

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

**Pillar III (OSCE) Report 03/2007
On the Monitoring of the Assembly of Kosovo
14 May 2007 – 22 July 2007**

Highlights

- **Assembly endorses in principle amendments to the Rules of Procedure**
- **Assembly endorses in principle the Draft Law on Travel Documents**
- **Prime Minister addresses Assembly in response to ORA interpellation motion**
- **Minister of Energy and Mines addresses Assembly in response to PDK interpellation**
- **Assembly discusses the population census**

1. Background

This fifty-second 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 revised 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 four plenary sessions, on 31 May/1 and 4 June, 21 June, 28 June and 12 July, as well as four Presidency meetings, on 25 May, 14 June, 5 July and 20 July. All ten Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during the reporting period.¹ Pillar III (OSCE) monitored the plenary sessions and Presidency meetings, as well as 45 out of 69 committee meetings and three public hearings.²

¹ Committee for Budget and Finance met on 29 May, 12 and 29 June, 16 and 17 July while the Committee on the Rights and Interests of Communities and Returns met on 23 May, 6, 10 and 27 June, 4 and 16 July. The Committee for Judicial, Legislative and Constitutional Framework Matters met on 14 and 21 May, 4, 11 and 18 June and 9 July while the Committee on Security met on 13 and 27 June, 4 and 6 July. The Committee for International Cooperation and EU-NATO Integration met on 18 June while the Committee for Public Services, Local Administration and Media met on 16, 21 and 28 May, 8 and 25 June and 11 July. The Committee for Education, Science, Technology, Culture, Youth and Sports met on 15, 23, 29 and 30 May, 12, 14, 18 and 26 June, 2, 3 and 18 July while the Committee for Economy, Trade, Industry, Energy, Transport and Communications met on 15, 21, 22 and 30 May, 13 and 26 June, 2, 10 and 17 July. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 15 and 22 May, 5, 12, 19 and 26 June, 3 and 17 July while the Committee for Health, Labour, Social Welfare and Missing Persons met on 23 and 30 May, 7 and 19 June, 3, 5, 10, 16 and 17 July. The Subcommittee on Human Rights, Public Petitions and Claims met on 16 and 25 May, 6 June, and 18 July. The Committee on Security on 16 May 2007 held a public hearing regarding the attacks against the independent agencies. The Committee for Education, Science, Technology, Culture, Youth and Sports on 17 May 2007 held a public hearing regarding the method of implementation of the Law on Cinematography. The Committee for Education, Science, Technology, Culture, Youth and Sports on 22 May 2007 held a public hearing on the audit of gender issues in the education system. The Committee for Economy, Trade, Industry, Energy, Transport and Communications on 28 May 2007 held a public hearing for the evaluation of the Draft Law on Enterprises.

² Committee on Budget and Finance on 29 May, 12 and 29 June, 16 and 17 July; Committee on the Rights and Interests of Communities and Returns on 23 May, 6, 10 and 27 June, 4 and 16 July; Committee for Judicial, Legislative and Constitutional Framework Matters on 14 and 21 May, 4 and 11 June and 9 July; Committee on Security on 13 June and 6 July; Committee for Public Services, Local Administration and Media on 21 May, 25 June and 11 July; Committee for Education, Science, Technology, Culture, Youth and Sports on 15, 23 and 30 May, 12, 14 and 26 June and 18 July; Committee for Economy, Trade, Industry, Energy, Transport and Communications on 15 and 22, 13 June, 3, 10 and 17

2. Overview

The 31 May/1 and 4 June plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Kolë Berisha and Member of the Presidency Mr. Gazmend Muhaxheri (ORA).

- Eighty-two, 70 and 78 Members of the Assembly were present, respectively, at the 31 May, 1 June and 4 June plenary session.³
- Main agenda items of the 31 May/1 and 4 June plenary session:
 - Questions to the Government for oral answers
 - ORA Interpellation to Prime Minister
(See below the section entitled “Interpellation”.)
 - First Reading of the Draft Law on Environment Impact Assessment
(The draft law was withdrawn by the sponsor. See below the second paragraph under “Legislative process”.)
 - First Reading of the Draft Law on Civil Status
(The draft law was endorsed in principle with 64 votes in favor and no votes in opposition.)
 - First Reading of the Draft Law on Amending the Law No 46/2004 on Civil Status Registry
(The draft law was endorsed in principle with 61 votes in favor and one vote in opposition.)
 - First Reading of the Draft Law on Amending the Law No 2004/1 on Road Transport
(The draft law was endorsed in principle with 61 votes in favor and no votes in opposition.)
 - Review of the Government’s 2006 work report
(Prime Minister Agim Çeku made a presentation, followed by the parliamentary group leaders, several other Members and a closing statement made by the Prime Minister.)
 - Debate on energy tariffs and policy
(Ms. Teuta Sahatqija (ORA), as sponsor of the debate, delivered an opening statement, followed by the Minister of Energy and Mines Et’hem Çeku, statements made on behalf of parliamentary group leaders, several other Members and a closing statement made by Ms. Sahatqija.)
 - Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications with regard to the appointment of members to the Competition Commission
(The appointment of all five proposed members was rejected as neither member received the support of the absolute majority of Members of the Assembly, as required by the Law on Competition.)
 - Review of the recommendation of the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning with regard to the appointment of members to the Board on Waters
(The appointment of all seven proposed members was endorsed with majority of votes in favor.)
 - Review of the recommendation of the Committee for Judicial, Legislative and Constitutional Framework Matters to return the Draft Law on Mediation to the Government
(The draft law was returned to the Government with 56 votes in favor and three votes in opposition. See below the second paragraph under “Legislative process”.)

July; Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 22 May, 12, 19 and 26 June, 3 and 17 July; Committee for Health, Labour, Social Welfare and Missing Persons on 30 May, 19 June, 3, 5 and 10 July. The public hearing regarding the attacks against the independent agencies on 16 May; public hearing regarding the implementation of the Law on Cinematography on 17 May; and public hearing on the evaluation of the Draft Law on Enterprises on 28 May.

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

- Review of the recommendation of the Committee for Public Services, Local Administration and Media with regard to the 2006 report of the Independent Media Commission (IMC) (The IMC report was approved with 49 votes in favor and 13 votes in opposition.)
- Review of the recommendation of the Committee for Judicial, Legislative and Constitutional Framework Matters with regard to appointment of members to the Managing Council of the Kosovo Judicial Institute (The appointment of eight proposed members was endorsed with majority of votes in favor.)
- Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications to return the Draft Law on Amending the Law on Energy to the Government (The draft law was returned to the Government with 48 votes in favor and three votes in opposition. See below the second paragraph under “Legislative process”.)
- Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications to return the Draft Law on Amending the Law on Energy Regulator to the Government (The draft law was returned to the Government with 53 votes in favor and five votes in opposition. See below the second paragraph under “Legislative process”.)
- Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications to return the Draft Law on Adaptation of the Council of Europe Cyber-Crime Convention to the Government (The draft law was returned to the Government with 63 votes in favor and five votes in opposition. See below the second paragraph under “Legislative process”.)

The 21 June plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Bislim Hoti (IRDK).

- Seventy-one Members of the Assembly were present at the 21 June plenary session.
- Main agenda items of the 21 June plenary session:
 - Questions to the Government for oral answers
 - PDK Interpellation to Minister of Energy and Mines (See below the section entitled “Interpellation”.)
 - First Reading of the Draft Law on Narcotic Medicaments, Psychotropes and Precursors (The draft law was endorsed in principle with 59 votes in favor and one vote in opposition.)
 - First Reading of the Draft Law on Travel Documents (The draft law was endorsed in principle with 63 votes in favor and one vote in opposition.)
 - First Reading of the Draft Law No 2003/15 on Amending the Law on Social Assistance Scheme (The draft law was endorsed in principle with 52 votes in favor and seven votes in opposition.)
 - First Reading of the Draft Law on Professional Rehabilitation and Employment of Disabled Persons (The draft law was endorsed in principle with 61 votes in favor and no votes in opposition.)
 - Second Reading of the Draft Law on Food (The draft law was postponed at the request of the Functional Committee. See below the first paragraph under “Legislative process”.)
 - Second Reading of the Draft Law on Amending the Law on Liquidation and Reorganisation of Legal Persons in Bankruptcy (The draft law was approved with 63 votes in favor and no votes in opposition.)
 - The recommendation of the Committee for Judicial, Legislative and Constitutional Framework Matters on the adoption of draft Rules of Procedure on the appointment of Ombudsperson

(Draft Rules of Procedure on the appointment of Ombudsperson were adopted with 52 votes in favor and four votes in opposition.)

The 28-29 June plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Seventy-six and sixty-five Members of the Assembly were present, respectively, at the 28 and 29 June plenary session.
- Main agenda items of the 28-29 June plenary session:
 - Questions to the Government for oral answers
 - Debate on the population census
(Mr. Alush Gashi (LDK), as sponsor of the debate, delivered an opening statement, followed by the Minister of Public Services Melihate Tërmkolli, statements delivered on behalf of parliamentary group leaders, several other Members and a closing statement made by Mr. Gashi.)
 - Debate on youth
(Mr. Jakup Krasniqi (PDK), as sponsor of the debate, delivered an opening statement, followed by the Minister of Culture, Youth and Sport Astrit Haraçija, statements delivered on behalf of parliamentary group leaders, several other Members and a closing statement made by Mr. Krasniqi.)
 - Debate on the implementation of the Assembly recommendations, dated 7 July 2005, with regard to the retirement pensions
(Mr. Fatmire Mulhaxha-Kollçaku (ORA), as sponsor of the debate, delivered an opening statement, followed by the Minister of Labor and Social Welfare Ibrahim Selmanaj, statements delivered on behalf of parliamentary group leaders, several other Members and a closing statement made by Mr. Mulhaxha-Kollçaku.)
 - Debate on the illegal construction of apartment buildings by the Government of Serbia in northern part of Mitrovicë/Mitrovoica
(The item was removed from the agenda. See below the section entitled “Agenda”.)
 - Second Reading of the Draft Law on Illegal Construction
(The draft law was postponed at the request of the Functional Committee. See below the first paragraph under “Legislative process”.)
 - Second Reading of the Draft Law on Amending the Law on Spatial Planning
(The draft law was approved with 56 votes in favor and no votes in opposition.)
 - Review of the recommendation of the Committee for Economy, Trade, Industry, Energy, Transport and Communications with regard to the issuance of exploration license to the “Kosovo Resource” Company
(The recommendation was approved with 66 votes in favor and no votes in opposition.)

The 12 July plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Seventy-three Members of the Assembly were present at the 12 July plenary session.
- Main agenda items of the 12 July plenary session:
 - Questions to the Government for oral answers
 - First Reading of the Draft Law on the Sale of Apartments with Tenure Rights
(The draft law was endorsed in principle with 69 votes in favor and two votes in opposition.)
 - First Reading of the Draft Law on Prevention of Conflict of Interest in Exercising Public Function
(The draft law was endorsed in principle with 66 votes in favor and four votes in opposition.)
 - First Reading of the Draft Law on Genetically Modified Organisms

- (The draft law was endorsed in principle with 60 votes in favor and six votes in opposition.)
- First Reading of the Draft Law on Amending the Law No 2003/11 on Roads
(The item was postponed due to absence of the sponsor, Minister of Transport and Communications.)
 - Review of the recommendation of the Committee for Education, Science, Technology, Culture, Youth and Sport with regard to the appointment of members to the National Science Council
(The appointment of all proposed members was endorsed with 40 votes in favor and 15 votes in opposition.)
 - Review of the proposed amendments to the Rules of Procedure
(The proposed amendments to the Rules of Procedure were endorsed in principle with 55 votes in favor and 18 votes in opposition. See below section entitled “Endorsement in principle of amendments to the Rules of Procedure”.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- At the beginning of 21 June plenary session, the President of the Assembly announced that three proposals to amend the agenda had been submitted *in writing* prior to the session in accordance with Rule 23.2. He stated that the parliamentary group For Integration had proposed that a discussion on the surpassing of its competencies by the Unity Team be added to the agenda and called for a vote on For Integration’s proposal, which was rejected with 9 votes in favor, 29 votes in opposition and four abstentions. The President of the Assembly continued that two committees, the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning and Committee for Health, Labor and Social Welfare, had proposed to remove the second reading of the Draft Law on Food from the agenda and called for a vote on the proposal, which was approved with majority of votes in favor and no votes in opposition. He added that the Committee for Judicial, Legislative and Constitutional Framework Matters had proposed to add to the agenda the review of the amended draft Rules of Procedure on the appointment of Ombudsperson and called for a vote on the proposal, which was approved with majority of votes in favor and no votes in opposition.

At the beginning of the 28 June plenary session, the President of the Assembly announced that the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning, as functional committee, had proposed *in writing* to remove the second reading of the Draft Law on Illegal Construction from the agenda of that day’s session called for a vote on the proposal, which was approved with majority of votes in favor and one vote in opposition. At the same session, on behalf of AAK parliamentary group, Ms. Gjylnaze Sylja likewise proposed *in writing* that the item – debate on the illegal construction of apartment buildings by the Government of Serbia in northern part of Mitrovicë/Mitrovica – be removed from the agenda due to the lack of information on the matter. The President of the Assembly called for a vote on Ms. Sylja’s proposal, which was approved with 32 votes in favor and 17 votes in opposition.

At the beginning of 12 July plenary session, on behalf of ORA parliamentary group, Mr. Nazim Jashari proposed *verbally* that the item - draft amendments to the Rules of Procedure - be removed from the agenda reasoning that a committee should be formed to process the amendments. The President of the Assembly called for a vote on Mr. Jashari’s proposal, which was rejected with 33 of votes in favor, 38 votes in opposition and six abstentions.

The revised 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 (emphasis added), which should be put to a vote.” All proposals to amend plenary session agendas during the reporting period, except Mr. Jashari’s proposal, were made in compliance with revised Rules, which represents an improvement over previous

reporting periods. The objective of the revision of agenda-setting provisions at the 1 June 2006 plenary session was to make the proceedings of the Assembly more effective and ordered, but even after the revision of agenda provisions Members have been allowed to propose verbally amendments to plenary session agendas⁴, as described in the old Rule, which is no longer in force. Revised provisions, which require that the amendments to plenary session agendas are proposed *in writing* should be consistently adhered to in order to avoid confusion and make Assembly proceedings more ordered.

Endorsement in principle of amendments to the Rules of Procedure

- During the 12 July plenary session, the President of the Assembly announced that the first Standards Plan adopted at the 1 June 2006 plenary session⁵ was one part of the comprehensive Assembly reforms, and he introduced the second part of Standards Plan, which included several amendments to the Rules of Procedure. He added that the supplement of the Standards Plan was presented in compliance with Rules 58.1 and developed to improve the efficiency in preparation and adoption of plenary session agendas, and increase transparency by publishing regular Assembly business, including motions, resolutions, draft legislation and plenary session minutes and transcripts. On behalf of LDK, Mr. Sabri Hamiti supported the amendments proposed by the Presidency. Mr. Hydajet Hyseni (PDK) stated that his parliamentary group supported the amendments to the Rules of Procedure and proposed that amendments be adopted in two readings like draft laws in order for other Members, who might wish to propose further amendments to be allowed to do so. He also proposed that either *ad hoc* Committee on the Rules of Procedure be re-established or Committee for Legislative, Judicial and Constitutional Framework Matters be tasked to review the amendments proposed by the Presidency and present final amendments to the Assembly for approval. Ms. Gjylnaze Sylja (AAK) likewise supported the amendments to the Rules of Procedure and proposed that amendments be endorsed in principle at the session in question. She also agreed that the Committee for Legislative, Judicial and Constitutional Framework Matters should be tasked to present final amendments to the Assembly for approval. Mr. Gazmend Muhaxheri (ORA) also spoke in favor of amending the Rules of Procedure and proposed that the Assembly should establish an *ad hoc* Committee to deal with it. Mr. Ramadan Kelmendi (LDD) argued that the amendments to the Rules of Procedure could be adopted at the session in question as the Presidency had proposed them in compliance with the Rules itself. The President of the Assembly called for a vote on the proposal to endorse in principle the amendments to the Rules of Procedure and announced that the Presidency would review additional possible amendments proposed by Members and present final amendments to the Assembly for approval. The amendments were endorsed in principle with 55 votes in favor and 18 votes in opposition.

Rule 58.1 stipulates that “[t]he Presidency shall keep the Rules of Procedure under review and may from time to time propose to the Assembly amendments that it considers necessary.” The Presidency has therefore proposed amendments to the Rules of Procedure in compliance with the Rules itself. Rule 3.4 provides that the Assembly shall establish an ad hoc Committee on the Rules of Procedure at its inaugural session or at a meeting thereafter to prepare draft Rules of Procedure and present them to the Assembly for consideration and approval. The Rules however do not regulate Committee’s involvement in later amendments of the procedural rules. The Assembly could have therefore decided to re-establish the ad hoc Committee on the Rules of Procedure to draft amendments as such a procedure is not prohibited by the Rules of Procedure. The Rules do not likewise foresee a role for the Committee on Judicial, Legislative and Constitutional Framework Matters in proposing and reviewing amendments to the procedural rules. There is a precedent set by the previous Assembly, which, although not

⁴ See Pillar III (OSCE) reports 02/2007, 07/2006, 06/2006 and 05/2006 on the monitoring of the Assembly of Kosovo, section entitled “Agenda”.

⁵ See Pillar III (OSCE) report 04/2006 on the monitoring of the Assembly of Kosovo, section entitled “Adoption of changes to the Rules of Procedure”.

foreseen in its Rules of Procedure, had tasked the Committee on Judicial, Legislative and Constitutional Framework Matters to propose amendments to the Rules of Procedure. A precedent set by the previous Assembly is however not binding for the current Assembly. There are no provisions which explicitly describe whether amending of the Rules of Procedure may be carried out in two readings or not, so the decision of the Assembly to amend the Rules of Procedure in two readings was not in violation of the Rules. The amendments to the Rules of Procedure, proposed by the Presidency and adopted by the Assembly at the 1 June 2006 plenary session, have not been reviewed in two readings, but, as such a review procedure is not explicitly prohibited, it is up to the Assembly to decide on the method to amend its procedural rules. Rule 58.3 stipulates that the decision to amend the Rules of Procedure shall be made by the Assembly with the majority of votes of the Members of the Assembly, to wit, such a decision must receive at least 61 votes in favor. The endorsement in principle of amendments to the Rules of Procedure received 55 votes in favor and as such does not constitute a procedural violation. But, the adoption of amendments to the Rules of Procedure must receive the support of at least 61 Members of the Assembly. It is therefore advisable for the current Assembly to clarify the procedure for review and adoption of amendments to the Rules of Procedure, which could be very useful for the next Assembly.

Chairing of plenary sessions

- At the 30 May plenary session, during the debate on the Government's 2006 work report, Mr. Naser Osmani (LDK) raised an objection that Mr. Gazmend Muhaxheri (ORA) was chairing that part of the session arguing that the plenary sessions should be chaired either by the President of the Assembly or member of the Presidency from LDK. Mr. Muhaxheri responded that the President of the Assembly had two important meetings that day and explained that, in the absence of the President of the Assembly, plenary session is chaired by the member of the Presidency who was chosen to assist the President of the Assembly in chairing the same session. He also added that the LDK member of the Presidency could therefore not chair the session in question.

Neither Constitutional Framework nor Assembly Rules of Procedure stipulate that the President of the Assembly must be assisted by the member of the Presidency from the same party as President in chairing plenary sessions. Moreover, Rule 10 provides that “[i]n chairing the sessions of the Assembly, the President shall be assisted by one of the members of the Presidency in accordance with the principle of rotation determined by the Presidency.” It is clear that political affiliation of Presidency members is irrelevant in this case. It is therefore solely the right of the Presidency to decide which one of its Members will assist the President in chairing a plenary session.

Distribution of Draft Legislation

- The Draft Law on Civil Status and the Draft Law on Amending the Law No 46/2004 on Civil Status Registry were distributed to Members of the Assembly on 2 May, while the Draft Law on Amending the Law No 2004/1 on Road Transport was distributed on 4 May. Thus, the draft laws were distributed, respectively, 20 and 18 working days prior to their first reading at the 31 May plenary session. The Draft Law on Narcotic Medicaments, Psychotropes and Precursors was distributed on 7 May, while the Draft Law on Amending the Law No 2003/15 on Social Assistance Scheme was distributed on 25 May. The Draft Law on Travel Documents and Draft Law on Professional Rehabilitation and Employment of Disabled Persons were distributed on 1 June. Thus, the draft laws were distributed, respectively, 31, 18, and 13 working days prior to their first reading at the 21 June plenary session. The Draft Law on the Sale of Apartments with Tenure Rights was distributed on 11 June, the Draft Law on Prevention of Conflict of Interest in Exercising Public Function was distributed on 14 June, Draft Law on Genetically Modified Organisms was distributed on 20 June, and Draft Law No 2003/11 on Amending the Law on

Roads was distributed on 27 June. Thus, the draft laws were distributed, respectively, 22, 19, 15 and ten working days prior to their scheduled first reading at the 12 July plenary session.

The Draft Law on Travel Documents, Draft Law on Professional Rehabilitation and Employment of Disabled Persons and Draft Law on Genetically Modified Organisms were reviewed in first reading 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. The first reading of the Draft Law No 2003/11 on Amending the Law on Roads was scheduled in compliance with the Rule 35.1 but did not take place due to the absence of the Minister of Transport and Communications, who sponsored the Draft Law in question and had to present it before the Assembly. This emphasizes a need for better coordination between the Assembly and the Government in order not to delay the review and approval of draft legislation.

The Draft Law on Civil Status, Draft Law on Amending the Law No 46/2004 on Civil Status Registry, Draft Law on Amending the Law No 2004/1 on Road Transport, Draft Law on Narcotic Medicaments, Psychotropes and Precursors, Draft Law on Amending the Law No 2003/15 on Social Assistance Scheme, Draft Law on the Sale of Apartments with Tenure Rights and Draft Law on Prevention of Conflict of Interest in Exercising Public Function were however reviewed in first reading after three working weeks from the dates of their distribution, which was not in compliance with the Rule above. This shows that the Assembly is still having difficulties reviewing incoming draft legislation within the timeframe set forth in its procedural rules, despite the fact that it holds plenary sessions twice a month. It is highly recommendable that the Assembly takes soon a decision on how to process pending draft legislation during the remainder of its mandate. If Assembly wishes to expedite the review and adoption of pending draft legislation, it could return to the weekly system of plenary sessions.

Legislative process

- The Draft Law on Amending the Law on Liquidation and Reorganisation of Legal Persons in Bankruptcy was approved six months after its first reading on 21 December 2006. The Draft Law on Amending the Law No 2003/14 on Spatial Planning was approved over three months after its first reading on 16 March 2007. The second reading of the Draft Law on Illegal Construction was scheduled over six months after its first reading on 14 December 2006, while the second reading of the Draft Law on Food was scheduled over nineteen months after its first reading on 17 November 2005.

This was not in compliance with Rule 35.6, which 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 (emphasis added), unless an extension is approved by the Assembly.” The Assembly committees submitted their recommendations to all of the above-mentioned draft laws exceeding the deadline set forth in Rule 35.6, without asking the Assembly to extend the deadline. If Assembly wishes to increase the effectiveness of its legislative process, the committees should review draft laws in timely manner, as required in the Rule above.

- At the 31 May plenary session, the Minister of Environment and Spatial Planning Ardian Gjini requested to withdraw the Draft Law on Environment Impact Assessment, sponsored by his Ministry, from the first reading with the justification that the Draft Law needed to be further supplemented. Thus, the draft law in question was withdrawn. At the same plenary session, the Committee for Judicial, Legislative and Constitutional Framework Matters made a request to return the Draft Law on Mediation to the Government for further review, and the Committee for Economy, Trade, Industry, Energy, Transport and Communications made a request to return three following draft laws to the Government for further review: Draft Law on Amending the Law No. 2004/08 on Energy, Draft Law on Amending the Law No. 2004/09 on Energy Regulator and Draft Law on Adaptation of the Council of Europe Cyber-Crime Convention.

The President of the Assembly called for a vote on each proposal, which were approved with majority of votes in favor. The Draft Law on Mediation was endorsed in principle at the 20 January 2006 plenary session, while the Draft Law on Adaptation of the Council of Europe Cyber-Crime Convention, Draft Law on Amending the Law No. 2004/08 on Energy and Draft Law on Amending the Law No. 2004/09 on Energy Regulator were endorsed in principle at the 31 August 2006 plenary session. Thus, the draft laws were returned to the Government, respectively, sixteen and nine months after their first reading.

Minister of Environment and Spatial Planning withdrew the Draft Law on Environment Impact Assessment in compliance with the Rule 35.3, which stipulates that “[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 analogical interpretation, the Committee on Judicial, Legislative and Constitutional Framework Matters and Committee for Economy, Trade, Industry, Energy, Transport and Communications should have proposed to the Assembly to return the above-mentioned draft laws to the Government 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 Committee on Judicial, Legislative and Constitutional Framework Matters and Committee for Economy, Trade, Industry, Energy, Transport and Communications had reviewed the above-mentioned draft laws before their first readings, as allowed by Rule 35.7, they would have had the opportunity to notice earlier the flaws of draft laws and propose to return them to the sponsoring ministries during their first reading, rather than doing so sixteen and nine months, respectively, after the endorsement in principle of draft laws. It is highly recommendable that the Assembly committees utilize the opportunity of reviewing draft laws before their first reading in order to make the legislative process more effective.

Interpellation

- On 15 May, the Permanent Secretary in the Office of the Prime Minister Agim Çeku sent a letter to the Presidency stating that Prime Minister was ready to respond before the Assembly to ORA interpellation motion regarding the selection by the Government of members to the boards of public enterprises.⁶ At its 25 May meeting, the Presidency scheduled the interpellation for debate at the 31 May plenary session.

At the 31 May plenary session, the President of the Assembly reminded Members that, according to the Rule 25.7, the parliamentary group proposing the interpellation debate had the right to open the debate with a ten-minute statement and to close the debate with a five-minute statement, while the time allocation throughout the remainder of the debate would reflect each parliamentary group’s representation in the Assembly. Ms. Teuta Sahatqija (ORA) opened the interpellation debate by stating that public enterprises were an important factor which could contribute to the economic development in Kosovo, but criticised the Government for appointing members affiliated to the governing coalition parties to the boards of public enterprises, rather than professional members, obstructing the development of enterprises. Prime Minister responded that the Government had the right to nominate members but that Kosovo Trust Agency (KTA) had final authority to appoint members to the boards of public enterprises adding that the job requirements for these members were likewise defined in internal KTA regulations. Several Members from various parliamentary groups delivered statements before the interpellation debate was concluded by Mr. Veton Surroi (ORA) as sponsor of the interpellation.

⁶ On 18 April, ORA parliamentary group submitted an interpellation motion calling on Prime Minister Agim Çeku to explain “the criteria for the selection by the Government of members to the boards of public enterprises.” On 7 May, the Presidency forwarded the interpellation motion to the Government. See Pillar III (OSCE) report 02/2007 on the monitoring of the Assembly of Kosovo, the third paragraph under “Interpellation”.

- On 15 May, the Minister of Energy and Mines Et'hem Çeku sent a letter to the Presidency stating that he was ready to respond before the Assembly to PDK interpellation motion regarding the exploration license issued to “Kosovo Resource” Company by the Independent Commission for Mines and Minerals.⁷ At its 14 June meeting, the Presidency scheduled the interpellation for debate at the 21 June plenary session.

At the 21 June plenary session, Mr. Jakup Krasniqi (PDK) opened the interpellation debate by stating that Kosovo’s natural resources and public property were being mismanaged and degraded damaging Kosovo’s economy, and he added that the issuance of exploration license to “Kosovo Resource” Company by the Independent Commission for Mines and Minerals (ICMM) was a typical example of such a degradation. Minister responded that ICMM had indeed violated the UNMIK Regulation 2005/3 during the issuance of the exploration license to the Company in question and that his Ministry had tried many times to contact with the SRSG, Pillar IV and KTA to discuss the matter but had not succeeded in meeting them. Minister stressed that the main difficulty was that the Law on Mines and Minerals⁸ had not been yet promulgated by the SRSG, arguing that if the Law in question was promulgated and in force, the problems regarding the issuance of licences for the exploration of mines would be resolved. Several Members from various parliamentary groups delivered statements before the interpellation debate was concluded by Mr. Krasniqi.

The interpellation debates were carried out in compliance with revised Rule 25.7, according to which the parliamentary group proposing the interpellation has the right to open the debate with a ten-minute statement and close the debate with a five-minute statement, while the time allocation throughout the remainder of the debate should reflect each parliamentary group’s representation in the Assembly.

Under revised Rules 25.5-6, “[a]s soon as the text of interpellation is received; the Presidency of the Assembly shall submit it to the Government, which is obliged to review it within seven (7) days. The interpellation shall be included in the Agenda within seven (7) days of receipt of the answer by the Government (emphasis added). If the Government does not reply to the request for interpellation, as foreseen in paragraph 5, it shall be placed as the last item on the agenda of the ongoing plenary session of the Assembly. If the Assembly is not in session, it shall be placed as the first item on the agenda for the next Assembly session.” The Prime Minister and Minister of Energy and Mines provided their answers within the deadline foreseen in the revised Rule 25.5, but the Presidency scheduled the debates on ORA and PDK interpellations, respectively, two and five weeks after the receipt of the answer by the Government, which was not in compliance with revised Rule 25.6. The Presidency met ten days after it had received answers by the Prime Minister and Minister of Energy and Mines, which resulted in scheduling of interpellation debates later than required by the revised Rule 25.6. If the Presidency had met earlier, the interpellation motions could have been likewise scheduled earlier for debate.

- On 26 June, ORA parliamentary group submitted an interpellation motion to Prime Minister Agim Çeku with regard to “Prime Minister’s failure to implement provision 3.4 of the documentation of the tender for the licensing of the second mobile phone operator, according to which 1.6 million EUR should have been confiscated from the first selected winner as stipulated in Section 55.1 (c-ii) of the Law on Public Procurement, which directly affected Kosovo’s Budget.” In its motion, ORA recommended that “an investigative parliamentary committee should be established to inquire into the responsibility of all those who violated the law and rules in this tendering process.” At its 5 July meeting, the Presidency decided to forward the

⁷ On 11 April, PDK parliamentary group submitted an interpellation motion calling on Minister of Energy and Mines Et'hem Çeku to explain the issuance of exploration license to “Kosovo Resource” Company by the Independent Commission for Mines and Minerals. On 7 May, the Presidency forwarded the interpellation motion to the Government. See Pillar III (OSCE) report 02/2007 on the monitoring of the Assembly of Kosovo, the second paragraph under “Interpellation”.

⁸ The Law on Mines and Minerals was approved by the Assembly at the 19 January 2006 plenary session and is still waiting for promulgation by the SRSG.

interpellation motion to the Government. The interpellation motion has been tabled in the Office of the Prime Minister on 10 July. On 16 July, the Permanent Secretary in the Office of the Prime Minister Agim Çeku sent a letter to the Presidency stating that Prime Minister had always showed readiness to respond before the Assembly to interpellation motions addressed to him, but that, in this case, he would not be able to do so as the matter was within the authority of the Telecommunications Regulatory Agency (TRA). The letter further explained that the TRA was obliged to report to the Assembly in accordance with the Law on Telecommunications and suggested that the interpellation motion should be therefore addressed to the TRA.

At the 20 July Presidency meeting, Ms. Teuta Sahatqija (ORA) insisted that the Prime Minister should respond to the interpellation at the next plenary session. Mr. Xhavit Haliti (PDK) likewise stated that the Prime Minister should respond to ORA's interpellation motion in the Assembly and argued that the issue of the licensing of the second mobile phone operator was the competence of the Government, not of the TRA. The Presidency scheduled the interpellation for debate at the 27 July plenary session.

Revised Rule 25.8 provides that "[t]he Prime Minister or minister to whom the request is addressed is obliged (emphasis added) to present and argue the opinion of the Government regarding the issue raised by interpellation. Furthermore, neither the Assembly's procedural rules nor the Government's procedural rules⁹ grant the Government the right to reject an interpellation motion. Similarly, the Assembly Presidency is required by revised Rule 25.6 to include the interpellation motion for debate in plenary session, with no authority to block the motion. Only the full Assembly can make such a determination, as stipulated in revised Rule 25.6, "[t]he Assembly cannot reject the inclusion of the interpellation motion in the plenary session agenda, with the exception of cases when it does not meet formal conditions, stipulated in paragraph 4 of this Rule."¹⁰

Questions to the Government

At the 31 May plenary session, eleven out of 14 questions received responses. At the 21 June plenary session, six out of 13 questions received responses. At the 28-29 June plenary session, four out of ten questions received responses. At the 12 July plenary session, two out of seven questions received responses. At the same session, Mr. Ramadan Kelmendi (LDD) raised an objection that two questions, which he had submitted to the Minister of Local Government Administration Lutfi Haziri on 21 March 2007, were not yet answered and insisted that he should receive a response from the Minister. At each plenary session under review, the President of the Assembly or member of the Presidency chairing the session responded that questions that received no response within two plenary sessions would be published in the bulletin of the Assembly. During the reporting period, five questions were postponed due to the absence of Members of the Assembly in plenary sessions and 16 questions were postponed due to the absence of Ministers.

The question period was carried out by the Assembly in compliance with the revised 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.

Under revised 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." But the Assembly bulletin does

⁹ Article 71 of the Government's Rules of Procedure provides that "[w]henver the Assembly debates a vote of confidence or no-confidence in the Government, proposals for the appointment or dismissal of Ministers or an interpellation for the work of the Government (emphasis added), the Government shall be represented in the Assembly by the Prime Minister." The Government's procedural rules make no further mention of interpellations.

¹⁰ Paragraph 4 of the revised Rule 25 provides that "[a]n interpellation motion shall be submitted in writing and include: (a) a concise formulation of the issue, (b) a justification for the motion, and (c) the name and authorised signature of the parliamentary group in question."

not contain questions that have been submitted to the Government and therefore no pending question has ever been published.¹¹ In parliamentary systems, questioning of ministers represents an important mechanism of scrutinising executive activities, thus it is required that the Assembly publishes in its bulletin questions of Members that had not received responses within the timeframe set forth in Rule 26.11, which could contribute to raising the accountability of the Government in relation to the Assembly. On the other hand, it is likewise recommendable that Members of the Assembly are present at plenary sessions in order to receive timely response to their questions.

4. Equal access and participation of communities

- At its 15 May meeting, the Presidency discussed the letter sent by the Permanent Secretary in the Office of Prime Minister in response to the proposal made by the Committee on the Rights and Interests of Communities.¹² In the letter, the Permanent Secretary informed the Presidency that the Government had agreed with Committee's proposal and asked the Assembly to provide a list of legal experts belonging to non-Albanian and non-Serb communities, which would be invited by the Government to participate in working groups for drafting of legislation in the area of their respective expertise. On 28 May, following the response from the Office of Prime Minister, Committee on the Rights and Interests of Communities submitted a request to the Presidency, in which it suggested that the Government's Legal Office should contact the Committee prior to commencing the drafting of each law in order for the Committee to recommend its experts. At its 14 June meeting, the Presidency approved Committee's request and decided to forward it to the Office of Prime Minister. The Office of Prime Minister has not yet responded to this request.

5. Access

- During the reporting period, Pillar III (OSCE) received access to all plenary sessions and Committee meetings. Pillar III's Assembly Monitor was not allowed to attend the second part of 14 June and 5 July Presidency meetings. These were the only cases when Assembly Monitor had not been allowed to attend entire Presidency meetings since the establishment of the Assembly monitoring mechanism in December 2002. The Assembly Monitor was allowed to attend the 20 July Presidency meeting until the end. Pillar III 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. Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly of Kosovo has a website (www.assembly-kosova.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.

7. Main recommendations

- It is highly recommendable that the Assembly committees review draft legislation within two months, as required in the Rule 35.6, and likewise utilize Rule 35.7, which allows committees

¹¹ See Pillar III (OSCE) reports 02/2007, 01/2007, 07/2006, 06/2006 and 05/2006 on the monitoring of the Assembly of Kosovo, section entitled "Questions to the Government".

¹² On 26 March, the Committee on the Rights and Interests of Communities submitted to the Presidency a proposal asking it to recommend to the Government to include the representatives of non-Albanian and non-Serb communities in the working groups for drafting of legislation. At its 10 April meeting, the Presidency approved the proposal and forwarded it to the Office of Prime Minister. See Pillar III (OSCE) report 02/2007 on the monitoring of the Assembly of Kosovo, section entitled "Equal access and participation of communities".

to review draft laws before their first reading, in order to make the legislative process more effective.

- It is advisable for the current Assembly to clarify the procedure for review and adoption of amendments to the Rules of Procedure, which could be very useful for the next Assembly.
- The Assembly should soon take a decision on how to process pending draft legislation during the remainder of its mandate. If Assembly wishes to expedite the review and adoption of pending draft legislation, it could return to the weekly system of plenary sessions.
- It is required that the Assembly publishes in its bulletin questions of Members that had not received responses within the timeframe set forth in Rule 26.11, which could contribute to raising the accountability of the Government in relation to the Assembly.

ENDS.