



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

**OSCE Mission in Kosovo contribution toward an efficient and effective  
Legislative Process in the Assembly of Kosovo during 2007**

15 November 2007

---

**INTRODUCTION**

Since 2005 the Assembly of Kosovo has significantly increased its activities in the legislative field, demonstrated by an increase of parliamentary questions, budget oversight and interpellations as well as an increase in the review and adoption of laws. These included laws that were prioritized by the Contact Group in the framework of Standards implementation, such as the Law on Languages, Law on Cultural Heritage and Law on Religious Freedom.

In order to improve the quality of the legislative process, the Provisional Institutions of Self-Government responsible for the legislative process, Government Ministries and the Assembly, have increasingly requested support from the OSCE Mission in Kosovo to monitor the process and to advise, coach and train staff. The Central Assembly Unit<sup>1</sup> considers 2007 to be crucial because it has been able to support improvements in the legislative practice necessary to guarantee an equitable and transparent legislative process.

**SITUATION ANALYSIS**

In the beginning of 2007, the OSCE Mission in Kosovo noticed serious delays in the adoption of legislation. In order to address this issue the Mission developed a multi-faceted approach covering the entire legislative process and identified target groups,

---

<sup>1</sup> The Central Assembly Unit monitors all plenary sessions, meetings of the Assembly Presidency, and meetings of all ten standing committees. In addition, the Central Assembly Unit assists each of the following committees: the Committee for Budget and Finance, the Committee for Judiciary, Legislative Matters and Constitutional Framework, the Committee on Rights & Interests and Return, the Security Committee and the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning.

including: the Assembly legal office, Assembly committees, ministry legal offices, and the Office of Legal Support Services within the Prime Minister's Office. Each of these groups play a distinct yet complementary role in the legislative process and issues affecting the work of just one group impede the entire legislative process.

Analysis of the situation in consultation with these actors revealed a number of key problems that impeded a timely and effective review and adoption procedure:

1. Staff of the Assembly legal office possessed insufficient expertise to draft guidelines for the legislative process. The absence of guidelines led to a situation where legal staff of the Assembly, international experts and civil servants gave different and sometimes conflicting input to the drafting process. This led to a delay in the tabling of laws.
2. Assembly committees had difficulties scrutinizing draft laws due to insufficient legal and subject matter expertise. Support from legal officers in the ministries to Assembly Committees during the review of draft laws could have enhanced the situation to some extent. However, legal officers felt that assisting the Assembly Committee could compromise their neutrality and refrained from doing so. Consequently, committees routinely submitted recommendations two months after the first reading – the deadline set forth in Rule 35.6 of the Rules of Procedure.

#### **OBJECTIVES, OUTPUTS, ACTIVITIES**

The OSCE Mission in Kosovo recognized that efficient and effective adoption of legislation required a significant improvement in the quality of drafting and scrutiny of draft legislation. Therefore the OSCE Mission distinguished as its key objective: *To assist the Assembly to increase the qualitative drafting and scrutiny and efficient adoption of draft laws.*

In order to attain this objective a series of five outputs was formulated with Assembly interlocutors. Furthermore monitoring, coaching, and advising activities were implemented to produce the required deliverables.

##### *1. The professional legal expertise of the Government and Assembly is enhanced*

As noted before it is essential to establish guidelines for drafting legislation so that all actors within the Kosovo institutions use the same system for drafting laws. However, insufficient expertise on the part of legal officers within the Assembly to draft guidelines impeded progress on this issue. In order to enhance the legal expertise of the Assembly legal officers, committee staff, as well as civil servants and legal officers in Government

ministries, the Central Assembly Unit held a series of legal trainings that included: drafting and scrutiny skills, policy development and EU approximation.

As a result of the training legal officers and civil servants not only increased their know-how of relevant subject matter and the legislative process within the Government, but also increased their confidence which stimulated them to share lessons learned with staff that could not participate.

Major achievements:

- Assembly legal officers and committee staffers participate more actively in the drafting and scrutiny of legislation within the committees;
- enhanced awareness and understanding by the staff of the Assembly and Government ministries of their respective roles and difficulties in the legislative process;
- ministry legal officers play a more proactive role by attending committee meetings and working with the committee to explain, scrutinize and review draft laws.
- renewed efforts to form the working group to draft the guidelines *after* the election period, utilizing the new found skills and confidence of the legal officers.

Encouraged by these results the Central Assembly Unit aims to reinforce the impact and sustainability of the training by basing additional trainings on a “train the trainers” approach.

## 2. *The quantity and quality of committee review of draft legislation is increased*

Assembly Committees, responsible for the first review of draft legislation, had insufficient legal and subject matter expertise to effectively scrutinize draft legislation. This led to serious delays in the adoption process.

In May 2007, the Central Assembly Unit encouraged committees to start utilizing Rule 35.7 of the Rule of Procedures that allows scrutiny of draft laws prior to their first reading. In addition they were assisted to determine a timeframe for tabling of amendments in order to further streamline the legislative process in the Assembly. Committees followed this advice proactively, providing them with more time to review draft laws. In addition, the use of Rule 35.7 has allowed Committees, such as the Committee for Community Rights & Interests and Return to nominate a rapporteur for each draft law who takes the lead in reviewing and explaining the details of the law to the Committee members.

In order to further enhance the quality of review of draft legislation, the Central Assembly Unit provided assistance to the Assembly according to specific requests of the committees. Specific support included seminars on drafting to improve specific draft laws

and gain consensus on controversial draft laws. Two such seminars, requested by the Committee for Judicial, Legislative Matters and Constitutional Framework resulted in the drafting of two laws that would probably not have passed a first reading without Central Assembly Unit involvement – the Law on Parliamentary Inquiry and the Law on Rights and Responsibilities of Deputies.

Furthermore the Central Assembly Unit organized roundtables to discuss politically sensitive draft laws in a broader way so as to build trust and consensus among Committee members. The Central Assembly Unit, together with partners of the Assembly Support Initiative, worked extensively with the Committee on Judicial, Legislative Matters and Constitutional Framework and other parliamentary groups to draft the Law on the Rights and Responsibilities of Deputies. This was a sensitive law, as assembly members did not share consensus on whether the Assembly should be a full-time organization. The roundtable facilitated a productive debate in which participants could voice their concerns and make changes to the draft law which ensured a more complete, comprehensive draft law that had the political consensus necessary for its approval by the Assembly.

However, against the advice of the relevant committee with which the OSCE worked together, the plenary session adopted a number of problematic amendments which still need thorough assessment whether there are in compliance with the applicable law and the Constitutional Framework. This example shows that providing technical advice and a political agenda do not always go hand in hand. A close follow-up on this specific law will still be required.

Finally, the Central Assembly Unit provided technical legal comments to key laws as part of its work with committees. This technical expertise improved the quality of draft laws by ensuring the laws met relevant rule of law, human rights and EU standards. This made passage in the Assembly easier and more efficient and left no need for laws to be returned to the Government.

Major achievements:

- enhanced quality of Committee review of draft legislation;
- more efficient review process;
- Committees feel a renewed sense of ownership over draft laws reviewed by the committees and a better understanding of how to oversee implementation of the laws;
- not a single law endorsed in a first reading after May 2007 has been returned to the Government.

3. The majority of the Assembly has agreed on revised rules of procedure and an analytical report on revisions is produced

The Assembly first drafted rules of procedures in 2005, through a working group led by the international community. In 2006, the rules were revised by a working group of international organizations and Assembly members. As the Assembly has continued to mature and increase its activity, Assembly members have remarked to Central Assembly Unit staff that the rules are out of date and do not reflect current parliamentary practice. The Central Assembly Unit has also identified gaps in the rules and further inconsistencies not corrected in 2006.

The Central Assembly Unit met weekly with caucus leaders, the Assembly Presidency and members of the Committee for Judicial, Legislative Matters and Constitutional Framework and the former ad-hoc rules committee to agree on procedures to review the existing rules of procedure. The Central Assembly Unit and its Assembly Support Initiative Partners<sup>2</sup> suggested a neutral working chaired by the Assembly legal office which will be responsible for delivering a comprehensive report, containing specific revisions and amendments, to the Assembly. The end result should be a new set of rules of procedure supported and approved by a majority of Assembly members.

Major achievements:

- a joint working group has been agreed upon and the Assembly legal office has agreed to lead it;
- an analytical report with recommendations is in the drafting stage.

4. Government officials, committees and the Assembly have increased their interaction

The OSCE Mission observed that the quality of review of draft legislation could be enhanced by increasing the interaction between different actors in the process, and in particular increasing support from legal officers in the ministries to committee members. In order to facilitate this interaction the Central Assembly Unit informed ministry legal officers of relevant committee meetings and arranged for committees to give the legal officers a specific role in the Assembly legislative process - namely, explaining the draft law and outlining its maturation within the Government.

Major achievements:

- Ministry legal officers and Human Rights Officers in ministries have started to attend and contribute to the review process of draft legislation.

---

<sup>2</sup> The Assembly Support Initiative includes the OSCE Mission in Kosovo, the National Democratic Institute, the European Agency for Reconstruction Project 'Further Support to the Assembly of Kosovo' and the National Centre for State Courts.

## CONCLUSION

Through the provision of needs based assistance and monitoring of the work of the Assembly, the Central Assembly Unit of the Mission identified deficiencies in the legislative process of the Assembly and was able to increase the quality of that process. These deficiencies include lack of a harmonized drafting process, insufficient legal expertise and insufficient co-ordination and co-operation between Assembly committees and the Government. After identifying these deficiencies, OSCE Mission members worked daily with Assembly counterparts to provide assistance through advising, mentoring and training. It became clear that this kind of multi-faceted assistance is a very effective tool for common efforts to achieve goals.

The Central Assembly Unit will continue to work with the Assembly as it begins its new mandate. Our programme of support in 2008 will include enhanced support to the Assembly, targeting those areas where the Assembly continues to need assistance such as in the standardization of the legislative process and the harmonization of legislation with the EU “*acquis communautaire*.” The Central Assembly Unit will also assist the Assembly to strengthen its oversight of the Government, including monitoring the implementation of laws, budget review and approval, safeguarding and protecting the rights and interests of communities, building closer ties to voters and responding to public opinion.

Future reports from the OSCE Mission will highlight our work with Assembly committees and on our programme of Assembly outreach. Two other forthcoming reports include “The Role of Civil Society in the Legislative Process” and the fourth annual “Implementation of Laws Report.”