



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

**Report on the Municipal Assembly inaugural sessions
and the set-up of the new municipal structure
according to UNMIK Regulation 2007/30**

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Executive Summary

Local governments are one of the main foundations of any democratic regime. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.¹ In order to ensure a functioning local self-government, the relevant legal framework has to be fully and timely implemented.

This report provides an assessment of the current status of the implementation of UNMIK Regulation 2007/30 amending UNMIK Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo (UNMIK Regulation 2007/30).² It is the result of a recent survey undertaken by the OSCE Mission in Kosovo (OSCE). The survey was finished on 5 February 2008.

Chapter B describes the legal requirements followed by an analysis of the actual situation in the municipalities.³ It also includes the findings for the municipalities Štrpce/Shtërpçë and Novobërdë/Novo Brdo. There, the implementation process has been initiated only to some extent because the Kosovo Serb community has decided not to fully participate in the municipal structures for political reasons.⁴ Chapter C outlines the situation in three municipalities in the north of Kosovo where basically no implementation of UNMIK Regulation 2007/30 has commenced thus far.⁵ For this reason the northern municipalities are not included in Chapter B. The report closes with a comprehensive conclusion and a list of recommendations.

In general, the assessment shows that the municipalities in Kosovo overall acknowledged the new legal foundation and made valuable progress in adapting their new legislative and executive structures. However, several issues, such as the election/appointment of the Vice-Chairpersons, the appointment of the directors of the municipal departments, the formation of the committees of the Municipal Assembly and the adoption of the Municipal Statute still need attention. Therefore, it is recommended to the Kosovo municipalities to continue with the set-up of the new structures as they are crucial for the creation of a sustainable system of government at the local level.

¹ Article 3, European Charter of Local Self-Government, Council of Europe, Strasbourg, 15 October 1985.

² Promulgated on 16 October 2007.

³ UNMIK Regulation 2007/30 does not apply to Pilot Municipal Units which were established by UNMIK Administrative Direction 2005/11 on 20 July 2005. Therefore, they are not included in this report.

⁴ In Štrpce/Shtërpçë Kosovo Serb community makes up the majority community, in Novobërdë/Novo Brdo the Kosovo Albanian community is slightly in the majority.

⁵ Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok. In these municipalities the Kosovo Serb community forms the majority community.

A. Introduction

The OSCE carries out activities to further support and promote the principles of good governance in the municipalities of Kosovo, and is responsible for proactively monitoring the municipalities for systematic compliance with the applicable legal framework in Kosovo.

UNMIK Regulation 2007/30 in large parts amends the legal framework for Kosovo municipalities and brings about changes in both the legislative and the executive structure. The present report aims to assess the inaugural steps which are key in setting up the new municipal arrangements, drawing special attention to the legislative branch.⁶ It shall serve as a preliminary evaluation of the implementation process allowing for early warning and effective support in establishing an efficient and sustainable local self-government in Kosovo. The report examines such issues as the inaugural session of the Municipal Assembly; the establishment of the Municipal Assembly committees; the assumption of office by the Mayor, the directors and the acting Head of Department of Administration and Personnel; and the drafting of the Municipal Statute.

The basis for this report consists of data collected and information provided by the OSCE Municipal Teams, assessing the situation in all 30 Kosovo municipalities. The present numbers reflect the situation by 5 February 2008. These Municipal Teams have shared their experience from their day-to-day work and conducted semi-structured interviews with municipal officials and other stakeholders.

This report is oriented towards the general public, the Kosovo Institutions, municipal officials, United Nations Interim Administration Mission in Kosovo (UNMIK), the donor community, as well as international and non-governmental organizations. It is intended to serve as a tool in order to assist all actors engaged in local governance and local governance reform. Separately, in view of future decentralization planning, it could serve as an indicator allowing for an educated estimation how long certain steps might take to be implemented.

B. Implementation of UNMIK Regulation 2007/30

This chapter presents the inaugural steps in implementing UNMIK Regulation 2007/30 in 27 Kosovo municipalities. It first explains the legal requirements followed by a description of the actual situation throughout those municipalities and a brief conclusion.

⁶ This report will be followed by a second implementation report evaluating the set-up of the new executive structure including the municipal civil service.

1. Inaugural session of the Municipal Assembly – Oath of Assembly members, statement of financial interests and election of Assembly vice-chairpersons

The Municipal Assembly is the highest municipal representative body, composed of directly elected members, which exercises and performs the powers and duties of a municipality.⁷ In order for a Municipal Assembly to be established, its first inaugural meeting shall be convened within fifteen days after the certification of the election results.⁸ Following the Kosovo Elections held on 17 November 2007, the Central Election Commission certified the results for municipal and mayoral elections on 19 December 2007.⁹

The Kosovo-wide survey conducted by the OSCE Municipal Teams shows that all municipal assemblies convened in a timely manner after the November elections. The inaugural sessions were held, in the vast majority of municipalities, in the last week of December.¹⁰

To provide for legitimacy of the Municipal Assembly, each of its members has to take a solemn oath or declaration of office, by which they publicly promise to perform duties and powers of their office honourably, faithfully, impartially, conscientiously and according to law.¹¹

Almost all newly elected members have taken the solemn oath or have given a declaration of office before the respective Municipal Assembly prior to assuming their positions. Generally, this was done during the inaugural sessions. There were only a few exceptions, when the Assembly members were not present in the inaugural session, or resigned due to their new responsibilities. In case of Štrpce/Shtërpçë and Novobërdë/Novo Brdo not all Assembly members did subscribe to the solemn oath.¹²

Members of the Municipal Assembly shall, before the first Assembly meeting, record a full and open statement of their financial interests in a public register to be kept by the Department of Administration and Personnel. Moreover, it is the members' responsibility to keep their record updated.¹³

Most municipalities have complied with these requirements in order to prevent conflicts of interest. Only in three municipalities did none of the Assembly members

⁷ Section 10.1, UNMIK Regulation 2007/30 and Section 1.1 (v), UNMIK Regulation 2007/27 On Municipal Elections in Kosovo,.

⁸ Section 12.1, UNMIK Regulation 2007/30.

⁹ Exceptions are Štrpce/Shtërpçë, Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok where the Special Representative of the UN Secretary General has not certified the results of the 2007 Kosovo Elections of the Municipal Assembly and the Mayor. For Novobërdë/Novo Brdo only the results for the mayoral elections were certified; the respective municipal assemblies and mayors were constituted/appointed by Executive Decisions 2007/60-64.

¹⁰ Most municipal assemblies convened their inaugural sessions from 24 to 31 December 2007. The municipality of Novobërdë/Novo Brdo held its first inaugural Municipal Assembly session on 4 January 2008, while Štrpce/Shtërpçë Municipal Assembly convened on 16 January 2008.

¹¹ Section 12.2, UNMIK Regulation 2007/30.

¹² In Štrpce/Shtërpçë, ten out of 17 Assembly members took the oath (four Kosovo Serbs and three Kosovo Albanians did not), while in Novobërdë/Novo Brdo municipality seven (all Kosovo Albanians) out of 17 members have taken the solemn oath.

¹³ Section 17.5, UNMIK Regulation 2007/30.

submit their financial statements.¹⁴ Some municipal assemblies, and in particular the one in Prishtinë/Priština, still need to ensure that all their members submit the requested financial statements.¹⁵

According to the new municipal set-up, the Mayor is the Chairperson of the Municipal Assembly.¹⁶ Each Assembly shall also have a Vice-Chairperson who calls and presides over the Assembly sessions in the absence of the Mayor, while solely Prishtinë/Priština municipality shall have an additional Vice-Chairperson.¹⁷ Furthermore, in municipalities with one or more communities which are not in the majority a second Vice-Chairperson should be elected. The second Vice-Chairperson is either elected from the Municipal Assembly members belonging to non-majority communities, or in the case when non-majority communities are not represented in the Municipal Assembly, the Assembly shall appoint a person who belongs to those communities to serve as a Vice-Chairperson without a right to vote. This appointment should be done in consultation with members of non-majority communities.¹⁸

The assessment shows that two thirds of the municipal assemblies have elected the Vice-Chairperson so far.¹⁹ However, the second Vice-Chairperson belonging to the non-majority communities has been elected only in four municipalities (Ferizaj/Uroševac, Prizren, Gjakovë/Đakovica and Dragash/Dragaš).²⁰ It is also interesting to mention that there have not yet been appointments of the second Vice-Chairperson in municipalities where non-majority communities are not represented in the Municipal Assembly. In some of those municipalities municipal officials, mostly the mayors, are reaching out to leaders and representatives of communities which are not in the majority to discuss this issue and ask for a candidate proposal.²¹

It seems that the election of the second Vice-Chairperson belonging to a non-majority community presents a difficulty and creates confusion for the new municipal assemblies. One reason e.g., might be that UNMIK Regulation 2007/30 does not require a certain percentage of non-majority community members in the municipality for a Vice-Chairperson to be compulsory. Some municipalities requested further instructions and guidance from the Ministry of Local Government Administration, while other municipalities deem that a second Vice-Chairperson is not needed as they consider not having residents belonging to non-majority communities.²²

To summarise, most municipalities and members of the municipal assemblies have fulfilled the requirements regarding the inaugural meeting, the solemn oath, the financial statements and the election of the Vice-Chairperson. On the other side, the

¹⁴ Štrpce/Shtërpçë, Novobërdë/Novo Brdo, and Malishevë/Mališevo.

¹⁵ In Prishtinë/Priština municipality only three out of 51 Assembly members have filed statements of their financial interests. In Podujevë/Podujevo, Shtime/Štimlje, Kamenicë/Kamenica, Prizren, Rahovec/Orahovac, Suharekë/Suva Reka and Skenderaj/Srbica not all Assembly members have submitted their financial statements.

¹⁶ Sections 13.1 and 27.1, UNMIK Regulation 2007/30.

¹⁷ Ibid, Section 13.2.

¹⁸ Ibid, Section 13.3.

¹⁹ Eighteen municipalities out of 27 municipalities included in the survey (67%) have already appointed the Vice-Chairperson. Prishtinë/Priština also has not elected the Vice-Chairpersons.

²⁰ In all four cases, they were elected from among the Assembly members.

²¹ Lipjan/Lipljan, Gjilan/Gnjilane, Kamenicë/Kamenica, Rahovec/Orahovac and Suharekë/Suva Reka.

²² Glogovc/Glogovac, Kačanik/Kaçanik and Malishevë/Mališevo.

assessment reveals that the election of the second Vice-Chairperson belonging to a non-majority community creates problems in some municipalities since the consultation process with the respective communities takes more time than expected and the appointment process is not regulated in detail in the legal framework. In spite of the delay, the OSCE welcomes the municipalities having started the consultation process regarding the appointment of the second Vice-Chairperson belonging to a non-majority community.

2. Municipal Assembly Committees – Establishment, composition, portfolio and election of chairpersons

The Municipal Assembly shall establish seven standing committees as enumerated in the law and may form additional committees as it deems necessary to do so.²³ Each committee should elect a chairperson and a vice-chairperson from the committee members, except for the Policy and Finance Committee which is chaired ex-officio by the Mayor or, in his/her absence, the Vice-Chairperson of the Municipal Assembly.²⁴

The composition of the committees should aim for an equitable gender balance and shall – except for the Communities Committee and the Mediation Committee – reflect as closely as possible the proportion of seats held by political parties/coalitions in the municipality.²⁵ Furthermore, the committees, except for the Policy and Finance Committee, may co-opt members from outside the Assembly.²⁶ The composition of the Communities Committee, which shall promote the rights and interests of the communities living within the municipality, shall fairly reflect the community composition of the municipality; whereas the Mediation Committee, which examines alleged cases of community rights violations, shall consist of equal numbers of members of the Municipal Assembly who are not members of the Communities Committee and representatives of non-majority communities of the municipality.²⁷ Herein, the report tries to give an overview on the recent activities of the Kosovo municipalities regarding the establishment of the Assembly committees.

The majority of Kosovo municipalities have begun with the establishment of the standing committees. Nevertheless, only one municipality has reported to have established all standing committees, while another one has established five standing committees.²⁸ A considerable number of municipalities (twelve) have re-established the three standing committees (the Policy and Finance Committee, the Communities Committee and the Mediation Committee), which were already envisaged by the previous municipal set-up. One municipality has established the Policy and Finance Committee and the Communities Committee and three municipalities have established

²³ According to Sections 21.1 and 21.2, UNMIK Regulation 2007/30 these are: Policy and Finance Committee, Communities Committee, Mediation Committee, Committee on Health and Social Welfare, Committee on Education and Culture, Committee on Economic Development, and Committee on Urban Planning, Cadastre and Environmental Protection.

²⁴ Sections 21.6 and 22.2, UNMIK Regulation 2007/30.

²⁵ Ibid, Sections 21.3 and 21.5.

²⁶ Ibid, Sections 21.4, 23.2 (a) and 23.2 (d) (ii).

²⁷ Ibid, Section 23.

²⁸ Respectively, Shtime/Štimlje and Deçan/Deçane. The Municipal Assembly of Deçan/Deçane has not established a Communities Committee and a Mediation Committee because consultations with the representatives of communities have not yet taken place.

the Policy and Finance Committee only. However, at the end of the review period nine out of 27 municipalities have not established any standing committee at all, although some indicated they are about to enter that process in the following Assembly meeting.

According to the survey conducted by the OSCE Municipal Teams, the municipalities which have established at least one committee usually comply with the legal requirements concerning the representation of political parties. Also, in most of those municipalities the composition of the committees reflect the composition of the communities in the Municipal Assembly. However, female representation remains very poor throughout all committees which have been created thus far. For example, in some municipalities the Policy and Finance Committee has only one or no female members.²⁹ Only in two cases are experts who are not members of the Municipal Assembly members of a committee.³⁰

Most municipalities claim that the mandate of the committees is clear and comprehensive enough as determined in UNMIK Regulation 2007/30. However, some of the municipalities consider that the municipal statutes should provide further details in this regard.

According to the information provided by officials of Kosovo municipalities, the vast majority of committees have not elected the chairpersons because they have not had an inaugural session yet.³¹

To conclude, most municipalities are in the middle of establishing the mandatory committees of the Municipal Assembly, starting with the formation of those committees which already existed before UNMIK Regulation 2007/30. Progress in this regard in nine municipalities which have not yet entered that process remains to be seen and closely monitored.

3. The Mayor – Oath, functions and conflict of interest

The position of the Mayor was introduced by UNMIK Regulation 2007/27 On Municipal Elections in Kosovo which defines the Mayor as the directly elected head of municipality in Kosovo.³² UNMIK Regulation 2007/30 further describes the competences and responsibilities of the Mayor: The Mayor shall serve as the Chairperson of the Municipal Assembly, the Chairperson of the Board of Directors, and the Chairperson of the Policy and Finance Committee.³³ As a first step, the Mayor of the municipality shall subscribe to a solemn oath or declaration of office before the members of the Municipal Assembly.³⁴ Furthermore, the Mayor shall disclose all

²⁹ Viti/Vitina, Ferizaj/Uroševac, Prizren, Dragash/Dragaš, Kamenicë/Kamenica, Klinë/Klina.

³⁰ Prizren and Shtime/Štimlje.

³¹ Lipjan/Lipljan stated that the committees have elected their Chairpersons. However, in Kačanik/Kaçanik, the Municipal Assembly based on the Mayor's proposal elected the Chairpersons of the Communities Committee and Mediation Committee, which is in violation of Section 21.6. It foresees that the Chairperson and the Vice-Chairperson of each committee shall be elected by and from the members of the committee, except where otherwise required by the regulation.

³² Section 1.1 (w), UNMIK Regulation 2007/27.

³³ Ibid, Sections 22.2, 27.1 and 27.3.

³⁴ Ibid, Section 25.

conflicts of interest immediately after they arise and terminate any contract or association that may call into question his/her ability to carry out the responsibilities of the Mayor fairly and impartially.³⁵

In all 27 municipalities covered by this chapter the Mayors have subscribed to a solemn oath or declaration of office before the members of the Municipal Assembly. Also, each Mayor is acting as Chairperson of the respective Municipal Assembly.³⁶

However, the assessment shows that not all mayors are in full charge of their executive functions. This is due to the fact that not all municipalities have established the bodies chaired by the Mayor, namely the Policy and Finance Committee and the Board of Directors.³⁷

Regarding any contracts or associations that may call into question the Mayor's impartiality, the assessment reveals that nine mayors hold other positions at the same time. While in four cases the Mayor holds the office of Secretary or President of the respective political party or party branch, another four mayors work in an academic setting and one Mayor owns a company which produces construction materials claiming not to be involved in its day-to-day business.

The OSCE considers that an affiliation or an additional post with a political party *per se* does not challenge a Mayor's ability to carry out his/her responsibilities in a fair and impartial way. Party affiliation is usually required to obtain a political post like the one of a Mayor. However, the Mayor shall be aware that he represents all inhabitants of the municipality.

UNMIK Regulation 2007/30 does not explicitly restrict a Mayor to work at the same time as a teacher or professor. However, pursuant to UNMIK Administrative Direction 2003/2 Section 28.4 a civil servant elected for a public post shall resign from that post.³⁸ Although there is an exception to these provisions, it does not apply to this case.³⁹ Therefore, according to UNMIK Administrative Direction 2003/2 the mayors shall resign either from the post of a teacher or professor or from that of a Mayor.

UNMIK Regulation 2007/30 is relatively vague with regard to possible engagements of mayors in private companies, in particular with regard to partnerships and business associations. It is not possible to definitely evaluate the above mentioned case of a Mayor owning a company. The OSCE, however, recommends for this particular case that the Mayor pre-emptively resign from his engagement in the private company, that the Mayor not be involved in the negotiations with the municipality and that the municipality carry out the tender procedures with the utmost transparency.⁴⁰

³⁵ Ibid, Section 28.1 in the light of 17.2 and Section 28.2.

³⁶ The Mayor is not a member of the Municipal Assembly and thus has no voting right except for a casting vote in case of a tie; Section 25, UNMIK Regulation 2007/30.

³⁷ See also chapters B 2. and B 4.

³⁸ UNMIK Administrative Direction 2003/2 implementing UNMIK Regulation 2001/36 On the Kosovo Civil Service.

³⁹ Section 28.2, UNMIK Administrative Direction 2003/2.

⁴⁰ This case refers to the situation in the municipality of Kaçanik/Kaçanik.

To conclude, most mayors have assumed their main functions and have given the solemn oath. In some cases, the Mayor will take over the Policy and Finance Committee's chairmanship as soon as it is established. However, the Mayors need to make efforts to preclude any potential conflict of interest with respect to additional occupations.

4. The Directors and the Head of the Department of Administration and Personnel

Pursuant to UNMIK Regulation 2007/30 Section 27.2 the Mayor shall, after consultation with the Municipal Assembly, appoint directors to assist the Mayor in carrying out his/her duties. In making such appointments, the Mayor shall have due regard for fair representation of communities residing in the Municipality. The posts of the (former) directors of Municipal Departments shall be discontinued upon the appointment of the members of the Board of Directors.⁴¹ The Municipal Assembly shall appoint the Head of the Department of Administration and Personnel *mutatis mutandis* in conformity with the procedure for selection and recruitment of senior civil servants set out in the applicable law. She/He shall, among other duties, act as Secretary to the Municipal Assembly, as Secretary to the Board of Directors and as Chief of Staff in respect of the municipal civil service.⁴²

As a principle and following conventional practice in most democratic systems, the authority responsible for recruitment and appointment of a post is also responsible to appoint a person to serve in an interim, acting capacity until that position is filled. Therefore, the Municipal Assembly shall appoint the acting Head of the Department of Administration and Personnel to serve during the transition period.

In 20 out of 27 municipalities, the Mayor has appointed the directors after consultation with the Municipal Assembly. Only in 17 municipalities, however, was the acting Head of the Department of Administration and Personnel appointed. Mostly, she/he is a former director or the former Chief Executive Officer of the municipality. In most cases she/he was appointed by the Municipal Assembly, in five cases by the Mayor and in two cases by the former Chief Executive Officer. However, the only competent decision-making body for this appointment is the Municipal Assembly. Hence, the OSCE recommends that the Ministry of Local Government Administration inform and brief the municipal bodies and officials on the above-mentioned customary practice of filling interim positions for the future.

In six municipalities the recruitment process for the Head of the Department of Administration and Personnel has not yet started. In those municipalities the implementation process is generally slow. In three municipalities, neither the acting Head of the Department of Administration and Personnel has been appointed, nor has the recruitment process for the post of the Head of this Department started.⁴³ Only one municipality already has a Head of the Department of Administration and Personnel.⁴⁴

⁴¹ Section 49.1, UNMIK Regulation 2007/30.

⁴² Ibid, Sections 33.2 and 33.4.

⁴³ Štrpce/Shtërpçë, Istog/Istok and Fushë Kosovë/Kosovo Polje.

⁴⁴ Dragash/Dragaš.

To summarize, considerable effort has to be taken as to fill the key position of the Head of the Department of Administration and Personnel and, in the meantime, to appoint an interim Head of the Department of Administration and Personnel.

5. Municipal statutes – Drafting process, adoption and responsibility

According to UNMIK Regulation 2007/30 Section 11.1 the Municipal Assembly shall adopt a Statute and may amend it when it considers it necessary to do so. The Statute shall regulate the implementation of the responsibilities of the municipality as established by UNMIK Regulation 2007/30. UNMIK Regulation 2007/30 does not mention who shall draft the Municipal Statute and until when.

The conducted assessment reveals that none of the Kosovo municipalities has adopted a new Municipal Statute, which reflects the novelties of the UNMIK Regulation 2007/30. However, the drafting process has been initiated in 70% of municipalities.⁴⁵ In the majority of those, the Municipal Assemblies have established commissions to compile a new Statute. Usually, these commissions comprise of assembly members and municipal legal officers. In some municipalities, such as Gjakovë/Đakovica, Klinë/Klina, and Kamenicë/Kamenica, representatives of civil society groups and communities are included. Such a working group composition is in line with the recommendations in the Guide on Municipal Statutes, which suggests that the municipal assemblies establish a temporary working group to draft the statutes, with the following proposed composition: Members of the Municipal Assembly, the Mayor, the Municipal Legal Officer, and members from civil society.⁴⁶ In Gjakovë/Đakovica and Dragash/Dragaš, the working groups have already produced the first drafts of new municipal statutes.

C. The three northern Kosovo municipalities

For the municipalities Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok the Special Representative of the UN Secretary-General has issued Executive Decisions on the Provisional Establishment of Municipal Government to supplement UNMIK Regulation 2007/30.⁴⁷ Following his decision not to certify the results of the elections for the respective Municipal Assembly and the Mayor, the Special Representative of the UN Secretary-General, with these executive decisions, appointed the Mayor and the Municipal Assembly members on a provisional basis for a renewable period of six months.⁴⁸ Although these executive decisions state that the Mayor and the members of the new Municipal Assembly shall carry out their mandate in accordance with UNMIK Regulation 2007/30, this Regulation is virtually not being applied at all. Since UNMIK Regulation 2007/37 and the above-mentioned executive decisions

⁴⁵ 19 out of 27 municipalities have started the drafting process. In the municipalities of Shtime/Štimlje, Fushë Kosovë/Kosovo Polje, Shtërpçë/Štrpce, Prizren, Rahovec/Orahovac, Suharekë/Suva Reka, Istog/Istok and Mitrovicë/Mitrovica, drafting has not been initiated.

⁴⁶ *Guide on Municipal Statutes*, the OSCE Mission in Kosovo and the Ministry of Local Government Administration, December 2007.

⁴⁷ Executive Decisions 2007/60, 2007/61 and 2007/62.

⁴⁸ Due to the lack of an adequate voter turnout amongst the significant communities.

entered into force, no noteworthy changes in the structure of the municipalities have taken place.

So far, no inaugural Municipal Assembly meetings have taken place, and there are no signs that the implementation process with regard to UNMIK Regulation 2007/30 will start soon. Apart from the Policy and Finance Committees, Mediation Committees and the Communities Committees, which have been dysfunctional for the last six to twelve months, none of the mandatory committees exist in the three northern municipalities. The political compositions of the assemblies have not changed since the 2002 Kosovo Local Elections and, therefore, do not reflect the current balance of power. Also, no changes have taken place in appointing new directors and the Head of the Department of Administration and Personnel. As a result, in none of these three municipalities has the Mayor taken up his/her responsibilities with regard to his/her executive functions.

It is important to mention the northern part of Mitrovicë/Mitrovica which represents a special case due to a unique political situation. According to UNMIK Administrative Direction 2002/26 the Municipal Administrator for Mitrovicë/Mitrovica has the sole authority in governing this part of the municipality.⁴⁹ Since UNMIK Regulation 2007/30 is not being implemented in the northern part of Mitrovicë/Mitrovica, an in-depth analysis would go beyond the scope of this report.

D. Conclusions

UNMIK Regulation 2007/30 has been implemented in large parts. According to the assessment, all municipal assemblies convened in a timely manner after the elections in November 2007. Almost all newly elected members have taken an oath or given a declaration in front of the respective municipal assembly. Most municipalities also complied with the rules for submission of financial statements in order to prevent conflicts of interest.

The Vice-Chairperson of the Municipal Assembly has been elected in most municipalities. However, the second Vice-Chairperson from non-majority communities has been elected only in a very small number of municipalities, and if so, from among non-majority communities which are represented in the Municipal Assembly. In areas where non-majority communities are not represented in the Municipal Assembly, the Assembly should take initiative to reach to the non-majority communities, thus to ensure appointment of the second Vice-Chairperson in these municipalities. Such initiatives were taken only in a few municipalities.

Most municipalities have begun with the establishment of the Committees, which, in most cases, reflect community representation in the municipality and political party composition of the Municipal Assembly. However, female Assembly members are so far drastically underrepresented in the Committees. Outside experts, although mandatory only for the Mediation Committee, are represented in only two committees.

⁴⁹ UNMIK Administrative Direction No. 2002/26, Implementing UNMIK Regulation 2000/45 On Self-government of Municipalities in Kosovo, of 25 November 2002.

All Mayors have subscribed to a solemn oath or declaration of office and are in full charge of their functions as head of the municipal executive and as chairperson of the Municipal Assembly. Still, not all directors of municipal departments have been appointed, and the recruitment process for the Head of Department of Administration and Personnel has not yet started in all municipalities.

No municipality has adopted the Municipal Statute yet. However, this is step into right direction since most municipalities have initiated the drafting process and established a drafting commission. These are strong indications that the municipalities take the role of the statutes as a legal framework document of the local level seriously dedicating adequate time and effort to the drafting process.

There is still some effort required to complete the implementation of UNMIK Regulation 2007/30 with regard to the inaugural steps of the new municipal set-up covered by this report. One reason for the delay might be problems in the organization of the new municipal set-up, especially as concerns the consultation process with non-majority communities. Another reason is problems comprehending the genuine meaning of all provisions of UNMIK Regulation 2007/30. For example, the wrong assumption that directors cannot be appointed before the establishment of the respective municipal departments or difficulties in understanding the legal requirements regarding the second Vice-Chairperson of the Municipal Assembly.

Moreover, the implementation process differs tremendously between the 27 municipalities covered by Chapter B and the remaining three northern municipalities where practically no implementation process has been initiated so far.

To summarize, the implementation process has made considerable headway in all 27 municipalities covered by Chapter B. However, there is still room for improvement regarding the appointment of directors and acting Head of the Department of Administration and Personnel as well as regarding the recruitment process of the Head of the Department of Administration and Personnel. The fact that the municipalities have not yet adopted municipal statutes should not prevent them from proceeding with the implementation, namely with the establishment of the Municipal Assembly Committees and the election of the respective Chairpersons, the establishment of Municipal Departments and the appointment of the Head of the Department of Administration and Personnel.

The OSCE considers the delay in the realization of the new set-up in the 27 municipalities, whenever occurred, as a mainly organizational one and anticipates much and faster development in the days and weeks to come. Having said that, the lack of advancement in the municipalities covered by Chapter C is rather of a chronic nature, suggesting that no progress is to be expected in the near future.

E. Recommendations

The OSCE welcomes the positive developments in the arrangements of the new municipal set-up in Kosovo. For those areas, for which this report has identified room for further improvement, the OSCE wants to provide guidance with the help of the following recommendations.

Recommendations to municipalities

- Municipal assemblies should ensure that all their members submit financial statements to prevent conflicts of interest;
- Municipal assemblies of municipalities where non-majority communities live which are not represented in the Assembly should initiate and ensure the appointment of the second Vice-Chairperson as soon as possible;
- Municipal assemblies should establish all standing committees as required by UNMIK Regulation 2007/30 taking into account a gender balance and a proportionate representation of the political parties whenever required by the Regulation;
- Composition of the committees should be gender-balanced and should reflect the proportion of seats held by political parties/coalitions;
- The Communities Committee should include at least one member of each community residing in the municipality;
- The mayors should terminate contracts/associations that may call into question their impartiality;
- The mayors should ensure full composition of the Board of Directors;
- Municipal assemblies should appoint the Head of the Department of Administration and Personnel;
- The municipalities should draft and adopt their municipal statutes in order to regulate the implementation of responsibilities as established by UNMIK Regulation 2007/30. The OSCE Guide on Municipal Statutes could be used for additional guidance.

Recommendations to the Ministry of Local Government Administration

- The Ministry of Local Government Administration should continue to advise the Kosovo municipalities in the fulfillment of their responsibilities according to UNMIK Regulation 2007/30.