

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

### OSCE Mission in Kosovo Report 04/2009 On the Monitoring of the Assembly of Kosovo 1 July 2009 – 30 September 2009

#### Highlights

- Assembly establishes three new standing committees
- Assembly ratifies the agreement for the membership of Kosovo in the International Monetary Fund and World Bank
- Assembly debates the state of affairs of RTK
- Assembly encounters difficulties in managing parliamentary question periods

#### 1. Background

This 64<sup>th</sup> 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 rules of procedure adopted at the plenary session on 20 May 2005, as amended at the plenary session on 1-2 June 2006 and 18 September 2007 plenary session.

The OSCE Mission in Kosovo monitored six regular plenary sessions, on 9-10 July, on 17, 20 July, on 23 July, on 24 July, on 17 September and on 30 September, 1 October as well as seven Presidency meetings, on 1 July, on 7 July, on 14 July, on 21 July, on 28 July, on 8 September and on 22 September. The OSCE Mission in Kosovo monitored 27 out of 30 committee meetings.

#### 2. Overview

**The 9-10 July plenary session** was chaired by the President of the Assembly Mr. Jakup Krasniqi (Democratic Party of Kosovo - PDK) and by a member of the Presidency, Mr. Xhavit Haliti (PDK).

- Seventy-nine members of the Assembly were present at the 9-10 July plenary session.<sup>1</sup>
- Main agenda items of the 9-10 July plenary session:
  - Annual address of the President of Kosovo
  - Questions to the government for oral answer
  - First reading of the draft law on bestowment of decorations by the president of Kosovo  
(The draft law was endorsed in principle with 46 votes in favour and 18 votes in opposition.)
  - First reading of the draft law on corporate income tax  
(The draft law was endorsed in principle with 54 votes in favour and eight votes in opposition.)
  - First reading of the draft law on mines and minerals

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<sup>1</sup> This is the figure announced by the President of the Assembly at the beginning of the plenary session.

- (The draft law was endorsed in principle with 45 votes in favour and 14 votes in opposition.)
- First reading of the draft law on amending the law on tobacco  
(The draft law was endorsed in principle with 46 votes in favour and seven votes in opposition.)
- First reading of the draft law against corruption  
(The draft law was endorsed in principle with 54 votes in favour and 11 votes in opposition.)
- First reading of the draft law on amending the law on public procurement  
(The draft law was endorsed in principle with 63 votes in favour and two votes in opposition.)
- Second reading of the draft law on state reserve of goods  
(The draft law was returned to the sponsor for further revision.)
- Second reading of the draft law on management of confiscated property  
(The draft law was adopted with 57 votes in favour and three votes in opposition.)
- Second reading of the draft law on employment of foreign citizens in Kosovo  
(The draft law was adopted with 53 votes in favour and five votes in opposition.)
- Review of the report made by the Committee on Economy, Trade, Industry, Energy, Transport and Communications with regard to the monitoring of the implementation of the Law on Roads  
(The report was approved with 54 votes in favour and 14 votes in opposition.)
- Review of recommendation of the *ad hoc* Committee with regard to the appointment of one member to the Independent Oversight Board  
(The appointment was endorsed with 39 votes in favour.<sup>2</sup>)
- Review of the government's proposal for the appointment of director and deputy-director of the Regulatory Office for Waste and Waters  
(The appointments were rejected with 26 votes in favour and 31 votes in opposition.)
- Review of the document "White Letter: Challenges of social inclusion in Kosovo"  
(The letter was adopted with 58 votes in favour and no votes in opposition.)
- Information of Independent Liberal Party (SLS) parliamentary group with regard to the replacement of two parliamentary committee members

**The 17, 20 July plenary session of the Assembly of Kosovo** was chaired by the President of the Assembly Jakup Krasniqi (PDK) and by a member of the Presidency, Mr. Sabri Hamiti (Democratic League of Kosovo – LDK).

- Seventy-two members of the Assembly were present at the 17, 20 July plenary session.
- Main agenda items of the 17, 20 July plenary session:
  - Questions to the government for oral answer
  - Review of recommendations of the Committee on European Integration with regard to the Assembly Action Plan on the challenges of the 2008 European Commission Progress Report  
(The recommendations were adopted with 67 votes in favour and two votes in opposition.)

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<sup>2</sup> The *ad hoc* Committee for the selection of Independent Oversight Board (IOB) members proposed two candidates, Ms. Sabile Abdyli and Mr. Ali Dragusha, to the Assembly for consideration and appointment. During the secret ballot, Ms. Abdyli received 39 votes in favour and Mr. Dragusha received 25 votes, while 10 ballots were invalid. Therefore, Ms. Abdyli was appointed as member of IOB.

- Review of the audit-report and financial statement of the Kosovo Pensions Trust for 2008  
(The report was adopted with 43 votes in favour and eight votes in opposition.)
- Review of the 2008 work report of the Central Election Commission  
(The report was adopted with 59 votes in favour and eight votes in opposition.)
- Review of the 2008 work report of the Kosovo Judicial Institute  
(The report was adopted with 58 votes in favour and six votes in opposition.)
- Debate on the situation of Radio Television of Kosovo (RTK)  
(The debate was opened by Mr. Arsim Rexhepi (LDK), who had proposed the debate, followed by a broad plenary discussion and was concluded by a statement delivered by Mr. Rexhepi.)
- Information of 7+ parliamentary group with regard to the replacement of a committee member

**The 23 July plenary session of the Assembly of Kosovo** was chaired by the President of the Assembly Jakup Krasniqi (PDK) and a member of the Presidency, Mr. Ibrahim Gashi (Alliance New Kosovo - AKR).

- Eighty-one members of the Assembly were present at the 23 July plenary session.
- Main agenda items of the 23 July plenary session:
  - Questions to the government for oral answer
  - Ratification of the agreement for the membership of Kosovo in the International Monetary Fund and World Bank  
(The agreement was ratified with 89 votes in favour and no votes in opposition.)
  - Ratification of the agreement on the appropriation of a loan between Kosovo and International Bank for reconstruction and development and memorandum of the mission of the World Bank Treasury  
(The agreement was ratified with 82 votes in favour and one vote in opposition.)
  - First reading of the draft law on amending the applied law on Kosovo budget for 2009  
(The draft law was endorsed in principle with 62 votes in favour and 30 votes in opposition.)
  - Review of the recommendation of the *ad hoc* Committee with regard to the appointment of a Kosovo Serb member to the Independent Oversight Board  
(The appointment was endorsed with 44 votes in favour.<sup>3</sup>)
  - First reading of the draft law on air pollution protection  
(The draft law was endorsed in principle with 61 votes in favour and 11 votes in opposition.)
  - First reading of the draft law on financing of specific housing programmes  
(The draft law was endorsed in principle with 69 votes in favour and two votes in opposition.)
  - First reading of the draft law on personal income tax  
(The draft law was endorsed in principle with 68 votes in favour and two votes in opposition.)
  - First reading of the draft law on determining the rights and protection of topographies of integrated circuits

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<sup>3</sup> The *ad hoc* Committee for the selection of Independent Oversight Board (IOB) members proposed two candidates, Ms. Irena Svetić – Ahmedi and Mr. Nebojša Azdejković, representing the Kosovo Serb community to the Assembly for consideration and appointment. During the secret ballot, Ms. Svetić – Ahmedi received 44 votes in favour and Mr. Azdejković received 40 votes, while eight ballots were invalid. Therefore, Ms. Svetić – Ahmedi was appointed as a member of IOB.

- (The draft law was endorsed in principle with 65 votes in favour and no votes in opposition.)
- First reading of the draft law on prevention and fight of cyber-crime  
(The draft law was endorsed in principle with 81 votes in favour and no votes in opposition.)
- Review of the government's proposal to declare the area for the construction of hydro power plant "Zhur/Žur" as an area of special economic interest  
(The proposal was endorsed with 69 votes in favour and eight votes in opposition.)

**The 24 July plenary session of the Assembly of Kosovo** was chaired by the President of the Assembly Jakup Krasniqi (PDK) and a member of the Presidency, Mr. Naim Maloku (Alliance for the Future of Kosovo - AAK).

- Sixty-six members of the Assembly were present at the 24 July plenary session.
- Main agenda items of the 24 July plenary session:
  - Second reading of the draft law on amending the applied law on Kosovo budget for 2009  
(The draft law was adopted with 69 votes in favour and five votes in opposition.)
  - Second reading of the draft law on amending the law on public procurement  
(The draft law was adopted with 70 votes in favour and two votes in opposition.)
  - Review of the proposal made by the Assembly Presidency with regard to the establishment of three new standing committees<sup>4</sup>  
(The proposal was adopted with 81 votes in favour and one vote in opposition.)
  - Review of the recommendation made by the Committee for Legislation and Judicial Affairs with regard to the appointment of members to the Kosovo Judicial Council  
(The appointments were endorsed with 68 votes in favour and 10 votes in opposition.)

**The 17 September plenary session of the Assembly of Kosovo** was chaired by the President of the Assembly Jakup Krasniqi (PDK) and a member of the Presidency, Mr. Ibrahim Gashi (AKR).

- Eighty-one members of the Assembly were present at the 17 September plenary session.
- Main agenda items of the 17 September plenary session:
  - Questions to the government for oral answer
  - First reading of the draft law on tourism and touristic activities  
(The draft law was endorsed in principle with 64 votes in favour and no votes in opposition.)
  - Second reading of the draft law on internal audit  
(The draft law was adopted with 67 votes in favour and no votes in opposition.)
  - Second reading of the draft law on preservation of public peace and order  
(The draft law was adopted with 68 votes in favour and no votes in opposition.)
  - Second reading of the draft law on weapons  
(The draft law adopted with 64 votes in favour and 13 votes in opposition.)
  - Review of the government's proposal with regard to the appointment of members to the Board of the Telecommunications Regulatory Authority  
(The appointments were endorsed with 32 votes in favour and 28 votes in opposition.)

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<sup>4</sup> The Assembly established three following standing committees: committee for the oversight of public finances, committee for the oversight of the Kosovo Intelligence Agency and committee for the oversight of the Kosovo Security Force.

**The 30 September, 1 October plenary session of the Assembly of Kosovo** was chaired by two members of the Presidency, Mr. Eqrem Kryeziu (LDK) and Mr. Naim Maloku (AAK).

- Sixty-five members of the Assembly were present at the 30 September, 1 October plenary session.
- Main agenda items of the 30 September, 1 October plenary session:
  - Questions to the government for oral answer
  - Second reading of the draft law on standardisation  
(The draft law was adopted with 62 votes in favour and no votes in opposition.)
  - Second reading of the draft law on natural gas  
(The draft law was adopted with 65 votes in favour and no votes in opposition.)
  - Second reading of the draft law on empowerment and participation of youth  
(The draft law was adopted with 65 votes in favour and one vote in opposition.)
  - Review of recommendations made by the Committee for Legislation and Judicial Affairs with regard to the appointment of members to the Managing Council of the Kosovo Judicial Institute  
(The recommendation was rejected with 25 votes in favour and 31 votes in opposition.)
  - Review of the recommendation made by the Committee on Budget and Finance with regard to the transfer of funds to the Central Election Commission  
(The recommendation was endorsed with 66 votes in favour and no votes in opposition.)
  - Review of the recommendation made by the Committee on Budget and Finance with regard to the number of members in the preparatory municipal election teams  
(The recommendation was endorsed with 68 votes in favour and no votes in opposition.)
  - Review of the recommendation made by the Committee on Budget and Finance with regard to the correction of the number of employees in the Civil Aviation Authority<sup>5</sup>  
(The recommendation was endorsed with 42 votes in favour and eight votes in opposition.)
  - Review of the 2008 work report of the Central Bank  
(At the request of the PDK parliamentary group, the item was postponed due to the absence of the minister of finance and economy.)
  - Review of draft strategy against corruption for the period 2009-2011  
(The item was postponed due to the absence of the government.)

### **3. Parliamentary practices and proceedings of Assembly sessions**

#### Legislative process

- The draft law on management of confiscated property was adopted almost three months after its endorsement in a first reading at the 16 April plenary session. The draft law on employment of foreign citizens in Kosovo was approved four months after its endorsement in a first reading at the 12 March plenary session. The draft law on amending the applied law on Kosovo budget for 2009 was approved one day after its endorsement in a first reading at the 23 July plenary session. The draft law on amending the law on public procurement was approved two weeks after its endorsement in a first

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<sup>5</sup> The ministry of economy and finance, in accordance with the applied Law on Civil Aviation and applied Law on Kosovo Budget for 2009, requested from the Assembly of Kosovo to allow an increase of employees in the Civil Aviation Authority. The Assembly committee for budget and finance reviewed the request in question and recommended its approval.

reading at the 9 July plenary session. The draft law on internal audit and the draft law on natural gas were approved eight months after their first readings at the 29 January plenary session. The draft law on preservation of public peace and order and the draft law on weapons were approved five months after their first readings at the 16 April plenary session. The draft law on standardisation and the draft law on empowerment and participation of youth were approved four and half months after their first readings at the 14 May plenary session.

*Rule 35.6 provides that “[w]hen a committee has been designated to review a draft law, it shall report its recommendations to the Assembly no later than two months after the first reading, unless an extension is approved by the Assembly.” Most of the above-referenced draft laws were approved by the Assembly well beyond the deadline required by rule 35.6 and the responsible functional committees did not ask the Assembly to extend the deadline, which was not in compliance with rule 35.6. Many previous monitoring reports had likewise noted that the Assembly committees are having difficulties in reviewing and reporting on their recommendations with regard to draft legislation according to the timeframe set forth in rule 35.6. The Assembly could therefore either consider extending the two-months timeframe or hire additional support staff and legal experts to assist the committees in reviewing draft legislation in a timely manner.*

- At the 9 July plenary session, Mrs. Myzejene Selmani (AKR), Chairperson of the committee for economy, trade, industry, energy, transport and communications proposed that the draft law on state reserve of goods should be returned to the sponsor for further revision. She stated that the draft law in question had large financial implications, which could make its implementation unlikely, and many legal and substantive flaws. The President of the Assembly called for a vote on Mrs. Selmani’s proposal, which was approved with 31 votes in favour and four votes in opposition.

*Under Rule 35.3, “[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place (emphasis added).” By analogy, the Committee for Economy, Trade, Industry, Energy, Transport and Communications should have proposed to the Assembly to return the draft law on state reserve of goods to the sponsor in accordance with Rule 35.3. Moreover, Rule 35.7 provides that “[t]he functional or main committee may review the draft law in principle even before the first reading of the draft law takes place in plenary session (emphasis added).” If the above-mentioned committee had reviewed the draft law in question before its first reading, as allowed by Rule 35.7, it would have had the opportunity to notice the flaws of the draft law and propose its return it to the sponsor during its first reading, rather than making such a proposal five months after the first reading. It is highly recommended that the Assembly committees to utilize the opportunity of reviewing draft laws before the first reading in order to make the legislative process more efficient.*

#### Distribution of draft legislation

- The draft law on amending the law on tobacco, the draft law against corruption, the draft law on bestowment of decorations by the President of Kosovo and the draft law on amending the law on public procurement were distributed on 16 June, the draft law on mines and minerals was distributed on 17 June, and the draft law on corporate income tax was distributed on 19 June. Thus, the draft laws were distributed, respectively, 16, 15 and 13 working days prior to their first reading at the 9 July plenary session.

The draft law on air pollution protection was distributed on 16 June, the draft law on personal income tax was distributed on 29 June, the draft law on financing of specific housing programmes was distributed on 30 June, the draft law on determining the rights and protection of topographies of integrated circuits and the draft law on prevention and

fight of cyber-crime were distributed on 10 July, and the draft law on amending the applied law on Kosovo budget for 2009 was distributed on 15 July. Thus, the draft laws were distributed, respectively, 26, 17, 16, eight and five working days prior to their first reading at the 23 July plenary session.

The draft law on tourism and touristic activities was distributed on 26 August. Thus, the draft law was distributed 15 working days prior to its first reading at the 17 September plenary session.

*Rule 35.1 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. Five of the above-mentioned draft laws – draft law on air pollution protection, draft law on personal income tax, draft law on determining the rights and protection of topographies of integrated circuits, draft law on prevention and fight of cyber-crime and draft law on amending the applied law on Kosovo budget for 2009 – were not reviewed in a first reading in compliance with rule 35.1. The draft law on air pollution protection and the draft law on personal income tax were reviewed in a first reading more than three working weeks after their distribution, while the first reading of the draft law on determining the rights and protection of topographies of integrated circuits, the draft law on prevention and fight of cyber-crime and the draft law on amending the applied law on the Kosovo budget for 2009 took place earlier than ten working days after their distribution and did not give sufficient time to members to study the draft laws in question.*

#### Assembly establishes three new committees

- During the 24 July plenary session, following a proposal made by the Presidency, the Assembly approved the establishment of three new parliamentary committees. The proposal was approved with 81 votes in favour and one vote in opposition. The three new committees are the Committee for the Oversight of Public Finances, the Committee for the Oversight of the Kosovo Intelligence Agency, and the Committee for the Oversight of the Kosovo Security Force. The Presidency decided that all three new committees would have nine members each. The PDK and LDK parliamentary groups were allocated two members each, while AAK, AKR, LDD, SLS and 7+ parliamentary groups were allocated one member each.

*The Assembly decision to establish three additional committees was in compliance with the rule 41.1, according to which, the number of committees and their structure shall be decided by the Assembly pursuant to the proposal of the Presidency.*

#### Assembly debates the state of affairs of Radio and Television of Kosovo

- On 20 July, during the continuation of the 17 July plenary session, the Assembly debated on the state of affairs of Radio and Television of Kosovo (RTK), based on a motion of eight members of the Assembly.<sup>6</sup> In their motion, the respective members alleged that the RTK Board had violated the Law on the RTK, the law on public procurement and the law on management of public finances and accountability concerning recruitment and tendering procedure. Furthermore, they recommended to the Assembly to dismiss the RTK Board and appoint a new provisional board, as well as to establish an *ad hoc* investigative committee to look into the financial expenditure of the RTK. In his opening

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<sup>6</sup> On 10 June, eight members of the Assembly submitted a motion for a plenary debate on RTK. They are Mr. Arsim Rexhepi (LDK), Mr. Riza Smakaj (AKR), Mr. Gani Geci (LDD), Mr. Naser Rugova (LDD), Mr. Shkumbin Demaliaj (AAK), Mr. Naim Rrustemi (Independent/former PDK member), Mr. Driton Tali (Independent/former AKR member) and Mr. Emrush Xhemajli (Socialist Party (PS)/former PDK parliamentary group member).

statement, as sponsor of the debate, Mr. Arsim Rexhepi (LDK) stated that additional members of the Assembly signed, in the meantime, the request for establishment of the *ad hoc* investigative committee, increasing the number to 44 members. The President of the Assembly reminded the members in question that the Assembly did not have the authority to dismiss the RTK Board. With regard to the establishment of the *ad hoc* investigative committee, the President of the Assembly remarked that the request did not have the required support of at least 40 members of the Assembly as nine members had withdrawn their support, leaving the request with 35 signatures only. The President of the Assembly therefore did not call for a vote on the above-referenced requests.

*According to article 25.2 (a) of the Law on Radio and Television of Kosovo (RTK), promulgated by UNMIK Regulation 2006/14 on 11 April 2006, dismissal of an RTK Board member shall be proposed by the RTK Board itself upon the request of two-thirds of Board members. Furthermore, the article 25.2 (b) stipulates that the Assembly of Kosovo, following the RTK Board's proposal, decides with a simple majority whether to dismiss the Board member. Clearly, it is not within the authority of the Assembly to initiate the procedure for the dismissal of the RTK Board or one of its members. Therefore, the request of the above-mentioned members of the Assembly was not in compliance with the Law on the RTK.*

*Additionally, even the request to establish an investigative committee did not meet legal requirement set forth in section 77.2 of the constitution, which stipulates that the Assembly appoints committees for specific matters, including investigative matters, upon the request of one third of all members of the Assembly, meaning at least 40 members.*

#### Assembly continues to face difficulties in managing parliamentary question periods

- At the 9-10 July plenary session, only seven out of 22 parliamentary questions received a response, while 15 questions were postponed for the upcoming plenary session because the prime minister and several ministers were not present to provide responses. At the 17-20 July plenary session, nine out of 13 questions received a response. At the 23-24 July plenary session, two out of five questions received a response as two members of the Assembly were not present to read their respective questions, while one member wished to postpone his question for an upcoming plenary session. At the 17 September plenary session, nine questions received a response. At the 30 September plenary session nine out of 16 parliamentary questions received a response while seven questions remained without a response either because the respective minister was not present to provide a response or the respective member was not present to read the question. The President of the Assembly or the chairperson of the session announced that questions which had not received a response in two plenary sessions, would be published in the Assembly Bulletin<sup>7</sup>.

*Question periods during the reporting period were carried out by the Assembly in compliance with rule 26 on "Questions to the Government for oral answers", which provides that the agenda of each session shall include a period of up to 50 minutes for*

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<sup>7</sup> In July, the Assembly of Kosovo started publishing a new magazine called *The Assembly* replacing the Assembly Bulletin. The OSCE Mission in Kosovo supported the Assembly of Kosovo in publishing the magazine, by facilitating the transfer of the good practices developed during seven years of publishing of the Assembly Support Initiative Newsletter. These good practices included the creation of an editorial board, improving the quality of the design of the Assembly Bulletin, developing the magazine in English, increasing the quality of the articles and introducing new distribution channels. With the support of the Mission, the Assembly of Kosovo established an editorial board, composed by representatives of all parliamentary groups, the office of the President of the Assembly and representatives of international organizations, who support the work of the Assembly. The new Assembly magazine can be found in the Assembly of Kosovo website [www.assembly-kosova.org](http://www.assembly-kosova.org), published in English, Albanian, Serbian and Turkish languages.

*members' questions to the government, with one minute for the question, three minutes for the minister's answer, one minute for a follow-up question, and two minutes for the response to the follow-up question.*

*It has been noted earlier and during this reporting period that all questions could not be processed during the 50 minute period because of the high number of questions submitted by members. The OSCE has previously recommended that the Assembly should either extend the question period and/or limit the number of questions per member in order to give the opportunity to all members, who submitted questions, to put them forward in a timely manner and receive a response. It is worth mentioning that the Committee for Rules of Procedure has included new provisions in the new draft rules of procedure, according to which the question period would last up to 60 minutes and a member of the Assembly would have the right to ask only two questions per plenary session. New provisions intend to make the question period more effective by giving to members who submit questions a better opportunity to receive a response in a timely manner. Nevertheless, even more than two years after the beginning of the term of the current Assembly, new draft rules of procedure are not yet adopted by the Assembly. It is highly recommended for the Assembly to adopt the new rules of procedure in order to carry out its duties in a more efficient manner.*

#### **4. Access**

- During the reporting period, the OSCE Mission in Kosovo received access to the plenary sessions, Presidency meetings and committee meetings under review. The OSCE Mission in Kosovo also received copies of documents considered by the Assembly and transcripts of plenary sessions.

#### **5. Transparency**

- During the reporting period, the Assembly did not publish the records of electronic votes of any plenary session. The Assembly had published the records of electronic votes of some plenary sessions before this reporting period, but it failed to do so later. The publishing of the records of electronic votes is an important step in enhancing the transparency of the Assembly, especially the accountability of members to their constituents. It is therefore recommended for the Assembly to consistently publish the records of electronic votes.<sup>8</sup>
- Radio Television Kosovo provided live television coverage of the plenary sessions under review. Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly has a website [www.assembly-kosova.org](http://www.assembly-kosova.org) containing biographical details of members of the Assembly, information about the structure and functioning of the Assembly, minutes and transcripts of Assembly sessions and committee meetings, copies of laws, resolutions and declarations adopted by the Assembly, along with other information.

ENDS.

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<sup>8</sup> At the 15 February 2008 plenary session, the President of the Assembly stated that the Assembly would publish on its website the records of electronic votes of plenary session decisions. Following the President's announcement, the Assembly began publishing the records of electronic votes from the 17 February 2008 extraordinary session. Nevertheless, the records of electronic votes were not published consistently.