK, LDD, 7+ and SLS have one members each.

from its Rules of Procedure. The procedural motion above, except point (5) related to the submission of financial statements, was in compliance with Rule 61. Section 9.1.11 of the Constitutional Framework states that “[t]he Budget Committee shall be responsible for ensuring that all proposed laws having budgetary implications are accompanied by a financial impact statement (emphasis added).” This provision does not leave room for the determination to submit financial statements of draft laws in 60 to 180 days after a law has been approved by the Assembly. While the Assembly has the right to depart from its Rules of Procedure, it does not have the right to depart from provisions of the Constitutional Framework. Therefore, each draft law submitted to the Assembly must have its financial impact statement.

- Later during the 15 February plenary session, the President of the Assembly presented another procedural motion to depart from the Rules of Procedure in order to carry out the first and second readings of the Draft Law on Kosovo Consolidated Budget for 2008 at the session in question. PDK, LDK, LDD, AKR, 7+ and SLS parliamentary groups supported the motion, while AAK objected to it and sought more time to review the draft law on Kosovo Consolidated Budget. Nevertheless, the President of the Assembly called for a vote on the procedural motion, which was approved with 86 votes in favor, 10 votes against and 2 abstentions. After the approval of the motion, the Assembly held the first reading of the draft law and endorsed it with 75 votes in favor and 12 votes in opposition. After a short break, the Assembly carried out the second reading of the draft law on Kosovo Consolidated Budget. Mr. Gani Koci (PDK), the chairperson of the Budget Committee, presented the committee recommendations to the draft law. Most of the parliamentary groups supported the Budget Committee recommendations, but AAK and LDD parliamentary groups objected to the recommendations and stated that they would vote against the draft law. Then, the President of the Assembly called for a vote on the draft law on Kosovo Consolidated Budget for 2008, which was approved with 73 votes in favor and 13 votes in opposition. *The procedural motion on the approval of Kosovo Consolidated Budget for 2008 was in compliance with Rule 61.*

Committees

- At its meeting of 15 January, the Presidency discussed a proposal to increase the number of Assembly committees from ten to 13 of which eleven standing committees would have eleven member each, except the Budget Committee and Committee on Rights and Interests of Communities, whose composition is defined by the Constitutional Framework.⁶ According to the proposal in question, PDK and LDK parliamentary groups would chair three committees each, AKR and AAK parliamentary groups would chair two committees each,

⁶ According to Sections 9.1.11 and 9.1.12 of the Constitutional Framework, the Budget Committee shall be composed of twelve members, while the Committee on the Rights and Interests of Communities shall be composed of two members from each of Kosovo’s communities elected to the Assembly.

while LDD, 7+ and SLS parliamentary groups would chair one committee each.⁷ Mr. Nexhat Daci (LDD) objected to the proposal to allocate two committee chairmanship posts to AAK and one to LDD arguing that LDD won one more seat in the Assembly elections than AAK.⁸ Mr. Xhavit Haliti (PDK) stated that committee chairmanship posts are proportionally allocated to parliamentary groups, not to political entities. He stressed that parliamentary groups may be coalitions formed in the Assembly after elections adding that since AAK parliamentary group had two more members than LDD, it had the right to chair one more committee than LDD. The President of the Assembly argued that coalitions among parties may be formed before elections according to the Constitutional Framework, not after elections. Mr. Daut Beqiri, Head of the Department for Legal and Procedural Support, explained that committee chairmanship posts are allocated to parliamentary groups in proportion to the number of seats they have in the Assembly, not according to the number of seats won by parties in the elections. Mr. Eqrem Kryeziu (LDK) proposed that the Presidency should consult with the international community on this matter. So, the President of the Assembly and other members agreed to seek a legal interpretation of the matter by UNMIK's Office of The Legal Advisor. In his letter, the Legal Advisor confirmed that committee chairmanship posts are allocated to parliamentary groups in proportion to the number of seats they have in the Assembly according to Constitutional Framework. At its 21 January meeting, based on the legal interpretation provided by UNMIK's Legal Advisor, the Presidency approved the above-referred proposal on the allocation of committee chairmanship posts and included it in the agenda of the 31 January session for approval.

At the 31 January plenary session, the Assembly approved the proposal on the number of committees and their members with 86 votes in favor and no votes in opposition. As to the proposal on the appointment of committee chairpersons, vice-chairpersons and members, Mr. Slaviša Petković complained that his party was not consulted regarding the allocation of committee membership to Kosovo Serb entities. Thus, the President of the Assembly postponed the vote on the composition of the Committee on Rights and Interests of Communities in order to allow more time for consultations among Kosovo Serb entities in the Assembly. The President of the Assembly called for a vote *en bloc* on the compositions of twelve other committees, which were approved with 83 votes in favor and two

7 PDK parliamentary group will chair the Committee on Budget and Finance; Committee on Legislation and Judiciary; and Committee on Internal Affairs and Security; LDK parliamentary group will chair the Committee on Education, Science, Technology, Culture, Youth, and Sports, Committee on Human Rights, Gender Equality, Missing Persons and Public Petitions, and Committee on Foreign Affairs; AKR parliamentary group will chair the Committee on Economy, Trade, Industry, Energy, Transport, and Telecommunications and Committee on Public Services, Local Administration, and Media; AAK parliamentary group will chair the Committee on European Integration and Committee on Mandates, Immunities and Rules of Procedure; LDD parliamentary group will chair the Committee on Agriculture, Forestry, Rural Development, Environment, and Spatial Planning; 7 + parliamentary group will chair the Committee on Health, Labor, and Social Welfare; and SLS parliamentary group will chair the Committee on Rights and Interests of Communities and Returns.

8 On 9 January, AAK (10 seats), SDA (2 seats) and IRDK (1 seat) established a joint parliamentary group under the name of AAK, which counts 13 members. LDD parliamentary group counts 11 members.

votes in opposition. The composition of the Committee on Rights and Interests of Communities was approved at the following session held on 15 February with majority of votes in favor and no votes in opposition.

Rules 11.1-11.3 provide that “[t]he parliamentary group is a political formation that consists of no less than six Members of the Assembly on account of a common political aim. The name of the leader and members of the parliamentary group shall be communicated to the President and Presidency of the Assembly in writing.” A parliamentary group may be a coalition formed in the Assembly between two or more political entities. Therefore, the formation of a joint parliamentary group between AAK, SDA and IRDK was in compliance with the Rules of Procedure as was the formation of 7+ and SLS parliamentary groups. AAK, SDA and IRDK likewise communicated their decision to the President and Presidency in writing, as required by the rules above. As to the distribution of committee chairmanship posts, the Rule 42.4 stipulates that “[i]n reaching the agreement for the distribution of posts of committee chairpersons among the parliamentary groups, the Presidency shall consider the proportion of the power of parliamentary groups (emphasis added).” It is clear that committee chairmanship posts are allocated to parliamentary groups proportionally to the number of seats they have in the Assembly. Thus, the allocation to the AAK parliamentary group of two committee chairmanship posts versus one to LDD parliamentary group was in compliance with the Rules of Procedure.

4. Equal Access and Participation of Communities

- On 15 January, eight out of ten Kosovo Serb Members⁹ of the Assembly submitted to the Presidency a letter in which they all agreed to nominate Mr. Slobodan Petrović (SLS) to serve on the Presidency representing Kosovo Serb entities in the Assembly. At its 28 January meeting, the Presidency decided to include Mr. Petrović’s nomination in the agenda of the 31 January plenary session for formal endorsement by the Assembly. At the meeting held on 29 January, members of parliamentary group “7+” and Mr. Xhevdet Neziri (IRDK/Egyptian) with the mediation of Member of the Presidency Xhavit Haliti (PDK) and the Assembly Secretary Ismet Krasniqi reached an agreement according to which non-Kosovo Albanian and non-Kosovo Serb entities in the Assembly would be represented in the Presidency based on a rotation plan, as follows:
 - the first year of term (12 months) – coalition Vakati (Bosniaks);
 - the second year of term (12 months) - KDTP (Turks);
 - the third and fourth years of term - six months each: PDAK (Ashkalis), SDA (Bosniaks), IRDK (Egyptian) and PReBK (Roma).According to the rotation scheme, Mr. Džezair Murati (Vakati) would serve on the Presidency during the first year. At the beginning of the 31 January plenary session, the President of the

⁹ Only Mr. Slaviša Petković (SDSKiM) and Vladimir Todorović (SDSKiM) did not support the nomination of Mr. Slobodan Petrović as member of the Presidency.

Assembly announced that non-Kosovo Albanian and non-Kosovo Serb entities in the Assembly had reached an agreement on their representation in the Presidency and that the appointment of their member would be added to the agenda of that day's session. Mr. Numan Balić (SDA) objected to the agreement arguing that nobody had consulted the representatives of SDA, PDAK and GIG, which altogether have six seats in the Assembly, and he asked for the matter to be postponed. Mr. Slaviša Petković also objected to the nomination of Mr. Petrović as member of the Presidency. The President of the Assembly nevertheless proceeded calling for a vote on the proposal to include the matter in the agenda, which was approved with 82 votes in favor, eight votes in opposition and nine abstentions. Later during the session, the President of the Assembly called for an *en bloc* vote on the formal endorsement of Mr. Petrović's and Mr. Murati's nominations as members of the Presidency. The nominations were endorsed with 89 votes in favor, four votes in opposition and no abstentions.

Section 9.1.7 (e)¹⁰ of the Constitutional Framework provides that one member of the Presidency "shall be appointed from among the members of the Assembly belonging to parties having declared themselves representative of Kosovo Serb community". The proposal to nominate Mr. Petrović as member of the Presidency was agreed upon and signed by eight out of ten Members of the Assembly belonging to Kosovo Serb community. Mr. Petrović's nomination is considered valid as it received the support of the vast majority of Kosovo Serb Members. Section 9.1.7 (f) of the Constitutional Framework provides that one member of the Presidency "shall be appointed from among the members of the Assembly belonging to parties having declared themselves representative of a non-Kosovo Albanian and non-Kosovo Serb Community. The method for appointing this latter member shall be determined by members of the Assembly belonging to these same Communities." The rotation plan was agreed upon and signed by eight¹¹ out of fourteen Members of the Assembly belonging to non-Kosovo Albanian and non-Kosovo Serb Communities. Nevertheless, four other Members (three PDAK and one GIG) did not object to the agreement presented at the 31 January plenary session. In this sense, a majority of the Members agreed upon a method for appointing their representative in the Presidency, and decisions may be made by the majority of Members involved, unless otherwise specified.

5. Access

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

¹⁰ Note that after the amendment to Section 9.1.7 of the Constitutional Framework made by the SRSB upon the Assembly request, subparagraphs (e) and (f) referred to in the commentary above have been, respectively, renumbered as (f) and (g).

¹¹ KDTP (three members), Vakati (three members), PReBK (one member) and IRDK (one member).

6. Transparency

At the beginning of the 15 February plenary session, the President of the Assembly announced that the records of electronic votes would be printed and submitted to all Members of the Assembly and published on the Assembly website starting from the session in question.

The Pillar III (OSCE) and National Democratic Institute had recommended to the previous Assembly last year to make public the records of electronic votes, but such a recommendation encountered reluctance among some parliamentary groups. However, the actual readiness to make public the records of electronic votes is a very positive development in enhancing transparency of the Assembly, particularly Members' accountability in relation to their constituencies.

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 meetings, copies of laws and resolutions adopted by the Assembly, along with other information.

ENDS.



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.¹²)

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.)

¹² 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 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.)
- 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 Committee¹³ (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 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.

13 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.

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.



Organization for Security and
Co-operation in Europe
Mission in Kosovo

Pillar III (OSCE)

Report 03/2008

On the Monitoring of the Assembly of Kosovo

1 April 2008 – 14 June 2008

Highlights

- Assembly adopts the constitution and anthem of Kosovo
- President of Kosovo addresses the Assembly
- Assembly debates on the government's program for 2008-2011
- Assembly starts publishing records of electronic votes on its website
- Government fails to attend plenary sessions and answer parliamentary questions
- Approximately 20% of Committee meetings failed due to lack of quorum

1. Background

This fifty-seventh 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 two extraordinary sessions held on 9 April and 11 June and nine regular plenary sessions, on 4 April; on 17 April; on 18 and 21 April; on 29 April; on 16 May; on 20, 21 and 23 May; on 2 June; on 4 and 5 June; and on 12 and 13 June as well as eight Presidency meetings, on 1 April, 8 April, 15 April, 22 April, 29 April, 12 May, 19 May and 10 June. Pillar III (OSCE) monitored 51 out of 70 committee meetings and one public hearing.

2. Overview

The 4 April plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Naim Maloku (AAK).

- Ninety-five Members of the Assembly were present at the 4 April plenary session.
- Main agenda items of the 4 April plenary session:
 - Questions to the government for Oral Answer
 - First reading of the Draft Law on Stamps of the Institutions of Kosovo (The draft law was endorsed in principle with 70 votes in favour and one vote in opposition.)
 - First reading of the Draft Law on Private Security (The draft law was endorsed in principle with 82 votes in favour and no votes in opposition.)
 - Second reading of the Draft Law on Draft Law on Amending the Provisional Criminal Code (The draft law was approved with 69 votes in favour and two votes in opposition.)
 - Second reading on Amending the Law on Farmers Cooperatives (The draft law was approved with 78 votes in favour and no votes in opposition.)

The 9 April extraordinary plenary session was chaired by the President of the Assembly Jakup Krasniqi (PDK).

- One-hundred and seven Members of the Assembly were present at the 9 April extraordinary plenary session.

- Main agenda items of the 9 April extraordinary plenary session:

- Adoption of the constitution of Kosovo
(The constitution was adopted by acclamation. See below the section entitled “Voting Process” for more details.)

The 17 April plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Ninety-seven Members of the Assembly were present at the 17 April plenary session.

- Main agenda items of the 17 April plenary session:

- Questions to the government for Oral Answer
- First reading of the Draft Law on Sponsorship in Culture, Youth and Sports
(The draft law was endorsed in principle with 61 votes in favour and three votes in opposition.)
- First reading of the Draft Law on National Ensemble “Shota” and other ensembles
(The draft law was endorsed in principle with 51 votes in favour, one vote in opposition and ten abstentions.)
- First reading of the Draft Law on Mediation
(The draft law was endorsed in principle with 56 votes in favour and three votes in opposition.)
- Replacement of the SLS member in the Committee for Foreign Affairs

The 18 and 21 April plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Ibrahim Gashi (AKR).

- One-hundred and eight and sixty-four Members of the Assembly were present, respectively, at the 18 and 21 April plenary session.

- Main agenda items of the 18 and 21 April plenary session:

- Address of the President of Kosovo with regard to the general state of affairs in Kosovo
- Government’s statement on its 100 days of work
(The Prime Minister delivered the statement.)
- Debate on the government’s program for 2008-2011
(The Prime Minister presented the program, followed by statements of parliamentary group leaders, a plenary debate and ending statement of Prime Minister.)

The 29 April plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- Eighty-eight Members of the Assembly were present at the 29 April plenary session.

- Main agenda items of the 29 April plenary session:
 - Questions to the government for Oral Answer
 - Second Reading of the Draft Law on Amending the Law 2002/9 on Labour Inspectorate
(The draft law was approved with 60 votes in favour and eight votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law 2003/15 on Social Assistance Scheme
(The draft law was approved with 68 votes in favour and one vote in opposition.)
 - Second Reading of the Draft Law on Accommodation Tax
(The draft law was approved with 69 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Execution of Penal Sanctions
(The draft law was approved with 70 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Final Exam in Primary and Secondary Schools
(The draft law was approved with 69 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Declaration of Origin of Property of Senior Public Officials
(The draft law was approved with 71 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Amending the Provisional Criminal Procedure Code
(The draft law was approved with 62 votes in favour and five votes in opposition.)
 - Replacement of AKR member in the Committee for Education, Science, Technology, Culture, Youth and Sports
(Replacement was endorsed with 56 votes in favour and three votes in opposition.)

The 16 May plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Slobodan Petrović (SLS).

- Eighty-two Members of the Assembly were present at the 16 May plenary session.
- Main agenda items of the 16 May plenary session:
 - Questions to the government for Oral Answer
 - First reading of the Draft Law on Amending the Law on Forests
(The draft law was rejected with ten votes in favour and 41 votes in opposition and was therefore returned to the government for further revision.)

- First reading of the Draft Law on National Qualifications
(The draft law was endorsed in principle with 50 votes in favour and seven votes in opposition.)
- Second reading of the Draft Law on Out-Contentious Procedure
(The draft law was approved with 60 votes in favour and no votes in opposition.)
- Second reading of the Draft Law on Executive Procedure
(The draft law was approved with 48 votes in favour and three votes in opposition.)
- Second reading of the Draft Law on Material Support to Families with Permanently Disabled Children
(The draft law was approved with 64 votes in favour and no votes in opposition.)
- Second reading of the Draft Law on Use of Civil Explosives
(The draft law was approved with 69 votes in favour and no votes in opposition.)
- Review of the Budget Committee recommendation to return the Draft law on Prevention of Money Laundering to the sponsor
(The recommendation was approved with 53 votes in favour and one vote in opposition. See below the second paragraph under “Legislative Process”.)
- Review of the government’s proposal with regard to the appointment of a member to the Central Banking Authority Board
(The appointment was endorsed with 43 votes in favour and seven votes in opposition.)
- Review of PDK, LDK and AKR parliamentary group proposals with regard to the appointment of members to the Anti-Corruption Agency Council
(The appointments were endorsed with 53 votes in favour and one vote in opposition.)

The plenary session held on 20, 21 and 23 May was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Džezair Murati (7+/Vakat).

- Ninety-nine, one-hundred and one and ninety-four Members of the Assembly were present, respectively, at the 20, 21 and 23 May plenary session.
- Main agenda items of the plenary session held on 20, 21 and 23 May:
 - First and Second Readings of the Draft Law on Education in Municipalities
(The draft law was approved with 83 votes in favour and three votes in opposition.)
 - First and Second Readings of the Draft Law on Kosovo Intelligence Agency
(The draft law was approved with 92 votes in favour and six votes in opposition.)
 - First and Second Readings of the Draft Law on Kosovo Privatization Agency

(The draft law was approved with 75 votes in favour and seven votes in opposition.)

- First and Second Readings of the Draft Law on Integrated Control of State Borders

(The draft law was approved with 91 votes in favour and four votes in opposition.)

- First and Second Readings of the Draft Law on Asylum

(The draft law was approved with 87 votes in favour and six votes in opposition.)

- First and Second Readings of the Draft Law on Official Holidays

(The draft law was approved with 46 votes in favour and 32 votes in opposition.¹⁴)

The 2 June plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Sabri Hamiti (LDK).

- Eighty-seven Members of the Assembly were present at the 2 June plenary session.
- Main agenda items of the 2 June plenary session:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Labour Law
(The draft law was endorsed in principle with 49 votes in favour and seven votes in opposition.)
 - First Reading of the Draft Law on Official Statistics
(The draft law was endorsed in principle with 63 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Execution Procedure
(The draft law was approved with 68 votes in favour and no votes in opposition)
 - Review of the 2007 financial report of Kosovo Consolidated Budget
(The report was approved with 46 votes in favour and 13 votes in opposition.)
 - Review of the recommendation of the Committee for Legislation and Judiciary with regard to the appointment of Ombudsperson
(The item was removed from the agenda.)
 - Review of the government's proposal to declare the land alongside the highways Morinë/Morine-Merdarë/Merdare and Prishtinë/Priština-Hani i Elezit/Djeneral Janković as the zone of special public interest
(The government's proposal was approved with 60 votes in favour and one vote in opposition.)

¹⁴ 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 reports 01/2008 and 02/2008 for more details.

- Review of the proposal to issue a declaration against Carla Del Ponte's allegations regarding KLA
(The item was removed from the agenda.)
- Review of the Anti-Corruption Agency 2007 annual report
(The report was debated and approved with 83 votes in favour and one vote in opposition.)

The plenary session held on 4 and 5 June was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Eqrem Kryeziu (LDK).

- Eighty-four Members of the Assembly were present at the 4 and 5 June plenary session.
- Main agenda items of the plenary session held on 4 and 5 June:
 - First and Second Readings of the Draft Law on General Elections
(The draft law was approved with 64 votes in favour and ten votes in opposition.)
 - First and Second Readings of the Draft Law on Municipal Elections
(The draft law was approved with 76 votes in favour and no votes in opposition.)
 - First and Second Readings of the Draft Law on Central Bank
(The draft law was approved with 79 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on the Office of Auditor-General
(The draft law was approved with 81 votes in favour and no votes in opposition.)
 - First and Second Readings of the Draft Law on Railways
(The draft law was approved with 81 votes in favour and no votes in opposition.)

The 11 June extraordinary 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 11 June plenary session.
- Main agenda items of the 2 June plenary session:
 - Endorsement of the state anthem of Kosovo
(The anthem was adopted with 72 votes in favour, 15 votes in opposition and five abstentions.)

The plenary session held on 12 and 13 June was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Eighty-five and seventy-seven Members of the Assembly were present, respectively, at the 12 and 13 June plenary session.
- Main agenda items of the plenary session held on 12 and 13 June:
 - First and Second Readings of the Draft Law on Dissolution of Kosovo Protection Corps
(The draft law was approved with 56 votes in favour and three votes in opposition.)
 - First and Second Readings of the Draft Law on Service in Kosovo Security Force
(The draft law was approved with 71 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2006/50 on Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property
(The draft law was approved with 71 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2005/20 on Kosovo Pensions Trust
(The draft law was approved with 71 votes in favour and three votes in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2005/2 on the Establishment of the Independent Commission for Mines and Minerals
(The draft law was approved with 66 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2004/49 on Activities of Water, Wastewater and Waste Services Providers
(The draft law was approved with 70 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2003/16 on the promulgation of Law on Telecommunication
(The draft law was approved with 37 votes in favour and 34 votes in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2004/9 on Energy Regulator
(The draft law was approved with 60 votes in favour and three votes in opposition.)
 - First and Second Readings of the Draft Law on Amending UNMIK Regulation 2008/13 on the approval of Kosovo Consolidated Budget and Authorised Expenditures for the period 1 January to 31 December 2008
(The draft law was approved with 59 votes in favour and one vote in opposition.)
 - First and Second Readings of the Draft Law on Publicly Owned Enterprises
(The draft law was approved with 58 votes in favour and four votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- At the beginning of the 17 April plenary session, Mr. Berat Luzha (PDK) *verbally* proposed to include in the agenda of that day's session a debate on former ICTY prosecutor Carla Del Ponte's allegations regarding KLA. At the same session, Mr. Fatmir Rexhepi (LDK) *verbally* proposed to include in the agenda a debate on the holding of general and municipal elections of Serbia on the territory of Kosovo. The President of the Assembly responded that Mr. Luzha's and Mr. Rexhepi's proposals could not be included in the agenda of that day's session and instructed them to submit their proposals in writing to the Table Office.

The Rule 23.1-2 provide that "[t]he Presidency shall prepare a draft Agenda for the upcoming Assembly session and make it immediately available to the Members of the Assembly. At the beginning of the session the draft Agenda shall be deemed approved, unless one or more parliamentary groups or six (6) Members of the Assembly propose in writing (emphasis added) to the President an amendment to the agenda, which should be put to a vote." Mr. Luzha and Mr. Rexhepi did not make their proposals in compliance with Rule 23. Therefore, the decision of the President of the Assembly not to call for a vote on the above-referenced proposals was in compliance with Rule 23.

Procedural motion

- At the 18 April plenary session, Ms. Gjylnaze Sylja (AAK) stated that she wanted to move a procedural motion to adjourn the debate on the government's 100 days work report in accordance with Rule 30. Mr. Numan Balić (AAK/SDA) likewise proposed to adjourn the debate on the government's work report. Furthermore, Mr. Ibrahim Gashi (AKR) moved a procedural motion to adjourn the debate on government's 100 days work report with the justification that Members did not have sufficient time to prepare for the debate. The President of the Assembly however did not call for a vote on the procedural motion proposed by Members in question and proceeded with the debate.

Rule 30.1(a) and 30.2 provide that "[a]t any plenary session of the Assembly, a member is entitled to propose [a procedural motion] to . . . adjourn the debate . . . A motion to adjourn the debate shall require an immediate vote, without debate." The President of the Assembly was therefore obliged to call for a vote on the procedural motion proposed by Ms. Sylja, Mr. Balić and Mr. Gashi.

Voting Process

- At the 9 April extraordinary plenary session, the Assembly adopted the constitution by acclamation. After the presentation of the constitution by the Deputy Prime Minister Hajredin Kuçi (PDK), the President of the Assembly called for a vote on the constitution and Members of the Assembly stood up and applauded. The President of the Assembly announced that the constitution was adopted by acclamation with the support of all Members present. However, several Members did not stand up.

At the 17 April plenary session, during the discussion of the minutes from the 9 April extraordinary session, the President of the Assembly stated that he was informed that some Members had not stood up during the acclamation vote of the constitution and asked those Members to declare whether they were in favor, against or abstained from the constitution in order to correct the minutes. Ms. Besa Gaxherri (LDD) remarked that the Rules of Procedure do not recognise voting by acclamation and added that the President of the Assembly had therefore violated the Rules of Procedure by allowing the constitution to be adopted by acclamation. Mr. Numan Balić (AAK/SDA) likewise stated that the President of the Assembly had violated the Rules of Procedure by allowing the acclamation vote and added that nine Members had not stood up. Ms. Melihate Termkolli (LDK) argued that the President of the Assembly had offended the Members by not asking them to declare their vote at the 9 April session and doing so at a later session. The President of the Assembly reiterated that those Members who did not agree with the acclamation vote could declare if they were against or abstained from the constitution in order to correct the minutes. After some more discussion, the President of the Assembly called for a vote on the approval of the minutes from the 9 April extraordinary session, which were approved with a majority of votes in favour, three votes in opposition and nine abstentions.

Rule 31.4 provides that voting should be conducted by one of following ways: (a) a simple yes or no by show of hands, (b) secret ballot, or (c) recorded vote, which includes electronic voting and roll-call of each member. The Rules of Procedure do not mention voting by acclamation. Therefore, the President of the Assembly should have used for the adoption of the constitution one of the voting methods as described by Rule 31.4, which would also avoid discontent among the Members of the Assembly.

- At the 4 April plenary session, after the vote in principle of the Draft Law on Private Security, the Chairperson Naim Maloku (AAK) stated that there was a discrepancy between the number of Members physically present in the plenary hall and the number of electronically registered votes. He stated that 81 Members were physically present in the hall and 82 votes were registered electronically adding that “it seems that somebody has voted for one Member who is absent in the hall, which is not allowed by the Rules of Procedure.” Nevertheless, he announced that the Draft Law in question was endorsed in principle with 82 votes in favour and no votes in opposition according to the registered vote.
During previous legislature, monitoring reports noticed a couple of cases when a Member of the Assembly had voted on his/her device, as well as the device of his/her neighbour, who had temporarily left the plenary hall, but the votes in question were aborted. The Chairperson of the 4 April plenary session should have also aborted the voting and repeated it since it seemed that a Member had voted on the device of another Member, who was not present in the plenary hall at that moment. The Assembly must eliminate such opportunities for manipulation and inaccuracy – if necessary through the introduction of new provisions in the new Assembly’s procedural rules – in order to maintain the integrity of the voting process.

Distribution of Draft Legislation

- The Draft Law on Stamps of the Institutions of Kosovo and the Draft Law on Private Security were distributed to Members of the Assembly on 21 March. Thus, the draft laws were distributed eight working days prior to their first reading at the 4 April plenary session. The Draft Law on Sponsorship in Culture, Youth and Sports, the Draft Law on National Ensemble “Shota” and other ensembles and the Draft Law on Mediation were distributed on 1 April. Thus, the draft laws were distributed 11 working days prior to their first reading at the 17 April plenary session. The Draft Law on Amending the Law on Forests was distributed on 18 April, while the Draft Law on National Qualifications was distributed on 5 May. Thus, the draft laws were distributed, respectively, 18 and eight working days prior to their first reading scheduled at the 16 May plenary session. The Draft Labour Law was distributed on 14 May, while the Draft Law on Official Statistics was distributed on 16 May. Thus, the draft laws were distributed, respectively, twelve and ten working days prior to their first reading at the 2 June 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, while three draft laws were reviewed in first reading eight working days from the day of their distribution, which was not in compliance with the Rule above.

Legislative process

- The Draft Law on Farmers Cooperatives and the Draft Law on Use of Civil Explosives were approved, respectively, five weeks and almost three months after their endorsement in first reading on 26 February. The Draft Law on Amending the Provisional Criminal Code was approved five weeks after its first reading on 27 February. The Draft Law on Amending the Law 2002/9 on Labour Inspectorate; the Draft Law on Amending the Law 2003/15 on Social Assistance Scheme; the Draft Law on Accommodation Tax; the Draft Law on Amending the Law on Execution of Penal Sanctions; the Draft Law on Final Exam in Primary and Secondary Schools were approved two months after their first reading on 28 February. The Draft Law on Declaration of Origin of Property of Senior Public Officials and the Draft Law on Amending the Provisional Criminal Procedure Code were approved two months after their first reading on 29 February. The Draft Law on Out-Contentious Procedure; the Draft Law on Execution Procedure; and the Draft Law on Material Support to Families with Permanently Disabled Children were approved almost three months after their first reading on 29 February.

Rule 35.6 provides that “[w]hen a committee has been designated to review a draft law, it shall report its recommendations to the Assembly no later than two months after the first reading (emphasis added), unless an extension is approved by the Assembly.” Most of above-referenced draft laws were approved by the Assembly within the timeframe foreseen by Rule 35.6, whilst

some draft laws were approved slightly after two months. Nevertheless, during the previous legislature, monitoring reports noted that committees had difficulties in reviewing draft laws and submitting their recommendations within two months. Thus, the Assembly could consider extending this period to three months in order to allow committees more time to properly review draft laws.

- At the 16 May plenary session, Mr. Gani Koci (PDK), Chairperson of the Functional Committee (Budget Committee), proposed that the Draft Law on Money Laundering should be returned to the sponsor with the justification that it had many deficiencies, which could not be eliminated through amendments. The President of the Assembly called for a vote on Mr. Koci's proposal, which was approved with 53 votes in favor and the draft law was returned to the sponsor.

Under Rule 35.3, “[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place (emphasis added).” By analogy, the Functional Committee should have proposed to the Assembly to return the Draft Law on Money Laundering to the sponsor in accordance with Rule 35.3. Moreover, Rule 35.7 provides that “[t]he functional or main committee may review the draft law in principle even before the first reading of the draft law takes place in plenary session (emphasis added).” If the Functional Committee had reviewed the draft law in question before its first reading, as allowed by Rule 35.7, it would have had the opportunity to notice earlier the deficiencies of the draft law and propose its return to the sponsor during the first reading, rather than making such a proposal approximately almost three months after its first reading, which took place at the 26 February plenary session. It is highly recommendable for the Assembly committees to utilize the opportunity of reviewing draft laws before their first readings in order to make the legislative process more efficient.

- During the reporting period, approximately 20% of scheduled Committee meetings were cancelled due to the lack of quorum, which occurs because many Members do not show up or seem to have other engagements. Cancellation of meetings also causes delay in review and adoption of draft legislation and other documents. The Assembly could regulate this matter in the new Rules of Procedure by introducing a mechanism which would ensure the quorum in committee meetings.

Questions to the government

- At the 4 April plenary session, eight out of twelve questions received responses. At the 17 April plenary session, eleven out of 25 questions received responses. At the 29 April plenary session, twelve out of 20 questions received responses. At the 16 May plenary session, eleven out 30 questions received responses. At the 2 June plenary session, 13 out of 21 questions received responses. Parliamentary question were generally not answered because of the absence of Prime Minister and ministers, but some questions were postponed because the

time for question period had expired. At each plenary session, the President of the Assembly stated that the question which did not receive a response in two sessions would be published in the Assembly bulletin.

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. The Assembly should consider regulating the question period in a more efficient way because it appears that all questions cannot be processed during the 50 minute period. The Assembly could either extend the question period or limit the number of questions per Member in order to give the opportunity to all Members, who submitted questions, to put them forward and receive response.

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 latest bulletin of the Assembly published on 19 June did contain ten questions, which did not receive responses by the government in two sessions, as required by Rule 26. However, the Assembly should use its authority to ensure that the government responds to Members’ questions, because government’s accountability is a key parliamentary democratic standard.

4. 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.

5. 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 the 17 February extraordinary session. The records of electronic votes of several plenary sessions were likewise published on the Assembly website. Nevertheless, not all records of electronic votes were distributed to Members and published on the Assembly website during the reporting period. The Assembly should publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, particularly Members’ accountability to their constituencies. It is recommendable for the Committee on Mandate, Immunity and Rules of Procedure to consider regulating explicitly in the new Rules of Procedure the issue of publishing of electronic voting records.

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.



Pillar III (OSCE)

Report 04/2008

On the Monitoring of the Assembly of Kosovo

15 June 2008 – 30 September 2008

Highlights

- Minister of Foreign Affairs responds to the interpellation motion
- Presidency approves the draft budget of the Assembly for 2009
- Assembly fails to publish the records of electronic votes
- Assembly decides again to re-advertise the Ombudsperson's position
- Government improves its responsiveness to parliamentary questions
- Assembly returns five draft laws to the Government

1. Background

This fifty-eighth 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 ten plenary sessions, on 16 June; on 19 June; on 30 June; on 15 July; on 29 July; on 30 July; on 9 September; 18 September; 19 September; and 25 September as well as eight Presidency meetings, on 22 June; on 2 July; on 8 July; on 16 July; on 22 July; on 9 September; on 16 September and on 23 September. Pillar III (OSCE) monitored 46 out of 75 committee meetings and one public hearing.

2. Overview

The 16 June plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- One-hundred and two Members of the Assembly were present at the 16 June plenary session.
- Main agenda items of the 16 June plenary session:
 - Address of the USA Congressman Eliot Engel

The 19 June plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Naim Maloku (AAK).

- Seventy-four Members of the Assembly were present at the 19 June plenary session.
- Main agenda items of the 19 June plenary session:
 - Questions to the Government for Oral Answer
 - First reading of the Draft Law on Weapons
(The draft law was endorsed in principle with 75 votes in favour and no votes in opposition.)
 - First reading of the Draft Law on Amending the Law on Accreditation
(The item was postponed due to the absence of the Minister of Trade and Industry to present the draft law.)
 - First reading of the Draft Law on Amending the Law on Tax Administration and Procedure
(The item was postponed due to the absence of the Minister of Finance and Economy to present the draft law.)
 - Second reading of the Draft Law on Benefits of former High Officials
(The draft law was approved with 70 votes in favour and no votes in opposition.)

- Review of the request of the Ministry for Finance and Economy on re-allocation of capital investment funds from the project “New Government Complex” to project “Renovation of Media Building”
(The request was rejected with 19 votes in favour, 33 votes in opposition and 15 abstentions.)

The 30 June plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Sabri Hamiti (LDK).

- Seventy-eight Members of the Assembly were present at the 30 June plenary session.

- Main agenda items of the 30 June plenary session:

- Questions to the Government for Oral Answer
- First Reading of the Draft Law on Amending the Law on Accreditation
(The draft law was endorsed in principle with 65 votes in favour and no votes in opposition.)
- First Reading of the Draft Law on Amending the Law on Tax Administration and Procedure
(The draft law was endorsed in principle with 63 votes in favour and no vote in opposition.)
- First Reading of the Draft Law on Amending the Law on Archives
(The draft law was endorsed in principle with 58 votes in favour and five votes in opposition.)
- First Reading of the Draft Law on Empowerment and Participation of Youth
(The draft law was withdrawn by the sponsor.)
- Review of the recommendation with regard to the appointment of members to the Procurement Review Committee
(The item was removed from the agenda at the request of the LDK parliamentary group, supported by other parliamentary groups, as the list of members was not complete.)
- Second Reading of the Draft Law on Contested Procedure
(The draft law was approved with 71 votes in favour and no votes in opposition.)
- Second Reading of the Draft Law on Sponsorship in culture, youth and sports
(The draft law was returned to the sponsor for further revision.)
- Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications with regard to the Law on Mines and Minerals
(The recommendation was approved with 58 votes in favour and six votes in opposition.)
- Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications with regard to the Law on Geological Exploration
(The recommendation was approved with 61 votes in favour and eight votes in opposition.)

The 15 July plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Xhavit Haliti (DPK).

- Seventy-five Members of the Assembly were present at the 15 July plenary session.
- Main agenda items of the 15 July plenary session:
 - Questions to the Government for Oral Answer
 - Second Reading of the Draft law on Private Security (The draft law was removed from the agenda.)
 - Review of recommendation made by the Committee on Public Services, Local Administration and Media with regard to the Government's request to withdraw the Draft Law on Official Statistics (The recommendation was approved with 58 votes in favour and one vote in opposition.)
 - Review of recommendation made by the Committee on Health, Labour and Social Welfare with regard to the Government's request to withdraw the Draft Law on Labour (The recommendation was approved with 65 votes in favour and no votes in opposition.)
 - Review of recommendation made by the Committee on Health, Labour and Social Welfare with regard to the Government's request to withdraw from promulgation the Law on Health Insurance (The recommendation was approved with 65 votes in favour and one vote in opposition.)
 - Review of recommendations made by the Committee on Legislation and Judiciary with regard to the appointment of members to the Bar Examination Committee (The item was withdrawn at the request of the Minister of Justice.)

The 29 July plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Nexhat Daci (LDD).

- Eighty-nine Members of the Assembly were present at the 29 July plenary session.
- Main agenda items of the 29 July plenary session:
 - Questions to the Government for Oral Answer
 - First Reading of the Draft Law on Amending the Law 03/08 on the approval of Kosovo Budget and Authorised Expenditures for period from 1 January to 31 December 2008 (The draft law was endorsed in principle with 58 votes in favour and 23 votes in opposition.)
 - First Reading of the Draft Law on Public-Private Partnerships and

Concessions in the delivery of public infrastructure and services and the procedures for their award

(The draft law was endorsed in principle with 76 votes in favour and seven votes in opposition.)

- Second Reading of the Draft Law on Stamps of Institutions of Kosovo (The draft law was approved with 66 votes in favour and five votes in opposition.)
- Review of the recommendation of Independent Selection Body with regard to the appointment of members to the Procurement Review Body (The recommendation was approved with 44 in favour and 35 in opposition)
- Review of the 2007 annual report of the Energy Regulatory Office (The report was approved with 49 votes in favour and 17 votes in opposition.)
- Review of Government's request to withdraw the approved laws from promulgation procedure (The Government's request was approved with 74 in favour and no votes in opposition.)
- Review of parliamentary groups' request to return the non-promulgated laws to the Assembly committees for revision¹⁵ (The request was approved with 76 in favour and one vote in opposition.)

The 30 July plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Ibrahim Gashi (AKR).

- Eighty-two Members of the Assembly were present at the 30 July plenary session.
- Main agenda items of the 30 July plenary session:
 - Second Reading of the Draft Law on Amending the Law 03/08 on the approval of Kosovo Budget and Authorised Expenditures for period from 1 January to 31 December 2008 (The draft law was approved with 61 votes in favour and 11 votes in opposition.)
 - Review of Government's proposal to set the date for holding the census (The item was postponed due to the absence of the Minister of Public Services.)

The 9 September plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK).

- Ninety-five Members of the Assembly were present at the 9 September plenary session.

¹⁵ The request above refers to 15 laws, which had been approved by the previous Assembly and sent to the SRSB but not promulgated prior to the entry into force of the constitution.

- Main agenda items of the 9 September plenary session:
 - Address of former USA Ambassador to the United Nations, Mr. Richard Holbrooke

The 18 September plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- One-hundred and two Members of the Assembly were present at the 18 September plenary session.
- Main agenda items of the 18 September plenary session:
 - Questions to the Government for Oral Answer
 - Interpellation of Minister of Foreign Affairs
 - First Reading of the Draft Law on Use, Administration and Maintenance of Buildings in Joint Ownership
(The draft law was endorsed in principle with 60 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on Amending the Law on Technical Demands for Products and Evaluation of Conformity
(The draft law was endorsed in principle with 60 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on the President of Kosovo
(The draft law was endorsed in principle with 51 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Mediation
(The draft law was approved with 59 votes in favour and no votes in opposition.)
 - Review of the proposal for allocation of funds to the Ministry for Kosovo Security Force
(The item was removed from the agenda at the request of the Budget Committee.)
 - Review of the proposal for formation of an ad hoc Committee for selection of IOB members
(The proposal was approved with 57 votes in favour and no votes in opposition.)

The 19 September plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Sabri Hamiti (LDK).

- Ninety-seven Members of the Assembly were present at the 19 September plenary session.
- Main agenda items of the 19 September plenary session:
 - Questions to the Government for oral answer

- Review of the RTK report for 2007
(The item was postponed at the request of PDK parliamentary group.)
- Review of the IMC report for 2007
(The Chairperson of the Committee for Public Services, Local Government Administration and Media delivered an opening statement followed by parliamentary group representatives and several other Members.)
- Review of the report on expenditures of the Budget of Kosovo during the first half of 2008
(The Minister of Finance and Economy delivered an opening statement followed by Budget Committee Chairperson, parliamentary group representatives and several other Members before the debate was concluded by the Minister.)

The 25 September plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Ninety-two Members of the Assembly were present at the 25 September plenary session.
- Main agenda items of the 25 September plenary session:
 - Questions to the Government for Oral Answer
 - Review of the recommendation of the Committee for Legislation and Judiciary with regard to the appointment of the Ombudsperson
(Assembly decided to annul the process and re-advertise the position of the Ombudsperson with 45 votes in favour and 15 votes in opposition. See below the section entitled “Assembly advertises the position of the Ombudsperson for the fourth time”.)
 - First reading of the Draft Law on Bestowing of Decorations by the President of Kosovo
(The draft law was rejected with 30 votes in favour and 39 votes in opposition.)
 - Second Reading of the Draft Law on Weapons
(The draft law was returned to sponsor for further revision.)
 - Review of the proposal for formation of an ad hoc Committee for selection of IMC Council members
(The proposal was approved with 49 votes in favour and eight votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Presidency approves the draft budget of the Assembly for 2009

- At its 23 September meeting, the Presidency approved the proposal on the draft Assembly budget for 2009, prepared by the Assembly Secretary, as well as Mr. Xhavit Haliti's (PDK) proposal, which included several additional

spending categories. However, the Presidency's proposal was later heavily criticised by media, civil society and Prime Minister, and was therefore re-examined by the Presidency. At the next Presidency meeting, Mr. Nexhat Daci (LDD) stated that the draft Assembly budget should have been prepared by the Budget Committee according to the Rules of Procedure and that it was not good that the Budget Committee was excluded from the process. The President of the Assembly likewise agreed that the Budget Committee should be involved and stated that he would consult with the Budget Committee about the draft Assembly budget for 2009.¹⁶

According to Rule 6.7 of the Rules of Procedure, the Presidency approves the draft budget of the Assembly prepared by the Budget Committee in cooperation with the Assembly administration. The Rules of Procedure grant the Budget Committee the competency to prepare the draft budget of the Assembly. The Presidency therefore did not have the right to exclude the Budget Committee from preparation of the draft budget of the Assembly.

Distribution of Draft Legislation

- The Draft Law on Amending the Law on Accreditation was distributed on 26 May; the Draft Law on Amending the Law on Tax Administration and Procedure was distributed on 27 May; and the Draft Law on Amending the Law on Archives was distributed on 11 June. Thus, the draft laws were distributed, respectively, 24, 23 and 12 working days prior to their first reading at the 30 June plenary session.

The Draft Law on Amending the Law 03/08 on the approval of Kosovo Budget and Authorised Expenditures for period from 1 January to 31 December 2008 was distributed on 18 July, and the Draft Law on Public-Private Partnerships and Concessions in the Delivery of Public Infrastructure and Services and Procedures for their Award was distributed on 10 July. Thus, the draft laws were distributed, respectively, six and 12 working days prior to their first reading at the 29 July plenary session.

The Draft Law on Use, Administration and Maintenance of Buildings in Joint Ownership and Draft Law on Amending the Law on Technical Demands for Products and Evaluation of Conformity were distributed on 18 July; while the Draft Law on the President of Kosovo was distributed on 28 July. Thus, the draft laws were distributed, respectively, 41 and 31 working days prior to their first reading scheduled at the 18 September 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. Thus, only the Draft Law on Amending the Law on Archives and the Draft Law on Public-Private Partnerships and Concessions in the Delivery of Public Infrastructure and Services and Procedures for their Award were reviewed during the first reading in compliance with Rule 35.1. The first readings of six other above-referenced draft laws was not in compliance with the Rule above as five of six draft laws were reviewed in first reading after

¹⁶ The discussion of the draft budget of the Assembly for 2009 by the Budget Committee will be covered in the next monitoring report.

three working weeks and one was reviewed earlier than ten working days from the dates of their distribution.

The first readings of the Draft Law on Accreditation and Draft Law on Tax Administration and Procedure were scheduled in compliance with the Rule 35.1 but did not take place as planned due to the absence of respective Ministers, who sponsored the draft laws in question and had to present them before the Assembly. This emphasizes a need for better coordination between the Assembly and the Government in order not to delay the review and approval of draft legislation.

Legislative process

- At the 30 June plenary session, the Minister of Culture, Youth and Sports withdrew the Draft Law on Empowerment and Participation of Youth from the first reading for further revision. At the same plenary session, Mr. Agim Veliu (LDK), Chairperson of the Committee on Education, Science, Technology, Culture, Youth and Sports proposed that the Draft Law on Sponsorship in Culture, Youth and Sports, which was scheduled for second reading, be returned to the sponsor with the justification that many provisions of the draft law were unclear and required further revision. The President of the Assembly called for a vote on Mr. Veliu's proposal, which was approved with 66 votes in favour and three votes in opposition. At the 15 July plenary session, following a request made by the Government, the Committee on Public Services, Local Government Administration and Media and Committee for Health, Labour and Social Welfare proposed to the Assembly to withdraw, respectively, the Draft Law on Official Statistics and Draft Labour Law, which were already endorsed in principle. The President of the Assembly called for a vote on both proposals, which were approved with majority of votes in favour. At the 25 September plenary session, the Chairperson of the Committee on Internal Affairs and Security, Mr. Rrustem Mustafa (PDK), proposed that the Draft Law on Weapons, which was scheduled for a second reading, be returned to the sponsor for further revision. The President of the Assembly called for a vote on Mr. Mustafa's proposal, which was approved with 61 votes in favour and three votes in opposition.

Under Rule 35.3, "[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place (emphasis added)." Thus, the Draft Law on Empowerment and Participation of Youth was withdrawn by the sponsor in compliance with the Rule above. However, the Draft Law on Official Statistics and Draft Labour Law were withdrawn after their first readings, which was not in compliance with Rule 35.3. The Government should have requested the withdrawal of these two draft laws before they have been endorsed in principle. Additionally, by analogy to the Rule in question, the Committee on Education, Science, Technology, Culture, Youth and Sports and Committee on Internal Affairs and Security should have proposed to the Assembly to return, respectively, the Draft Law on Sponsorship in Culture, Youth and Sports and the Draft Law on Weapons to sponsors in accordance with Rule 35.3. Moreover, Rule 35.7 provides that "[t]he functional or main

committee may review the draft law in principle even before the first reading of the draft law takes place in plenary session (emphasis added).” If the above-mentioned functional committees had reviewed the draft laws in question before their first readings, as allowed by Rule 35.7, they would have had the opportunity to notice earlier the deficiencies of the draft laws and propose to return them to sponsors during their first readings, rather than making such proposals much later. It is highly recommendable for the Assembly committees to utilize the opportunity of reviewing draft laws before their first readings in order to make the legislative process more efficient.

- During the reporting period, approximately 10% of scheduled Committee meetings were cancelled due to the lack of quorum, which occurs because some Members do not show up at committee meetings. Cancellation of meetings also causes delay in the review and adoption of draft legislation and other documents. During this reporting period, the cancellation of meetings due to the lack of quorum was less frequent than in the previous reporting period, when approximately 20% of meetings were cancelled, which represents an improvement. The Assembly could however consider introducing a mechanism, which would ensure a quorum in committee meetings.

Formation of new parliamentary group

- On 11 September, Democratic Ashkali Party of Kosovo (PDAK) members, Democratic Action Party (SDA) members and Mr. Driton Tali (former AKR member) submitted in writing to the Presidency their decision to form a parliamentary group called “For Integration”¹⁷. At the 17 September Presidency meeting, the Secretary informed the Presidency that this group did not have six members, as required by the Rules of Procedure, because one PDAK member, Mr. Sabit Rrahmani, had reached on 13 September the limit of six months of abstention from the Assembly proceedings without providing a justification for his absence for which he could lose his status as a Member of the Assembly. Additionally, the Secretary remarked that two SDA members were already part of the AAK parliamentary group and that according to the Rules of Procedure they could not belong to two parliamentary groups. The Presidency members stated that they did not intend to hinder the formation of the new parliamentary group, but that it had to meet legal requirements. Therefore, the President of the Assembly decided to consult with the Committee on Rules of Procedure, Mandate and Immunity about Mr. Rrahmani’s case,¹⁸ and the Presidency decided to ask both SDA members to clarify their membership in the AAK parliamentary group and inform them that they could not be members of two parliamentary groups at the same time.
According to the Rules of Procedure (Rule 14.3), “[i]f a Member of the Assembly throughout a period of six months attends none of the sessions of

17 PDAK represents Ashkali community with three seats in the Assembly, while SDA, which represents Bosniak community, has two seats.

18 Deliberation of Mr. Rrahmani’s case by the Committee on Rules of Procedure, Mandate and Immunity will be covered in the next monitoring report.

the Assembly or of a Committee, of which he/she is a member, and cannot show good cause to the satisfaction of the President of the Assembly, the President shall propose to the Assembly that the Member concerned cease to be a Member. The opinion of the Committee on Mandate and Immunity is required on this matter (emphasis added).”

Under Rule 11.1 (Chapter IV of the Rules of Procedure), any six or more Members of the Assembly may form a parliamentary group, based on a common political aim, and the parliamentary group shall inform the Presidency of the Assembly of the name of its leader and other members. Furthermore, according to Rule 11.4, a Member shall not belong to more than one parliamentary group. Thus, the new parliamentary group “For integration” may not function as a group until the issue of Mr. Rrahmani’s status has been resolved by the Assembly and until SDA members have clarified in which parliamentary group they wish to participate.

Assembly advertises the position of the Ombudsperson for the fourth time

- At the beginning of the 25 September plenary session, the President of the Assembly proposed that the Assembly should annul the current process of the appointment of the Ombudsperson and re-advertise the position. The PDK, LDK, AKR, 7+ and SLS parliamentary groups supported the President’s proposal, while the LDD and AAK parliamentary groups objected to the proposal and sought additional clarifications from the President. The President of the Assembly responded that he made the proposal in order to “protect the Assembly’s credibility”. He then called for a vote to on the above-referenced proposal, which was approved with 45 votes in favour and 15 votes in opposition. Pursuant to the Assembly decision, the Presidency tasked the administration to advertise the position of the Ombudsperson of Kosovo for the fourth time. All Presidency members agreed that the position should be re-advertised and filled as soon as possible.¹⁹

Interpellation

At the 18 September plenary session, Skender Hyseni, the Minister of Foreign Affairs, replied to the interpellation motion submitted by the AKR parliamentary group. The AKR requested the Minister to “report on the defects in the process of recognition of Kosovo’s independence, in the consolidation of the Ministry and in the deployment of Kosovo’s foreign diplomatic service.” On behalf of the AKR, Mr. Ibrahim Gashi delivered an opening statement. The AKR as well as the LDD and AAK representatives criticised the Minister for the lack of a program and strategy on foreign policy, nepotism, insufficient lobbying for further recognition of independence and lack of diplomatic experience of the *chargés d’affaires* appointed to the first ten diplomatic offices of Kosovo. Some opposition members even called on the Minister to resign. The Minister responded that, among other things, the law on Foreign Ministry became

¹⁹ The announcement was issued on 9 October and was published in five languages (Albanian, English, Serbian, Bosnian and Turkish) in local printed media.

effective on June 16 and that he had a short time to build the full capacities of the Ministry. He added that there were difficulties in selecting *chargés d'affaires* because of time constraints. Several Members from various parliamentary groups made statements before the debate was concluded by Mr. Ibrahim Gashi (AKR), as sponsor of the motion.

The interpellation debate was held in compliance with Rule 25.7, according to which the parliamentary group which proposed the interpellation has the right to open the debate with ten (10) minutes statement and close the debate with five (5) minutes statement, and that the time allocation to other parliamentary groups reflects their representation in the Assembly.

Questions to the Government

- At the 19 June plenary session, two out of 12 questions received response. At the 30 June plenary session, four out of 16 questions received a response. At the 15 July plenary session, 22 out of 23 questions received response. At the 29 July plenary session, 12 out of 15 questions received a response. At the 18 September plenary session, 12 questions were processed of which only one did not receive a response, while remaining 28 questions were postponed for the following plenary session of 19 September, because the time for the question period had expired. At the 19 September plenary session, 14 questions were processed of which two did not receive a response, while 14 remaining questions were postponed again for the following plenary session, because the time for the question period had expired. At the 25 September plenary session, 11 out of 12 processed questions received a response, while nine remaining questions were postponed again for the following plenary session, because the time for the question period had expired.

Question periods above 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.

During this reporting period, the Government's responsiveness to parliamentary questions showed improvement compared to previous reporting periods.²⁰ On the other hand, Members have continued to submit high number of questions, which resulted in many questions being postponed because the time for the question period had expired. The Assembly should consider regulating the question period in a more efficient way because it was noted that all questions cannot be processed during the 50 minute period. The Assembly should either extend the question period or limit the number of questions per Member in order to give the opportunity to all Members, who submitted questions, to put them forward and receive a response.

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." Two Assembly bulletins published during the reporting period, on 19 June and 20

20 See previous Pillar III (OSCE) reports 02/2008 and 03/2008 for more details.

September, did contain eleven questions, which did not receive response by the Government, as required by Rule 26. However, the Assembly could make more efforts and use its authority to ensure the Government's accountability, which is a key parliamentary democratic standard.

4. 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.

5. Transparency

- During the reporting period, the Assembly has not published on its website any record of electronic votes of plenary session decisions. In the previous reporting period, the Assembly had published several records of electronic votes, but it failed to do so later. The Assembly should publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, especially Members' accountability to their constituencies.²¹ 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.

²¹ At the 15 February 2008 plenary session, the President of the Assembly had announced that the Assembly would publish on its website the records of electronic votes of plenary session decisions. Following the President's announcement, the Assembly began publishing the records of electronic votes from the 17 February extraordinary session. The records of electronic votes of several plenary sessions were published on the Assembly website. However, the record of electronic votes of the 2 June plenary session was the last published on the Assembly website.



Pillar III (OSCE)

Report 05/2008

On the Monitoring of the Assembly of Kosovo

1 October 2008 – 30 November 2008

Highlights

- Assembly adopts a resolution in support to UN Millennium Development Goals
- Assembly adopts a motion to review the non-promulgated laws, but excludes the Committee on the Rights and Interests of Communities from the procedure
- Recruitment Panel for the selection of Ombudsperson is established
- Assembly makes efforts to improve the functioning of question period
- Assembly continues failing to publish the records of electronic votes

1. Background

This fifty-ninth 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 seven plenary sessions, on 3 and 10 October, on 17 October, on 6 and 7 November, on 7 November, on 10 November, on 20 November and 25 November as well as seven Presidency meetings, on 3 October, on 14 October; 28 October; on 4 November, 11 November, 18 November and on 24 November. Pillar III (OSCE) monitored 41 out of 57 committee meetings and one public hearing.

2. Overview

The 3 and 10 October plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Ibrahim Gashi (AKR).

- Ninety-six Members of the Assembly were present, respectively, at the 3 and 10 October plenary session.
- Main agenda items of the plenary session held on 3 and 10 October:
 - Questions to the government for Oral Answer
 - Review of procedural motion for adoption of non-promulgated laws (The procedural motion was adopted with 51 votes in favour and nine votes in opposition.)
 - Review of the recommendation to amend the Law on Identification Cards (The recommendation was approved with 72 votes in favour and no votes in opposition.)
 - Review of the recommendation to amend the Law on Farmers Cooperatives (The recommendation was approved with 72 votes in favour and no votes in opposition.)
 - Review of the recommendation made by the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning regarding the situation in national park “Malet e Sharrit/Šar Planine” and touristic village in Prevallë/Prevalac mountain (Mr. Lulzim Zeneli, Committee Chairperson, delivered a statement, followed by parliamentary group representatives, Minister of Environment and Spatial Planning and several other Members.)

The 17 October solemn plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Naim Maloku (AAK).

- One-hundred and one Members of the Assembly were present at the 17 October plenary session.
- Main agenda items of the 17 October plenary session:
 - Adoption of the Resolution in support to the UN Millennium Development Goals
(The resolution was adopted with 99 votes in favour and two votes in opposition.)

The 17 October plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Eighty-two Members of the Assembly were present at the 17 October plenary session.
- Main agenda items of the 17 October plenary session:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Anti-dumping Measures
(The draft law was endorsed in principle with 68 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on Agriculture and Rural Development
(The draft law was postponed due to the absence of the Minister of Agriculture to present the draft law.)
 - Second Reading of the Draft Law on Amending the Law on Small and Medium Size Enterprises
(The draft law was approved with 63 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on Notary
(The draft law was approved with 59 votes in favour and no votes in opposition.)
 - Adoption of the recommendations made by the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning
(The recommendations were approved with 59 votes in favour and no votes in opposition.)
 - Review of the report of the Committee for Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The report was postponed at the request of the Committee Chairperson.)
 - Replacement of the LDK and AKR parliamentary group members to the Assembly committees

The 6 and 7 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Sabri Hamiti (LDK).

- Eighty-four Members of the Assembly were present, respectively, at the 6 and 7 November plenary session.
- Main agenda items of the plenary session held on 6 and 7 November:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Agriculture and Rural Development (The draft law was endorsed in principle with 75 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on Pardon (The draft law was endorsed in principle with 58 votes in favour and two votes in opposition.)
 - First Reading of the Draft Law on Establishment of the Forensics Department (The draft law was rejected with 24 votes in favour and 30 votes in opposition.)
 - First Reading of the Draft Law on Financial Leasing (The draft law was endorsed in principle with 53 votes in favour and three votes in opposition.)
 - Review of recommendation on amending the Criminal Code of Kosovo (The recommendation was approved with 58 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Criminal Procedure Code of Kosovo (The recommendation was approved with 58 votes in favour and one vote in opposition.)
 - Review of recommendation on amending the Law on Final and Matura Exam (The recommendation was approved with 64 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Law on Termination of Pregnancy (The recommendation was approved with 47 votes in favour and five votes in opposition.)
 - Second Reading of the Draft law on Songs and Dance Ensemble “Shota” and other ensembles (The recommendation was approved with 59 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on National Qualifications (The draft law was approved with 76 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Archives and Archiving Material

- (The draft law was approved with 60 votes in favour and six votes in opposition.)
- Second Reading of the Draft Law on Plant Protection Products
(The draft law was approved with 70 votes in favour and no votes in opposition.)
 - Review of the recommendation made by the Committee on Internal Affairs and Security to return the Draft Law on Private Security Companies to the sponsor for further revision
(The recommendation was approved with 71 votes in favour and no votes in opposition.)
 - Review of recommendation made by the Committee on Economy, Trade, Industry, Energy, Transport and Communications with regard to the appointment of members to Competition Commission
(The recommendation was approved with 55 votes in favour and five votes in opposition.)
 - Review of the report made by the Committee on Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The item was postponed due to the absence of the Minister of Finance and Economy.)
 - Replacement of the SLS parliamentary group members to the Assembly committees

The 7 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Džezair Murati (7+/Vakat).

- Seventy-six Members of the Assembly were present at the 7 November plenary session.
- Main agenda items of the 7 November plenary session:
 - First Reading of the Draft Law on Amending the Law on Ministry for Kosovo Security Force
(The draft law was endorsed in principle with 69 votes in favour and one vote in opposition.)
 - First Reading of the Draft Law on Amending the Law on Kosovo Security Force
(The draft law was endorsed in principle with 72 votes in favour and two votes in opposition.)
 - First Reading of the Draft Law on Amending the Law on Spatial Planning
(The draft law was endorsed in principle with 59 votes in favour and five votes in opposition.)
 - First Reading of the Draft Code on Kosovo Customs and Excise
(The draft code was endorsed in principle with 38 votes in favour and six votes in opposition.)

The 10 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Eighty-nine Members of the Assembly were present at the 10 November plenary session.
- Main agenda items of the 10 November plenary session:
 - Second Reading of the Draft Law on Amending the Law on Ministry for Kosovo Security Force
(The draft law was approved with 79 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Kosovo Security Force
(The draft law was approved with 82 votes in favour and one vote in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Spatial Planning
(The draft law was approved with 69 votes in favour and four votes in opposition.)
 - Second Reading of the Draft Code on Kosovo Customs and Excise
(The draft code was approved with 63 votes in favour and 12 votes in opposition.)

The 20 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Eighty-one Members of the Assembly were present 20 November plenary session.
- Main agenda items of the 20 November plenary session:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Protection from Non-ionised, Ionised Radiation and Nuclear Security
(The draft law was endorsed in principle with 63 votes in favour and three votes in opposition.)
 - Review of recommendation on amending the Law on Central Heating
(The recommendation was approved with 64 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Law on Non-Contested Procedure
(The recommendation was approved with 63 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Law on Bar
(The recommendation was approved with 68 votes in favour and no

- votes in opposition.)
- Second Reading of the Draft Law on Agricultural Inspection
(The draft law was approved with 74 votes in favour and no votes in opposition.)
- Second Reading of the Draft Law on Amending the Law on Accreditation
(The draft law was approved with 69 votes in favour and no votes in opposition.)
- Review of the report made by the Committee on Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The report and recommendations were approved with 63 votes in favour and no votes in opposition.)
- Review of the report on environment during the period 2006-2007
(The report was approved with 42 votes in favour and 16 votes in opposition.)
- Replacement of the PDK parliamentary group members to the Assembly committees

The 25 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Ibrahim Gashi (AKR).

- Ninety Members of the Assembly were present at the 25 November plenary session.

• Main agenda items of the 25 November plenary session:

- First Reading of the Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009
(The draft law was endorsed in principle with 62 votes in favour and four votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Procedural motion to adopt the non-promulgated laws

- At the 3 October plenary session, the Assembly adopted a procedural motion, departing from the Rules of Procedure, in order to amend the 17 laws not promulgated by the SRSG in a special procedure.²² According to the motion, each of the 17 non-promulgated laws should be reviewed by the respective functional committee, which would be obliged to present its amendments to the Assembly for consideration. Further, the motion provided that the

²² In July 2008, the Government submitted to the Assembly a request to withdraw the laws not promulgated by the SRSG, and subsequently amend the same ones. The Assembly supported and approved the Government's request on 30 July and later drafted a procedural motion to amend the laws in a special procedure. The motion was approved by the Presidency on 29 September, and included in the agenda of the 3 October plenary session. See OSCE report 04/2008 on the monitoring of the Assembly of Kosovo, for more details.

Budget and Finance Committee should review the proposed amendments in relation to eventual financial implications. Most of the parliamentary group leaders supported the procedural motion without any remarks. Mr. Sadik Idrizi (7+/Vakat) and Mr. Mahir Yagcilar (7+/Vakat) proposed that the Committee on the Rights and Interests of Communities should be involved in the process to check whether proposed amendments interfere with the rights of communities. The SLS parliamentary group leader agreed with the proposed motion without any remarks. The President of Assembly responded that parliamentary group leaders had not made any comments at the last Presidency meeting, when the motion was presented and discussed, so he proceeded calling for a vote on the motion without including above-mentioned proposal. The motion was adopted with 51 votes in favour, nine votes against and two abstentions.

According to Rule 61, the Assembly is authorised to depart from the Rules of Procedure, however, since it decided to involve the Budget and Finance Committee in the process, it should have likewise included the Committee on the Rights and Interests of Communities, which is also the main committee, to give its opinion on proposed amendments from the communities' rights perspective.

Distribution of Draft Legislation

- The Draft Law on Anti-dumping Measures was distributed on 23 September. Thus, the draft law was distributed 15 working days prior to its first reading at the 17 October plenary session.

The Draft Law on Agriculture and Rural Development was distributed on 6 October, the Draft Law on Pardon was distributed on 9 October; and the Draft Law on Financial Leasing was distributed on 17 October. Thus, the draft laws were distributed, respectively, 22, 19 and 13 working days prior to their first reading at the 6 November plenary session.

The Draft Law on Protection from Non-ionised, Ionised Radiation and Nuclear Security was distributed on 22 October. Thus, the draft law was distributed 20 working days prior to its first reading scheduled at the 20 November plenary session.

The Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 was distributed on 7 November. Thus, the draft law was distributed 11 working days prior to its first reading scheduled at the 25 November 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. Thus, the Draft Law on Anti-dumping Measures, the Draft Law on Financial Leasing and the Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 were reviewed in first reading in compliance with Rule 35.1. The first readings of three other above-referenced draft laws were not held in compliance with the Rule above as they were reviewed in first reading after three working weeks from the dates of their distribution.

Legislative process

- At the 6 November plenary session, Mr. Rrustem Mustafa (PDK), Chairperson of the Committee on Internal Affairs and Security proposed that the Draft Law on Private Security Companies should be returned to the sponsor for further revision. The President of the Assembly called for a vote on Mr. Mustafa's proposal, which was approved with 71 votes in favour and no votes in opposition.

Under Rule 35.3, “[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place (emphasis added).” By analogy, the Committee on Internal Affairs and Security should have proposed to the Assembly to return the Draft Law on Private Security Companies to the sponsor in accordance with Rule 35.3. Moreover, Rule 35.7 provides that “[t]he functional or main committee may review the draft law in principle even before the first reading of the draft law takes place in plenary session (emphasis added).” If the above-mentioned functional committee had reviewed the draft law in question before its first reading, as allowed by Rule 35.7, it would have had the opportunity to notice earlier the flaws of the draft law and propose to return it to the sponsor during its first reading, rather than making such a proposal six months after the first reading. It is highly recommendable for the Assembly committees to utilize the opportunity of reviewing draft laws before their first readings in order to make the legislative process more efficient.

- At its 18 November meeting, the Presidency reviewed the request of six Members of the Assembly to include the first reading of the Draft Law on Rights of Ex-Political Prisoners, which was sponsored by them, in the agenda of the next plenary session. The Presidency members decided not to include the draft law for debate in a plenary session as it lacked the financial statement on its implementation and instructed the sponsors of the draft law to secure a financial statement from the Ministry of Economy and Finance. *Rule 33.2(d) provides that when a draft law is introduced for debate in the Assembly, it must include the statement on budgetary impact for the first and following years of its implementation. Thus, the Presidency decision to seek a financial statement on the implementation of the draft law in question was in compliance with the Rule above. The Members of the Assembly, who sponsored the draft law, should therefore secure a financial statement, so that the draft law could be included for debate in the Assembly.*
- During the 15 February 2008 plenary session, the Assembly adopted a procedural motion departing from the Rules of Procedure in order to review and approve in short procedure the laws envisaged in the UN Special Envoy's "Comprehensive Proposal for Kosovo Status Settlement" (hereinafter, Ahtisaari's proposal).²³ According to the procedural motion, financial statements of laws shall be submitted by the Government to the Assembly within 60 days

²³ See OSCE Report 01/2008 on the monitoring of the Assembly of Kosovo, section entitled "Procedural motion", for more details

and no later than 180 days after the approval of laws. Nevertheless, it appears that the Government has not yet submitted financial statements of 25 laws deriving from Ahtisaari's proposal, which were approved by the Assembly before 180 days, as required by the procedural motion.

Recommendation regarding Mr. Sabit Rrahmani's status as Member of the Assembly

- At the 18 November meeting, after obtaining the opinion of the Committee on Mandate, Immunity and Rules of Procedure, the Presidency decided to include the recommendation regarding Mr. Sabit Rrahmani's (PDAK/Ashkali) status in the agenda of the next plenary session, scheduled for 4 December.²⁴ *According to the Rules of Procedure (Rule 14.3), "[i]f a Member of the Assembly throughout a period of six months attends none of the sessions of the Assembly or of a Committee, of which he/she is a member, and cannot show good cause to the satisfaction of the President of the Assembly, the President shall propose to the Assembly that the Member concerned cease to be a Member. The opinion of the Committee on Mandate and Immunity is required on this matter* (emphasis added)." *On 13 September, Mr. Sabit Rrahmani (PDAK) reached the limit of six months of abstention from Assembly proceedings without providing a justification, which is one of the causes to lose the status as Member of the Assembly. Accordingly, in compliance with the Rules, the President of the Assembly recommended that Mr. Rrahmani's status as member of the Assembly should be ended. The recommendation was supported by the Committee on Mandate, Immunity and Rules of Procedure.*

Assembly advertises again the position of Ombudsperson

- At the 18 November meeting, the Presidency members had a debate whether the Committee for Legislation and Judiciary should be the only one dealing with the selection of Ombudsperson or whether the Committee for Human Rights, Gender Equality and Public Petitions should be also authorised to deal with the matter. Mr. Daut Beqiri, Head of the Legal Department, explained that in the previous legislature, the Committee assigned for the selection process was the Committee on Legislation, Judiciary and Constitutional Framework, which included the sub-committee for Human Rights, Gender Equality and Public Petitions. Therefore, he argued that it was logical to authorize both Committees to deal with the selection process since in the current legislature they operate as separate committees, which was not the case in the previous legislature. Thus, the Presidency decided to authorise both committees to form a joint recruitment panel to select three candidates for consideration by the Assembly. In its decision, the Presidency stipulated that the Committee on Human Rights, Gender Equality and Public Petitions and the Committee for Judiciary and Legislation should be represented,

²⁴ The Assembly decision on the recommendation regarding Mr. Sabit Rrahmani's status will be covered in the next report on the monitoring of the Assembly.

respectively, by four and three members in the recruitment panel. On 24 November, following the Presidency decision, the Committee on Human Rights, Gender Equality and Public Petitions and the Committee for Legislation and Judiciary appointed their members to the recruitment panel.²⁵

This is the fourth attempt of the Assembly of Kosovo to appoint the Ombudsperson or the second attempt during the current term of the Assembly. The previous process for the appointment of Ombudsperson was annulled by an Assembly decision at the 25 September plenary session 2008.²⁶ During its previous term, the Assembly of Kosovo had likewise made two attempts to appoint the Ombudsperson, but the same ones did not succeed.

Questions to the government

- At the 3 October plenary session, 11 out of 12 questions received response, while many other questions were postponed for the next plenary session, because the time for the question period had expired. At the 17 October plenary session, the President of the Assembly proposed that one question per Member be asked during the question period because of high number of questions submitted and in order to give the opportunity to each Member, who submitted questions, to put them forward and receive a response. The President of the Assembly further proposed that this becomes a practice for next plenary sessions as well and called for a vote on his proposal, which was approved with majority of votes in favour. Thus, at the 17 October plenary session, 11 out of 20 questions received a response during the question period, while remaining 23 questions were postponed for the following plenary session, because the time for the question period had expired. At the 6 November plenary session, the Chairperson announced that because of high number of questions, the Presidency had proposed that the question period should be extended from 50 minutes to 60 minutes and that it should be held also during the continuation of the plenary session on 7 November. He then called for a vote on the Presidency decision, which was approved with majority of votes in favour. Thus, on 6 November, ten out of 11 questions received response. Nevertheless, on 7 November, the question period was removed from the agenda and postponed for next plenary session due to the absence of the Government. At the 20 November plenary session, 11 out of 15 questions received response, while many other questions were postponed for the following plenary session, because the extended time for the question period had expired.

²⁵ According to the Assembly rules on the appointment of Ombudsperson, each parliamentary group should be represented in the recruitment panel with one member. Thus, the two committees appointed their members in compliance with the rules. The Committee on Human Rights, Gender Equality and Public Petitions appointed Ms. Nerxhivane Dauti (PDK), Mr. Ismet Beqiri (LDK), Mr. Ibrahim Makolli (AKR) and Špresa Murati (7+). While, the Committee for Judiciary and Legislation appointed Mr. Adem Salihaj (LDD), Mr. Bajram Kosumi (AAK) and Mr. Branislav Grbić (SLS).

²⁶ See OSCE Report 04/2008 on the monitoring of the Assembly of Kosovo, section entitled "Assembly advertises the position of the Ombudsperson for the fourth time", for more details.

Question periods during the 3 and 17 October 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.

The decisions of the Assembly to extend the time of question period and make an order of one question per Member represent a step forward in trying to regulate question periods in a more efficient way. It has been noted that all questions could not be processed during the 50 minute period because of high number of questions, submitted by Members. In its previous reports, the OSCE had therefore recommended that the Assembly should either extend the question period or limit the number of questions per Member in order to give the opportunity to all Members, who submitted questions, to put them forward and receive a response.

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.” However, the Assembly has not yet published its monthly bulletins for October and November, and so the pending questions during these months were not published, as required by Rule 26. The removal of the question period from the agenda of 7 November session due to the absence of the Government shows that the Assembly should make more efforts and use its authority to ensure the Government’s accountability, which is a key parliamentary democratic standard.

4. 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.

5. Transparency

- During the reporting period, the Assembly has not published on its website any record of electronic votes of plenary session decisions. The Assembly had earlier published several records of electronic votes, but it failed to do so later. The Assembly should publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, especially Members’ accountability to their constituencies.²⁷

²⁷ At the 15 February 2008 plenary session, the President of the Assembly had announced that the Assembly would publish on its website the records of electronic votes of plenary session decisions. Following the President’s announcement, the Assembly began publishing the records of electronic votes from the 17

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.

February extraordinary session. The records of electronic votes of several plenary sessions were published on the Assembly website. However, the record of electronic votes of the 2 June plenary session was the last published on the Assembly website.



Organization for Security and
Co-operation in Europe
Mission in Kosovo

Pillar III (OSCE)

Report 06/2008

On the Monitoring of the Assembly of Kosovo

1 December 2008 – 31 December 2008

Highlights

- Assembly endorses in first reading the new draft Rules of Procedure
- Assembly decides to end Sabit Rrahmani's mandate
- Assembly approves the draft Budget of Kosovo for 2009
- Assembly continues in failing to publish the records of electronic votes

1. Background

This sixtieth 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.

The OSCE Mission in Kosovo monitored six plenary sessions, on 4 December, on 11-12 December, on 18 December and on 19 December as well as three Presidency meetings, on 2 December, on 12 December, on 15 December, on 16 December and 23 December. The OSCE Mission in Kosovo monitored 11 out of 23 committee meetings, while no public hearings were held during the reporting period.

2. Overview

The 4 December plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (Democratic Party of Kosovo - PDK) and by member of the Presidency Mr. Džezair Murati (7+/Vakat).

- Eighty-four members of the Assembly were present at the 4 December plenary session.
- Main agenda items of the 4 December plenary session:
 - Questions to the government for oral answer
 - Interpellation of the minister of health
 - Review of the recommendation to amend the Law on Public Gathering (The recommendation was approved with 61 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Tax Administration and Procedure (The draft law was approved with 60 votes in favour and no votes in opposition.)
 - Review of the recommendation made by the Committee for Mandates, Immunity and Rules of Procedure with regard to Mr. Sabit Rrahmani's (PDAK) mandate (The recommendation was approved with 46 votes in favour and ten votes in opposition. See below section entitled "Assembly decides to end Mr. Sabit Rrahmani's mandate as a member of the Assembly".)

The 11 and 12 December plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by members of the Presidency Mr. Naim Maloku (Alliance for the Future of Kosovo - AAK) and Mr. Xhavit Haliti (PDK).

- Seventy-eight and seventy-two members of the Assembly were present, respectively, at the 11 and 12 December plenary session.

• Main agenda items of the 11-12 December plenary session:

- Questions to the government for oral answer
- Interpellation of the Prime Minister
- First Reading of the Draft Law on Value Added Tax
(The draft law was endorsed in principle with 56 votes in favour and 30 votes in opposition.)
- First Reading of the Draft Law on Corporate Income Tax
(The draft law was endorsed in principle with 64 votes in favour and three votes in opposition.)
- First Reading of the Draft Law on Personal Income Tax
(The draft law was endorsed in principle with 59 votes in favour and four votes in opposition.)
- First Reading of the Draft Law on Excise Tax
(The draft law was endorsed in principle with 59 votes in favour and no votes in opposition.)
- Second Reading of the Draft Law on Pardon
(The draft law was approved with 57 votes in favour and one vote in opposition.)
- Review of the recommendation to amend the Law on Roads
(The recommendation was approved with 48 votes in favour and one vote in opposition.)
- Review of the Assembly Action Plan
(The Action Plan was adopted with 65 votes in favour and two votes in opposition.)
- First Reading of the draft Rules of Procedure of the Assembly of Kosovo
(The draft Rules of Procedure were endorsed in principle with 62 votes in favour and no votes in opposition.)
- Review of the recommendation made by the Committee for Economy, Trade, Industry, Energy, Transport and Communications in support of the Government's decision for the privatisation of the distribution and supply line of the Kosovo Energy Company
(The Committee recommendation was approved with 47 votes in favour and ten votes in opposition.)
- Review of recommendation made by the Committee for Economy, Trade, Industry, Energy, Transport and Communications with regard to the appointment of members to the Board of the Energy Regulatory Office
(The Committee recommendation was approved with 61 votes in favour and nine votes in opposition.)
- Review of recommendation of the ad hoc Committee with regard to the appointment of four members to the Council of the Independent Media Commission
(The Committee recommendation was approved with 49 votes in favour and 25 votes in opposition.)
- Review of recommendation of the ad hoc Committee with regard to the appointment of four members to the Independent Oversight Board
(The Committee recommendation was approved by secret ballot.)

The 15 December plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and member of the Presidency Mr. Sabri Hamiti (Democratic League of Kosovo - LDK).

- Ninety members of the Assembly were present at the 15 December plenary session.
- Main agenda items of the 15 December plenary session:
 - First Reading of the Draft Law on Foreigners
(The draft law was endorsed in principle with 56 votes in favour and four votes in opposition.)
 - First Reading of the Draft Law on Amending the Law on Health
(The draft law was endorsed in principle with 52 votes in favour and 17 votes in opposition.)
 - First Reading of the Draft Law on the Kosovo Constitutional Court
(The draft law was endorsed in principle with 77 votes in favour and four votes in opposition.)
 - First Reading of the Draft Law on Provisional Composition of the Kosovo Judicial Council
(The draft law was endorsed in principle with 75 votes in favour and five votes in opposition.)
 - First Reading of the Draft Law on the Kosovo Foreign Service
(The draft law was endorsed in principle with 78 votes in favour and three votes in opposition.)
 - First Reading of the Draft Law on the Kosovo Diplomatic and Consular Service
(The draft law was endorsed in principle with 82 votes in favour and two votes in opposition.)

The 16 December plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and member of the Presidency Mr. Sabri Hamiti (LDK).

- One-hundred members of the Assembly were present at the 16 December plenary session.
- Main agenda items of the 16 December plenary session:
 - Second Reading of the Draft Law on Foreigners
(The draft law was approved with 87 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Health
(The draft law was approved with 43 votes in favour and 21 vote in opposition.)
 - Second Reading of the Draft Law on the Kosovo Constitutional Court
(The draft law was approved with 85 votes in favour and four votes in opposition.)

- Second Reading of the Draft Law on the Provisional Composition of Kosovo Judicial Council
(The draft code was approved with 76 votes in favour and four votes in opposition.)
- Second Reading of the Draft Law on the Kosovo Foreign Service
(The draft code was approved with 85 votes in favour and three votes in opposition.)
- Second Reading of the Draft Law on the Kosovo Diplomatic and Consular Service
(The draft code was approved with 86 votes in favour and three votes in opposition.)

The 18 December plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Sixty-one members of the Assembly were present at the 18 December plenary session.
- Main agenda items of the 18 December plenary session:
 - Questions to the government for oral answer
 - Second Reading of the Draft Law on the Rehabilitation and Employment of Disabled Persons
(The draft law was approved with 75 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on the Office of the President of Kosovo
(The draft law was removed from the agenda at the request of the PDK parliamentary group.)
 - Second Reading of the Draft Law on Value Added Tax
(The draft law was approved with 46 votes in favour and 23 votes in opposition.)
 - Second Reading of the Draft Law on Corporate Income Tax
(The draft law was approved with 57 votes in favour and six votes in opposition.)
 - Second Reading of the Draft Law on Personal Income Tax
(The draft law was approved with 41 votes in favour and 18 votes in opposition.)
 - Second Reading of the Draft Law on Excise Tax
(The draft law was approved with 54 votes in favour and 13 votes in opposition.)
 - Review of recommendation on amending the Law on Accommodation Tax
(The recommendation was approved with 71 votes in favour and one vote in opposition.)
 - Review of the government's proposal with regard to the appointment of members to the Independent Board for the Review of Tax Appeals
(The proposal was approved with 46 votes in favour and 20 votes in opposition.)

The 19 December plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and member of the Presidency Mr. Ibrahim Gashi (Alliance New Kosovo - AKR).

- Eighty-three members of the Assembly were present at the 19 December plenary session.
- Main agenda items of the 19 December plenary session:
 - Second Reading of the Draft Law on the Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 (The draft law was approved with 74 votes in favour and 21 votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- At the beginning of the 4 December plenary session, Mr. Gani Geci (Democratic League of Dardania - LDD) stated that he wished to propose an amendment to the agenda of that day's session, but the President of the Assembly did not allow him to do so arguing that he had not submitted his proposal in writing as required by the rules of procedure. Mr. Geci nevertheless continued asking to speak saying that he wished to raise two urgent matters for discussion, but the President of the Assembly countered that it was within his authority to assess the urgency of an issue and did not allow Mr. Geci to speak. Mr. Geci continued to ask for the floor, which was eventually granted to him. Mr. Geci proposed two, according to him, urgent matters for discussion at the plenary session in question – a report with recommendations on the security situation in Kosovo, drafted by the Committee for Security and Internal Affairs, and the apprehension of three German citizens by the Kosovo police. The President of the Assembly did not comment on Mr. Geci's proposals and did not put them to a vote.

At the beginning of the 18 December plenary session, Ms. Donika Kada-Bujupi (AAK), Ms. Gjylnaze Syla (AAK), Mr. Gani Geci (LDD) and Ms. Rita Hajzeraj (AKR) proposed urgent matters for discussion at that day's session. The President of the Assembly responded that their proposals were not urgent and did not put them to a vote. He further suggested that they could submit their proposals in writing according to the procedural rules.

Rule 29.1 provides that “[a]t any plenary session, any Member, in agreement with the President of the Assembly, may propose that the Assembly should immediately consider an urgent matter (emphasis added). If the President of the Assembly is satisfied that the matter merits the Assembly's immediate attention, he/she shall permit the Member concerned to put his proposal to the Assembly, and then put it to a vote.” Therefore, the President of the Assembly's decision not to put the above-referenced proposals to a vote was in compliance with rule 29.1 as it is within his discretion to decide whether a proposed issue “merits the Assembly's immediate attention.” Any member, who wishes to propose an urgent matter for discussion, should agree with the President of the Assembly before doing so.

Under rule 6.5, the Presidency “shall ensure that any substantial motion supported by six or more members of the Assembly is placed on the agenda of the plenary session of the Assembly within three working weeks of securing this degree of support. The Assembly shall take a decision on the matter.” Thus, the above-referenced proposals may be formally proposed to the Presidency, which, under rule 6.5, must place them on the plenary agenda within three working weeks, provided that the motions are supported by at least six members of the Assembly.

Distribution of Draft Legislation

- The Draft Law on Value-Added Tax, the Draft Law on Personal Income Tax, the Draft Law on Corporate Income Tax and the Draft Law on Excise Tax were distributed on 21 November. Thus, the draft laws were distributed 14 working days prior to their first reading at the 11 December 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. Thus, the four above-mentioned draft laws were reviewed in a first reading in compliance with rule 35.1, which represents an improvement over past reporting periods.*

Legislative process

- The Draft Law on Amending the Law on Tax Administration and Procedure was approved five months after its endorsement in a first reading on 30 June. The Draft Law on Pardon was approved one month after its endorsement in a first reading on 6 November. The Draft Law on Rehabilitation and Employment of Disabled Persons was approved nine months after its endorsement in a first reading on 28 February. The Draft Law on the President of Kosovo was approved three months after its endorsement in a first reading on 18 September. The Draft Law on Value-Added Tax, the Draft Law on Personal Income Tax, the Draft Law on Corporate Income Tax and the Draft Law on Excise Tax were approved one week after their endorsement in a first reading on 11 December. The Draft Law on the Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 was approved three weeks after its endorsement in a first reading on 25 November. *Rule 35.6 provides that “[w]hen a committee has been designated to review a draft law, it shall report its recommendations to the Assembly no later than two months after the first reading (emphasis added), unless an extension is approved by the Assembly.” Six of above-referenced draft laws were approved by the Assembly within the deadline required by rule 35.6, while three other draft laws were approved well after the deadline; the responsible functional committees did not ask the Assembly to extend the deadline, which was not in compliance with rule 35.6. If the Assembly wishes to increase the effectiveness of its legislative process, the committees should review and approve draft legislation in a timely manner, as required by the rule above.*
- At its 12 December meeting, the Presidency discussed a letter submitted by the Committee for Legislation and Judiciary, in which the Committee requested

explanations as to why the Law on the Rights and Responsibilities of Members of the Assembly was not forwarded to the plenary session for approval. The Presidency decided to request from the Ministry of Economy and Finance a financial statement on the implementation of the Law in question prior to forwarding it to the plenary session for approval, because the Law did not include the financial statement.²⁸

Rule 33.2(d) provides that when a law is introduced to the Assembly, it must include the statement on budgetary impact for the first and following years of its implementation. Thus, the Presidency decision to seek a financial statement on the implementation of the law in question was in compliance with the rule above.

Assembly endorses in principle the draft rules of procedure

- At the 11 December plenary session, Mr. Kolë Berisha (LDK), the vice-chairperson of the Committee for Rules of Procedure, presented the new draft rules of procedure, prepared by the Committee. All parliamentary group representatives supported the new draft rules of procedure with some minor comments. After the discussion, the President of the Assembly stated that all parliamentary groups and individual members would have the right to propose amendments to the draft rules of procedure and called for a vote on the draft, which was endorsed in principle with 62 votes in favour and no votes in opposition.

Rule 3.4 provides that the Assembly shall establish an ad hoc Committee on the Rules of Procedure at its inaugural session or at a meeting thereafter to prepare draft rules of procedure and present them to the Assembly for consideration and approval. In its current term, the Assembly decided to establish a permanent Committee for rules of procedure rather than an ad hoc Committee, as was the practice in the previous Assembly. At the proposal of the Committee for Rules of Procedure, the Assembly likewise changed the adoption procedure from one reading, which was the case in the previous Assembly, to two readings in order to include parliamentary groups and individual members in the review process. The Committee is expected to complete the drafting of the new rules of procedure by 15 March 2009, as tasked by the Presidency.

Assembly decides to end Mr. Sabit Rrahmani's mandate as a member of the Assembly

- During the 4 December plenary session, the President of the Assembly announced that Mr. Sabit Rrahmani (Democratic Ashkali Party of Kosovo - PDAK) had not participated in the Assembly proceedings for more than six months and that, in accordance with the rules of procedure, he had recommended to the Committee for Mandates, Immunity and Rules of Procedure to end Mr. Sabit Rrahmani's mandate as a member of the Assembly. The Committee had considered and supported the President's recommendation to end Mr. Rrahmani's mandate. In his statement, the Committee Chairperson, Mr. Ahmet Isufi (AAK), announced that

²⁸ The Law on Rights and Responsibilities of Members of the Assembly was approved in a second reading by the previous Assembly in November 2007, but it was not promulgated by the SRSG due to its excessive financial implications. Following the request made by the government, at the 29 July 2008 plenary session, the Assembly adopted a motion to return all 17 non-promulgated laws by the SRSG to the Assembly for revision and approval, among which was the Law on Rights and Responsibilities of Members of the Assembly.

there was also a request for the waiving of Mr. Rrahmani's immunity by the District Court in Prishtinë/Priština due to criminal charges against Mr. Rrahmani. On the other hand, Mr. Hetem Arifi (PDAK) stated that Mr. Rrahmani was prevented from attending the Assembly proceedings, because he had undergone heart surgery, and he asked the Assembly not to end Mr. Rrahmani's mandate. Nonetheless, the President of the Assembly called for a vote on ending Mr. Rrahmani's mandate, which passed with 46 votes in favour, ten votes against and four abstentions. *According to the rules of procedure (rule 14.3), "[i]f a Member of the Assembly throughout a period of six months attends none of the sessions of the Assembly or of a Committee, of which he/she is a member, and cannot show good cause to the satisfaction of the President of the Assembly, the President shall propose to the Assembly that the Member concerned cease to be a Member. The opinion of the Committee for Mandates and Immunities is required on this matter (emphasis added)."* On 13 September 2008, Mr. Sabit Rrahmani (PDAK) reached the limit of six months of abstention from Assembly proceedings without providing a justification, which is one of the causes to lose one's status as a member of the Assembly. Therefore, in compliance with the rules, the President of the Assembly recommended that Mr. Rrahmani's mandate be terminated, which was supported by the Committee on Mandates, Immunity and Rules of Procedure. This is the first time that the Assembly of Kosovo decided to end the mandate of one of its members.

Interpellation

- At the 4 December plenary session, Mr. Alush Gashi, minister of health, replied to the interpellation motion submitted by the LDD parliamentary group regarding the state of affairs in the health system in Kosovo. On behalf of the LDD, Ms. Qamile Morina delivered a ten-minute opening statement, while the remaining time was allocated to all parliamentary groups proportionally. At the end of the interpellation debate, the LDD parliamentary group leader, Mr. Lulzim Zeneli delivered a five-minute statement and proposed a motion to be voted by the Assembly. In the motion, he proposed the formation of an Investigative Committee to inquire into legal breaches in the health system and the ministry of health and dismissal of the minister of health, as "responsible for the appalling situation in the health system". The chairperson of the session responded that the motion was not included in the initial request for interpellation, and he did not put it to a vote.

The interpellation debate was held in compliance with rule 25.7, according to which the parliamentary group which proposed the interpellation has the right to open the debate with a ten (10) minute statement and close the debate with a five (5) minute statement, and that the time allocation to other parliamentary groups reflects their representation in the Assembly. As to Mr. Zeneli's motion, rule 25.9 provides that "[t]he parliamentary group, who requested the interpellation, may demand that a motion be voted upon at the end of the interpellation debate provided that the motion was included in the initial request for interpellation." There was no violation of the rules of procedure in that the chairperson had not put Mr. Zeneli's motion to a vote, since the motion was not included in the LDD's initial request for interpellation.

Questions to the government

- At the 4 December plenary session, four out of 23 questions received a response. During the question period at the 4 December session, Mr. Zafir Berisha (PDK) and Mr. Arsim Rexhepi (LDK) stated that they wished to withdraw their questions because that the questions lost their relevance.²⁹ The President of the Assembly announced that questions, which had not received a response in two plenary sessions, would be published in the Assembly bulletin. At the 11 December plenary session, six out of nine questions received a response. At the 18 December plenary session, ten out of 15 questions received a response.

Question periods during the reporting period were carried out by the Assembly in compliance with rule 26 on “Questions to the Government for oral answers”, which provides that the agenda of each session shall include a period of 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.

It has been however noted in previous reports that all questions could not be processed during the 50 minute period because of the high number of questions, submitted by members. Withdrawal of questions by two members, who had to wait for months to put them forward, shows that the question period needs to be regulated in a more efficient way. The OSCE had therefore recommended that the Assembly should either extend the question period or limit the number of questions per member in order to give the opportunity to all members, who submitted questions, to put them forward in a timely manner and receive a response.

4. Access

- During the reporting period, the OSCE Mission in Kosovo received access to the plenary sessions, Presidency meetings and committee meetings under review. The OSCE Mission in Kosovo also received copies of documents considered by the Assembly and transcripts of plenary sessions.

5. Transparency

- During the reporting period, the Assembly has not published on its website any record of electronic votes of plenary session decisions. The Assembly had earlier published several records of electronic votes, but it failed to do so later.³⁰ The

29 Mr. Berisha remarked that his question to the minister of education, science and technology was submitted two months ago, while Mr. Rexhepi stated that he had submitted his question to the minister of culture, youth and sports three months ago.

30 At the 15 February, 2008 plenary session, the President of the Assembly had announced that the Assembly would publish on its website the records of electronic votes of plenary session decisions. Following the President’s announcement, the Assembly began publishing the records of electronic votes from the 17 February 2008 extraordinary session. The records of electronic votes of several plenary sessions were published on the Assembly website. However, the record of electronic votes of the 2 June 2008 plenary session was the last published on the Assembly website.

Assembly should publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, especially members' accountability to their constituents.

- 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.



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