

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

**Pillar III (OSCE) Report 01/2007  
On the Monitoring of the Assembly of Kosovo  
1 January 2007 – 28 February 2007**

**Highlights**

- **Assembly discusses the UN Special Envoy's proposal with regard to the settlement of Kosovo's status**
- **Assembly approves the *ad hoc* Investigative Committee report and recommendations with regard to the Assembly expenditures in 2004-2005**
- **Mr. Bislim Hoti becomes new member of the Presidency**
- **Assembly decides to re-advertise the vacancy for Ombudsperson**
- **Assembly discusses the situation of three Kosovo Albanians indicted by the Hague Tribunal**
- **Assembly declares 27 April as a provisional Missing Persons Day**

This fiftieth 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 new Rules of Procedure adopted at the end of the plenary session on 20 May 2005, as amended at the plenary session on 1-2 June 2006.

During the reporting period, the Assembly held five regular plenary sessions, on 11 January, 26 January, 8 February, 9 February and 22 February, as well as six Presidency meetings, on 9 January, 12 January, 22 January, 5 February, 6 February and 19 February. All ten Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during the reporting period.<sup>1</sup> Pillar III (OSCE) monitored all plenary sessions and Presidency meetings, as well as 22 out of 45 Committee meetings and one public hearing.<sup>2</sup>

<sup>1</sup> The Committee on Budget and Finance met on 16 and 31 January, 13 and 28 February, while the Committee on the Rights and Interests of Communities and Returns met on 15, 25 and 31 January, 7 and 21 February. The Committee for Judicial, Legislative and Constitutional Framework Matters met on 15, 22 and 29 January, 12 and 19 February, while the Committee for Security met on 17 January and 7 February. The Committee for Public Services, Local Administration and Media met on 25 January and 27 February, while the Committee for Health, Labour, Social Welfare and Missing Persons met on 16 and 30 January, 1, 6, 15, 20 and 27 February. The Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications met on 9, 19 and 22 January, and 6, 13 and 23 February, while the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 9, 16 and 23 January, and 13, 20 and 27 February. The Committee for Education, Science, Technology, Culture, Youth and Sports met on 9, 24 and 31 January, and 14 February, while the Committee for International Cooperation and EU Integration met on 29 January, 5, 8 and 21 February. The Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims met on 17 and 24 January, 6 and 21 February. The Committee for Budget and Finance held a public hearing of the Draft Law on Value Added Tax on 17 January 2007. The Committee for Education, Science, Technology, Culture, Youth and Sports held a public hearing of the Draft Law on Libraries on 23 January 2007. The Committee on Security held a public hearing with the Kosovo Protection Corps 23 January 2007.

<sup>2</sup> The Committee for Budget and Finance on 16 January, 13 and 28 February; Committee for the Rights and Interests of Communities and Returns on 25 and 31 January, and 21 February; Committee on Judicial, Legislative and Constitutional Framework Matters on 15, 22 and 29 January, and 12 and 19 February; Committee for Health, Labour, Social Welfare and Missing Persons on 30 January and 6 February; Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications on 19 January and 6 February; Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 9 and 13 February; Committee for Education, Science,

## 1. Overview

**The 11 January plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Eighty-four Members of the Assembly were present at the 11 January plenary session.<sup>3</sup>
- Main agenda items of the 11 January plenary session:
  - Questions to the Government for oral answers
  - First Reading of the Draft Law on Chemicals  
(The draft law was endorsed in principle with 60 votes in favor and 17 votes in opposition.)
  - First Reading of the Draft Law on Personal Number  
(The draft law was endorsed in principle with 66 votes in favor and eight votes in opposition.)
  - First Reading of the Draft Law on Personal Name  
(The draft law was endorsed in principle with 68 votes in favor and three votes in opposition.)
  - Second reading of the Draft Law on Transformation of Private Real Estate Possessors into Owners  
(The draft law was returned to the sponsor. See the second paragraph under “Legislative process”.)
  - Second reading of the Draft Law on Road Traffic Safety  
(See below the second paragraph under “Voting process”.)
  - Review of the 2005-2015 Draft Spatial Plan of Kosovo  
(The Spatial Plan was approved with 64 votes in favor and four votes in opposition.)
  - Review of the recommendation on the appointment of two members to the Media Appeals Board at the proposal of the Supreme Court of Kosovo  
(The appointments were endorsed with 65 votes in favor and six votes in opposition.)
  - Appointment of a non-Kosovo Albanian and non-Kosovo Serb member to the Presidency  
(The appointment was formally endorsed by the Assembly with the majority of votes in favor and no votes in opposition. See below the section entitled “Equal Access and Participation of Communities”.)
  - Review of the recommendation with regard to a transfer of funds in the Ministry of Agriculture, Forestry and Rural Development  
(The item was removed from the agenda. See below the first paragraph under “Agenda”.)

**The 26 January plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Naim Maloku (AAK).

- Seventy-five Members of the Assembly were present at the 26 January plenary session.
- Main agenda items of the 26 January plenary session:
  - Questions to the Government for oral answers
  - Second reading of the Draft Law on Amending the Law No 2003/25 on Cadastre  
(The draft law was approved with 69 votes in favor and one vote in opposition.)
  - Second reading of the Draft Law on Arbitration  
(The draft law was approved with 69 votes in favor and one vote in opposition.)
  - Second reading of the Draft Law on Protection of Plant Varieties  
(The draft law was approved with 69 votes in favor and no votes in opposition.)

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Technology, Culture, Youth and Sports on 9 January and 14 February; Committee for International Cooperation and EU Integration on 29 January, 5 and 21 February; and a Public hearing on the Draft Law on Libraries on 23 January 2007.

<sup>3</sup> Unless otherwise indicated, the figure given is the one announced by the President of the Assembly or Chairperson at the plenary session.

- Debate on the security situation in Kosovo  
(Mr. Jakup Krasniqi (PDK) delivered an opening statement, followed by Minister of Interior Fatmir Rexhepi, a plenary debate and closing statements of Minister of Interior and Mr. Krasniqi.)
- Review of the ORA parliamentary group proposal on the replacement of committee members  
(The proposal was endorsed with no votes in opposition.)

**The 8 February plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Seventy-three Members of the Assembly were present at the 8 February plenary session.
- Main agenda items of the 8 February plenary session:
  - Questions to the Government for oral answers
  - Approval of the Draft Law on Road Traffic Safety  
(The draft law was approved with majority of votes in favor and no votes in opposition. See below the second paragraph under “Voting process”.)
  - Second Reading of the Draft Law on Amending the Law No 2003/17 on Public Procurement  
(The draft law was approved with 66 votes in favor and one vote in opposition.)
  - Second Reading of the Draft Law on Financial Reporting of Enterprises  
(The draft law was approved with the majority of votes in favor and no votes in opposition.)
  - Second Reading of the Draft Law on Expropriation  
(The draft law was approved with the majority of votes in favor and no votes in opposition.)
  - Review of the AAK parliamentary group request on the adoption of a resolution on Kosovan Diaspora  
(Ms. Gjylnaze Syla (AAK) made a presentation, followed by other parliamentary group leaders. The Assembly postponed the adoption of the resolution for a later stage in order for parliamentary groups to agree upon a consensual text of the resolution.)
  - Debate on the situation of three Kosovo Albanians indicted by the Hague Tribunal<sup>4</sup>  
(Mr. Nait Hasani (PDK) delivered a statement, followed by parliamentary group leaders and several Members of the Assembly.)
  - Review of the proposal to declare 27 April as a provisional Missing Persons Day<sup>5</sup>  
(The Assembly approved the proposal with majority of votes in favor and one vote in opposition.)
  - Announcement of the Presidency decision to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson  
(See below the section entitled “Appointment of Ombudsperson and Principal Deputy Ombudsperson”.)

**The 9 February plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) and co-chaired by members of the Presidency Mr. Sabri Hamiti (LDK) and Mr. Xhavit Haliti (PDK).

<sup>4</sup> Mr. Nait Hasani (PDK) supported by Mr. Ramë Buja (PDK), Mr. Xhevat Bislimi (PDK), Mr. Bajrush Xhemajli (PDK), Mr. Hajredin Hyseni (PDK) and Ms. Sala Berisha-Shala (PDK) made the request to debate on the situation of three Kosovo Albanians indicted by the Hague Tribunal. The request did not specify the names of indictees, but it became clear during the discussion that it was about Mr. Ramush Haradinaj (former Prime Minister of Kosovo), Lah Brahimaj and Idriz Balaj.

<sup>5</sup> The proposal to declare 27 April as Missing Persons Day was made by Mr. Kamber Kamberi (LDK) supported by Ms. Samije Zeqiraj (LDK), Ms. Remzije Nimani (LDK), Mr. Nimon Alimusaj (LDK), Ms. Sanije Aliaj (LDK), Mr. Ymer Muhaxheri (LDK) and Mr. Jonuz Kastrati (LDK). In his proposal, Mr. Kamberi stated that “on 27 April 1999 in village Meje (Gjakovë/Djakovica municipality) has been committed a massacre, where over four hundred people were killed or abducted in one day.” He further proposed that 27 April should be declared as a provisional Missing Persons Day until the matter is regulated by a law.

- One hundred-two Members of the Assembly were present at the 9 February plenary session.
- Main agenda items of the 9 February plenary session:
  - Debate on the UN Special Envoy's proposal with regard to the settlement of Kosovo's status (At the beginning of the debate, all Unity Team members delivered statements, followed by parliamentary group leaders, an extensive plenary debate and closing statements of all Unity Team members.)

**The 22 February plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK).

- Eighty-two Members of the Assembly were present at the 22 February plenary session.
- Main agenda items of the 22 February plenary session:
  - Questions to the Government for oral answers
  - First Reading of the Draft Law on Identification Card (The draft law was endorsed in principle with 64 votes in favor and six votes in opposition.)
  - Second Reading of the Draft Law on Public Health (The draft law was approved with 66 votes in favor and two votes in opposition.)
  - Second Reading of the Draft Law on Health Insurance (The draft law was approved with 68 votes in favor and one vote in opposition.)
  - Discussion of the *ad hoc* Investigative Committee report with regard to the Assembly expenditures in 2004-2005<sup>6</sup> (The Investigative Committee report, including twelve recommendations, was approved with majority of votes in favor and five votes in opposition.)
  - Review of the proposal on the appointment of members to the Steering Board of the Central Banking Authority (The item was removed at the request of the Government as the sponsor.)
  - Review of the proposal on the appointment of members to Board on Waters (The item was removed. See below the second paragraph under "Agenda".)

## 2. Parliamentary Practices and Proceedings of Assembly Sessions

### Agenda

- At the beginning of 11 January plenary session, Mr. Naser Osmani (LDK), the Chairperson of the Budget Committee, *verbally* proposed that the item on transfer of funds in the Ministry of Agriculture, Forestry and Rural Development should be removed from the agenda with the justification that such a transfer should have been proposed within 2006 fiscal year. The President of the Assembly called for a vote on Mr. Osmani's proposal, which was approved with majority of votes in favor.

At the beginning of 22 February plenary session, the Committee on Judicial, Legislative and Constitutional Framework Matters proposed *in writing* to include in the agenda of that day's session an item on the appointment of judges. The President of the Assembly called for a vote on the proposal, which was rejected with majority of votes in opposition. At the same plenary session, Ms Selvije Halimi (PDK) *verbally* proposed that the agenda item on the appointment of members to the Board on Waters should be removed from the agenda. The President of the Assembly called for a vote on the proposal, which was approved with majority of votes in favor. *The new Rules 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*

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<sup>6</sup> See Pillar III (OSCE) Report 07/2006, the section entitled "Establishment of *ad hoc* Investigative Committee", for more details.

*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.” The proposal of the Committee on Judicial, Legislative and Constitutional Framework Matters, submitted earlier in writing, was made in compliance with the new Rules. But, Mr. Osmani and Ms. Halimi made verbal proposals, in accordance with the previous Rule,<sup>7</sup> which ceased to be in force in June 2006, and which allowed amendments to the agenda to be proposed verbally. Even after the revision of the agenda-setting provisions at the 1-2 June 2006 plenary session, Members of the Assembly continued to propose amendments to plenary session agendas in writing and verbally. New provisions, which require that the amendments to plenary session agendas are proposed in writing, should be consistently adhered to in order to avoid confusion or discontent among Members of the Assembly.*

#### Distribution of Documents

- The Draft Law on Chemicals was distributed to Members of the Assembly on 13 December 2006, while the Draft Law on Personal Number and the Draft Law on Personal Name were distributed on 20 December 2006. Thus, the draft laws were distributed, respectively, 17 and twelve working days prior to their first reading at the 11 January plenary session. The Draft Law on Identification Card was distributed on 31 January. Thus, the draft law was distributed 15 working days prior to its first reading at the 22 February plenary session. *This was in compliance with the Rule 35.1, which 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. This represents an improvement over previous reporting periods, when most draft laws were reviewed in first reading well over three working weeks from the dates of their submission.*

#### Legislative process

- The Draft Law on Road Traffic Safety was approved over ten months after its first reading on 16 March 2006. The Draft Law on Amending the Law No 2003/25 on Cadastre and the Draft Law on Protection of Plant Varieties were approved almost five months after their first reading on 31 August 2006. The Draft Law on Arbitration was approved nine months after its first reading on 27 April 2006. The Draft Law on Amending the Law No 2003/17 on Public Procurement was approved four months after its first reading on 9 October. The Draft Law on Financial Reporting of Enterprises was approved almost eight months after its first reading on 15 June 2006. The Draft Law on Expropriation was approved over five months after its first reading on 31 August 2006. The Draft Law on Public Health was approved over nine months after its first reading on 11 May 2006. The Draft Law on Health Insurance was approved two years after its first reading on 31 January 2005. *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.” The Assembly committees submitted their recommendations to the above-mentioned draft laws considerably exceeding the deadline set forth in Rule 35.6, without asking the Assembly to extend the deadline. The Assembly committees should consider accelerating the review of draft legislation in order to approve them in a timely manner, as required by the Rule above. The delays in reviewing and approving incoming draft legislation emphasize the need for a better planning of the legislative agenda between the Assembly and Government.*
- At the 11 January plenary session, Ms. Nekibe Kelmendi (LDK), Chairperson of the Functional Committee (Committee for Public Services, Local Administration and Media), proposed that the

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<sup>7</sup> The previous Rule 23.1 provided that “[a]t the end of each session the President of the Assembly or another Member of the Presidency shall propose the agenda for the next session. This proposal shall be deemed approved, unless one or more parliamentary groups or . . . six Members object to it.”

Draft Law on Transformation of Private Real Estate Possessors into Owners, which was scheduled for the second reading at that day's session, should be returned to the sponsor with the justification that many of its articles were already included in other laws and that remaining articles could be regulated by a sub-legal act. The President of the Assembly called for a vote on Ms. Kelmendi's proposal, which was approved with majority of votes in favor.

*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 Transformation of Private Real Estate Possessors into Owners 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 flaws of the draft law and propose its return to the sponsor during the first reading, rather than making such a proposal approximately two months after its first reading, which took place at the 16 November 2006 plenary session. The Assembly committees should consider utilizing the opportunity of reviewing draft laws before their first readings in order to make the legislative process more efficient.*

### Voting Process

- A quorum was present for all voting at the plenary sessions under review. *This was in compliance with Section 9.1.32 of the Constitutional Framework and Rule 31.1, which provide that a majority of the Members of the Assembly must be present in order for decisions to be taken.*
- On 18 December, during the second reading of the Draft Law on Road Traffic Safety, Mr. Ibush Jonuzi (LDK), the Chairperson of the Functional Committee (Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications), stated that there were 242 amendments proposed to the draft law in question, which had been divided by the Functional Committee into four groups: (I) 182 amendments proposed by the functional committee, (II) 49 amendments jointly proposed by the Functional Committee and Budget Committee, (III) ten amendments proposed by Ramadan Kelmendi<sup>8</sup> and (IV) the last amendment No. 242, which included 116 sub-amendments of technical nature. He further proposed that the Assembly should vote *en bloc* on each group of amendments in order to save time, which was supported by LDK and AAK parliamentary groups, but rejected by PDK and ORA parliamentary groups. Immediately after the approval of the proposal to vote *en bloc* on amendments, PDK parliamentary group walked out from the plenary hall leaving the session without a quorum. The second reading of the Draft Law on Road Traffic Safety was therefore postponed.<sup>9</sup>  
At the 11 January plenary session, the Chairperson announced that the President of the Assembly had reached an agreement with parliamentary group leaders with regard to the voting on amendments to the Draft Law on Road Traffic Safety and gave the floor to Mr. Alush Gashi (LDK) to explain the agreement. Mr. Gashi stated that the President of the Assembly and parliamentary group leaders agreed that each group of amendments should be voted upon *en bloc* and that the Functional Committee should present the final text of the draft law, incorporating all adopted amendments, to the Assembly for approval at the next plenary session. Ms. Teuta Sahatqija (ORA) countered that Rule 37.2 did not allow for amendments to be voted *en bloc* unless a group of amendments had an impact on other articles. She further proposed that the Assembly should initially decide to depart from Rule 37.2 in order to vote *en bloc* on

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<sup>8</sup> Mr. Ramadan Kelmendi was a member of the LDK parliamentary group until the end of this reporting period (28 February 2007). He and five other members of the LDK parliamentary group decided to form a new parliamentary group, which took place outside of this reporting period and will be covered in the next monitoring report.

<sup>9</sup> See Pillar III (OSCE) Report 07/2006, the second paragraph under "Voting process", for more details.

amendments. PDK, AAK, 6+ and For Integration parliamentary groups supported the proposal to vote *en bloc* on amendments. The Chairperson then proceeded calling the Assembly to vote *en bloc* on each of four groups of amendments, of which three groups of amendments were approved with majority of votes in favor, except the group of amendments proposed by Mr. Kelmendi, which was rejected.

At the 8 February plenary session, the Assembly approved the final text of the Draft Law on Road Traffic Safety, incorporating all adopted amendments, with majority of votes in favor.

*Rule 37.2 provides that “[a]mendments shall be considered individually in the order in which they arise in the text of the draft law, unless a group of amendments have an impact on other articles (emphasis added). In such case they can be considered where they first arise in the text, and may be the subject of a single vote.” The argument that was made by the Chairperson of the functional committee on 18 December was not that the amendments all have an impact on each other, but that individual vote on such a large number of amendments would consume a lot of time.*

*Rule 61 provides that “[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, unless such a departure is incompatible with provisions of the Constitutional Framework.” A decision to vote upon amendments en bloc would not violate any provision of the Constitutional Framework. The Assembly could have therefore taken a decision to depart temporarily from Rule 37.2, provided that the proposal received the support of two-thirds of the Assembly Members present, as required by Rule 61, and carry out thereafter en bloc voting on the above-referenced amendments.*

#### Appointment of Ombudsperson and Principal Deputy Ombudsperson

- At the 9 January Presidency meeting, the President of the Assembly read aloud the interpretation provided by the UNMIK Office of The Legal Advisor, as requested by the Assembly at its 14 December 2006 plenary session,<sup>10</sup> according to which “the vote for appointment of Ombudsperson and Principal Deputy Ombudsperson that took place on 14 December cannot be considered as being conclusive since the majority of votes required for the appointment of candidates, 61 or more votes of all Members of the Assembly, was not achieved.” The Presidency therefore decided to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson.

On 9 January, the SRSG likewise sent a letter to the President of the Assembly explaining that “[i]n accordance with the sections 6.2 and 6.5 of UNMIK Regulation 2006/6 that governs the Ombudsperson Institution, the Ombudsperson and Principal Deputy Ombudsperson are to be appointed . . . by a vote having the support of a majority of the Members of the Assembly. It is therefore clear that a vote may be considered as successful only if a majority, i.e. 61 or more, of all Assembly members cast an affirmative vote. Accordingly, the vote for appointment of Ombudsperson and Principal Deputy Ombudsperson that took place on 14 December cannot be considered as being conclusive since the majority of votes required for the appointment of the candidates to be effective was not achieved.” Furthermore, the letter recommended that “[t]he Assembly should . . . repeat the voting with the candidates proposed by the Legislative Committee until the requirement for an absolute majority of votes is achieved.”

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<sup>10</sup> At the 14 December 2006 plenary session, the Assembly voted on the nominations of the Committee on Judicial, Legislative and Constitutional Framework Matters for Ombudsperson and Principal Deputy Ombudsperson. Mr. Hilmi Jashari, Mr. Ibrahim Makolli and Ms. Diana Toska were nominated for Ombudsperson, while Mr. Palë Bala, Mr. Ljubinko Todorović and Mr. Habit Hajredini were nominated for Principal Deputy Ombudsperson. In two rounds of voting, neither candidate received the absolute majority of votes. Members of the Assembly pointed out that there was a discrepancy between UNMIK Regulation 2006/6, which required the absolute majority of votes for the appointments to be valid, and the procedural rules approved by the Assembly, which required simple majority. The Assembly therefore decided to seek an interpretation of the matter from the UNMIK Office of The Legal Advisor. See Pillar III (OSCE) Report 07/2006, section entitled “The appointment of Ombudsperson and Principal Deputy Ombudsperson”, for more details.

At 11 January 2007 plenary session, the Chairperson informed the Assembly that the Presidency had decided to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson at its 9 January meeting as the letter sent by the UNMIK Office of The Legal Advisor did not recommend further procedural steps. But, he continued that the SRSB had likewise sent a letter on 9 January, after the Presidency meeting, in which he recommended that “the Assembly should repeat the voting on the same candidates until one of them receives the absolute majority of votes”. He further stated that the Presidency had already contacted the Office of SRSB in order to clarify the matter and was told that an authentic interpretation would be provided at the next plenary session. Mr. Hydajet Hyseni (PDK), the Chairperson of the Committee for Judicial, Legislative and Constitutional Framework Matters, argued that there were no legal grounds to annul the process, adding that the Assembly and Office of SRSB would otherwise “set a dangerous precedent and violate the law.” He proposed that the Assembly should repeat the vote only on the candidate for Ombudsperson, respectively Principal Deputy Ombudsperson, who received the highest number of votes in the second round at the 14 December plenary session, and that if the candidates do not receive the absolute majority of votes, other options could be considered. The item was nevertheless postponed for the next plenary session.

At the 5 February Presidency meeting, Mr. Xhavit Haliti (PDK) informed that he had attended a meeting, on behalf of the Presidency, with the UNMIK Office of The Legal Advisor and OSCE, at which the issue of Ombudsperson’s appointment had been discussed. He stated that the conclusion of the meeting was that the Assembly should either repeat the vote on the candidate for Ombudsperson, respectively Principal Deputy Ombudsperson, who received the highest number of votes in the second round of voting, or re-advertise the vacancies. He added that the candidate for Ombudsperson, Mr. Ibrahim Makolli,<sup>11</sup> who received the highest number of votes in the second round, had joined a political party and that according to the Regulation 2006/6 he could not be nominated any longer. Mr. Ramë Buja (PDK) stated that there was no official confirmation that Mr. Makolli had joined a political party, adding that it was nevertheless better to re-advertise the vacancy. Mr. Bislim Hoti (IRDK) stated that he had seen Mr. Makolli on a television show few days ago, at which Mr. Makolli announced that he had joined a political party. After some more discussion, the Presidency decided to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson.

At the 8 February plenary session, the Chairperson informed the Assembly that the Presidency had decided to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson. Mr. Hyseni stated that the decision was harmful and that he did not agree with it. Other Members of the Assembly did not object to the decision of the Presidency.

*The decision of the Presidency to re-advertise the vacancies for Ombudsperson and Principal Deputy Ombudsperson was in compliance with the UNMIK Regulation 2006/6, On the Ombudsperson Institution, as neither candidate received an absolute majority of votes as required by the Regulation. Section 8.1 of the Regulation 2006/6 stipulates that “[t]he positions of Ombudsperson, Principal Deputy Ombudsperson and Deputy Ombudsperson are incompatible with the exercise or holding of any political, public or private professional activity or office.” An individual who exercises a political activity or holds a political office could not be selected for Ombudsperson. Moreover, as there was no strong objection in the Assembly to the decision of the Presidency to re-advertise the vacancies, the decision is considered valid.*

#### Questions to the Government for oral answers

- At the 11 January plenary session, neither of the two questions received responses. At the 26 January plenary session, six out of eight questions received responses. At the 8 February plenary session, one out of three questions received responses. At the 22 February plenary session, five

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<sup>11</sup> At that time, it was not officially confirmed that Mr. Ibrahim Makolli had joined a political party, but it was later confirmed that he did join a new political party “Alliance for New Kosovo” led by Behxhet Pacolli.



out of six questions received responses. The President of the Assembly responded that questions that received no response within two plenary sessions would be published in the bulletin of the Assembly.

*The question period was carried out by the Assembly in compliance with the new 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. Under new 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 Assembly of Kosovo bulletin likewise does not contain a section on questions that have been submitted to the Government and therefore no pending questions have ever been published. The publication of questions of Members that had not received responses in the Assembly bulletin could raise the accountability of the Government in relation to the Assembly.*

### **3. Equal Access and Participation of Communities**

#### Appointment of a non-Albanian and non-Serb member to the Presidency<sup>12</sup>

- On 9 January, following the request of the Presidency, the SRSG sent a letter to the President of the Assembly stating that according to the Constitutional Framework “it is for the Community to determine its representation in the Presidency. There is in place an agreement on the rotation of the representation of the “other communities”. Political affiliation of the person selected under this agreement is immaterial.”

At the 9 January Presidency meeting, the President of the Assembly stated that the Assembly should accept the proposal for Mr. Bislim Hoti (IRDK/Egyptian) to serve on the Presidency in 2007 as it was agreed upon by IRDK, KDTP and Vakati. Mr. Xhavit Haliti (PDK) argued that if Mr. Hoti were a member of 6+ parliamentary group, it would be reasonable for him to serve on the Presidency but that as a member of AAK parliamentary group, he could not do so. Mr. Mahir Yağcılar (KDTP/6+) stated that he supported the proposal for Mr. Hoti to serve on the Presidency in 2007. Mr. Sabri Hamiti (LDK) argued that according to Constitutional Framework AAK could not have two members in the Presidency. The President of the Assembly stated that the Assembly should decide on Mr. Hoti’s representation in the Presidency.

At the 11 January plenary session, Mr. Xhavit Haliti, who chaired the plenary session at that moment, stated that there were doubts at the previous plenary session and Presidency meetings as to whether Mr. Hoti could serve on the Presidency since he was a member of AAK parliamentary group, which “is not allowed by the Rules of Procedure and Constitutional Framework, but the SRSG makes it possible”. The Chairperson read aloud the letter sent by the SRSG and called the Assembly to endorse formally Mr. Hoti’s appointment to the Presidency, which was endorsed with majority of votes in favor.

*Section 9.1.7 (f) of the Constitutional Framework provides that “[o]ne Member of the Presidency shall be appointed from among the members of the Assembly belonging to parties*

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<sup>12</sup> On 2 December 2004, KDTP (Turkish party), Vakati (Bosniac party) and IRDK (Egyptian party), representing eight out of twelve Members of the Assembly from non-Albanian and non-Serb communities, had reached an agreement according to which they would be represented in the Presidency based on a yearly rotation plan, under which Mr. Džezair Murati (6+/Vakati) would serve on the Presidency during the first year, followed by Mr. Mahir Yağcılar (6+/KDTP) during the second year and Mr. Bislim Hoti (IRDK) during the third year. As agreed, Mr. Murati had already served on the Presidency in 2005 and Mr. Yağcılar had been serving from January 2006. On 4 December 2006, Mr. Bislim Hoti (IRDK/Egyptian) sent a letter to the Presidency informing it that he would serve on the Presidency from 1 January 2007 according to the above-referenced agreement. Some members of the Presidency however hesitated to accept Mr. Hoti arguing that he could not be a member of the Presidency as he was a member of the AAK parliamentary group. At its 18 December meeting, the Presidency decided to seek a legal interpretation on the matter from the Office of the SRSG. See Pillar III (OSCE) Report 07/2006 on the Monitoring of the Assembly of Kosovo, first paragraph under “Equal access and participation of communities”.

*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 (emphasis added).” Furthermore, Section 9.1.8 provides that “[t]he Assembly shall endorse these appointments by a formal vote.” The Presidency therefore has no role in approving or rejecting an agreement reached by non-Albanian and non-Serbian communities with regard to their representation in the Presidency. Moreover, the Assembly’s role is only to endorse such an agreement by a formal vote without interfering in the internal agreement of other communities. Mr. Bislim Hoti was proposed to serve on the Presidency as a representative of the Egyptian community not as a member of the AAK parliamentary group. Statements that the Rules of Procedure of the Assembly and Constitutional Framework did not allow Mr. Hoti to serve on the Presidency were therefore incorrect. The endorsement by the Assembly of the proposal for Mr. Hoti to serve on the Presidency in 2007, which took place at 11 January plenary session, was in compliance with the Constitutional Framework.*

#### **4. Access**

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

#### **5. Transparency**

Radio Television Kosovo (RTK) provided live coverage of the plenary sessions under review. On 9 February, the plenary session lasted longer extending into the time of normally scheduled RTK programming. Therefore, the remaining part of the session was not broadcast live, but later that evening.

Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly of Kosovo has a website ([www.kuvendikosoves.org](http://www.kuvendikosoves.org), [www.skupstinakosova.org](http://www.skupstinakosova.org), [www.assemblyofkosovo.org](http://www.assemblyofkosovo.org)) containing biographical details of Members of the Assembly, information about the structure and functioning of the Assembly, copies of laws and resolutions adopted by the Assembly, along with other information, in Albanian, Serbian, and English.

ENDS.