



• ASSEMBLY SUPPORT INITIATIVE  
NEWSLETTER  
DECEMBER 2006, No.25

25  
NUMBERS OF ASI



Parliamentary Oversight  
on the Executive

Implementation of the Health Law  
Relations between Slovenia and Kosovo  
reach another level

## EDITORIAL



With the appointment of Mr. Hasan Preteni as director of the Anti-Corruption Agency on 19 July 2006, the Assembly of Kosovo took a crucial decision in support of efforts to fight corruption. It is hoped that the Assembly will further support a strong start of the activities of the Agency, especially at a time when concerns have been raised over the Agency's limited 2007 budget. We hope that the article from Mr. Preteni, included in this issue of the ASI Newsletter, will contribute to enhanced support for the monumental task this Agency is facing.

While reading through the latest UNDP early warning report, we learned that one of the main reasons for the lack of confidence the people in Kosovo have in their institutions is the wide spread perception of corruption. It is, of course, not only public institutions that are perceived as corrupt, but also institutions within the private sector. Without trust in these institutions, there can not be any sustainable democracy in Kosovo. The fight against corruption is therefore a healthy and necessary exercise. The Kosovo Anti-Corruption Strategy, adopted by the Government on 17 March 2004, is essential because it is official recognition by public authorities of the existence of corruption in Kosovo, and of its consequences on society. On 7 February 2006 the Government announced a detailed Anti-Corruption Action Plan (ACAP). Now the Assembly is expected to give its support to the implementation of the ACAP, as well as to provide oversight to the government's efforts to implement the plan.

The 25th edition of the ASI Newsletter focuses on three key pieces of legislation recently adopted by the Assembly: the Law on Official Languages, the Law on Freedom of Religion and the Law on Protection of Cultural Heritage. These three laws were among the priority standards identified by the Contact Group in the process of determining the future status of Kosovo. In adopting these laws, not without substantial debate, Kosovo has achieved a legal framework which is of direct relevance for the co-existence of all communities in Kosovo. We hope you find the articles on these laws, as well as on other parliamentary developments, interesting. In particular, at a time when the Assembly is entering a new year during which Kosovo's status and the requirements of the transition period will become the Assembly's main preoccupation.

*Franklin De Vrieze,*

*"Assembly Support Initiative" Coordinator*

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# Relations between Slovenia and Kosovo reach another level

*Mr. France Cukjati, M.D. President of the National Assembly of the Republic of Slovenia*

Slovenia fosters good and friendly relations with Kosovo. Already at the time of our common state of Yugoslavia, Slovenia supported the endeavours of the Kosovo people for greater respect of their rights and democracy. Likewise, it now wishes to contribute to democratization and to the achievement of such status of Kosovo that will correspond to the desires of its people and at the same time serve as a foundation for peace and stabilisation in the region.

The National Assembly of the Republic of Slovenia is pleased to cooperate with the parliaments of Macedonia and Montenegro in the process of their integration into the European Union, and last year joined the consortium of the French, German and Belgian parliaments to implement the project "Further Support to the Assembly of Kosovo".



*Presidents Berisha and Cukjati during the visit of Assembly Presidency in Slovenia*

In accordance with the agreement reached within the consortium, the National Assembly of the Republic of Slovenia undertook to provide - based on its experience obtained when joining the Euro-Atlantic integrations and during the process of harmonising the Slovenian legislation with the *acquis communautaire* - support to the Assembly of Kosovo, particularly in terms of transparency and control of the state budget, the orga-

nization and activities of parliamentary groups, and the organization and operation of the research activity and documentation archives.

Regular exchange of experts responsible for the above areas has been introduced for such purpose, including a study visit by the President of the Assembly of Kosovo Kolë Berisha with delegation to the National Assembly between 17 and 19 September 2006.

During such talks we extended to President Berisha all our political support to the endeavours to achieve peace and independence. We are well aware, in fact, that democratization, independence and EU integration are merely three dimensions of the same process. Under the current historical conditions, one can not exist without the other two. No democratization is possible without a greater degree of independence and EU inte-

gration. And no independence is possible without the democratization or Europeanisation of the state system.

It is therefore of utmost importance that an environment of political freedom, peace and co-existence be created in Kosovo. It is necessary to continue with establishing a constitutional and legislative system that meets the EU criteria. In particular, it is important that the authorities





consistently provide for the protection of minorities, especially the Serbian minority, and that they keep devoting their efforts to the talks with Belgrade and to finding solutions that would be acceptable for both sides. Those who will constructively participate in such talks and will insist on a peaceful solution of all problems will certainly gain much more sympathy by the EU public which also affects political decisions.

By persisting on the path of openness and peaceful resolution of its status, Kosovo will demonstrate its statehood maturity without which there can be no independence in the long run. I also hope that the international community will be able to appreciate such positive orientation of Kosovo and also in this case respect the will of a nation whose status should soon be resolved.

Being highly interested in the establishment of lasting peace in the Balkans, Slovenia now wishes to strengthen its cooperation with the friendly Kosovo. At the moment, there are 160 members of the Slovenian Armed Forces in Kosovo, and another 640 (members of a motorised battalion) are to be deployed at the beginning of 2007 to provide transport for the KFOR command on the entire territory.

We wish to actively contribute to the implementation of the plan to transfer at the beginning of 2007 the powers of UNMIK to the Kosovo authorities and to transfer the international community's powers retained by UNMIK to the new ICM (International Civil Mission). We are confident that NATO is still the key guardian of peace in Kosovo and wish that it remain present until total security and peace are guaranteed.

Also at parliamentary level we would like to contribute to enhancing tolerance, trust and cooperation among the nations of former Yugoslavia. The Slovenian Presidency of the European Union in the first half of 2008 provides an opportunity to remind Europe that these countries' wish for EU integration is indeed the strongest driving force for establishing peace and democracy in this part of Europe. We would be therefore very pleased if we were able to organize in such period a meeting of Presidents of all national parliaments of former Yugoslavia.

Both Kosovo and Serbia have to maintain a clear European perspective and demonstrate their will to join the family of European nations. Such will can be demonstrated through the will to take over the *acquis communautaire* and the European way of solving international conflicts. We believe that the membership of all Balkan countries in the EU is the only guarantee of development, democracy and permanent peace also in this part of Europe.

# Parliamentary

*Mrs. Heike Baddehausen-Lange*

In parliamentary systems, the functions of parliamentary oversight on the executive can be approached from different perspectives depending whether it is looked at from the side of the opposition or by the majority/coalition. A rigorous control may be in the interest of the opposition parties whereas the majority/coalition parties may tend to be less critical. But majorities can change, and therefore fair rules of play shall ensure that parliamentary procedure is respecting the rights of all: single Members of Parliament, parliamentary groups, minorities and the overall interest of well functioning of a parliament.

However, parliamentary oversight is not a privilege of the opposition but is in the interest of Parliament as a whole and contributes to the checks and balances. Also, parliamentary procedures may serve different purposes: an interpellation serves to obtain information from the government, but equally it forces the government to explain its policy in a public debate. It also enables parliamentary engagement in policies at an early stage and the presentation of alternative political concepts, where a crucial element for this is publicity and public acknowledgement.

The experts and Members from the Parliaments from Belgium, France, Germany and Slovenia represented in the Consortium, which

runs this EAR project, presented their approaches and explained the way they developed in their procedure and parliamentary practice. Where there is a need in all parliaments to establish proper procedures for topical debates and adjustment of debate structures to the needs of the media, to obtain information and to keep control (such as on budgetary legislation), the solutions founded in parliaments are somewhat different and reflect the parliamentary traditions. In some parliaments, parliamentary groups play an important role and thus the principle of proportional representation is not only reflected when committee chairs are distributed but also when speaking time is allocated. Committee structures and the law drafting procedure may be different from each other.

Parliamentary practice has proved to be evolving and there are common interests shared by parliamentarians such as finding a proper way to build up the necessary research and information capacity facing and increasing ministerial bureaucracy. This is why the support given by the EAR Project to the Assembly of Kosovo comprises both the exchange among parliamentarians on procedural questions and on the parliamentary practices and focuses on the role of the administration to provide an efficient parliamentary support.

# Oversight on the Executive

*Expert from the German Bundestag to the EAR Project / Support to the Assembly of Kosovo*

Recent changes to the rules of Procedure in Kosovo regarding Question time (QT) and interpellation debates give evidence that parliamentary law is under constant adjustment and if one looks at the Rules of Procedures in other parliaments and how they have been changed and adapted, this is a normal development.

The workshop wanted to offer a platform to discuss selected highly topical items in panels. It showed interest from the side of the Deputies of the Assembly of Kosovo, who were willing to report on the different topics of the panels. Mr. Mazllom Kumnova reported on the Panel with the topics on the Oversight of the Executive through Standing and Inquiry Committees. A few days before, the Assembly of Kosovo decided to set up a Inquiry Committee. One of the discussions was on the

legal basis of this special type of Committee. A conclusion on this topic, according to Mr. Kumnova, is that the people should not underestimate the mechanisms and tools, through the various Standing Committees and the Inquiry Committee, to oversight the executive. The Assembly, however, must develop further oversight tools for accountability. The European Parliaments should help Kosovo to face this challenge.

Mrs. Safete Hadergjonaj made the reporting on the Oversight on Budget, improving the Control from ex-post to ex-ante. This topic is highly topical as well, as the Assembly is currently in the process of approving the Kosovo Consolidated Budget for the coming year.

It showed that the exchange given during presentations

from and discussions with the different European Parliaments concerning the Budget Approval Processes and the Parliamentary Oversight was extremely useful for the Members of the Kosovo Assembly and the civil servants of the Assembly.

The other panels were also reported by two Deputies of the Assembly of Kosovo, Mr. Rrahim Demaj and Mrs. Fatmire Mulhaxha-Kollçaku. The panel on the Implementation of Legislation was regarded to be of topical interest, because of Assembly of Kosovo only recently debated on a report on the Implementation of the legislation in the health sector. One of the standing committees did extensive work to scrutinize the implementation of this legislation.

The panel on Parliamentary Tools which are described in

the Rules of Procedure of the Assembly of Kosovo, Question Time and Interpellation, raised the issue of the relations between the Assembly and its Committees and the Government. It came clear that the Deputies would like to see a more active role of the different Ministers to answer questions and take responsibility for their actions.

The last part of the workshop focused on the functioning of the Secretarial Support of the Assembly of Kosovo. It is clear that the Secretariat will have to reorganize itself in a way to provide more update to date services, more professional support to the Deputies. The Deputies depend on the a good functioning of the Civil Servants in order to fulfill their role as legislators to oversight the executive.

In conclusion, it can be repeated that parliamentary oversight is in the interest of Parliament as a whole and contributes to the checks and balances. Also, parliamentary procedures may serve different purposes: The oversight serves to obtain information from the government, but equally it forces the government to explain its policy in a public debate. It also enables parliamentary engagement in policies at an early stage and the presentation of alternative political concepts, where a crucial element for this is publicity and public acknowledgement.

*From the closing session of the workshop on 14 November 2006  
(Naim Jerliu, Fatmire Mulhaxha - Kollçaku, Safete Hadërgjonaj, Mazllom Kumnova)*



## Kosovo should move closer to European parliamentary practices

In the scope of the project for "Further Support to the Assembly of Kosovo," the OSCE and NDI organised a seminar on "The Parliamentary oversight on Governmental procedures now and after status." One of the subjects dealt with in this seminar was the "oversight on budget - improving the control from ex-poste to ex-ante." Mr. David Gerts, an MP in the Belgian Chamber of Representatives, and Mr. Joze Koncan, Secretary of the Control Committee in Slovenia, lectured on the subject.

The budget debate has been the central issue for the year in the Belgian and Slovenian parliaments. It has demanded the attention and engagement of all deputies, especially those on the budget committee.

In Kosovo the budget is usually submitted on a routine basis and is approved by the Assembly. Though, according to applicable legislation, the SRSG, as the final authority to sign off on the budget, reserves the power of fund transfer without asking for approval by the Assembly. The budget should not be approved as quickly as in previous years, especially compared to last year when the review was one of 16 items in the agenda of the 15, 16 and 19 December 2005 session. The first review and its approval were made in

the same session. The practice of hastily adopting a key draft budget law should not be allowed to happen. The Assembly needs to take its proper role in approving the budget and in overseeing the spending of public funds.

We learned from both representatives that draft budget are sent in time to the Assembly and are subject to discussion by all committees. In the Belgian Parliament each committee reviews the budget, elaborates amendments and appoints a reporter to present it before the CBF (Committee for Budget and Finance). The CBF has detailed information on the income and expenses it reviews in close cooperation with the Ministry of Finance.

The line of communication with the Ministry of Economy and Finance (MEF) is not at a proper level. The CBF invited the MEF on 11 October to discuss the budget priorities, however the Minister did not respond to the invitation by the committee.

The question is if there is any transparency and control over the budget in Kosovo? The answer is no.

During the coalition government an illegal transfer had been made from one budgetary organization to another. No organization used their means according to the plan, as they were not conditioned to set developmental objectives. This led to money being spent on purchasing vehicles or other lavish luxuries. The PDK parliamentary group is concerned with the non-effective and inefficient use, and has been asking for the estab-

lishment of an inquiry committee since September 2005, but this was not allowed by the coalition parties.

The Minister of MEF has never reported to the standing committee regarding the implementation of the law at least once a year as obliged by rule 53.2 of the Assembly Rules of Procedure.

Based on the reference from Belgian and Slovenian representatives, the committees, especially the CBF, are in continuous partnership with the office of the auditor. This consistent supervision leads to an effective and efficient use of the budget.

In order to be closer to parliamentary practices of countries which have a long record of proper budgetary oversight it is an indispensable need that the:

- Process of drafting the budget should be the subject of long debate with experts and citizens,
- Process of drafting, adopting and using the budget should be transparent, which will motivate the tax payers to liquidate their obligations,
- Standing committees need to be engaged more seriously in drafting the budget,
- CBF should take its responsibilities as guaranteed by rule 51 of the Assembly Rules of Procedure,
- CBF should take its responsibilities in controlling the public means,
- CBF should raise the level of communication with the Office of Auditor General
- CBF should do monitoring of basic laws that regulate the management of public finances.

*Safete Hadergjonaj, PDK  
Member of the Assembly of  
Kosovo*

## Monitoring the plenary session, question period, interpellation and other forms of debate

Power in democratic systems is divided into legislative, executive and judicial branches. In principle, these powers are independent in the exercise of their functions. However, their activities are mutually monitored to create checks and balances. The Government determines policies, the Assembly adopts them and transforms them into laws, while the Judiciary is responsible for applying and interpreting them exactly the way they are adopted without preference for any of the parties.

One of the classical ways of exercising power is through the practice of thematic parliamentary monitoring. The main aim in monitoring the executive is to enable a more efficient exercise of power and to create a balance between the different branches of power. The Rules of Procedure of the Assembly of Kosovo contain certain instruments of parliamentary control, already used in European parliamentary practices.

The instruments stipulated in the Rules of Procedures for exercising parliamentary control should be applied through clear and accurate procedures. The procedures are there to ensure that these instruments are used to properly.



Debate is a guaranteed right as this is the only way for the opposition to express its opinions regarding political issues. This right is exercised in the following ways:

- Through the Agenda, which has to conform to all formalities and timelines.
- Through the questions and answers of Assembly members, which also have to comply with certain formalities.
- Through the interpellation of parliamentary groups to the Government and through debates, which have time limits in proportion to the parliamentary powers of the groups.

The question period is different in format, but not in principle. There are formal and informal questions. Formal questions are proposed well in advance, while the informal ones are put forward during the one or two hour sessions in order to discuss current issues. This format is not envisaged by the Rules of

Procedure. Consequently, the commencement of Assembly sessions is sometimes delayed due to the numerous proposals put forward.

Moreover, I think it should be emphasized that Interpellation is a debate and not a question period.

In conclusion, I would like to stress that debate is of paramount importance in tackling parliamentary issues. However, to be effective a debate should be well-organized, it should satisfy the needs of the parliamentary groups and it should be regulated in proportion to the political power of parliamentary groups. Debate provides the society with better access to politics by elevating the level of decision-making from ad hoc arguments to the regulated procedures of the Assembly.

*Naim Jerliu, LDK  
Member of the Assembly of  
Kosovo*

*Isa Neziri (Director of Assembly Administration), Hugues de Courtivron (Team Leader for 'Further Support to the Assembly of Kosovo' EAR project), Ismet Krasniqi (Assembly Secretary) and Daut Beqiri (Director of Assembly Legal Department)*



## Oversight of the executive through standing and inquiry committees

On 14 November 2006, deputies of the Assembly of Kosovo gathered with deputies from the German Bundestag and Parliaments of Belgium, France and Slovenia, under the framework of the project "Further Support to the Assembly of Kosovo." Sponsored by the OSCE and NDI, the participating deputies held panel discussions on the topic of parliamentary oversight of the executive through standing and inquiry committees.

Addressing challenges related to this issue, the deputies from Kosovo focused their discussion on the functioning of parliamentary inquiry committees since the Assembly of Kosovo has recently initiated such a committee for the first time.

One parliamentarian from the German Bundestag, Mrs. Andrea Kerstges, and another from the parliament of Belgium, Mr. Alberik Goris, shared their experiences on the work of both standing committees and inquiry committees. Franc Baron of the French Assembly also expressed his opinions and experiences in these matters.

An important topic for debate was the readiness of the Executive to participate in the standing committees of the Parliament. The deputies of the Assembly of Kosovo expressed their dissatisfac-

tion with the unwillingness of the executive, particularly of the Ministers and Deputy Ministers, to attend and participate in the work of the standing committees. It has become routine that the Ministries are represented by civil staff, a practice that does not allow the deputies to engage in debate with or to demand accountability from the Executive. Other possibilities were reviewed on how the executive, especially Ministers and Deputy Ministers, could be forced to attend meetings when they are invited. With respect to the inquiry committee, in such cases a special law could be applied or in the case of Kosovo a certain regulation for the functioning of the inquiry committee could be adopted.

Other issues came to light as well, but the limited time-frame forced the deputies to take them up on another occasion. The conclusion which can be drawn from this meeting is that the deputies should not underestimate the existing mechanisms and techniques for oversight of the executive through standing and inquiry committees. However, in practice these mechanisms need to be developed and strengthened to ensure that the Executive is held accountable through parliamentary oversight. Certainly, this objective is not only a challenge for the Assembly of Kosovo, with its very limited experience, but also for the parliaments of the European countries as well.

*Mazllom Kumnova, AAK  
Member of the Assembly of  
Kosovo*

# Kosovo needs clarity regarding its future

## My experience in drafting the Constitution

*Liia Hänni / Member of the Constitutional Assembly 1991-1992 / Republic of Estonia*



Some time ago I happened to watch a documentary about Kosovo on Estonian TV. The documentary was made by young Estonians who had organised an international camp and were trying in their own way to help create mutual understanding between the different communities in Kosovo. As I watched the documentary, I thought how difficult and yet how similar the situation in Kosovo today is compared with that in Estonia 15 years ago. I had no idea at that time that an opportunity to visit Pristina would present itself very soon. Thus, when I received an invitation from the OSCE Mission in Kosovo to participate as an expert in a seminar on the process of drafting the Constitution of Kosovo, I did not hesitate to accept.

During the restoration of Estonian statehood I had the honour of serving as a

member of the Constitutional Assembly that drew up the new Constitution of Estonia. The work was of great interest and importance and remains vivid in my memory to this day. During that challenging period, we faced complicated issues similar to those that Kosovo faces now. I would be very pleased if my reflections on the Estonian experience could be of use to the people of Kosovo.

The decision to establish a Constitutional Assembly to draft a new Constitution for Estonia was made during the harrowing days of August 1991, when a coup in Moscow threatened to suffocate the aspirations of those the nations shackled by the Soviet system for their freedom. The Parliament was surrounded by huge stone blocks to stop the tanks. Within the building, over the course of just a few hours, it became clear that

the time was ripe to define the Estonian national status and put an end to our constitutional vacuum under Soviet rule. The decision on Estonian national status, which was adopted unanimously with no votes against, both affirmed the sovereignty of the Estonian Republic and provided a mechanism for the drafting of our new Constitution. While I regret that this historic decision was made without the support of our Russian speaking colleagues, I am pleased that their representatives did participate in the work of the Constitutional Assembly.

The 60 members of the Constitutional Assembly were drawn from all different segments of Estonian society: from the nomenklatura of the Communist Party to dissidents repressed by the Soviet regime who had spent years in prison as well as representatives of the emerging political parties. These representatives were on a mission – to draw up in only a few months a Constitution of the Republic of Estonia that would be popular enough to pass a referendum and strong enough to endure the test of time. In retrospect, I can say that the deciding factor in the success of our constitutional referendum was the participation of all the main political forces in the preparation and drafting process.

The Constitution must not be product of its specific day

and time. One of the most complicated tasks for the Constitutional Assembly in Estonia was keeping the ongoing political conflicts and contemporary influences out of the text of the Constitution. At the opening Session of the Assembly all members pledged the following oath of office:

As a member of the Constitutional Assembly I realise that future generations will be looking at me even when I am long gone. My work in the drafting of the Constitution will be measured by history and not by the current time. Stepping over the threshold of the Constitutional Assembly, I will leave behind the politics of the previous days. I stand alone with my conscience and aspire to be worthy of history.

However, it did happen on occasion that members of the Assembly were not able to leave current politics at the doors of the session hall. In those cases, the Chairman of the Assembly would save the moment by strongly directing the debate toward more constructive issues. It was incredibly valuable for the chairperson to possess nerves of steel, a strong sense of mission and a good sense of humour with which to resolve these difficult situations. The fact that some members of the Assembly were not directly involved in politics also had a balanc-





*Plenary Hall of the Estonian Parliament*

ing effect that helped add the reason and practicality of regular citizens to the work of the Assembly. In addition to the Constitution itself, which has thus far stood the test of time, the Assembly also left behind a record of short-hand notes that vividly reflect the hot debates, the will of the people and their strong desire to create an optimal Constitution for Estonia.

The Estonian society vigilantly monitored the birth of its Constitution. Articles and speeches addressing the most poignant constitutional

issues in the media and public sphere had undeniable influence on many of the Assembly members. This active public debate was encouraged by the Assembly's decision to publish consecutive drafts of the Constitution in the press and to grant free access to the Assembly sessions for journalists. The discussion surrounding the powers of the Presidency and the process of election for the Head of State was particularly intense. The opinion held by the majority of the Assembly members differed from that of the public, who supported a stronger

mandate for the President and direct elections by the people. The resulting debate in the Assembly presented a complicated dilemma for a young democracy the result of which posed the danger of pitting the two institutions elected by the people – the Parliament and the President – in conflict against each other. Fortunately, we realised early on that taking the easy way out would not produce the best result for our Constitution.

Drawing on the Estonian experience, I can say that the Con-

stitution provides not only the foundation for a legal system but also a guide to the future. The Constitution is in essence a civic agreement that sets the precedent for constructive cooperation among the various groups of society toward a common future. Therefore, it is of the utmost importance that the drafting of the Constitution be an open and participatory process. It was my pleasure see that the members of the Kosovo Assembly were paying due attention to this concept at the seminar in Pristina.

As I walked around Pristina on my visit, I had the sense that Kosovo was one big ear picking up all of the signals from the outside world. This feeling was substantiated not only by the innumerable antennas across the rooftops of the city, but also by my conversations with people on the streets, who all seemed to be waiting intently for the resolution of Kosovo's status as they sorted through the flood of international news for clues and signals. During my visit I realised more clearly than ever before the burden of responsibility that the international community at large bears for this solution. Kosovo needs clarity regarding its status and its future Constitution – if only for the sake of the children whom I caught in the background of my photographs while I was there.



## The constitutional process and the role of the assembly

The Constitution of Kosovo will be the cornerstone upon which the democratic state of Kosovo shall function. Therefore, the process of preparation, drafting, and adoption of the Constitution is a priority issue. The drafting process is particularly important and should contain the following four key elements:

1) It should be comprehensive, involving a number of Kosovo citizens prior to and during the finalizing of the draft. Citizen participation should be achieved through education and media campaigns, forums, round tables and individual remarks. This will ensure the legitimacy of the establishment of the constitution;

2) It should be transparent by establishing communications channels between its compilers and Kosovo's citizens;

3) It should have sufficient time for the establishment of political consensus and broad compatibility on sensitive constitutional issues, such as minority issues; and finally

4) It should provide "Kosovan ownership" in order to be sustainable and have long term impact.

To be effective and enduring the Constitution must be an expression of "the peoples' will." Therefore, it is within the responsibility of the representative body of the Assembly of Kosovo to draft the Constitution. This responsibility will require the hard work and the establishment of a special Assembly and Constitutional Council. The Constitutional Council should be composed of political decision makers, local expertise and Assembly members, among others. Going forward, it is crucial to realize that the drafting process of the Constitution is just as important as its content.

*Gjylnaze Syla*  
*Head of AAK Parliamentary*  
*Group*  
*Pristina, November 23, 2006*

## The Constitution – A major joint - venture

The drafting of a Constitution is undoubtedly one of the most important and most difficult tasks in the general state building process. The document represents the fulfilment of a long process and serves as the foundation for the rule of law in a new democratic, free Kosovo in Europe.

The Constitution would be seen as a challenge and obligation of all institutional, social, and professional segments of Kosovo. Furthermore, it would represent the overall result of what has been a successful, but costly peacekeeping mission by the International Community (IC). The document shall

enjoy the international political and professional support of the IC.

Both the Constitution and the building of a state are processes of their own.

The drafting process cannot be held hostage to narrow interests and motives whatever they may be. It must be the product of all communities, political forces, public institutions, segments of civil society and academic and scientific circles. Accordingly, it shall represent the will of the people.

I believe the Constitution will be a professional document that will establish the new, modern and democratic state of Kosovo.

*Hydajet Hyseni, PDK*  
*Member of the Assembly of*  
*Kosovo*



# Reflection on the law on cultural heritage

*Dragiša Krstović, SLKM / Member of the Assembly of Kosovo*

The law on cultural heritage, approved by the Kosovo Assembly at the session held on 9 October 2006, does not achieve its primary goal, which should be to secure the basic preconditions and mechanisms for the efficient protection of the cultural heritage of Kosovo. The law is predominantly descriptive and contains only a small number of regulations that establish the rules of conduct and obligations for the institutions that deal with cultural heritage. Hence, there is a widespread feeling that the law leaves a lot to be desired. This could cause problems and disputes on issues of protecting cultural heritage to persist and leaves much of Kosovo's heritage vulnerable to destruction.

When compared to the relevant international conventions on the subject, many provi-

sions of the new Assembly-approved law are disputable. The law can also be contested from the point of view of the constitutional framework for the provisional institutions of self-government in Kosovo. For example, the institution or institutions responsible for implementing the law are unspecified and unclear. The determination of the market price of an object of the cultural heritage is also unclear and creates another area for dispute. This mainly relates to Article 4.21 and 4.22 under the Law,



as well as provision of Article 11, which regulate sanctions as well as the competencies of the Kosovo Assembly to set penalty fees. Moreover, from the point of view of regulation, Article 11.2 can be considered completely unnecessary.

It is seriously disputable whether the Law in its current form and with the details that have been approved, will be at all effective in protecting cultural heritage in a clear, simple and enforceable way. It is not good practice, and frankly can

be dangerous, to write laws only for the sake of saying that they have been written and that certain areas have been covered. It is necessary that all laws, and this law in particular, should be written in a way that secures maximal protection, which is clear to all who read it and which eliminates any legal gaps and space for different interpretations and misuse of the law itself or of the objects that the law seeks to protect.

Time will tell whether the SRSG will decide to promulgate the Assembly-approved Law on Cultural Heritage as it stands now or if he will instead require the law to be reformulated with amendments and changes. Until this important law is finalized, a significant part of Kosovo's cultural heritage stands at risk of further destruction.

## The Law on Freedom of Religion: the next steps

*Alfons B. Lentze / Consultant for the EU funded Project, "Support to the Assembly of Kosovo"*

UNMIK amended the religion law approved by the Assembly on 13 July 2006 to specify by name five religious communities and promulgated the law on 24 August, although UNMIK did not publicly announce the promulgation until 20 September. The amendment of Article 5.4 does not add to or limit the rights of other religious communities not being listed, as it says 'including' which

implies other communities as well. The law does not cover how and which religious communities will be able to gain legal status, as this topic was not primarily required by the International Community.

The Law was top have been adopted before a 31 October 2006 deadline. The law is one of the 13 priority laws required to meet standards on human rights laid down by the inter-

national community which currently governs Kosovo – the law was scaled back to remove any references to registration of religious communities. It covers general principles of religious freedom.

It was announced that the government through the relevant ministry would draw up regulations governing the legal status in due time. The status of religious communities will

be a very difficult issue. This will be up to the legislative and executive bodies, and –most probably– will not be considered until after Kosovo's final status is resolved. However, this will have to be monitored closely by the different stakeholders, local and international. The taxation of religious communities is just one example of the issues which need to be monitored in Kosovo's future constitution.



# Reflection on the Law on Languages

*Mahir Yagcilar, 6+ / Member of the Assembly Presidency*



It is beyond dispute that Kosovo is now entering a critical period in its history. The decision on final status and subsequent efforts at state-building will require many difficult sacrifices and compromises from all of Kosovo's citizens. All states have such crucial junctures in their history that end up defining not only their borders and institutions but their very identity as a unique state within the international community. The selection of a state's official language or languages is one of the most significant decisions in determining a state's identity.

After numerous heated discussions, debates, rounds of voting and compromises, the Kosovo Assembly has finally adopted the Law on the Use of Language with a majority vote of the Assembly MPs. With this vote, the Assembly

paved the way for the implementation of one of the most important laws in Kosovo and hopefully for a positive future assessment of Kosovo Standards Implementation. It is therefore important to identify the sensitivities that were unearthed and the mistakes made when drafting and adopting the Law in order to avoid repeating them in the law's implementation.

For one, it was a mistake from the start to proceed with the drafting of the Law without an adequate analysis of the history of the languages in Kosovo or of the previous and current legislation on language. The Assembly also had not investigated realistic and sustainable mechanisms for the determination and usage of languages. Moreover, they began the discussion in the Assembly before the necessary level of cooperation among the Parliamentary groups, Prime Minister's office and other relevant actors was in place to overcome the ambiguities in the law.

The second political mistake was the linking of the languages of different minority communities with the percentages of the population who speak them. Given the absence of accurate census data, and the incomplete and as yet undetermined guidelines for decentralization in Kosovo, these percentages are somewhat meaningless. Nevertheless, after the incorporation of recommendations

from the OSCE and other parties and the adoption of several amendments, the Law has finally assumed a form which is satisfactory for all stakeholders.

Taking the above into consideration, the constant monitoring and evaluation of the law will be necessary to ensure that the use of all languages is guaranteed in practice. In monitoring the implementation of the law, all of its problems and shortcomings should be identified, and timely amendments should be introduced to rectify them. The biggest challenges for the successful implementation of this law will likely derive from the Kosovo Budget, particularly with respect to determining municipal official languages and exercising the right to the Serbian language. That is, the amount of funds that are necessary to implement the law and from which sources they will be allocated could have a large impact on the actual usage of all official languages.

An additional challenge will be determining the 3% to 5% of the population and the traditional languages entitled to usage. In the absence of an updated and accurate census, it will be particularly difficult to determine who, based on which grounds, will be able to assert their rights to language in a given municipality. Moreover, it remains to be seen how and who will harmonize the Municipality Statutes, the Constitutional Framework,

UNMIK Regulation 2000/45 and the Law on Use of Language, as the law explicitly requires that this be done over the next 6 months.

Another primary objective of the law is to facilitate the status of languages other than Albanian and Serbian at the municipal level, such as the use of the Turkish language in the majority Turkish-speaking municipality of Prizren. However, even more significant will be the identification and designation of official languages in the other municipalities with smaller minority communities. In particular, this applies to the designation of the Turkish language as a traditional language in the municipalities of Mitrovicë/ Mitrovica, Prishtinë/ Priština, Vusttri/Vučitrn and Gjilan/Gnjilane. Given its official status in the past and the undeniable traditional character of the Turkish language across Kosovo, we should look for this to be included in the implementation of the law.

If we want to truly preserve the multi-lingual heritage and the multi-ethnic identity of Kosovo, we will have to prove this through the sincere and thorough implementation of the Law on the Use of Language. If during the course of this law's implementation its existing provisions prove inadequate, it will be necessary to formulate and carry out amendments that will ensure that the spirit of the law is upheld.

# Taking laws seriously

*Michael Schutz & Wolff-Michael Mors / OSCE Mission in Kosovo*

A law should reflect distinctly the political decision taken and set out the skeleton of its subject. At the very least it should provide a broad framework. The finer detail of its operation is often set out in various acts of a rather technical nature by the executive branch. These administrative instructions are legislation of a secondary rank to the framework of the decision taken by parliament. Implementing in its original sense means “filling up”, so with an administrative instruction the gaps left by the Assembly to the authorised executive body are filled up with secondary legislation. Through secondary legislation, the law becomes a workable and applicable instrument, if the respective stakeholders fulfil their obligation set out by the law, that is, if they take the law seriously.

Already when the initiative is taken to regulate a certain subject by law, certain estimations concerning the drafting of the law as well as its implementation and application need to guide both those who draft and pass the laws. Already in the phase of drafting primary legislation, which is regularly done by the executive branch, the resources needed for implementation (and also application) should be assessed in order to uphold the seriousness of the law. The non-implementation of laws heavily obstructs the authority of the parliament and hampers the enforcement of the political will. It is, for example,



intolerable that two laws that were promulgated in 2003 still have not been implemented at all.

In view of the dynamic that the issuance of secondary legislation is usually necessary to facilitate application, the OSCE has for a third time

assessed the status of implementation of laws in Kosovo, and has compiled the results in a report to be published. As in the last two reports, the primary aim of this one is to establish to what extent laws passed by the Kosovo Assembly are being properly implemented. The focus is on laws



promulgated in 2005, but it also contains a follow-up from previous years. In this context, implementation is understood to comprise the drafting of secondary legislation as well as establishing bodies as required by the law. The application of the law in concrete cases is not covered by the scope of the report. As the OSCE is adjusting the mission priorities – also in view of the future international presence in Kosovo – the current report will be the final one on the present subject. This should in no way tone down the importance of the implementation of laws and its oversight. The issue is of great importance and will be also in the future.

But who is responsible for the implementation of laws? Is it the Office of the Prime Minister (OPM), the Ministries, the Assembly of Kosovo? In fact each of these are partially responsible.

Regardless of the fact that it is difficult to make an assessment of the status of implementation of all laws in a few words due to its complexity, some conclusions can be drawn. Regarding the ministries considerable progress can be assessed over the past years notwithstanding the room for improvement that still remains. Concerning the OPM, the OSCE has unfortunately assessed a substantial backlog in view of their implementing obligations. The need for improvement is obvious and urgent. It will be

difficult for the OPM to take a lead in coordinating the drafting process, as required by the Government Rules, if they are not able to implement the laws they are responsible for implementing. Considering the strong need to improve it seems necessary to dedicate at least one person with the responsibility to ensure that, inside the Government at least, the respective laws are implemented in due time. There is still a significant imbalance between drafting primary legislation and implementing these laws by drafting secondary legislation.

The Assembly of Kosovo took upon itself a rather extensive commitment to oversee the implementation of laws. Rule 53 of the Rules of Procedure of the Assembly of Kosovo (RoP) addresses this issue and confers authority to the respective line committees. Although the first paragraph of Rule 53 seems to establish this oversight function as a right of the committee, paragraph 3 confers quite detailed obligations on the respective committee. This includes inter alia research and control of competences as well as distinct reporting obligations.

These mechanisms provide good options for a rather technical and comprehensive parliamentary oversight over the drafting activities of the executive branch, but they are not being used to the extent possible and necessary. However, an honest research on this issue also creates the question whether the Assembly of Kosovo has enough resources to apply Rule 53 in

its entirety. Is it realistic that committees with nearly no support staff are held responsible for compiling a comprehensive review on the status of implementation of each law? If not, then the RoP need to be changed; otherwise they will not be taken seriously.

Regardless of whether the committees have the resources to fulfil Rule 53, it is in the public interest to ensure that the Government is fulfilling its implementing obligations. The Committee on Health, Labour and Social Welfare, together with NDI, recently addressed this topic with a specialised report on the implementation of the Law on Health. Their work can be assessed as a progressive example regarding parliamentary oversight in this particular area.

In summary, the drafters of the primary legislation, usually the executive branch, must carefully estimate the resources needed to put the law into practice. This should not be so complicated; after all, implementation is generally carried out by the same ministry that prepared the draft law. The Assembly of Kosovo also needs to make a close reality check of the draft law before passing it, and it must follow up the fulfilment of responsibilities transferred to the executive branch. The third report on the implementation of Kosovo Assembly Laws will address the matter in a more comprehensive manner. One underlying message of this report applies to all institutions and everyone: the law needs to be taken seriously.

## Status of implementation

*Fatmire Mulhaxha-Kollçaku, ORA*

Access to health care is one of the most important issues of everyday society. Kosovo is finding itself in a multidimensional transition stage, faced with great difficulties in attempting to set up a Health System that will meet the needs of its citizens.

The Committee for Health, Labour and Social Welfare is concerned with the current poor situation of Kosovar Health Care, and as a part of its mandate, it is interested to give its contribution on improving this situation.

However, the main goal of the Law is to establish a legal basis for the arrangement, development, and improvement of Health Care situation of the citizens of Kosovo. I feel it is necessary for the Government, respectively the Ministry of Health, as well as the Parliament, to monitor the implementation of Law, and other Laws in general.

The Monitoring activity of the Parliamentary Committees introduces relatively new practices being developed in the Assembly of Kosovo, especially regarding the monitoring of laws' implementation that were adopted by the Assembly. The Committee has undertaken this activity in the capacity of fulfilling its mandate assigned by the Assembly's Rules of Procedure, whose key aim is to ensure the accomplishment of legislators' purpose efficiently as foreseen when Health Law was adopted. However, the

Committee was not aiming to find deficiencies in the Ministry's and the performance of other institutions, but its aim was to provide qualitative health care to all citizens, while at the same time introducing one of the main purposes trying to accomplish by implementation of this Law.

The Law on Health is crucial for Health Care, and this was one of the reasons that motivated the Committee to monitor precisely the implementation of this Law. Another reason was the dissatisfactory situation with Kosovar Health Care that continues to remain the same even after entry into force of this Law. Reasons of concern include: a lapse of the citizens' trust in the Public Health Care System, dissatisfaction in Health Care workers, a lapse of Health Care Service in Kosovo, and a lack of Health Care Promotion, particularly at the tertiary level.

As the outcome of several months of work, the Committee drafted a Report noting its assessment of the situation in relation to the implementation of the Law on Health including some recommendations for measures to be taken. This Report was submitted to the Presidency of the Assembly, calling for the debate and its adoption by the body. Following the approval by the Assembly, the Report shall be addressed to the Government of Kosovo, respectively to the Ministry of Health.



# and enforcement of the Health Law

*Member of the Assembly of Kosovo / Chairperson of the Committee for Health, Work and Social Welfare*



*The Committee on Health visiting University Clinical Centre (QKUK)*

The information gathering was done in two main phases (and sources):

- From non-ministerial sources (local institutions of self government, the receivers of the health services, relevant non governmental organizations and other actors), and
- From the Ministry of Health, through hearings.

This way the Committee concluded its information gathering process from the relevant actors.

Afterwards, we analysed and discussed the information and drew conclusions. So the Report contains relevant information collected over a period of several months in a the synthesized manner.

The Committee has also recommended the Report be made public and be posted to the official Assembly webpage.

The aim of the monitoring was to verify the implementation and enforcement of the Law, which aims at improving the situation in the health sector.

The main objectives of the monitoring are as follows:

- General assessment of the implementation of the Law on Health.

- Assessment of the degree of fulfilment of certain/specific

obligations by the Ministry of Health, in the process of the implementation of the Law

- Evaluation of the adoption of sub-legal acts and coordination between the Ministry and other health institutions

- Assessment of the causes and consequences of the non-effective implementation of the Law on Health

In order to meet the above objectives, the Committee has undertaken the following measures:

1. Established the Work-

ing Group from among the members of the Committee;

2. Identified the institutions, authorities and civil society organizations, relevant to the implementation of the Law on Health;

3. Visited health institutions and relevant governmental institutions at both local and central level;

4. Had direct talks and discussions with the receivers of health services;

5. Studied and analysed the relevant documentation.

The monitoring results represent the conclusion of the Committee regarding the implementation of the Law. These conclusions are based on hard facts and evidence—not on subjective opinions.

Following the relevant facts, the Committee has drafted its recommendations, which we hope will be supported and adopted by other Assembly members in the plenary session. Moreover, we are looking forward to the Minister's report in the Assembly on the implementation of the recommendations.

## Parliament and media:

*What should the relations be between the parliament and media?*

Skënder Durmishi



This is a common question posed and widely discussed. It continues to be hot topic for discussion, and not an easy one. To what extent do they correspond to each other and to what extent do they overlap? When do they obstruct or support each other? What is the red line in their communication that can not be crossed out? What is the demarcation line between the public interest that should be searched and presented in the media (to what extent is it legitimate to know) and from where does the private life of a public figure start, or what is the part which is labeled as an official secret, which is not allowed to be tackled by media?

These questions are being treated in different venues, and depending on the respective democratic education and other specificities the answers are being provided in different manners. The main differences lay on the approach, whereas in formal, legal and declarative aspects, the positions are unified and mainly affirmative.

It is clear the topic is a delicate and sensitive one: the moment the topic is raised for discussion, the first impulse, the first reaction would be – “media should have absolute independence and state institutions should keep their hands away from media”! In technical and legal-formal terms it is clear that this should be guaranteed. This is guaranteed, too, by a number of international acts starting from the Universal Declaration of Human Rights, the European Charter for

Human Rights, with special acts etc. Nevertheless, beyond these facts there is no reason there should be no partnership between media and the parliament. We are referring to something more than “modus operandi” which does not risk its main function, in contrary it supports it. A kind of “gentleman’s agreement” without prejudice motivated by the question what kind of communication between media and Parliament would best serve the citizens interests.

The Assembly of Kosovo made clear its position on partnership with media. In its whole scope of work, the work of the Assembly is public. The Assembly of Kosovo is conducting a set of reforms which represent essential changes in the work of the Assembly. One of the crucial points of this approach is the special relations in cooperation with media in particular.

In a reception organized with media representatives, the Pres-



# Is partnership possible?

*Are they permanent rivals or perhaps there is a chance to be partners?*

*Advisor to the President of Assembly of Kosovo*

ident of the Assembly Mr. Kole Berisha elaborated the goals:

“We wish citizen to be acquainted with the laws. And this can be achieved with the support of the media. So you are kindly invited to be closer to the work and activities of the Assembly. Act in accordance with the rules and the doors (and the documents) of the Assembly will be open for you. There are no secrets in the Assembly. Everything is known, everything should be known – because this is the Assembly”.

This position is motivated to help accomplish the main parliamentary principles such as – transparency, effectiveness, accountability, inclusion of many different stakes and voices of society in Assembly work.

So, we notice the media is invited and not rejected; invited to be more present in the Assembly, to report in details the whole work, positive and negative sides, the successes and the failures. The main interest is to have media present in the

Assembly and the media shall assess what is more important.

The preference for partnership is largely being supported in the world when we come to seeking greater efficiency in the media and Assembly performance. This is the conclusion of some of the international forums and gatherings on the topic.

In these forums, the main opinion which emerged was that the partnership is welcomed – not only for the interest of the Par-

liament or the media- but above all for the interest of the citizens. The lack of trust, rather that a hostile relationship between them is acceptable. Media, while being accountable to its readers, viewers and listeners, shall do its part of the job in having the Parliament become the focus of public awareness and public eye. On the other hand the Assembly provides for independent and professional work of the media by offering all kinds of relevant information. When all these criteria are met – the partnership is possible further more beneficial.

Media has the ultimate right to be informed. And the parliament is the closest democratic, legislative and decision-making institution to the citizens. Both have well-defined the functions and the guaranties for the independence in their work. Yet, it is possible to cooperate.

Nevertheless, the matter is not to perceive it as an imposed requirement, because the requirements might be equivocal at any chance, but it should be experienced as a chance that is as partnership. Both sides need to experience it as complementary for both. And this ‘need’ needs not be thought as censorship by one side, nor digression from the editorial independence on the other side. The common denominator for both, the media and the parliament, is the citizen and his/her right to be informed. This can be achieved faster, easier and much netter through partnership.







## The Kosovo Anti-corruption Agency

*Hasan Preteni / Director of the Kosovo Anti-corruption agency*

The Kosovo Anti-corruption Agency (KAA) is an independent body which exercises responsibilities determined by PISG "Anticorruption Law" No. 2004/34.

The KAA began its work in Kosovo on 17 July 2006 with the appointment of a director. The primary activities of the director are outlined in the Institution's Organigram and in the Rules of Procedure. The KAA, with the help of local and international institutions, shall function fully for six months following appointment of the KAA Director.

The KAA is a very important Institution. Its activities depend much on the support of local and international institutions. The main concern of all Kosovars-in the political aspect, is Kosovo's final status, while in the "internal" aspect, the main concerns are unemployment and corruption. War against corruption will be the main argument in front of the International Community as for how much Kosovars are ready to establish the state, to become aware, to join the civilized states of Europe, and to establish Democratic and Independent Institutions.

In order to carry out the KAA Director's duties over his/her first five year term, the KAA should be:

- a) Independent;
- b) professional;
- c) well structured;
- d) open to co-operation;
- e) transparent; and,
- f) well-paid.

### a) INDEPENDENT

The body shall be Independent of interference by the political spectrum in its activities; professional staff are not to be influenced by political parties

and special interests. KAA officials are not to have a criminal background and their families must demonstrate that they too are good Kosovo citizens.. The authority on which the KAA exercises its activity, should be separate from other governmental bodies and there must be no conflict of interest as this can pose a risk for failure to implement the law.

### b) PROFESSIONAL

KAA staff should be well trained, well prepared and should have professional knowledge of the legal system. Special importance should be paid to training youth, the ones who have received their education abroad. Knowledge of a foreign language (especially English), excellent computer skills, understanding the legal system and special tasks in KAA, are outstanding parameters to achieve success. The KAA needs to prepare Kosovo's strategy against corruption or to amend the existing one. Meanwhile, it should suggest systematic changes to the legal system and, by proposing these changes, decrease or prevent corruption. The KAA should take part (together with other NGOs and Associations) in preventing corruption. The body should also take part and provide advice while drafting the Ethical Code platform in the Public and Private Sector.

### c) WELL STRUCTURED

The structure of the KAA should cover a wide array of tasks. The structure is

to be outlined as per the tasks anticipated by the law. The structure is not to be copied from another Institution, however by using practices of the agencies engaged in the same activity in the region, tasks anticipated by the law and provided budget, in order to establish a functional structure. The structure of the KAA should be both horizontal and vertical. The horizontal extension implies a strong and stable centre in Kosovo level, while the vertical extension implies functionalizing the centres throughout Regions of Kosovo - up to the municipal level.

#### d) OPEN FOR CO-OPERATION

The KAA should co-operate with all local and international structures whose mission it is to fight corruption, as well as to learn from the achievements made by other countries which have successfully transitioned from a totalitarian government to a democracy. Further, the KAA should use the practices of countries that adhered or are about to adhere to in the EU.

The KAA should co-operate with educational institutions of the country and organize seminars and roundtables with the goal of educating a wider audience. The KAA should notify Kosovo's authorities for carrying out the obligations emerged from international acts and

should provide them with recommendations on how to meet them. A special importance should be paid to co-operation with judicial and police institutions as they should treat criminal actions quickly and correctly.

Further, there should be discussion about establishing a professional body, such as in the judiciary, that shall deal only with the war against corruption.

#### e) TRANSPARENT

The work of the KAA should be transparent. To build trust with the general public, the body should publicize corruption-related actions undertaken at the high level. The KAA should set up a web page and ensure a telephone line, where Kosovo's citizens could report such cases.

#### f) WELL PAID

Those employed at the KAA should be well paid. Their salaries should be paid by the Kosovo Consolidated Budget – sufficient for the safety of their own, and for their families' well-being, and encourage engagement of professionals in it.

We can be very sure that only people who are well paid will not be corrupted and that they will give their maximum while performing their professional tasks. The Kosovo Budget will be a good warrantor for KAA activity and for the indemnity of those who fight corruption. Financial means should not be spared in fighting corruption, because the results can be turned many fold. The professional staff should have special treatment

both in the Prosecutor's Office and in the Courts

#### CONCLUSION

The war against corruption in Kosovo will be won only if it gains national importance and if this war is supported without any compromise by Kosovo's Institutions. The awareness of citizens should be raised to the European level. There must be the general conviction that the fight against corruption protects legal system, democracy and human rights, good governance, honour and social justice, competition, economic growth, and general trust in public institutions and the moral values of society. The war against corruption can be won if all cases are reported and if everybody is involved.



# OSCE's Support to the Assembly of Kosovo

September – October 2006

Franklin De Vrieze, OSCE Mission in Kosovo

## Assembly Presidency visits Slovenia

From 17 to 19 September, the Presidency of the Assembly of Kosovo conducted a study visit in Ljubljana, Slovenia. Upon request of Office of the SRSG, OSCE agreed to provide support to the visit and to accompany the delegation in Ljubljana.

The members of the Presidency met with the President of the Slovenian National Assembly, Mr. France Cukjati, the Chair of the Assembly Committee on Foreign Policy, the Deputy Secretary General of the Assembly, the Deputy Foreign Minister, and the Head of the Assembly Department on International Co-operation and Protocol.

Assembly Presidents Berisha and Cukjati agreed on the need for regional inter-parliamentary co-operation, indicating that a joint meeting of delegations from several parliaments in the region should take place in the future. Members of the delegation sought to learn from the experience of the Slovenian Assembly, asking numerous questions about the adoption of the Assembly budget, selection and mandate of Assembly Secretary General, agenda-setting procedure for plenary sessions, plenary debate management, and the functioning of the Assembly protocol section. The visit fulfilled its purpose of developing regional co-operation between parliaments and learning from the experience of counterparts, and the OSCE stands ready to continue to assist the Assembly of Kosovo in organising further visits.

## Assembly of Kosovo debates Parliamentary Oversight of Intelligence Activities

On 27 September, the Democratic Center for Control of Armed Forces (DCAF), in co-operation with the Kosovo Institute for Policy Research and Development (KIPRED) and the Assembly of Kosovo, organized a workshop on "Parliamentary Oversight of Intelligence Activities." Participants included the members of the newly established Assembly Committee on Security, the Heads of Parliamentary Groups and security sector's representatives from the Office of the Prime Minister.

In his introductory remarks, OSCE Deputy Head of Mission, Dr. Jens Modvig, congratulated the Assembly for having rapidly moved forward on learning how to exercise democratic control over the security sector; especially since it was done ahead of the planned transfer of competencies from UNMIK,

through oversight of the emergency sector, police oversight, and now oversight of the intelligence sector. The chair of the Security Committee, Mr. Naim Maloku, stated he expected the workshop to help the Assembly to identify ways on how to tackle the issue of existing intelligence agencies, to learn from the experience of countries in transition, to make progress in drafting a law on intelligence agencies and strengthen the fight against organized crime. Through three sub-roundtables, participants discussed general oversight systems, storage of data, the dilemma of openness and oversight versus ensuring operational secrets and vetting of MPs. The OSCE will follow up in exploring the need for a public debate on threats to stability as well as preparation for further law packages. Two consultants from DCAF started to work in the Assembly to advise the Security Committee, as advised by OSCE.

On 19 October, the Assembly plenary session debated on the first report submitted by the Ministry of Internal Affairs, on the security situation in Kosovo. The report was initially subject to debate in the Committee on Security, and most of the members of the committee commented on the report during the plenary session.

## Expert Seminar on Constitutional Process

On 29 September, the OSCE organised in Prishtinë/Priština an Expert Seminar on Constitutional Process. This seminar was a follow-up to the Parliamentary and Expert Roundtable on Constitutional Issues (PERCI) held in Skopje on 20 to 22 July.

During his opening address, OSCE's Head of Mission, Ambassador Werner Wnendt, stated how very important the constitutional process itself is; as much as the content. As he stressed, it is during this process that political consensus and popular support is built in order to facilitate the implementation of the Constitution and the proper functioning of the state structure. However, because the new Constitution will have to incorporate what has been agreed upon during the status negotiations, formal drafting must wait for the outcome of the status talks on issues such as decentralisation, cultural heritage, community rights or economic issues. The Constitution will also pave the way to elections that will complete the political transition.

Two international experts from Estonia participated in the expert seminar. Mr. Juri Adams, former Minister of Justice of Estonia, former Chairman of the Estonian Assembly Committee on Legal Issues and author of the Estonian Constitution and



Mrs. Liia Hanni, former Member of the Estonian Government and former Member of the Estonian Constitutional Assembly. Their participation was an opportunity to share experiences with a society that recently went through a challenging democratic transition and the drafting of a constitution.

During the discussion, participants adopted a common understanding that the main purpose of the constitutional process was to ensure its legitimacy by respecting the principles of transparency and inclusiveness. In accordance, participants discussed the kind of body that could be drafting or reviewing the Constitution and concluded that public participation as well as civic education are a key component of this undertaking. Focused discussions also took place on mechanisms needed to engage all communities and to ensure that their concerns will be taken into account during the constitutional process.

On 30 September, Assembly President Mr. Kolë Berisha, Members of the Assembly Presidency, Heads of Parliamentary Groups and Members of the Political-Strategic Group of the Kosovo Negotiations Team met to discuss the findings of the expert roundtable and explored options for a possible way forward at the political level.

OSCE is currently considering further capacity building initiatives to support an inclusive and transparent constitutional process in co-ordination with local actors and under political guidance from ICO, UNOSEK, Contact Group countries and UNMIK.

## Internship programme with the parliamentary groups in the Assembly

The third round of the internship programme with the parliamentary groups started on 2 October and will last until the end of the year. This project is an important part of the OSCE support to strengthen parliamentary groups. Implemented through

## Justice and security debated at regional parliamentary conference in Zagreb

On 16 October, members of the Assembly of Kosovo were invited to attend a conference on regional parliamentary co-operation organized by the "parliamentary troika", consisting of the European Parliament, the OSCE Parliamentary Assembly and the Stability Pact Working Table I. The Working Group on Judicial Reform focused on needed reforms as a part of the EU integration process for the countries of South East Europe. Lessons learned from the fast reform process in Romania stimulated an interesting debate on the role of the parliament in support of judicial reform. The Working Group on the Parliamentary Control of Security Sector in South Eastern Europe also exploited regional experience. The focus of Working Group was on the Security Sector Reform (SSR) methodology, with inputs from OECD's global work on guidelines for Security Sector Reform and Governance.

## Focus on Anti-Corruption Action Plan

On 12 September and 17 October, the OSCE organized two workshops in support of the Government's Anti-Corruption Action Plan (ACAP) promulgated on 7 February 2006 by the Prime Minister. It consists of a timeline for legislative, administrative, police and judiciary measures as well as actions aimed at strengthening the participation of the civil society in the fight against corruption.

a Memorandum of Understanding signed between the OSCE and the Assembly, the interns have now a contract directly with the Assembly which represents an important step towards the institutionalisation of this programme. After a two-day training, on 3 to 4 October, conducted by the OSCE in co-operation with the Assembly Legal Department and the National Democratic Institute (NDI), the interns started organizing policy conferences under the auspices of their respective parliamentary groups.



The workshops' speakers included the Director of Office of Good Governance in the Office of the Prime Minister (OPM) who discussed the implementation of legislative and administrative measures of the ACAP; Mr. Fron Nahzi from the East West Management Institute on the social consequences of corruption for Kosovo; Mr. André Vandoren, Deputy Prosecutor General of Belgium, on the Belgian anti-corruption strategy; Prosecutor Besim Kelmendi, President of the Anti-Corruption Council, on the role of this oversight body; Professors Muhamet Mustafa and Ekrem Beqiri on recent findings about corruption in Kosovo and its economic consequences. In addition, a KTV journalist spoke about his media reporting covering corruption in the health care sector. A joint OPM-OSCE publication on 'ACAP – Social and Economic Necessity for Kosovo' was presented at the second workshop.

The main conclusions from the discussions include the recognition of the need for a multi-year comprehensive approach and the priority of strengthening investigative and prosecutorial capacities of the judiciary. The OSCE will further support the ACAP's implementation through a target-group designed "professional development program" and a public outreach campaign.

## Support to the Committee for Education

The OSCE has been providing expert advice and technical assistance to the Assembly of Kosovo Committee for Education, Science, Technology, Culture, Youth and Sports on the formulation and the review of legislation related to education and vocational training. The Committee is currently in the process of drafting the Law on Qualification, which shall provide the legal ground for developing a qualification framework aiming at ensuring quality assurance in the Kosovo education system. It is worth noting that the Committee has used the Concept Note for the qualification framework prepared by the so-called "Dublin Group", a cross-sector group of experts from the PISG, business community and trade union, following a study trip to Ireland funded by the European Union in 2005. The OSCE is reviewing the possibility to offer to the Committee a visit to relevant institutions in Dublin.

## General meeting of the Assembly Support Initiative (ASI)

On 2 October, a general ASI meeting was held with the participation of ASI partners, Assembly representatives and donor agencies. The ASI partner organizations presented their ongoing projects with the Assembly of Kosovo, the current programs in PISG of the donor agencies and discussed with key representatives in the Assembly co-operation with ASI partners. At the end of September, the 24th edition of the ASI Newsletter has

been published. The booklet is being reprinted as an insert in the dailies Zeri and Express (in Albanian), the weeklies Gradjanski Glasnik (in Serbian) and Yeni Dönem (in Turkish) and the monthly Alem (in Bosnian). The "ASI Activity Matrix"<sup>2</sup> was up-dated and distributed as well. The conference on Parliamentary oversight over the Government on 13 to 14 November, organized by the EAR-funded project in the Assembly, is being supported by OSCE and NDI.



## Support to the Committee on Rights and Interests of the Communities (CRIC)

At the end of October, the OSCE started a new project aiming at strengthening the capacity of the CRIC to enable it to work on a consensual basis and on concrete issues of interest to the communities. Project activities include the facilitation of the interaction between the CRIC and the Ministry of Returns and Communities (MRC) through the organisation of a roundtable that would also bring together relevant local and international actors dealing with communities in Kosovo, the organisation of three public debates in municipalities with the CRIC members; and the possibility for a study visit abroad in December.

<sup>1</sup>The workshop was based on the DCAF Handbook "Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies".

<sup>2</sup>The ASI Matrix is an overview of training sessions and advice, workshops, incoming consultants and external parliamentary visits.

# The Committee on Budget and Finance drafts the proposal on Assembly budget for 2007

Edmond Efendija / NDI



The process conducted on drafting the Assembly budget for 2007 is a new practice in the Assembly and it represents an important step forward. As any other organization, the Assembly should establish a process that would provide the budget which can address to the real needs and assist on accomplishing its mission.

As foreseen by The Assembly Standards Plan, initiated by The Assembly President Kolë Berisha and adopted by the Assembly in June this year, as well as according to the Rules of Procedure of Kosovo Assembly, Rule 6.7, Parliamentary Committee for Budget and Finance is responsible together with support of Budget Office within the Assembly Office to draft the proposal for Assembly Budget that is to be adopted by Assembly Presidency. Following its adoption the Assembly sends the proposal to the Ministry of Economy and Finance that has to compile the draft law for Kosovo Consolidated Budget

The Committee on Budget and Finance conducted a comprehensive and transparent process on drafting the proposal for budget 2007. The Committee conducted a range of hearing sessions with Caucus Leaders, Leaders of Parliamentary Groups, Heads of Parliamentary Committees and Senior Officers of the Assembly Secretariat. All participants were required to introduce their needs that would help to better functioning of the working bodies and the administration of the Assembly.

In the hearing sessions the participants emphasized various needs such as: high

legal expertise for the Committees and Parliamentary Groups that would assist on drafting the draft laws emerging from the Assembly, as well as expertise of various scopes on interim basis, and a special budgetary line that would serve for activities of the Parliamentary Committees.

As an outcome of this process, the Committee proposed the draft budget that contains some new things compared to/with other years:

- 1) Parliamentary Committees have a special budget that could be used for their activities, and to hire expertise on temporary basis.
- 2) The assembly shall establish the new office with Senior Legal Expertise on analyzing financial issues, that would provide service to all Parliamentary Committees.
- 3) Parliamentary Groups shall use at least 5% of the funds allocated to Political Parties from Kosovo Consolidated Budget.
- 4) There were allocated means that shall be used for promoting the skills of Assembly staff.

We hope that all these new innovations would assist the Assembly to function better in general.

I think that Assembly Budget for 2007 (if approved as it was proposed by the Committee on Budget and Finance) shall be closer to meet the needs of the Assembly, and in this regard the performance of the Committee and the Office of the Assembly President deserve words of appraisal.

The issue of drafting the budget can be promoted further. The Budget of an organization shall serve to accomplish the mission and objectives emerging from its mission. It would be beneficial if the Assembly has a strategic plan that would clearly determine the Assembly long term and short term objectives. As a part of the mission of every legislature is the proper representation of the citizens, approval of qualitative laws, and conducting the Parliamentary Oversight over the government's performance. In this respect there is a lot of to be aspired.

To conclude, we could emphasise that it is a very positive fact in this year, while drafting the Assembly Budget all relevant actors of the Assembly were actively involved, and the process of setting the priorities was open to all. This is a good practice that needs to be continued and advanced.





## ASI Mission Statement

The Assembly Support Initiative (ASI) is the inter-agency co-ordination mechanism of democratization programmes in support of the Assembly of Kosovo, seeking to strengthen and professionalize the Assembly of Kosovo. The work of ASI focuses on a democratic political culture based upon acknowledge of and respect for democratic rules of procedure, transparency and accountability to the public, developing and implementing a legislative agenda, oversight over the Executive, respect for the multi-linguality and participation in regional and inter-parliamentary contacts.

ASI partners work to bring resources together, share information and coordinate programs while identifying needs in direct interaction with the Assembly. As coordinator of the ASI, the OSCE Mission in Kosovo liaises with all ASI partners and calls regular coordination meetings in consultation with Assembly representatives. A regular ASI Newsletter informs a broad domestic and international public on the developments in the Assembly of Kosovo as well as the ASI support programmes.

### *Currently participating in ASI:*

*Friedrich Ebert Stiftung (FES), Friedrich Naumann Stiftung (FNSt.), Konrad Adenauer Stiftung (KAS), East West Parliamentary Practice Project (EWPPP), European Agency for Reconstruction (EAR) in cooperation with the Consortium of the parliaments of France, Germany, Belgium, Slovenia and the Institut International de Paris la Defense, United States Agency for International Development (USAID) in cooperation with the National Democratic Institute (NDI), United Nations Development Program (UNDP) in co-operation with the Inter-Parliamentary Union (IPU), OSCE Mission in Kosovo and the Assembly of Kosovo*



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