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EXECUTIVE SUMMARY

Public participation in decision-making as well as oversight of local institutions are fundamental good governance principles primed to ensure transparency and accountability of democratic processes. The *Municipal Assembly Follow-Up Monitoring Report* (January-December 2011), as with its previous edition published by the Organization for Security and Co-operation in Europe Mission in Kosovo (OSCE) assesses – against compliance with the Law on Local Self Government - the lawfulness and effectiveness of municipal assemblies' performance with regard to public notification of municipal assembly meetings, the prevention of conflict of interest of municipal officials, the use of official languages, as well as oversight of the central government over municipal compliances.

Overall, progress in the adherence to legal provisions by municipal assemblies has been noted. Timely notification of municipal assembly meetings to the public is fulfilled by 91 per cent of municipalities; of those, 44 per cent have undertaken additional initiatives to include the public, establishing best practises that could be replicated across Kosovo. In two municipalities, procedures for the prevention of conflicts of interest of local officials are clearly outlined in the municipal statutes and assembly rules of procedure. Furthermore, with the introduction of web-cam streaming of municipal assembly sessions in January 2012, central level officials are no longer requested to physically attend municipal assembly meetings. The government's commitment to enable public online-broadcasting of municipal legislative sessions in the future is a remarkable initiative that is expected to increase transparency and accountability.

Nonetheless, a number of shortcomings remain across several municipalities. First, the number of municipalities that have taken measures to address conflict of interest situations has decreased. Second, with regard to the use of official languages, whilst oral interpretation during municipal assembly meetings has been broadly provided, the obligation to translate meeting notes into all official languages of a given municipality is not regularly fulfilled.

To further improve transparency and accountability of municipal legislative processes, the Mission recommends: to further increase public participation to municipal assembly meetings by, e.g. posting the notification in public places and/or announcing these through local media; to define procedures for the observation of conflict of interest situations and ensure that they are adhered to; to translate and publish assembly meeting notes in all official languages; and to enable public webcasting of municipal assembly meetings.

1. INTRODUCTION

The legal and regulatory framework¹ in Kosovo, in particular Law No.03/L-040 on Local Self Government, defines requirements for the operation of municipal assemblies and provides safeguards to ensure public participation in decision-making processes. This includes requirements for open meetings of municipal assemblies, as well as public notification of such meetings and the use of official languages. Furthermore, provisions addressing conflict of interest situations aim to ensure adherence to international standards such as the good governance principles of transparency and accountability. Proper implementation of this regulatory framework will ensure the performance of local governments in line with these core principles. The level of compliance of municipalities with these principles is monitored by the Ministry of Local Government Administration as central level supervisory body, which assigns officials to monitor municipal assembly meetings.²

This report presents a follow-up to the 2011 edition over-viewing key aspects of municipal assembly performance as well as developments related to oversight mechanisms of the ministry at the local level. It is intended to serve municipal representatives, the ministry and other relevant stakeholders involved in local governance issues as an indicator for further capacity development at the local level. The focus lies in using the identified best practice cases in other municipalities through inter-municipal cooperation and training.

This assessment covers 362 municipal assembly meetings held in 34 municipalities³ in the period from January until December 2011. Data has been collected by the OSCE through regular monitoring of municipal activities and by structured-interviews with municipal and central-level officials.

The report focuses on three main compliance aspects and on oversight of municipal assembly activities. Section Two presents findings on notification of municipal assembly meetings, the prevention of conflict of interest situations, the level of adherence to legal provisions on the use of official languages and the most recent developments and efforts in regard to the monitoring activities of the ministry. The report concludes with recommendations to improve the transparency and accountability of the governance at the local level.

¹ The legal framework includes standards deriving from the European Charter of Local Self- Government and its Protocols (*hereinafter* the charter).

² As the supervisory body, the ministry has established a monitoring system which enables it to identify shortcomings in respect to legality of municipal activities. During the reporting period, the ministry started the implementation of a new strategy to monitor municipal assembly meetings on-line. This new oversight mechanism is regulated by Administrative Instruction No. 2012/01 on Monitoring of Municipal Assemblies through the Information Technology Equipment Telepresence.

³ The municipalities of Zvečan/Zveçan, Leposavić/Leposaviq and Zubin Potok are not included in this assessment.

2. MUNICIPAL ASSEMBLY MEETINGS – MAIN FINDINGS

The regulatory framework in Kosovo as described in detail in the 2011 OSCE Report⁴ provides, among others, that local self-government shall be based upon the principles of good governance, transparency, efficiency and effectiveness, respect the rule of law and in view of bringing decision-making closer to residents in order to promote sustainable governance.⁵ Furthermore, the Law on Local Self Government safeguards such principles and determines the crucial role of the municipal assembly as the legislative organ of a municipality responsible to decide on matters of municipal importance⁶ and in overseeing the work of the executive. Hence, it outlines the core formal aspects for the operation of such an important organ. This includes provisions on the notification of public meetings, the prevention of conflict of interest situations and provisions on providing translation/interpretation in regard to municipal assembly activities.

This section presents the main findings of the OSCE monitoring activities on the level of compliance with the abovementioned formal requirements. It also presents the current situation and developments in the field of monitoring of municipal assembly activities by the ministry.

2.1 Notification of Meetings

One of the procedural shortcomings identified in approximately half of the assessed municipalities in the 2011 OSCE Report⁷ was the failure to notify the public of upcoming meetings⁸ and not having a sufficiently wide public reach.⁹ Failure to facilitate access of the general public in decision-making processes hampers the efforts of municipal institutions to govern in a transparent manner, in breach of good governance principles set out in the Law on Local Self Government.

The latest findings of OSCE's monitoring activities reveal that only three municipalities failed to post a public notice prior to municipal assembly meetings in more than one instance.¹⁰ The remaining 31 municipalities announced the municipal assembly meetings in a timely manner.¹¹ This shows significant progress compared to

⁴ See the 2011 OSCE Report *Municipal Assembly Monitoring Report March 2009-December 2010*, <http://www.osce.org/kosovo/80664>, (accessed on 14 November 2011).

⁵ Preamble to Law No. 03/L-040 on Local Self Government, 4 June 2008.

⁶ Article 40.2 of the Law on Local Self Government.

⁷ See the 2011 OSCE Report, *Municipal Assembly Monitoring March 2009-December 2010*.

⁸ Adherence to the principle of open meetings is regulated primarily in Article 45 of the Law on Local Self Government and states that all municipal assembly meetings are public, albeit with a few exceptions.

⁹ The Law on Local Self Government sets the obligation for municipalities to inform residents, in due time and in an effective manner, about forthcoming municipal assembly meetings and Administrative Instruction 2008/09 on Municipal Transparency implementing the Law defines the way in which the public should be notified about activities of the local legislative branch, e.g. information must be posted in the most frequented place in the municipality according to Article 3.3 of Administrative Instruction 2008/09.

¹⁰ Mamuša/Mamushë/Mamuša in two instances; Suharekë/Suva Reka in four instances; Rahovec/Orahovac in five instances. In addition, Deçan/Deçane, Prishtinë/Priština Gračanica/Graçanicë, Štrpce/Shtërpçë, Gjilan/Gnjilane and Klokot/Klllokot have failed to announce meetings in one instance.

¹¹ At least seven working days prior to the date of the meeting for regular meetings. Articles 43.3 and 45.2 of the Law No. 03/L-040 on Local Self Government.

the previously reported 16 municipalities which failed to adhere to this obligation in more than one instance.¹²

When it comes to the means used to notify the public on upcoming municipal assembly meetings, municipalities have continued to use municipal information boards and municipal official websites for dissemination of the information. However, 15 municipalities used other means as well, demonstrating an increased effort to reach the public.¹³ For example, the municipalities of Pejë/Peć, Deçan/Deçane, Glllogoc/Glogovac and Mitrovicë/Mitrovica posted information on municipal assembly activities in the most frequented places of the municipality, such as the urban centre. Another novelty with regard to public outreach has been introduced by Prishtinë/Priština municipality, which issued press releases on their upcoming legislative activities. Radio announcements, billboards and posters have also been mentioned as a means of spreading information on upcoming meetings.¹⁴

Furthermore, the assessment shows that members of the public were present in 95 per cent of municipal assembly meetings monitored; however, attendance often remained at low levels.¹⁵ In addition, no public at all were observed in all 18 meetings held in 16 municipalities during the reporting period.¹⁶ The highest number of members of the public present was observed in the municipalities of Pejë/Peć, Prizren, Gjakovë/Đakovica, Klinë/Klina, Rahovec/Orahovac, Kaçanik/Kaçanik, and Lipjan/Lipljan.¹⁷

Overall, the requirement to publicly announce municipal assembly meetings was fulfilled in the majority of municipalities, which marks an improvement compared to the previous OSCE report. In addition, half of municipalities made further efforts to reach out to and inform the public, which marks a positive trend. The level of public participation cannot be considered sufficient, remaining consistently at low levels in most municipalities. Continuous efforts to increase the effectiveness of public announcement of municipal assembly meetings may increase public attendance, thereby improving the transparency of municipal legislative activities.

2.2 Prevention of Conflict of Interest

In comparison with the findings presented in the 2011 OSCE Report, municipal assemblies failed to a greater extent to address the issue of conflict of interest in municipal assembly meetings.

¹² See the 2011 OSCE Report, *Municipal Assembly Monitoring March 2009-December 2010* (page 7).

¹³ Prizren, Shtime/Štimlje, Pejë/Peć, Gjakovë/Đakovica, Klinë/Klina, Klokot/Klllokot, Deçan/Deçane, Novo Brdo/Novobërdë, Ranilug/Ranillug, Kamenica/Kamenicë, Prishtinë/Priština, Glllogoc/Glogovac, Fushë Kosovë/Kosovo Polje, Skenderaj/Srbica and Vushtrri/Vuçitër.

¹⁴ In 2010 and 2011, OSCE donated approximately 3,000 and 4,000 posters, respectively, to municipalities for announcing municipal assembly meetings.

¹⁵ The lowest number of public attendance was observed in the following municipalities: Dragash/Dragaš (min 2, max 8 persons), Graçanica/Graçanicë (min 1, max 6 persons), Junik (min 2, max 9 persons), Vushtrri/Vuçitër (min 4, max 6 persons) and Skënderaj/Srbica (min 3, max 5 persons).

¹⁶ Štrpce/Shtërpçë, Parteš/Partesh, Fushë Kosovë/Kosovo Polje and Obiliq/Obilić.

¹⁷ Pejë/Peć (min 4, max 20 persons), Prizren (min 11, max 60 persons), Gjakovë/Đakovica (min 3, max 28 persons), Klinë/Klina (min 3, max 30 persons), Rahovec/Orahovac (3 min, 25 max persons), Kaçanik/Kaçanik (min 2, max 25 persons) and Lipjan/Lipljane (min 2, max 12 persons).

Any municipal assembly member who finds himself/herself in a conflict of interest situation shall be excluded from the decision-making process regarding any matter in which he/she or an immediate family member has a financial or other interest. Assembly members are obliged to make an open statement on their financial interests prior to the inaugural session of the municipal assembly and to report any change in their financial interest that might subsequently occur.¹⁸ They are equally obliged to declare any conflict of interest, personal or financial, which might arise in the course of their municipal assembly member mandate. Every municipal assembly member can also present information about possible interests of another member. Municipalities are required to regulate the procedure for exclusion of members in conflict of interest situations from decision-making and administrative procedures in their municipal statutes and municipal assembly rules of procedures.

The assessment shows that the issue of conflict of interest was addressed only in two municipalities: in one instance by the chairperson in Glogoc/Glogovac municipality,¹⁹ and in Pejë/Peć municipality, where the chairperson regularly inquires municipal assembly members if any of the meeting agenda points could potentially cause a conflict of interest. Compared to the previous reporting period, this marks a significant decrease in the number of cases in which the issue of conflict of interest has been raised in municipalities.²⁰

As stated above, municipalities are required to regulate the procedure for exclusion of members in conflict of interest situations from decision-making and administrative procedures in their statutes and municipal assembly rules of procedures.²¹ Only two municipalities, Lipjan/Lipljan and Shtime/Štimlje, fulfilled this requirement and defined conflict of interest procedures in the aforementioned municipal acts.²²

Municipalities are legally obliged to regulate the issue of conflict of interest.²³ Defining the exclusion procedure of municipal assembly members having a conflict of interest holds those members accountable for their decision-making actions. Furthermore, it increases the level of awareness of municipal assembly members on the issue. In this regard, the practices of the aforementioned municipalities should be considered by other municipalities.

2.3 Provision of Translation/Interpretation

Simultaneous interpretation in municipal assembly meetings is almost always provided by municipalities upon request. However, written translation of municipal

¹⁸ Article 38 of the Law on Local Self Government regulates the issue of conflict of interest for municipal assembly members and reflects international standards, such as accountability.

¹⁹ In a municipal assembly meeting held on 26 May 2011 in Glogoc/Glogovac municipality, the chairperson asked a few members to leave the meeting because he believed that they were in a conflict of interest situation with a topic on the agenda for that municipal assembly meeting.

²⁰ According to the previous assessment, the conflict of interest was raised in six municipalities in 12 instances. See the 2011 OSCE Report *Municipal Assembly Monitoring March 2009-December 2010* (page 7).

²¹ Article 38 of the Law on Local Self Government.

²² For instance, Article 18 2. of rules of procedure of Lipjan/Lipljan municipality clearly defined the obligation of the chairperson to ask municipal assembly members if there is a possible conflict of interest.

²³ Article 38 of the Law on Local Self Government.

assembly meeting materials is not provided at all by 52 per cent of assessed municipalities.²⁴

To ensure further transparency and accessibility of municipal legislative activities, the Law on Local Self Government provides that the use of languages in municipalities is regulated in accordance with the Law on the Use of Languages and through a detailed municipal regulation.²⁵ Official languages need to be equally applied and treated in the daily work of municipalities; interpretation for municipal assembly meetings into official languages must be provided when requested by a resident or municipal assembly member, and translation of all meeting materials into all official languages of the municipality must be provided.²⁶

The assessment shows that all municipalities complied with the legal requirement of providing simultaneous interpretation upon request during municipal assembly meetings, with the exception of one.²⁷

However, failure to translate and publish municipal assembly meeting materials into all official languages persists in the majority of municipalities, as previously reported.²⁸ Out of 34 monitored municipalities, 21 did not translate meeting records at all. Only six municipalities always translated meeting material into official languages while in Gjilan/Gnjilane, Prizren and Klinë/Klina municipality this legal requirement is adhered too in all monitored municipal assembly meetings but one,²⁹ while the remaining municipalities translated material on an irregular basis.³⁰

The persistent lack of compliance with language provisions in regard to translation of meeting materials could be considered as a lack of willingness to devote the human and other resources necessary for ensuring adherence to this legal requirement. Municipalities should be reminded by the supervisory authority of their legal obligation to translate meeting materials into official languages.

2.4 Ministry of Local Government Administration – Monitoring Activities

As the supervisory body, the ministry is responsible, *inter alia*, for ensuring the lawfulness and legality of local government bodies' activities.³¹ Therefore, the ministry monitors municipal assembly meetings by attending the meetings or through on-line monitoring.

The assessment shows that ministry officials monitored 155 municipal assembly meetings out of the total 362 meetings assessed by the OSCE. As reported previously, ministry officials were least present in the Pejë/Peć region, as there was no presence

²⁴ The equal use of official languages at the municipal level is guaranteed under the existing legal framework.

²⁵ Article 9 of the Law on Local Self Government.

²⁶ Article 7.3 and 7.4 of the Law No. 02/L-37 on the Use of Languages, 27 July 2006.

²⁷ Mamuša/Mamushë/Mamuša.

²⁸ See the 2011 OSCE Report *Municipal Assembly Monitoring Report March 2009-December 2010*.

Fourteen, out of 34 monitored municipalities, translated municipal assembly meeting records into the official languages of the municipality.

²⁹ Parteš/Partesh, Dragash/Dragaš, Vushtrri/Vučitrn, Skenderaj/Srbica, Pejë/Peć and Fushë Kosovë/Kosovo Polje.

³⁰ Klokot/Kllokot, Štrpce/Shtërpçë, Mamuša/Mamushë/Mamuša, and Prishtinë/Priština.

³¹ Article 76 of the Law on Local Self Government.

of the ministry in 46 out of 66 meetings. In addition, the recent assessment identified their protracted absence in Podujevë/Podujevo municipality.

Since January 2012, the ministry has successfully introduced a system of webcasting transmission of municipal assembly meetings. The use of this oversight tool is regulated through an administrative instruction issued by the ministry, which defines the monitoring process through information technology equipment and the duties of the central and local levels in this process.³² On-line transmission of municipal assembly meetings aims to improve the performance of local authorities in line with the legal framework and good governance principles. In addition, it should enable the ministry to be more efficient in monitoring while lowering costs.

Both the ministry and the municipalities which have been assessed for this report stated that the on-line monitoring tool is being implemented without major obstacles. With the exception of all municipal assembly meetings held in three municipalities, all other municipal assembly meetings were broadcasted on-line.³³

Since the implementation of this tool began, the ministry has been able to monitor municipal assembly meetings in the vast majority of municipalities. With regard to the municipalities and their obligation to make on-line monitoring operational, 12 municipalities have yet to obtain all necessary equipment³⁴ as outlined by the administrative instruction regulating the broadcasting of municipal assembly.³⁵ Currently, these municipalities are only using their existing but limited municipal equipment.³⁶

It is worthwhile to mention the good co-operation between the central and local level during preparations for the introduction of the on-line monitoring system, confirmed by all assessed municipalities and ministry officials and as required by the administrative instruction.³⁷

Currently, the ministry is working to expand the use of the on-line monitoring system to enable residents to have access to municipal legislative meetings. Later in 2012, it is expected that municipalities will be able to link their official websites to the on-line monitoring system to enable public broadcasting of municipal assembly meetings.³⁸ Webcasting of municipal assembly meetings has the potential to streamline procedures and improve accessibility and transparency of municipal legislative activities by enabling residents to have access to municipal legislative activities.

³² The Administrative Instruction No 2012/01 on Monitoring of Municipal Assemblies through the Information Technology Equipments Telepresence, issued by MLGA on 17 January 2012.

³³ Due to the unavailability of the Internet link to the MLGA, Gračanica/Gračanicë, Deçan/Deçane and Parteš/Partesh municipal assembly meetings have not been transmitted on-line.

³⁴ One laptop and a minimum of two microphones designated for the on-line monitoring.

³⁵ Article 5.2 and 9.4 of the MLGA AI 2012/01 on Monitoring of municipal assembly sessions through IT Equipment

³⁶ Fushë Kosovë/Kosovo Polje, Prishtinë/Priština, Malishevë/Mališevo, Dragash/Dragaš, Viti/Vitina, Parteš/Partesh, Gllgoc/Glogovac, Podujevë/Podujevo, Skenderaj/Srbica lack computers designated for the purpose of online monitoring. In addition, Gračanica/Gračanicë, Kaçanik/Kaçanik and Ferizaj/Uroševac have reported lack of microphones.

³⁷ Prior to each municipal assembly session, the municipality must grant access rights for online monitoring to the ministry. (Article 7 and 8 of the MLGA AI 2012/01 on Monitoring of Municipal Assembly Sessions through IT Equipment.) So far there have no issues with granting such access.

³⁸ Information provided by the Acting Head of Department for Local Self Government of the Ministry of Local Government Administration.

3. CONCLUSIONS

The report shows progress in the level of compliance of the conduct of municipal assembly activities with provisions of the legal framework in Kosovo. Some municipal assembly practices should be used as best practice cases. Nonetheless, a number of shortcomings remain present in a significant number of municipalities.

The legal requirement to announce municipal assembly meetings publicly is fulfilled in the majority of municipalities, with an increased number of municipalities complying with the legal requirement of announcing municipal assembly meetings in a timely and efficient manner. This is a considerable improvement compared to the number of municipalities which failed to announce municipal assembly meetings, as identified in the 2011 OSCE Report.³⁹ In addition, 44 per cent of assessed municipalities made further notification efforts, establishing best practises that should be followed by other municipalities. However, lack of or low public attendance at municipal assembly meetings persists.

One of the shortcomings is the lack of measures taken to address possible conflict of interest situations, which has been observed in 84 per cent of assessed municipalities. However, on a positive note, the Mission identified two municipalities in which the procedures on prevention of conflict of interest are outlined in the municipal statutes and municipal assembly rules of procedure. Although symbolic in numbers, two municipalities with outlined procedures could potentially mark a rising trend of awareness about the importance of addressing the issue of conflict of interest situations.

Although almost all municipalities provide interpretation services, there is no translation of municipal assembly meeting materials in official languages as required by the regulatory framework. Finally, the on-line monitoring of municipal meetings is successfully conducted in the majority of municipalities leading to a more transparent conduct of municipal decision-making processes.

4. RECOMMENDATIONS

To the municipal assemblies:

1. Apply best practices on dissemination of information about upcoming municipal assembly meetings by, e.g. posting the notification in the most frequented places and/or using the local media,
2. Clearly define procedures for the observation of conflict of interest and include them in municipal statutes or in municipal assembly rules of procedures. Best practices include abiding the municipal assembly chairperson to inquire municipal assembly members present in the meeting if any of them

³⁹ See the 2011 OSCE Report *Municipal Assembly Monitoring Report March 2009-December 2010* (page 11).

finds themselves in the conflict of interest situation on the matters to be decided upon in the meeting.

3. The in-compliant municipalities should translate and publish all assembly meeting materials in all official languages as required by the legal framework.
4. Maintain the good co-operation established with the central level before and during webcasting of municipal assembly meetings.
5. Provide the necessary equipment for enabling on-line monitoring of municipal assembly meetings in the few municipalities where this is not done yet.

To the Ministry of Local Government Administration:

1. The ministry should ensure compliance with the legal framework and the rule of law e.g. by addressing cases of non-compliance.
2. Finalise the expansion of the current on-line monitoring system to enable municipalities to transmit the monitored municipal assembly meetings on the municipal websites.