

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

Pillar III (OSCE) Report 06/2006
On the Monitoring of the Assembly of Kosovo
5 August 2006 – 13 October 2006

Highlights

- **Assembly debates on the Unity Team report with regard to the status settlement process**
- **Assembly rejects Special Panel's recommendation to the Law on the Use of Languages, annuls its decision at the next plenary session**
- **Assembly adopts a declaration condemning recent security incidents in Kosovo**
- **Prime Minister responds to the PDK interpellation with regard to LDK Presidency letter**
- **Assembly approves the Law on Cultural Heritage**

1. Background

This forty-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 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 plenary sessions, on 31 August, 1 and 6 September, 14 September, 21 September and 9-10 October, as well as four Presidency meetings, on 28 August, 11 September, 14 September and 3 October. All ten Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during the reporting period.¹ Pillar III (OSCE) monitored the plenary sessions and the Presidency meetings, as well as 18 out of 39 Committee meetings and one public hearing.²

¹ The Committee for Judicial, Legislative and Constitutional Framework Matters met on 4, 8 and 20 September and 2 October, while the Committee for Public Services, Local Administration and Media met on 12 and 19 September and 12 October. The Budget Committee met on 11, 19 and 26 September and 4 October, while the Committee for the Rights and Interests of Communities and Returns met on 11, 18 and 28 September. The Committee for Health, Labour, Social Welfare and Missing Persons met on 29 August, 5, 12, 19 and 29 September, and 3 October, while the Committee for Education, Science, Technology, Culture, Youth and Sports met on 7 September. The Committee for International Cooperation and EU-NATO Integration met on 22 September while the Committee for Emergency Preparedness met on 30 August and 13 September. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 5, 12, 19 and 26 September, and 11 October, while the Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications met on 28 and 29 August, 5, 12, 19 and 20 September and 3, 11 and 12 October. The Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims met on 7 and 28 September. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning held a public hearing on the Draft Law on National Parks on 3 October.

² The Committee for Judicial, Legislative and Constitutional Matters on 4, 8 and 20 September, and 2 October; the Committee for Public Services, Local Administration and Media on 19 September; the Committee for Budget and Finance on 11 and 19 September; the Committee for the Rights and Interests of Communities and Returns on 11, 18 and 28 September; the Committee for International Cooperation and EU-NATO Integration on 22 September; the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 5 and 12 September;

2. Overview

The 31 August plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Mahir Yagcilar (6+/KDTP).

- Ninety-five Members of the Assembly were present at the 31 August plenary session.³
- Main agenda items of the 31 August plenary session:
 - Questions to the Government
 - First Reading of the Draft Law on the Adaptation of the Cyber-crime Convention of the Council of Europe
(The draft law was endorsed in principle with 54 votes in favor and no votes in opposition.)
 - First Reading of the Draft Law on Quality Control of the Specified Products for Import and Export
(The item was removed from the agenda. See the section entitled “Agenda”)
 - First Reading of the Draft Law on Amending the Law No. 2004/08 on Energy
(The draft law was endorsed in principle with 66 votes in favor and eight votes in opposition.)
 - First Reading of the Draft Law on Amending the Law No. 2004/09 on Energy Regulator
(The draft law was endorsed in principle with 46 votes in favor and 24 votes in opposition.)
 - First Reading of the Draft Law on Protection of Plants
(The draft law was endorsed in principle with 63 votes in favor and two votes in opposition.)
 - First Reading of the Draft Law on Protection of Plants Varieties
(The draft law was endorsed in principle with 64 votes in favor and two votes in opposition.)
 - First Reading of the Draft Law on Amending the Law No. 2003/25 on Cadastre
(The draft law was endorsed in principle with 70 votes in favor and two votes in opposition.)
 - First Reading of the Draft Law on Expropriation
(The draft law was endorsed in principle with 60 votes in favor and 15 votes in opposition.)

The 1 and 6 September plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Gazmend Muhaxheri (ORA).

- Eighty-three and seventy-seven Members of the Assembly were present, respectively, at the 1 and 6 September plenary session.
- Main agenda items of the 1 and 6 September plenary session:
 - The debate on the Unity Team report with regard to the status settlement process
(All members of the Unity Team made presentations, followed by a plenary debate and closing statements of the members of the Unity Team.)

The 14 September plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Xhavit Haliti (PDK).

- Eighty-four Members of the Assembly were present at the 14 September plenary session.
- Main agenda items of the 14 September plenary session:
 - Review of the Telecommunications Regulatory Agency (TRA) work report for 2005
(The item was postponed. See the section entitled “Agenda”.)

the Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications on 29 August, 19 and 20 September, and 11 and 12 October; and the Public Hearing of the Draft Law on National Parks on 3 October.

³ Unless otherwise indicated, the figure given above is the one announced by the President of the Assembly at the beginning of the session.

- Review of the Committee on Emergency Preparedness report on the assumption of competencies of parliamentary security oversight (Mr. Naim Maloku (AAK), the Committee Chair, made a presentation, followed by the statements delivered on behalf of parliamentary groups and the approval by the Assembly to change the name of the Committee to the Committee on Security.⁴)
- Review of the Special Panel's recommendation with regard to the 6+ motion challenging the Law on the Use of Languages (The Assembly rejected the recommendation with 41 votes in favor and 48 votes in opposition)
- Review of the recommendations of the Committee on Judicial, Legislative and Constitutional Framework Matters with regard to the appointment of judges and prosecutors (The item was postponed. See the section entitled "Agenda".)

The 21 September plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Naim Maloku (AAK).

- Ninety-five Members of the Assembly were present at the 21 September plenary session.
- Main agenda items of the 21 September plenary session:
 - PDK interpellation motion to the Prime Minister with regard to the LDK Presidency letter (See the section entitled "Interpellation".)
 - Review of the recommendations of the Committee on Judicial, Legislative and Constitutional Framework Matters with regard to the appointment of judges and prosecutors (The Committee recommendations were endorsed with 42 votes in favor and 26 votes in opposition.)

The 9-10 October plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Sabri Hamiti (LDK).

- Seventy-four and seventy-three Members of the Assembly were present respectively, at the 9 and 10 October plenary session.
- Main agenda items of the 9-10 October plenary session:
 - Questions to the Government
 - First Reading of the Draft Law on Amending Law No. 2003/17 on Public Procurement (The draft law was endorsed in principle with 49 votes in favor and 16 votes in opposition.)
 - First Reading of the Draft Law on Amending Law No. 2004/49 on Patents (The draft law was endorsed in principle with 56 votes in favor and three votes in opposition.)
 - First Reading of the Draft Law on Blood Transfusion (The draft law was endorsed in principle with 65 votes in favor and four votes in opposition.)
 - First Reading of the Draft Law on Protection from Noise (The draft law was endorsed in principle with 61 votes in favor and one vote in opposition.)
 - First Reading of the Draft Law on Pressure Equipment (The draft law was endorsed in principle with 64 votes in favor and no votes in opposition.)
 - Second Reading of the Draft Law on Cultural Heritage (The draft law was approved with 56 votes in favor and 14 votes in opposition.)
 - Second Reading of the Draft Law on Geological Exploration (The draft law was approved with 52 votes in favor and 19 votes in opposition.)
 - Second Reading of the Draft Law on Reproductive Health (The draft law was approved with 67 votes in favor and no votes in opposition.)

⁴ See Pillar III (OSCE) Report 09/2005 section entitled "Formation of Committee on Security", for more details.

- Second Reading of the Draft Law on Fishery and Aquaculture
(The draft law was approved with 70 votes in favor and no votes in opposition.)
- Second Reading of the Draft Law on Amending the Law No. 2004/5 on Trade of Petroleum and Petroleum Products
(The draft law was approved with 65 votes in favor and no votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- At the beginning of the 31 August plenary session, Mr. Alush Gashi (LDK) asked the Minister of Trade and Industry Bujar Dugolli (AAK) to explain the written proposal made by the Ministry and the Assembly Committee for Economy, Trade, Industry, Energy, Transport and Communication on the removal of the Draft Law on Quality Control of the Specified Products for Import and Export from the agenda of that day's plenary session. Minister Dugolli explained that the proposal was made in agreement with the Functional Committee with the justification that the matter should be regulated by an administrative instruction rather than a law. The President of the Assembly announced that he did not receive in writing any other amendment to the agenda, and so he concluded that the agenda had been approved, including the proposal to remove the draft law in question, without calling the Assembly to vote on the proposal.

At the beginning of the 14 September plenary session, Mr. Jakup Krasniqi (PDK) proposed that the agenda item on the appointment of judges and prosecutors should be postponed for the next plenary session, arguing that the Members of the Assembly had received the material just before that day's session and had not had time to review it. Mr. Alush Gashi (LDK) proposed that Telecommunications Regulatory Agency (TRA) work report should be postponed, arguing that the report was not complete and that the Assembly should request from TRA additional information. The President of the Assembly called the Assembly to vote individually on the proposals made by Mr. Krasniqi and Mr. Gashi, which were approved by a majority of votes in favor.

At the beginning of the 21 September plenary session, the President of the Assembly announced that he had received prior to that day's session a proposal in writing from the parliamentary group 6+ to add to the agenda the Special Panel's recommendation on the Law on the Use of Languages, which had been rejected at the previous plenary session, for reconsideration by the Assembly.⁵ The President of the Assembly called for a vote on the proposal in question, which was approved by a majority of votes in favor. Mr. Sabri Hamiti (LDK) proposed that Assembly should *urgently* issue a declaration condemning recent security incidents which had occurred in several municipalities in Kosovo. The President of the Assembly called the Assembly to vote on Mr. Hamiti's proposal, which was approved by a majority of votes in favor, and he called on parliamentary group leaders to draft a text of the declaration which would be formally approved by the Assembly later during the session.⁶

At the beginning of the 9 October plenary session, Mr. Emrush Xhemajli (LPK) raised an objection that the agenda of that day's session should have been approved at the previous plenary session "as was the practice earlier", proposing at the same time that the last agenda item of that day's session should be the proposal of the agenda for the next plenary session. The President of the Assembly responded that the agenda-setting provision was amended at the 1 June plenary session and that new Rule did not require for the agenda to be approved at the previous plenary session.

The new Rule 23.1-2 provides 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.

⁵ See below the section entitled "Motions challenging adopted laws on the basis of their effect upon vital interests of communities", for more details.

⁶ See below under "Declaration condemning security incidents in Kosovo", for more details.

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 to the President an amendment to the agenda, which should be put to a vote.” Thus, the proposal of the Committee for Economy, Trade, Industry, Energy, Transport and Communications, submitted earlier in writing in compliance with the new Rules, should have been put to a vote. At the 14 September plenary session, the LDK and PDK parliamentary groups made verbal proposals, in accordance with the previous Rule,⁷ which is no longer in force, and which allowed amendments to the agenda to be proposed verbally.

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. 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.” Thus, it was within the President of the Assembly’s discretion to allow Mr. Hamiti to put forward his proposal as well as to call the Assembly to vote on it.

The new Rule 23.1-2 requires the agenda to be approved only at the beginning of the plenary session in question. The assertion made by Mr. Xhemajli was incorrectly based on the previous Rule 23.1, which required the agenda to be approved by the Assembly at the end of the previous session.

Procedural motions

- At its 4 September meeting, the Committee on Judicial, Legislative and Constitutional Framework Matters discussed a motion submitted by Mr. Emrush Xhemajli (LPK), on 23 June, claiming that his rights under Rules 30.1(b) and 30.2 had been violated at the 15 June plenary session, in that he was allowed to speak only one minute and his proposal to suspend the proceedings of the 15 June plenary session was not put to a vote.⁸ Mr. Husnija Bešković (6+/Vakat), Mr. Dragiša Krstović (SLKM) and Mr. Nazim Jashari (ORA) stated that the plenary session Chairperson had not violated Mr. Xhemajli’s rights by not putting to a vote his proposal, reasoning that Mr. Xhemajli did not have the support of a parliamentary group as required by Rule 30.7, but that his right to speak had been violated. Ms. Nekibe Kelmendi (LDK) countered that not even Mr. Xhemajli’s right to speak had been violated, arguing that the procedural rules do not set a time limit for procedural motions. The Committee Chairperson, Mr. Hydajet Hyseni (PDK) stated that the rules were unclear and contradictory with regard to voting upon procedural motions proposed by individual Members, but that Mr. Xhemajli’s right to speak had been violated. The Committee could not agree upon a consensus recommendation but rather concluded, with six votes in favor and four votes in opposition, that there had been no violation in that Mr. Xhemajli’s proposal was not put to a vote, but that his right to speak had been violated by the Chairperson at the 15 June plenary session.

Rule 30.1(b) 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 session . . . A motion to adjourn the session shall require an immediate vote, without debate.” Rule 30.7, on the other hand, provides that “[a] motion to . . . adjourn the session requires the support of one parliamentary group before it can be debated.” It is advisable that such a discrepancy between the provisions above should be eliminated to allow a clear and consistent interpretation as to whether procedural motions proposed by individual Members should be immediately voted upon, without debate (30.1(b) and 30.2) or they should necessarily have the support of one parliamentary group and be debated (30.7).

Rule 22.7 provides that “[i]f not otherwise decided by the Assembly, a discussion in the Assembly shall not exceed ten (10) minutes for all Members of the Assembly. The discussions

⁷ 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.”

⁸ See Pillar III (OSCE) Reports 04/2006 and 05/2006 on the Monitoring of the Assembly of Kosovo, for more details

about the agenda shall not exceed two (2) minutes.” Mr. Xhemajli’s proposal to suspend the proceedings of the Assembly was not a statement about the agenda but rather a procedural motion as defined in Rules 30.1(b) and 30.2. The Rules of Procedure do not explicitly mention a time limit for procedural motions. Mr. Xhemajli’s statement was cut off after one minute, under an assumption that he was speaking about the agenda, and with an incorrect assertion that statements about the agenda may last only one minute.

Rule 30.8 provides that “[a] motion . . . on the violation of the rights of a Member can be made by an individual Member. This motion is submitted to the Committee on Judicial, Legislative and Constitutional Framework Matters, which shall express its recommendation in the first Assembly Plenary Session to follow.” Eight plenary sessions have passed since Mr. Xhemajli submitted its motion on 23 June, and the recommendation of the Committee on Judicial, Legislative and Constitutional Framework Matters has not been yet presented to the Assembly.

- At the 1 September plenary session, during the plenary debate on the status settlement process, Mr. Jakup Krasniqi (PDK) stated that he had agreed with Mr. Alush Gashi (LDK) that the plenary debate should be interrupted and postponed for the next week, arguing that the material was distributed just before that day’s session and Members did not have enough time to study it. On behalf of their parliamentary groups, Ms. Gjylnaze Sylja (AAK), Ms. Teuta Sahatqija (ORA) and Mr. Ferid Agani (FI) supported the proposal to postpone the debate for the next week. Mr. Džezair Murati (6+/Vakat) stated that his parliamentary group supported the proposal to postpone the debate for one more reason, adding that Kosovo Bosniac Members did not receive the material in their language (see below the first paragraph under “Equal access and participation of communities”). The President of the Assembly then called for a vote on the postponement of the debate for 6 September, which was approved with a majority of votes in favor.

Under Rule 6.3, “[t]he invitation with agenda and required materials shall be distributed to the Members of the Assembly at least three working days prior to the plenary session.” Thus, the procedural motion of parliamentary groups to postpone the debate in order to allow more time to Members to review the material and secure the translation in both official languages was in compliance with the rules.

- On 6 September, at the continuation of the plenary session that began on 1 September, Mr. Ferid Agani (PD/Justice Party) proposed on behalf of the Group for Integration that the Assembly should add to the agenda of that day’s session, as an urgent matter, the adoption of a Declaration with regard to the role of the Assembly of Kosovo in the process of status settlement. He called on the President of the Assembly to call for a vote on For Integration’s proposal in compliance with Rule 29.2, adding that the text of the declaration could be agreed upon with other parliamentary group leaders. The President of the Assembly did not call for a vote on the proposal. On 11 September, Mr. Agani submitted to the Presidency a procedural motion claiming that the Rules of Procedure had been violated at the 6 September plenary session in that the For Integration’s proposal for adoption of the Declaration in question as an urgent matter was not put to a vote. At its 3 October meeting, the Presidency forwarded Mr. Agani’s motion to the Committee on Judicial, Legislative and Constitutional Framework Matters.⁹

Under Rule 29.2, which provides that “[t]he Assembly shall decide on the proposals of parliamentary groups regarding urgent matters”, the Assembly should have been given an opportunity to vote upon For Integration’s proposal to adopt a declaration.

Rule 30.1(e) provides that “[a]t any plenary session of the Assembly, a member is entitled to propose [a procedural motion] to . . . challenge the application of the Rules of Procedure.”

Rule 30.8 provides that “[a] motion to challenge the application of the Rules of Procedure can be made by an individual Member. This motion is submitted to the Committee on Judicial,

⁹ The Committee review of Mr. Agani’s motion fell outside of this reporting period and will therefore be covered in the next monitoring report.

Legislative and Constitutional Framework Matters, which shall express its recommendation in the first Assembly Plenary Session to follow.”

Distribution of Documents

- The Draft Law on Cadastre was distributed to Members of the Assembly on 3 July; the Draft Law on the Adaptation of the Cyber-crime Convention of the Council of Europe, the Draft Law on the Quality Control of the Specified Products for Import and Export, the Draft Law on Amending Law No. 2004/08 on Energy, the Draft Law on Amending Law No. 2004/09 on Energy Regulator, and the Draft Law on the Protection of Plants were distributed on 28 July. The Draft Law on Expropriation was distributed on 4 August and the Draft Law on the Protection of Plants Varieties was distributed on 11 August. Thus, the draft laws were distributed, respectively, 41, 22, 17 and twelve working days prior to their scheduled first reading at the 31 August plenary session. The Draft Law on Amending Law No. 2003/17 on Public Procurement, the Draft Law on Amending Law No. 2004/49 on Patents and the Draft Law on Blood Transfusion were distributed on 31 August; the Draft Law on Protection from Noise was distributed on 1 September; and the Draft Law on Pressure Equipment was distributed on 6 September. Thus, the drafts laws were distributed, respectively, 25, 24 and 21 working days prior to their first reading at the 9 October plenary session.

This was not 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. With the exception of the Draft Law on Protection of Plants Varieties, all other draft laws during the reporting period were reviewed in first reading after three working weeks from the dates of their distribution. The Assembly is still having difficulties reviewing incoming draft legislation according to the timeframe set forth in its procedural rules, despite the fact that it has begun to hold plenary sessions more frequently.

Declaration condemning security incidents in Kosovo

- During the 21 September plenary session, Mr. Sabri Hamiti (LDK) read aloud the text of the declaration condemning security incidents in Kosovo, which was agreed upon by all parliamentary group leaders. The text of the declaration reads as follows “(a) the Assembly of Kosovo strongly condemns recent explosions in Gjilan/Gnjilane, Ferizaj/Uroševac and Klinë/Klina municipalities, considering them acts of violence and terror which jeopardize the lives of people and create insecurity, (b) the Assembly of Kosovo calls on KPS and UNMIK Police to bring the perpetrators of these acts of violence before the law and prevent other acts which could jeopardize the safety of the citizens of Kosovo, and (c) the Assembly of Kosovo considers that acts of violence and terror destroy the image of Kosovo and political process for independence.” Then, the President of the Assembly called for a formal vote on the declaration, which was approved by a majority of votes in favor.

This was in compliance with Rule 2, which states that a declaration is “a general policy statement voted upon and approved by the Assembly.”

Voting Process

- At the 31 August plenary session, as the Assembly was preparing to vote on the first reading of the Draft Law on Adaptation of the Cyber-crime Convention of the Council of Europe, the President of the Assembly announced that 62 Members of the Assembly were present in the plenary hall and then called the Assembly to vote on the draft law in question, which received 54 votes in favor, no votes in opposition and one abstention. Mr. Jakup Krasniqi (PDK) stated that he believed that the draft law could not be endorsed, reasoning that at least 61 Members should have voted on the draft law. The President of the Assembly countered that 62 Members were present at the time of voting adding that, according to Rule 31.3, the endorsement of the draft law in question was valid. 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 (at least 61) must be present in order for decisions to be taken. Furthermore Rule 31.3 provides that “[L]aws . . . shall be considered adopted if voted for by the majority of Members present and voting”. Therefore, the endorsement of the Draft Law on Adoption of the Cyber-crime Convention of the Council of Europe was valid as the majority of Members present had voted in its favor. Earlier monitoring reports have documented several cases in which the number of votes in favor, votes in opposition, and abstentions amounted to less than the total number of Members present in the plenary hall during the vote. This occurs because some Members simply do not raise their hands at all, when the President of the Assembly or Chairperson calls for votes in favor, votes in opposition or abstentions.

Interpellation

- On 16 August, PDK submitted to the Presidency of the Assembly an interpellation motion calling on Prime Minister Agim Çeku to explain a letter he received by the LDK Presidency. In its motion, PDK argued that “the letter sent by LDK has created confusion and dilemmas with regard to Prime Minister’s authority over the Government. We call on the Prime Minister to explain the content of the letter which he received by LDK Presidency and his statement regarding the functioning of the Government, when more than half of the governing cabinet is outside his authority, and to what extent did this letter influence his authority and Government’s efficiency.”¹⁰ On 25 August, the Presidency agreed without discussion to forward the interpellation motion to the Government. On 4 September, the Prime Minister sent a letter to the Presidency stating that he was ready to respond to the interpellation whenever it was placed on a plenary session agenda by the Presidency. At its 11 September meeting, the Presidency scheduled the interpellation debate for the 21 September plenary session.

At the 21 September plenary session, the President of the Assembly reminded Members that, under the new Rule 25, the parliamentary group proposing the interpellation debate had the right to open the debate with a ten-minute statement and to close the debate with a five-minute statement, while the time allocation throughout the remainder of the debate would reflect each parliamentary group’s representation in the Assembly. Mr. Jakup Krasniqi (PDK) opened the interpellation debate by criticising the Prime Minister for not responding on time to the interpellation, adding that “the Prime Minister is playing with the Assembly and the public”. Mr. Krasniqi continued that LDK Presidency letter was an attack against the highest executive body in Kosovo and it diminished the Prime Minister’s decision-making and political power and his authority vis-à-vis the international community. Speaking to the Prime Minister, Mr. Krasniqi continued that “after this letter which deprives you of the right to govern this place, you should seriously reconsider your position as Prime Minister and not ruin moral authority you gained in KLA, because you would commit a sin of violating a sacred national value.” The Prime Minister asserted that he had sent a letter to the Presidency on time, stating that he was ready to respond to the interpellation. Referring to the LDK Presidency letter, he stated that his authorities derived from the Constitutional Framework and Rules of Procedure of the Government, adding that “a letter without any legal effect cannot change or limit my authorities”. Several Members from various parliamentary groups made statements before the debate was concluded by Mr. Krasniqi. *Under new Rules 25.5-6, “[a]s soon as the text of interpellation is received, the Presidency of the Assembly shall submit it to the Government, which is obliged to review it within seven (7)*

¹⁰ On 6 July 2006, on behalf of LDK Presidency, Mr. Eqrem Kryeziu sent a letter to the Prime Minister, where he stated that “(a) all high posts in new ministries (Ministers and Deputy Ministers), high officers in Agencies, Boards and departments should belong to LDK, (b) Deputy Prime Minister Lutfi Haziri has the authority to oversee the performance of LDK ministers in the Government, (c) boards of regulatory agencies should be reformed in order to increase their efficiency and professionalism, (d) representatives of Kosovo abroad should be nominated in consultation with LDK and appointed by the President of Kosovo, and (e) status negotiations should be led by LDK in full coordination with AAK.”

days. The interpellation shall be included in the Agenda within seven (7) days of receipt of the answer by the Government.” The Prime Minister returned his reply to the Presidency within the deadline. The Presidency met a week after it had received the Prime Minister’s reply and scheduled the interpellation debate for the 21 September plenary session rather than the 14 September plenary session because the Prime Minister was abroad those days. If the Presidency had met earlier, the interpellation debate could have been scheduled before.

- On 13 September, the ORA parliamentary group submitted an interpellation motion to Minister of Health Sadik Idrizi calling him to report to the Assembly with regard to the “measures he is undertaking in order to overcome the difficult situation in health system.” At its 3 October meeting, the Presidency agreed without discussion to forward the interpellation motion to the Government.¹¹

This was in compliance with the new Rules 25.1 and 25.5.

Questions to the Government

- At the 31 August plenary session, six out of eight questions received responses. Ms. Zylfije Hundozi (AAK) raised an objection that her question to the Minister of Finance and Economy, which was repeated from the last plenary session, had once again received no response at the 31 August session, and she proposed that the Assembly should reproach the Minister for not being present at the session to respond to her question. 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. At the 31 August and 9-10 October plenary sessions, Mr. Hydajet Hyseni (PDK) raised again the issue of a question that he had submitted to the Minister of Local Government Administration a long time ago, which had not yet received a response, and insisted that he should receive a response. The President of the Assembly did not comment on Mr. Hyseni’s remark.

The question period was carried out by the Assembly in compliance with the new Rule 26 on “Questions to the Government for oral answers”.

Mr. Hyseni had first submitted his question on 8 August 2005, when the previous Rule 26 on questions to the Government for oral answers was in force.¹² On 13 June, after the revision of Rule 26 at the 1-2 June 2006 plenary session, Mr. Hyseni resubmitted his question, which was scheduled for the 15 June plenary session, but received no response. 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, for a period of twelve (12) months.” Six plenary sessions have passed since Mr. Hyseni resubmitted his question, and he received no response. 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.

4. Equal Access and Participation of Communities

- At the 1 September plenary session, during the debate on the status settlement process, Mr. Džezair Murati (6+/Vakat) raised an objection that the material distributed to the Members of the Assembly was only in the Albanian language, arguing that “it is our fundamental right to have the documents in our language, so that we can participate equally in the debate.” The debate was interrupted that day and continued on 6 September, and the material was subsequently made available in both official languages.

Rule 55 provides that “[a]ll official documents of the Assembly shall be printed in both the Albanian and Serbian languages.” “Official documents” is defined in Rule 2 as “material submitted for debate by the Assembly or any of its Committees”, among others. Therefore,

¹¹ The plenary debate on the ORA interpellation motion fell outside of this reporting period and will be covered in the next monitoring report.

¹² See Pillar III (OSCE) Reports 03/2006 and 05/2006 on the Monitoring of the Assembly of Kosovo, the section entitled “Questions to the Government.”

placing on the agenda an item for which the necessary documents were not available in both official languages of the Assembly was not in compliance with Rule 55. This likewise resulted in a violation of Rule 12, which states that “[a]ll Members of the Assembly have an equal right and obligation to participate fully in the proceedings of the Assembly . . . [including the right] to take part on an equal basis with other Members of the Assembly in all debates of the Assembly,” as Kosovo Bosniac and Serbian Members were not able to take part on an equal basis with other Members in the debate on 1 September.

Motions challenging adopted laws on the basis of their effect upon vital interests of communities

- At its 25 August meeting, the Presidency discussed the response of the Government to the 6+ parliamentary group motion challenging the Law on the Use of Languages.¹³ In its response, the Government recommended to the Presidency to support the 6+ motion. The President of the Assembly likewise encouraged the Presidency to support the motion rather than proposing the formation of a Special Panel to deal with it, which would prolong the adoption of the Law. After some discussion, the Presidency was not able to reach a consensus on the motion and so proposed the formation of a Special Panel to deal with it.

At the 14 September plenary session, the Assembly reviewed the recommendation of the Special Panel with regard to the motion in question. Mr. Alush Gashi (LDK) stated that his parliamentary group would not vote in favor of the Panel’s recommendation, while Mr. Jakup Krasniqi (PDK), Ms. Gjylnaze Sylja (AAK), Mr. Nazim Jashari (ORA) and Mr. Ferid Agani (For Integration) supported the recommendation. Then, the President of the Assembly called for a vote on the recommendation, which was rejected with 41 votes in favor and 48 votes in opposition.

During the 21 September plenary session, the President of the Assembly stated that the rejection of the Panel’s recommendation at the previous plenary session had “caused disappointment among our international friends and regress in the fulfilment of Standards.” He continued that the Law in question was one of the Contact Group’s priorities for Kosovo and therefore encouraged the Assembly to approve the Panel’s recommendation. He then proceeded to call for a single vote to annul the previous decision and to approve the Panel’s recommendation, which was approved with 59 votes in favor and seven votes in opposition.

- At the 25 August meeting, the Presidency reviewed the response of the Committee for Health, Labor and Social Welfare to the motion of the Group for Integration, challenging the Law on the Termination of Pregnancy,¹⁴ and proposed that a Special Panel should be established to deal with it. The Special Panel has not yet been established.

Under Section 9.1.41 of the Constitutional Framework and Rule 40.3, “[i]f the Presidency fails to submit a consensus proposal within five days, a special Panel consisting of representatives of the two sides and one member, who shall preside, designated by the SRSG shall automatically be seized of the matter. The Panel shall within five days issue a decision recommending that the Assembly reject the motion . . . or provisions at issue, or that the Assembly adopt the law with amendments that the Panel shall propose.” A Special Panel should therefore be promptly established to deal with the For Integration’s motion.

5. 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.

¹³ See Pillar III (OSCE) Report 05/2006 on the Monitoring of the Assembly of Kosovo, for more details.

¹⁴ See Pillar III (OSCE) Report 05/2006 on the Monitoring of the Assembly of Kosovo, for more details.

6. Transparency

Radio Television Kosovo (RTK) provided live coverage of the plenary sessions under review. On 6 September, the plenary session lasted into the evening, extending into the time of normally scheduled RTK programming. Therefore, the last portion 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, www.skupstinakosova.org, 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.