

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

**Pillar III (OSCE) Report 05/2006  
On the Monitoring of the Assembly of Kosovo  
1 July 2006 – 4 August 2006**

**Highlights**

- **Assembly discusses the 100-day work report of the Government**
- **Assembly discusses the Presidency report with regard to the Administrative-Protocol Center in Germia Park**
- **Assembly approves the Law on the Use of Languages and endorses the Draft Law on Cultural Heritage**
- **Assembly appoints the Anti-Corruption Agency Director, the fifth IMC Council member, and the Deputy Minister of Justice**

**1. Background**

This forty-seventh monitoring report is drafted in accordance with the Terms of Reference for UNMIK Pillar III for Institution Building (OSCE) Monitoring of the Assembly of Kosovo dated 26 November 2002 and is based on compliance with the new Rules of Procedure adopted at the end of the plenary session on 20 May 2005, as amended at the plenary session on 1-2 June 2006.

During the reporting period, the Assembly held two regular plenary sessions, on 13, 14 and 17 July, and 27-28 July, as well as four Presidency meetings, on 6 July, 11 July, 19 July and 31 July. Eight Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during the reporting period.<sup>1</sup> Pillar III (OSCE) monitored the plenary sessions and the Presidency meetings, as well as 15 out of 21 Committee meetings, one meeting of the subcommittee for Human Rights, Gender Equality and Public Petitions and Claims, and one public hearing.<sup>2</sup>

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<sup>1</sup> The Committee on the Rights and Interests of Communities and Returns met on 3, 18 and 25 July, while the Committee for Health, Labour, Social Welfare and Missing Persons met on 4, 11, 18, 25 and 27 July. The Budget Committee met on 5, 19, and 24 July, while the Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications met on 4, 11 and 25 July. The Committee for Judicial, Legislative and Constitutional Framework Matters met on 10, 26 and 28 July, while the Committee for Emergency Preparedness met on 19 and 26 July. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 11 and 18 July, while the Committee for Education, Science, Technology, Culture, Youth and Sports met on 21 July. The Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims met on 12 July. The Committee for Education, Science, Technology, Culture, Youth and Sports hold the Public Hearing of the Draft Law on Cultural Heritage on 28 July.

<sup>2</sup> The Committee for the Rights and Interests of Communities and Returns on 3, 18 and 25 July; the Committee for Health, Labour, Social Welfare and Missing Persons on 4 July; the Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications on 4 and 11 July; the Budget Committee on 5, 19 and 24 July; the Committee for Judicial, Legislative and Constitutional Matters on 10, 26 and 28 July; the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 11 July; the Committee for Education, Science, Technology, Culture, Youth and Sports on 21 July; the Committee for Emergency Preparedness on 26 July; the Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims on 12 July; and the Public Hearing of the Draft Law on Cultural Heritage on 28 July.

## 2. Overview

**The 13, 14 and 17 July plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) on 13 July and until the break on 14 July and by Mr. Naim Maloku (AAK) after the break on 14 July. On 17 July, the session was chaired by Mr. Naim Maloku until the break and the President of the Assembly after the break.

- Eighty-four, 85 and 76 Members of the Assembly were present, respectively, on 13, 14 and 17 July.<sup>3</sup>
- Main agenda items of the 13, 14 and 17 July plenary session:
  - Questions to the Government
  - Second Reading of the Draft Law on the Freedom of Religion and Legal Status of Religious Communities  
(The draft law was approved with 57 votes in favor and five votes in opposition.)
  - Second Reading of the Draft Law on Termination of Pregnancy  
(The draft law was approved with 58 votes in favor and three votes in opposition.)
  - Second Reading of the Draft Law on Amending the Law 2003/07 on Archive Material and Archives  
(The draft law was approved with 55 votes in favor and two votes in opposition.)
  - Second Reading of the Draft Law on amending the Law 2004/12 on Standardisation  
(The draft law was approved with 61 votes in favor and no votes in opposition.)
  - Discussion of the 100-day work report of the Government  
(Prime Minister Agim Çeku (AAK) made a presentation, followed by a plenary debate and a response by the Prime Minister.)
  - Discussion of the Presidency report with regard to the Administrative-Protocol Center in Germia Park  
(Mr. Naim Maloku (AAK) made a presentation, followed by a plenary debate and approval of the Presidency recommendations with 52 votes in favor and 18 votes in opposition.)
  - Discussion of the draft Rules of Procedure on the appointment of the fifth IMC Council member  
(The draft Rules were approved with 57 votes in favor and three votes in opposition.)
  - Discussion of the recommendation on the appointment of Anti-Corruption Agency Director  
(The Assembly appointment of the Agency Director<sup>4</sup> was endorsed, by secret ballot, with 57 votes in favor.)

**The 27-28 July plenary session of the Assembly of Kosovo** was chaired by President of the Assembly Kolë Berisha (LDK) and by Member of the Presidency Mr. Sabri Hamiti (LDK).

- Seventy-nine and 74 Members of the Assembly were present, respectively, on 27 and 28 July.
- Main agenda items of the 27-28 July plenary session:
  - Questions to the Government
  - First reading of the Draft Law on Cultural Heritage  
(The draft law was endorsed in principle with 58 votes in favor and three votes in opposition.)
  - First reading of the Draft Law on amending the Law 2004/5 on the Trade of Petroleum and Petroleum Products

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<sup>3</sup> Unless otherwise indicated, the figures given are the ones announced by the President of the Assembly or Chairperson at the beginning of each day.

<sup>4</sup> The Assembly appointed Mr. Hasan Preteni as the Anti-Corruption Agency Director. Mr. Preteni has military and legal background. He served in the Yugoslav Army from 1979 to 1991, in KLA from mid-1998 to mid-1999, and in KPC from mid-1999 to mid-2006 as the Head of the KPC Zone IV in Mitrovicë/Mitrovica region with the rank of a colonel.

- (The draft law was endorsed in principle with 59 votes in favor and no votes in opposition.)
- First reading of the Draft Law on Free Industrial Zones  
(The draft law was returned to the Government. See the section entitled “Agenda”.)
- First reading of the Draft Law on National Parks  
(The draft law was endorsed in principle with 59 votes in favor and no votes in opposition.)
- Second reading of the Draft Law on Food  
(The draft law was postponed. See the section entitled “Agenda”.)
- Second reading of the Draft Law on the Use of Languages  
(The draft law was approved with 52 votes in favor and 13 votes in opposition.)
- Review of parliamentary groups’ proposals on appointment of the fifth IMC Council member  
(The Assembly appointed the fifth IMC Council member with 42 votes in favor. See the section entitled “Appointment of the fifth IMC Council member”.)
- Review of the proposal of the Government on the appointment of Regulatory Energy Board Chairman  
(The proposal was approved with 50 votes in favor and ten votes in opposition.)
- Endorsement of the appointment of the Deputy Minister of Justice  
(The Deputy Minister was appointed with 34 votes in favor and 32 votes in opposition. See the section entitled “Appointment of Deputy Ministers”.)
- Review of the report of the Committee for Economy, Trade, Industry, Energy, Transport and Communications on the Telecommunications Regulatory Agency (TRA) work report for 2005  
(This item was postponed. See section entitled “Agenda”.)

### 3. Parliamentary Practices and Proceedings of Assembly Sessions

#### Agenda

- At the beginning of the 27 July plenary session, Mr. Alush Gashi proposed on behalf of LDK that the second reading of the Draft Law on Food should be postponed in order for the Functional Committee and the Committee for Health, Labor and Social Welfare to harmonise their amendments, and he also supported the proposal of the Committee for Economy, Trade, Industry, Energy, Transport and Communications, which had been submitted in writing prior to the session, to return the Draft Law on Free Industrial Zones to the Government for further review. Ms. Gjylnaze Sylja (AAK) raised the objection that the agenda did not include two proposals<sup>5</sup> submitted by her parliamentary group - drafting of the Constitution and adoption of a resolution on the diaspora - insisting that according to Rule 6.5 the two proposals should be included in the agenda of that day’s session. The Chairperson called the Assembly to vote individually on the proposals made by Mr. Gashi and the Committee for Economy, Trade, Industry, Energy, Transport and Communications, which were approved by a majority of votes in favor. In response to Ms. Sylja, the Chairperson stated that “the Presidency discussed the AAK proposal on a resolution and decided not to include it in the agenda of this plenary session, and proposed that parliamentary group leaders should first agree on this issue.” Ms. Sylja reiterated that her parliamentary group proposals should be included in the agenda according to the procedural rules. The Chairperson immediately called the Assembly to vote on “whether to include in the agenda a resolution that nobody has received, and which there is no point discussing.” No Member of the Assembly visibly raised his or her hand at any point, either when the Chairperson called for votes in favor or when he called for votes against. The subject of the vote was unclear as AAK parliamentary group had submitted two proposals, but

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<sup>5</sup> The AAK parliamentary group’s proposals on the drafting of the Constitution of Kosovo and the resolution on the diaspora were submitted to the Table Office, respectively, on 4 and 6 July. At its 26 July meeting, the Presidency discussed the two AAK proposals, and decided to postpone them for a later stage in order to allow more time for broader consultation between parliamentary groups.

the Assembly was asked to vote only on the resolution. The Chairperson announced that nobody had voted in favor, so the proposal couldn't be included in the agenda. He proceeded to give the floor to Mr. Jakup Krasniqi (PDK), who proposed that the agenda item on the Telecommunications Regulatory Agency (TRA) work report should be postponed, arguing that according to the law the TRA chairperson should report once a year on the work of the Agency to the Assembly, not the Assembly Committee. Speaking on behalf of LDK, Mr. Gashi supported Mr. Krasniqi's proposal, so the Chairperson called the Assembly to vote on Mr. Krasniqi's proposal, which was approved by a majority of votes. Mr. Emrush Xhemajli (LPK) proposed that the last agenda item should be the proposal of the agenda for the next plenary session, "as was the practice earlier." The Chairperson responded that Mr. Xhemajli's assertion was correct, and that "this rule hasn't been adhered to at the past few sessions, because it was almost impossible to plan the agendas for next sessions, but we can discuss it." Mr. Xhevat Bislimi (PDK) stated that Viti/Vitina Municipal Assembly had unanimously voted against a proposal on the formation of Klllokot/Klokot municipality, and he proposed that the Assembly should *urgently* discuss the offers made by the Negotiation Team with regard to the decentralisation process. The Chairperson responded that the procedure did not allow for this issue to be included in the agenda of that day's session, and that the Presidency and the Assembly should discuss this issue. The Chairperson then called the Assembly to vote on the agenda of that day's session, which was approved with a majority of votes.

*The new Rules 23.1-2 provide that "[t]he Presidency shall prepare a draft Agenda for the upcoming Assembly session and make it immediately available to the Members of the Assembly. At the beginning of the session the draft Agenda shall be deemed approved, unless one or more parliamentary groups or six (6) Members of the Assembly propose in writing to the President an amendment to the Agenda, which should be put to a vote." Thus, the proposal of the Committee for Economy, Trade, Industry, Energy, Transport and Communications, submitted earlier in writing, was made in compliance with the new Rules. The LDK and PDK parliamentary groups made verbal proposals, in accordance with the previous Rule,<sup>6</sup> which is no longer in force, and which allowed amendments to the agenda to be proposed verbally.*

*Under Rule 6.5, the Presidency "shall ensure that any substantial motion supported by six or more Members of the Assembly is placed on the agenda of the plenary session of the Assembly within three working weeks of securing this degree of support. The Assembly shall take a decision on the matter." In order for the Assembly to take a decision, it would be advisable that the supporting materials of both AAK parliamentary group proposals are distributed to all Members of the Assembly prior to the plenary session.*

*The new Rules 23.1-2 require the agenda to be approved only at the beginning of the plenary session in question. The assertions made by Mr. Xhemajli and the Chairperson were incorrectly based on the previous Rule 23.1, which required the agenda to be approved by the Assembly at the end of the previous session.*

*Rule 29.1 provides that "[a]t any plenary session, any Member, in agreement with the President of the Assembly, may propose that the Assembly should immediately consider an urgent matter. If the President of the Assembly is satisfied that the matter merits the Assembly's immediate attention, he/she shall permit the Member concerned to put his proposal to the Assembly, and then put it to a vote." Mr. Bislimi asked for the item to be discussed urgently, but he did not explicitly ask for the item to be discussed at that day's session. If he intended to propose the discussion for that very day, he should have first obtained the agreement of the Chairperson. Under Rule 29.1, it is within the discretion of the person chairing the session to determine whether an issue "merits the Assembly's immediate attention."*

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<sup>6</sup> The previous Rule 23.1 provided that "[a]t the end of each session the President of the Assembly or another Member of the Presidency shall propose the agenda for the next session. This proposal shall be deemed approved, unless one or more parliamentary groups or . . . six Members object to it."

## Procedural motions

- At its 10 July meeting, the Committee on Judicial, Legislative and Constitutional Framework Matters discussed a motion submitted by Mr. Emrush Xhemajli (LPK), on 23 June, claiming that his rights under Rules 30.1(b) and 30.2 had been violated at the 15 June plenary session, in that he was allowed to speak only one minute and his proposal to suspend the proceedings of the 15 June plenary session was not put to a vote. Mr. Nazim Jashari (ORA) and Mr. Hydajet Hyseni (PDK), the Committee chairperson, stated that the Chairperson's action in this regard constituted a violation of the Rules of Procedure. Mr. Sadudin Berisha (LDK) proposed that the Committee should check the transcript of the 15 June plenary session prior to making a recommendation to the Assembly on the matter. Other members agreed with Mr. Berisha's proposal, so the Committee decided to postpone the discussion of the motion for the next meeting in order to check the transcript in the meantime.

At its meeting of the 28 July, the Committee on Judicial, Legislative and Constitutional Framework Matters discussed Mr. Xhemajli's motion again, and could not agree upon a recommendation to offer to the Assembly, but rather decided to postpone the issue and request from the administration the audio recording of the 15 June plenary session.

*Rule 30.8 provides that "[a] motion to challenge the application of the Rules of Procedure and the motion on the violation of the rights of a Member can be made by an individual Member. This motion is submitted to the Committee on Judicial, Legislative and Constitutional Framework Matters, which shall express its recommendation in the first Assembly Plenary Session to follow." Three plenary sessions have passed since Mr. Xhemajli submitted its motion on 23 June, and the Committee on Judicial, Legislative and Constitutional Framework Matters has not yet offered its recommendation to the Assembly.<sup>7</sup>*

## Debates

- At its 6 and 11 July meetings, the Presidency met with parliamentary group leaders to plan the agenda of the 13, 14 and 17 July plenary session and agreed to limit the time of the debate on the 100-day work report of the Government to two hours, dividing it proportionally among the parliamentary groups.

At the beginning of the plenary session on 13 July, after the President of the Assembly had presented the agenda, Mr. Jakup Krasniqi (PDK) stated that the duration of the debate on the 100-day work report of the Government should not be limited. Mr. Nazim Jashari (ORA) supported Mr. Krasniqi's statement, adding that under the Rules of Procedure each Member of the Assembly was allowed to debate up to ten minutes. The President of the Assembly proposed that the Assembly should proceed with the agenda and discuss the duration of the debate in question upon reaching that agenda item. Mr. Sabit Rrahmani (For Integration) stated that he supported the proposal of PDK and ORA not to limit the time of the debate. Mr. Hajredin Kuçi (PDK) asked the President of the Assembly to put to the vote PDK's proposal according to the Rules of Procedure. Mr. Alush Gashi (LDK) and Mr. Naim Maloku (AAK) stated that at the two last Presidency meetings, all parliamentary group leaders had agreed to limit the debate to two hours, dividing the time proportionally among the parliamentary groups, and so the agreement should be respected. Mr. Krasniqi stated that it was true that the Presidency and parliamentary group leaders had agreed to limit the time of the debate to two hours, but he argued that the agreement was not in compliance with the Rules of Procedure. Several other Members of the opposition insisted that there should be no time limit on the debate. The President of the Assembly then called the Assembly to vote on the proposal to limit the time of the debate to two hours, which was approved with 47 votes in favor and 42 votes in opposition. At that moment, PDK, ORA and For Integration parliamentary groups walked out of the plenary hall. The Assembly proceeded with the next agenda item, after which the

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<sup>7</sup> See Pillar III (OSCE) Report 04/2006 on the Monitoring of the Assembly of Kosovo, for more details.

President of the Assembly called a break in order for the Presidency and parliamentary group leaders to agree on how to proceed further with the session.<sup>8</sup> After the break, ORA and For Integration parliamentary groups returned to the plenary hall, and the President of the Assembly announced that the Assembly would proceed with the agenda until it reached the item on the 100-day work report of the Government, and continue the next day when the Assembly would decide on the time limit of the debate on the item in question.

At the beginning of the continuation of the session on 14 July, the President of the Assembly announced that the Presidency and parliamentary group leaders had met prior to the session that day and agreed that each Member of the Assembly would be allowed to speak up to ten minutes during the debate on the 100-day work report of the Government.

*The 6 and 11 July meetings of the Presidency with parliamentary group leaders to plan the upcoming plenary debate were in full compliance with the Rules of Procedure and represented an improvement over previous reporting periods, when there was hardly any consultation between the Presidency and parliamentary group leaders. Regular consultation with parliamentary group leaders is required by Rules 6.2 and 23.3.<sup>9</sup> Under Rule 22.7, “a discussion in the Assembly shall not exceed ten (10) minutes for all Members of the Assembly . . . [i]f not otherwise decided by the Assembly.” Rule 6.2 nevertheless grants the authority to the Presidency and parliamentary group leaders to agree on the duration of a debate on a particular item of business. In order for such an agreement to be viable, the parliamentary group leaders should be able to ensure that it likewise has the support of the parliamentary group members.*

- At the plenary session on 14 July, Prime Minister Agim Çeku made a presentation on the 100-day work report of the Government, followed by a plenary debate in which the coalition members commended the work of the Government, and the opposition members criticized the Government for slow implementation of Standards, breach of laws, nepotism, corruption and failure to dissolve the parallel structures, among others. During the debate, Mr. Xhevat Bislimi (PDK) reached the time limit of ten minutes, but the Chairperson allowed him to continue with his statement. Mr. Bislimi criticised the Government for applying an anti-Kosovo policy with regard to the issue of cultural heritage, stating that “the Government is placing [political] land mines in Kosovo,” and asking rhetorically, “what would happen if hundreds of Turk-Arabic mosques or dozens of Roman churches requested special zones?” He warned the Government to “think carefully and abandon this anti-Kosovo practice.” He continued that “the Prime Minister has publicly deceived the most vulnerable categories of the society by signing the Law on the Rights of KLA War Veterans, Martyrs’ Families, and Civil Victims of the War as changed by UNMIK<sup>10</sup> and should therefore resign.” At this point, the Chairperson turned off the microphone of Mr. Bislimi, stating that he had misused the podium and “tortured” his colleagues for 15 minutes.

At the beginning of the session on 17 July, Mr. Bislimi raised an objection that members of the Presidency from coalition parties shouldn't use “the chair of the President” to comment on the statements of the Members of the Assembly, and if they wished to make comments, he said, they should do so from the podium used by the Members of the Assembly. The Chairperson, Mr. Naim Maloku (AAK), stepped down and spoke from the podium, stating: “Let me say to

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<sup>8</sup> See below the section entitled “Voting process”, for more details.

<sup>9</sup> Rule 6.2: “The Presidency is responsible for the work program of the Assembly. It shall review and prepare the agenda of the following meeting of the Assembly and shall ensure an agreement amongst the parliamentary groups on the form and duration of the debate on a particular item of business.”

Rule 23.3: “The Presidency shall consult parliamentary groups when setting the agenda for Assembly sessions.”

<sup>10</sup> Under the promulgating regulation (2006/29), the official name is the “Law on the Status and the Rights of the Families of Martyrs, Invalids, Veterans and Members of the KLA and of the Families of Civilian Victims of the Armed Conflict in Kosovo”. For purposes of simplicity, and because the narrative reflects the discussion that took place in the Assembly, this report will refer to it as the Law on the Rights of KLA War Veterans, Martyrs’ Families, and Civil Victims of the War.

Mr. Bislimi and the opposition that your efforts to install in the Assembly a rhetoric of insults, offences, street language and untruths will be useless, because we are not partners for such a rhetoric, but for a constructive dialogue.” He furthermore stated that Mr. Bislimi had misused the podium when he spoke on 14 July. In response to the Chairperson's statement, Mr. Nazim Jashari (ORA) raised an objection on behalf of ORA that the Chairperson had accused the entire opposition of insults and street language, and called on the Chairperson to be more concrete in the future when commenting on statements. Mr. Bislimi countered that no one had heard any insult or offence in the Assembly and asked the Chairperson to apologise to the opposition or withdraw from further chairing the session. Several other PDK members protested against the Chairperson's statement and asked him to apologise. The Chairperson spoke again from the podium, reasoning that he had acted in his capacity as a Member of the Assembly, not as Chairperson, that day when he explained his intervention in Mr. Bislimi's statement at the 14 July debate. He added that he did not intend to insult anyone and proposed that the session should continue. Both Mr. Hajredin Kuçi (PDK) and Mr. Ramë Buja (PDK) stated that if the Chairperson did not apologise, PDK would leave the plenary hall. The Chairperson, speaking again from the podium, stated that “if anyone felt offended, then I apologize,” and proposed again that the session should continue. Mr. Jakup Krasniqi (PDK) requested a short break, which was granted. After the break, Mr. Krasniqi stated that the Chairperson offered “a half apology, but PDK would consider it a full apology,” and that the Chairperson should decide for himself whether to continue chairing the session. There was no further debate on this issue, and the Chairperson proceeded with the next agenda item.

*Under Rule 22.7, “a discussion in the Assembly shall not exceed ten (10) minutes for all Members of the Assembly” unless otherwise decided by the Assembly. Under Rule 22.9, the Chairperson may allow a Member to speak longer than the allotted time when he “considers that it is in the interest of the discussion.” Thus, it was within the Chairperson’s discretion to allow Mr. Bislimi to speak longer than ten minutes.*

*Rule 22.10 provides that Assembly members shall not use unparliamentary language, which is defined as “offensive, defamatory, or threatening; personal attacks or insults; obscene language; or conducive to inter-community violence.” Rule 22.11 stipulates that the Chairperson may direct a Member of the Assembly who has, in his or her opinion, used non-parliamentary language, to withdraw such words. Therefore, under the Rule 22.11, if the Chairperson opines that a Member of the Assembly used unparliamentary language, he may call to order that individual Member, not the entire parliamentary group to which the Member belongs or the entire opposition, as in this case.*

- During the discussion of the Presidency report on the Administrative-Protocol Center in Germia Park,<sup>11</sup> in response to a Member of the Assembly who referred to Mr. Edi Rama<sup>12</sup> as a good example of a politician who protects parks, Mr. Fetah Berisha (LDK) stated that “Mr. Edi Rama shouldn’t be taken as an example in this Assembly, because he is a synonym of bad things.” The President of the Assembly asked him to withdraw his words qualifying Mr. Rama, but Mr. Berisha countered that he had the right to his opinion. Then, the President of the Assembly responded that he had the right to his opinion, but “not to express it in such a manner”. Mr. Berisha did not withdraw his words.

*The President of the Assembly’s intervention during Mr. Berisha’s speech was in accordance with Rule 22.11, which stipulates that the President of the Assembly may direct any Member*

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<sup>11</sup> The Presidency report on the Administrative-Protocol Center in Germia Park included three conclusions and four recommendations. The conclusions stipulated, among others, that “(1) ... there was no *valid decision* to construct the Center, (2) ... a *conflict of interests* was noted during the tendering process, and (3) *Annex C had not been subject to approval by the Assembly.*” In its report, the Presidency nevertheless recommended that “(1) the construction of the Center in Germia should continue; (2) an expertise of additional 34% of funds required for Annex C should be conducted; (3) the project supervisor should be replaced, and (4) irregularities which occurred during this project should be handled by an external auditor.”

<sup>12</sup> Mayor of Tirana, and the Head of Socialist Party of Albania (PS), the largest opposition party in Albanian parliament.

who has, in his or her opinion, used “unparliamentary language,” which is defined, among others, as “personal attacks or insults” to withdraw such words. Rule 22.12 likewise requires that “[a] Member . . . shall comply with any directions given by the President of the Assembly about conduct for which he or she has been called to order.” Mr. Berisha did not act in compliance with the Rules.

### Distribution of Documents

- The Draft Law on Cultural Heritage; the Draft Law on Amending the Law 2004/5 on the Trade of Petroleum and Petroleum Products; the Draft Law on Free Industrial Zones; and the Draft Law on National Parks were distributed on 5 July. Thus, the draft laws were distributed fifteen working days prior to their scheduled first reading at the 27 July plenary session.

*This was in compliance with the Rule 35.1, which requires that the first reading of the draft law shall take place no earlier than ten working days and no later than three working weeks from the day of its distribution. This represents an improvement over previous reporting periods, when most draft laws were reviewed in first reading well over three working weeks from the dates of their submission.*

### Voting Process

- At the 13, 14 and 17 July plenary session, after the Assembly had voted on the time limit of the debate on the 100-day work report of the Government, PDK, ORA and For Integration parliamentary groups walked out of the plenary hall, leaving the plenary session without a quorum, but with more than forty Members present. The President of the Assembly announced that there was a sufficient number of Members present to continue working, but proposed that a break should be called in order for the parliamentary group leaders to reach an agreement for the opposition to return to the session. At that point, some Members of the Assembly loudly objected to calling a break and requested that the session be continued. The President of the Assembly thus proceeded to the next agenda item, “Questions to the Government”, which did not require any voting. The next agenda item was the second reading of the Draft Law on the Freedom of Religion and Legal Status of Religious Communities, but the President of the Assembly called a break, as there was no quorum to vote on amendments. After the break, ORA and For Integration parliamentary groups returned to the plenary hall, and the President of the Assembly announced that 62 Members were present, so the session could continue. Later during the session, the President of the Assembly noticed that the number of Members present had fallen below 61 and called on Members to return to the plenary hall. Voting began only after a quorum had been secured. The number of Members present in the hall did not fall below forty at any time during the plenary session in question. A quorum was present for all voting at the plenary sessions under review.

*This was in compliance with Section 9.1.32 of the Constitutional Framework and Rule 31.1-2, which provide that “[a] majority of the Members of the Assembly shall constitute a quorum. The Assembly may initiate and conduct its proceedings when at least one-third of the Members are present provided that, for the taking of decisions, the quorum requirement shall be satisfied”.*

- During the second reading of the Draft Law on the Use of Languages at the 27-28 July plenary session, as the Assembly was preparing to vote on an amendment to article 22.3, Mr. Mazllom Kumnova (AAK) stated that the Budget Committee had submitted to the Functional Committee an amendment to delete Article 22 in its entirety,<sup>13</sup> but that it had not been listed in the

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<sup>13</sup> The article 22 of the Draft Law on the Use of Languages read: “(22.1) In primary schools, in addition to the language of instruction, every person will study a second official language; (22.2) In secondary schools, in addition to the language of instruction, the study of a second official language shall be available as part of the optional curriculum. Pupils, together with their parents, have the right to choose to study a second official language; (22.3) The curriculum for the study of official languages shall be developed by the Ministry of Education, Science and Technology.”



compilation of amendments to be voted upon by the Assembly that day. He argued that the article in question had enormous financial implications and that it “interfered forcefully” in the education system and proposed the deletion of Article 22 from the Draft Law. Ms. Nekibe Kelmendi (LDK), the chairperson of the Functional Committee (the Committee for Public Services, Local Administration and Media), stated that her committee discussed Article 22 during the break and agreed by consensus that it shouldn’t be deleted, but rather Article 22.1 should be amended to read that “in primary schools, the study of the second official language shall be available as part of the *optional curriculum*,” rather than as *a compulsory subject* as foreseen by the provision in question. Mr. Hydajet Hyseni (PDK) proposed that the second reading of the Draft Law in question should be interrupted at that moment and postponed in order for the Functional Committee and the Committee for Education, Science, Technology, Culture, Youth and Sports to harmonise their positions with regard to Article 22. Mr. Behxhet Brajshori (LDK) proposed that a short break should be called in order for the Functional Committee and the Budget Committee to reach an agreement with regard to the article in question. Mr. Nazim Jashari (ORA), Mr. Jakup Krasniqi (PDK), Mr. Naser Osmani (LDK, Budget Committee chairperson) and Mr. Alush Gashi (LDK) supported Mr. Kumnova’s proposal to delete Article 22 entirely. The President of the Assembly therefore called the Assembly to vote on Mr. Kumnova’s proposal, which was adopted with a majority of votes in favor and no votes in opposition. The Assembly proceeded further with the second reading.

*The Budget Committee report on the draft law in question, which was submitted to the Functional Committee and attached to the compilation of amendments, did not include the above-mentioned amendment to delete Article 22. Rule 6.3 provides that “the invitation with the agenda and the required materials shall be distributed to the Members of the Assembly at least three working days prior to the plenary session.” Any amendment to be voted upon by the Assembly in second reading should therefore be included in the compilation of amendments, rather than being proposed on the spot midway through the second reading of a draft law, as in the case above.*

#### Appointment of the fifth IMC Council member

- During the 13 July plenary session, the President of the Assembly announced that the Presidency in co-operation with OSCE had drafted the Rules of Procedure on the appointment of the fifth IMC Council member, and he opened the item for debate. No Member of the Assembly asked to speak, so the President of the Assembly called the Assembly to vote on the draft Rules, which were adopted with 57 votes in favor and three votes in opposition.

At the 27-28 July plenary session, the President of the Assembly introduced the nominations proposed by the parliamentary groups for the fifth member - Adil Pireva (LDK), Ekrem Kryeziu (PDK), Vjosa Shala-Pallaska (AAK), and Maksut Shehu (ORA) - and called the administration staff to prepare the ballots for voting. At that point, Mr. Džezair Murati (6+/Vakat) requested to speak and raised an objection to the agenda item, arguing that the Assembly had adopted an amendment to the IMC Law during its second reading, stipulating that one out of five IMC Council resident members would be a representative of non-Albanian and non-Serbian communities, but that “the amendment had been lost somewhere on the way between the Assembly and UNMIK Office of the Legal Adviser”. He argued that the Assembly had made an unfair decision, and that 6+ would not continue to participate in the session when their rights were being violated. The President of the Assembly responded that according to UNMIK OLA’s interpretation, all requirements of the Law in question had been met, and that there were no obstacles to proceeding with the selection of the fifth member that day. He furthermore added that 6+ had the right to nominate a candidate, but that it had not done so. Mr. Murati and two other Members from his party walked out from the plenary hall thereafter. The President of the Assembly announced that the appointment of the fifth member required only a simple majority of votes, and the Assembly proceeded to vote on the nominations by secret ballot. The voting result was as follows: Mr. Pireva - 42 votes, Mr. Kryeziu - 23 votes, Ms. Shala-Pallaska - seven

votes, Mr. Shehu - four votes, and three ballots were announced as “invalid”, presumably abstentions. With Mr. Adil Pireva’s appointment, the Assembly completed the ratification of the appointments of all five resident members of the IMC Council.

*During the second reading of the IMC Law on 21 April 2005, the Assembly adopted an amendment to article 4.1, proposed by the Committee on the Rights and Interests of Communities, which stipulated that “[o]ne of five Kosovo resident members of the IMC Council shall be a representative of the non-Albanian and non-Serbian communities.” But the same provision was later revised in the promulgating regulation (2005/34) to read that “[t]he composition of the members of the Council who are residents of Kosovo shall reflect the principle of multi-ethnicity.” The four civil society members of the IMC Council appointed by the Assembly on 27 April 2006 include two females, one of whom is a Kosovo Serb. A letter sent to the President of the Assembly by UNMIK OLA on 10 May 2006, in response to an Assembly request for legal interpretation of the relevant IMC Law provisions, stipulated that “pending the appointment of the fifth resident member, two of the five resident members are females and one comes from a non-majority community, thus satisfying both the gender requirement and the principle of multi-ethnicity. The Law does not require nor preclude the appointment of an additional member of a non-majority community to fill the final vacancy. The Assembly therefore has full discretion in this matter.” The Rules on the appointment of the fifth member, adopted later by the Assembly, allowed for each parliamentary group to propose a candidate. The 6+ parliamentary group was entitled to propose a candidate for the fifth member, but it did not do so.*

#### Appointment of Deputy Ministers

- On 26 June, the Presidency sent to UNMIK OLA a request for legal interpretation of the UNMIK regulations relevant to the appointment of the Deputy Ministers in the context of an ongoing debate within the Assembly as to whether the Deputy Ministers should be appointed by the Assembly.<sup>14</sup> UNMIK OLA provided to the President of the Assembly the requested legal interpretation on 5 July, explaining that according to Section 1.2.1 of UNMIK Regulation 2005/15 the Deputy Ministers shall be endorsed by the Assembly. In reference to the Deputy Minister of Justice, whose endorsement was still pending in the Assembly for the above-stated reasons, the letter explained that the endorsement of the Deputy Minister required only a simple majority of the members present and participating in the vote. Following the UNMIK OLA interpretation, the Assembly endorsed, on 28 July, the appointment of the Deputy Minister of Justice, Mr. Altay Suroy (K/Turk), with 34 votes in favor and 32 votes in opposition.

#### Questions to the Government

- At the 13, 14 and 17 July plenary session, the opposition walked out from the plenary hall before the agenda item “Questions to the Government” was reached, so the Ministers responded only to seven out of twelve questions. The five remaining questions submitted by the opposition members were therefore rescheduled for the next plenary session. At the 27-28 July plenary session, five out of eleven questions received responses. The Chairperson informed the Assembly that the questions that did not receive responses would be repeated at the next plenary session. During the questions period at the 27-28 July plenary session, Mr. Agim Krasniqi (LDK) raised an objection that a large number of questions was being submitted at every session, and proposed that the questions should receive written responses rather than oral responses at the session. The Chairperson responded that the questions period was being carried out in compliance with the new Rule recently adopted by the Assembly, according to which up to 50 minutes should be dedicated at each plenary session to the questions to the Government. At the same session, Mr. Hydajet Hyseni (PDK) commented that he had submitted a question to

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<sup>14</sup> See Pillar III (OSCE) Report 04/2006 on the Monitoring of the Assembly of Kosovo, for more details.

the Minister of Local Government Administration long time ago,<sup>15</sup> which had not yet received a response, and insisted that he should receive a response. The President of the Assembly responded that questions that received no response within two plenary sessions would be published in the bulletin of the Assembly.<sup>16</sup>

*The question period was carried out by the Assembly in compliance with the new Rule 26 on “Questions to the Government for oral answers”, which provides that the agenda of each session shall include a period up to 50 minutes for 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.*

*Mr. Hyseni had first submitted his question on 8 August 2005, when the previous Rule 26 on questions to the Government for oral answers was in force.<sup>17</sup> On 13 June, after the revision of the Rule 26 at the 1-2 June 2006 plenary session, Mr. Hyseni resubmitted his question, which was scheduled for the 15 June plenary session, but received no response. Under new Rule 26.11, “[i]f a question has not been answered within two plenary sessions, the question will be published in the Bulletin of the Assembly, for a period of twelve (12) months.” Four plenary sessions have passed since Mr. Hyseni resubmitted his question, and he received no response. The Assembly of Kosovo bulletin likewise does not contain a section on questions that have been submitted to the Government.*

#### **4. Equal Access and Participation of Communities**

- During the discussion of the 100-day work report of the Government at the 13, 14 and 17 July plenary session, Mr. Mahir Yagcilar (6+/KDTP) raised the objection that minority community representatives were not included in the Government working groups that draft legislation and stressed that he hoped this would be corrected.

*Similar objections have been raised on numerous occasions in the Assembly.<sup>18</sup> On 8 April 2005, the Prime Minister issued a “Decision on the Inclusion of Experts in Working Groups for Drafting and Evaluating Draft Laws,” which provides that the Permanent Secretary of the Office of the Prime Minister must include representatives of minority communities in working groups drafting legislation that is “relevant to national minorities or to their interests”, but it is not clear from the text on what basis it is determined which draft laws are relevant to community interests.<sup>19</sup>*

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

- On 14 July, the Group for Integration submitted a motion challenging the Law on the Termination of Pregnancy, adopted by the Assembly at its session one day earlier. The Group for Integration argued in its motion that:

“the adoption by the Assembly of Amendment 6 to the Draft Law on the Termination of Pregnancy, proposed by the Committee for Health, Labor and Social Welfare, which allows the elective abortion through the twelfth week of pregnancy, is inconsistent with Article 107 of the Law on Health, which allows abortions only through the tenth week of pregnancy. This provision violates the vital interests of the citizens and communities represented by the Group for Integration, because the two provisions are contradictory. This places the citizens that we represent on unequal ground [with others] before the law.”

<sup>15</sup> Mr. Hyseni’s question was related to an alleged mismanagement of funds allocated by the Government to Gjilan/Gnjilane municipality, as assistance after the earthquake in this municipality.

<sup>16</sup> The President of the Assembly took over from the Chairperson, Mr. Sabri Hamiti, the chairing of the session on 27 July around the end of the “Questions to the Government” agenda item.

<sup>17</sup> See Pillar III (OSCE) Report 03/2006 on the Monitoring of the Assembly of Kosovo, the section entitled “Questions to the Government.”

<sup>18</sup> See Pillar III (OSCE) Report 02/2004, 01/2005, 10/2005, 01/2006 and 02/2006 on the Monitoring of the Assembly of Kosovo.

<sup>19</sup> Decision No. 041/2005, 08 April 2005

On 19 July, the Presidency reviewed the Group for Integration's motion and forwarded it to the Committee for Health, Labor and Social Welfare, as the sponsor of the provision in question. On 28 July, the Committee submitted its reply with the conclusions that "(a) the Committee and the Group for Integration could not reach a consensus on the motion, and (b) the Committee supports the Law on Termination of Pregnancy as approved by the Assembly." The Presidency will process the motion after the Assembly summer recess is over.

- On 28 July, the 6+ parliamentary group submitted a motion challenging the Law on the Use of Languages, adopted by the Assembly one day earlier. Parliamentary group 6+ argued in the motion that:

"the Law is inconsistent with Sections 1.1, 3.3 and 4.4 of the Constitutional Framework, and Section 9 of UMMIK/Reg/2000/45. Given that neither the population census nor the decentralisation process have been implemented yet, we consider that the adopted provisions infringe not only on the rights of the Turkish community, which were respected in the past, but on the human and linguistic rights and the interests of our society as well. Therefore, we would kindly ask the Presidency to review this issue."

At the 31 July Presidency meeting, Mr. Mahir Yagcilar (6+/KDTP) announced that his parliamentary group had submitted the motion, and wanted to know how it would be processed by the Presidency. Mr. Sabri Hamiti (LDK) asked if they could process the motion after the summer recess, adding that that day's Presidency meeting was not a regular meeting and that the recess had already started. Mr. Xhavit Haliti (PDK) stated that he wanted to know whether the procedural rules allowed the Presidency to process the motion after the recess, adding that he wasn't in favor of violating the rules. Mr. Yagcilar himself agreed that they could process the motion when the recess is over. After receiving procedural clarification on the matter, the Presidency forwarded the motion to the Government, as the sponsor of the Law, without any further discussion. On 2 August, the Government submitted its reply urging the Presidency to support the 6+ parliamentary group motion.

*Rules 40.1-2 and Sections 9.1.39-40 of the Constitutional Framework provide that "[w]ithin 48 hours from the approval of a law by the Assembly . . . any Member of the Assembly, supported by five additional members, may submit a motion to the Presidency claiming that the law or certain of its provisions violate vital interests of the Community to which he belongs. The Presidency shall request the sponsors of the law or provisions to provide reasoned arguments in reply within three days." The decisions of the Presidency to forward the 6+ motion to the Government and the For Integration motion to the Assembly Committee, as the sponsor of the relevant provision, were in compliance with the Rules. Section 9.1.41 of the Constitutional Framework stipulates that "[t]he Presidency shall attempt to submit, within five days following receipt of the reply, a consensus proposal to the Assembly," but the Presidency decided to deal with the motions after the Assembly summer recess is over. The Rules of Procedure do not contain a provision regulating the deadline for processing of such motions when the Assembly is in summer recess.*

## **5. Access**

During the reporting period, Pillar III (OSCE) received access to the plenary sessions, regular Presidency meetings, and Committee meetings. Pillar III (OSCE) also received copies of documents considered by the Assembly and transcripts of prior plenary sessions.

## **6. Transparency**

Radio Television Kosovo (RTK) provided live coverage of the plenary sessions under review. On 14 July, the plenary session lasted longer extending into the time of normally scheduled RTK programming. Therefore, the last portion of the session was not broadcast live, but later that evening.

Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly of Kosovo has a website ([www.kuvendikosoves.org](http://www.kuvendikosoves.org), [www.skupstinakosova.org](http://www.skupstinakosova.org), [www.assemblyofkosovo.org](http://www.assemblyofkosovo.org)) containing biographical details of Members of the Assembly, information about the structure and functioning of the Assembly, copies of laws and resolutions adopted by the Assembly, along with other information, in Albanian, Serbian, and English.

ENDS.