

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

**Pillar III (OSCE) Report 05/2008
On the Monitoring of the Assembly of Kosovo
1 October 2008 – 30 November 2008**

Highlights

- **Assembly adopts a resolution in support to UN Millennium Development Goals**
- **Assembly adopts a motion to review the non-promulgated laws, but excludes the Committee on the Rights and Interests of Communities from the procedure**
- **Recruitment Panel for the selection of Ombudsperson is established**
- **Assembly makes efforts to improve the functioning of question period**
- **Assembly continues failing to publish the records of electronic votes**

1. Background

This fifty-ninth monitoring report is drafted in accordance with the Terms of Reference for UNMIK Pillar III for Institution Building (OSCE) Monitoring of the Assembly of Kosovo dated 26 November 2002 and is based on compliance with the Rules of Procedure adopted at the plenary session on 20 May 2005, as amended at the plenary session on 1-2 June 2006 and 18 September 2007 plenary session.

Pillar III (OSCE) monitored seven plenary sessions, on 3 and 10 October, on 17 October, on 6 and 7 November, on 7 November, on 10 November, on 20 November and 25 November as well as seven Presidency meetings, on 3 October, on 14 October; 28 October; on 4 November, 11 November, 18 November and on 24 November. Pillar III (OSCE) monitored 41 out of 57 committee meetings and one public hearing.

2. Overview

The 3 and 10 October plenary session was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Ibrahim Gashi (AKR).

- Ninety-six Members of the Assembly were present, respectively, at the 3 and 10 October plenary session.
- Main agenda items of the plenary session held on 3 and 10 October:
 - Questions to the government for Oral Answer
 - Review of procedural motion for adoption of non-promulgated laws (The procedural motion was adopted with 51 votes in favour and nine votes in opposition.)
 - Review of the recommendation to amend the Law on Identification Cards (The recommendation was approved with 72 votes in favour and no votes in opposition.)
 - Review of the recommendation to amend the Law on Farmers Cooperatives (The recommendation was approved with 72 votes in favour and no votes in opposition.)
 - Review of the recommendation made by the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning regarding the situation in national park “Malet e Sharrit/Šar Planine” and touristic village in Prevallë/Prevalac mountain

(Mr. Lulzim Zeneli, Committee Chairperson, delivered a statement, followed by parliamentary group representatives, Minister of Environment and Spatial Planning and several other Members.)

The 17 October solemn plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Naim Maloku (AAK).

- One-hundred and one Members of the Assembly were present at the 17 October plenary session.
- Main agenda items of the 17 October plenary session:
 - Adoption of the Resolution in support to the UN Millennium Development Goals
(The resolution was adopted with 99 votes in favour and two votes in opposition.)

The 17 October plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and by Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Eighty-two Members of the Assembly were present at the 17 October plenary session.
- Main agenda items of the 17 October plenary session:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Anti-dumping Measures
(The draft law was endorsed in principle with 68 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on Agriculture and Rural Development
(The draft law was postponed due to the absence of the Minister of Agriculture to present the draft law.)
 - Second Reading of the Draft Law on Amending the Law on Small and Medium Size Enterprises
(The draft law was approved with 63 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on Notary
(The draft law was approved with 59 votes in favour and no votes in opposition.)
 - Adoption of the recommendations made by the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning
(The recommendations were approved with 59 votes in favour and no votes in opposition.)
 - Review of the report of the Committee for Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The report was postponed at the request of the Committee Chairperson.)
 - Replacement of the LDK and AKR parliamentary group members to the Assembly committees

The 6 and 7 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Sabri Hamiti (LDK).

- Eighty-four Members of the Assembly were present, respectively, at the 6 and 7 November plenary session.
- Main agenda items of the plenary session held on 6 and 7 November:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Agriculture and Rural Development
(The draft law was endorsed in principle with 75 votes in favour and no votes in opposition.)
 - First Reading of the Draft Law on Pardon
(The draft law was endorsed in principle with 58 votes in favour and two votes in opposition.)
 - First Reading of the Draft Law on Establishment of the Forensics Department

- (The draft law was rejected with 24 votes in favour and 30 votes in opposition.)
- First Reading of the Draft Law on Financial Leasing
(The draft law was endorsed in principle with 53 votes in favour and three votes in opposition.)
- Review of recommendation on amending the Criminal Code of Kosovo
(The recommendation was approved with 58 votes in favour and no votes in opposition.)
- Review of recommendation on amending the Criminal Procedure Code of Kosovo
(The recommendation was approved with 58 votes in favour and one vote in opposition.)
- Review of recommendation on amending the Law on Final and Matura Exam
(The recommendation was approved with 64 votes in favour and no votes in opposition.)
- Review of recommendation on amending the Law on Termination of Pregnancy
(The recommendation was approved with 47 votes in favour and five votes in opposition.)
- Second Reading of the Draft law on Songs and Dance Ensemble “Shota” and other ensembles
(The recommendation was approved with 59 votes in favour and two votes in opposition.)
- Second Reading of the Draft Law on National Qualifications
(The draft law was approved with 76 votes in favour and no votes in opposition.)
- Second Reading of the Draft Law on Amending the Law on Archives and Archiving Material
(The draft law was approved with 60 votes in favour and six votes in opposition.)
- Second Reading of the Draft Law on Plant Protection Products
(The draft law was approved with 70 votes in favour and no votes in opposition.)
- Review of the recommendation made by the Committee on Internal Affairs and Security to return the Draft Law on Private Security Companies to the sponsor for further revision
(The recommendation was approved with 71 votes in favour and no votes in opposition.)
- Review of recommendation made by the Committee on Economy, Trade, Industry, Energy, Transport and Communications with regard to the appointment of members to Competition Commission
(The recommendation was approved with 55 votes in favour and five votes in opposition.)
- Review of the report made by the Committee on Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The item was postponed due to the absence of the Minister of Finance and Economy.)
- Replacement of the SLS parliamentary group members to the Assembly committees

The 7 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Džezair Murati (7+/Vakat).

- Seventy-six Members of the Assembly were present at the 7 November plenary session.
- Main agenda items of the 7 November plenary session:
 - First Reading of the Draft Law on Amending the Law on Ministry for Kosovo Security Force
(The draft law was endorsed in principle with 69 votes in favour and one vote in opposition.)
 - First Reading of the Draft Law on Amending the Law on Kosovo Security Force
(The draft law was endorsed in principle with 72 votes in favour and two votes in opposition.)
 - First Reading of the Draft Law on Amending the Law on Spatial Planning
(The draft law was endorsed in principle with 59 votes in favour and five votes in opposition.)
 - First Reading of the Draft Code on Kosovo Customs and Excise

(The draft code was endorsed in principle with 38 votes in favour and six votes in opposition.)

The 10 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Eqrem Kryeziu (LDK).

- Eighty-nine Members of the Assembly were present at the 10 November plenary session.
- Main agenda items of the 10 November plenary session:
 - Second Reading of the Draft Law on Amending the Law on Ministry for Kosovo Security Force
(The draft law was approved with 79 votes in favour and two votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Kosovo Security Force
(The draft law was approved with 82 votes in favour and one vote in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Spatial Planning
(The draft law was approved with 69 votes in favour and four votes in opposition.)
 - Second Reading of the Draft Code on Kosovo Customs and Excise
(The draft code was approved with 63 votes in favour and 12 votes in opposition.)

The 20 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Xhavit Haliti (PDK).

- Eighty-one Members of the Assembly were present 20 November plenary session.
- Main agenda items of the 20 November plenary session:
 - Questions to the government for Oral Answer
 - First Reading of the Draft Law on Protection from Non-ionised, Ionised Radiation and Nuclear Security
(The draft law was endorsed in principle with 63 votes in favour and three votes in opposition.)
 - Review of recommendation on amending the Law on Central Heating
(The recommendation was approved with 64 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Law on Non-Contested Procedure
(The recommendation was approved with 63 votes in favour and no votes in opposition.)
 - Review of recommendation on amending the Law on Bar
(The recommendation was approved with 68 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Agricultural Inspection
(The draft law was approved with 74 votes in favour and no votes in opposition.)
 - Second Reading of the Draft Law on Amending the Law on Accreditation
(The draft law was approved with 69 votes in favour and no votes in opposition.)
 - Review of the report made by the Committee on Budget and Finance with regard to the monitoring of the implementation of the Law on Internal Audit
(The report and recommendations were approved with 63 votes in favour and no votes in opposition.)
 - Review of the report on environment during the period 2006-2007
(The report was approved with 42 votes in favour and 16 votes in opposition.)
 - Replacement of the PDK parliamentary group members to the Assembly committees

The 25 November plenary session of the Assembly of Kosovo was chaired by the President of the Assembly Mr. Jakup Krasniqi (PDK) and Member of the Presidency Mr. Ibrahim Gashi (AKR).

- Ninety Members of the Assembly were present at the 25 November plenary session.
- Main agenda items of the 25 November plenary session:

- First Reading of the Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 (The draft law was endorsed in principle with 62 votes in favour and four votes in opposition.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Procedural motion to adopt the non-promulgated laws

- At the 3 October plenary session, the Assembly adopted a procedural motion, departing from the Rules of Procedure, in order to amend the 17 laws not promulgated by the SRSB in a special procedure.¹ According to the motion, each of the 17 non-promulgated laws should be reviewed by the respective functional committee, which would be obliged to present its amendments to the Assembly for consideration. Further, the motion provided that the Budget and Finance Committee should review the proposed amendments in relation to eventual financial implications. Most of the parliamentary group leaders supported the procedural motion without any remarks. Mr. Sadik Idrizi (7+/Vakat) and Mr. Mahir Yagcilar (7+/Vakat) proposed that the Committee on the Rights and Interests of Communities should be involved in the process to check whether proposed amendments interfere with the rights of communities. The SLS parliamentary group leader agreed with the proposed motion without any remarks. The President of Assembly responded that parliamentary group leaders had not made any comments at the last Presidency meeting, when the motion was presented and discussed, so he proceeded calling for a vote on the motion without including above-mentioned proposal. The motion was adopted with 51 votes in favour, nine votes against and two abstentions.

According to Rule 61, the Assembly is authorised to depart from the Rules of Procedure, however, since it decided to involve the Budget and Finance Committee in the process, it should have likewise included the Committee on the Rights and Interests of Communities, which is also the main committee, to give its opinion on proposed amendments from the communities' rights perspective.

Distribution of Draft Legislation

- The Draft Law on Anti-dumping Measures was distributed on 23 September. Thus, the draft law was distributed 15 working days prior to its first reading at the 17 October plenary session. The Draft Law on Agriculture and Rural Development was distributed on 6 October, the Draft Law on Pardon was distributed on 9 October; and the Draft Law on Financial Leasing was distributed on 17 October. Thus, the draft laws were distributed, respectively, 22, 19 and 13 working days prior to their first reading at the 6 November plenary session.

The Draft Law on Protection from Non-ionised, Ionised Radiation and Nuclear Security was distributed on 22 October. Thus, the draft law was distributed 20 working days prior to its first reading scheduled at the 20 November plenary session.

The Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31 December 2009 was distributed on 7 November. Thus, the draft law was distributed 11 working days prior to its first reading scheduled at the 25 November plenary session.

Rule 35.1 requires that the first reading of the draft law shall take place no earlier than ten working days and no later than three working weeks from the day of its distribution. Thus, the Draft Law on Anti-dumping Measures, the Draft Law on Financial Leasing and the Draft Law on Kosovo Budget and Authorised Appropriations during the period from 1 January 2009 to 31

¹ In July 2008, the Government submitted to the Assembly a request to withdraw the laws not promulgated by the SRSB, and subsequently amend the same ones. The Assembly supported and approved the Government's request on 30 July and later drafted a procedural motion to amend the laws in a special procedure. The motion was approved by the Presidency on 29 September, and included in the agenda of the 3 October plenary session. See OSCE report 04/2008 on the monitoring of the Assembly of Kosovo, for more details.

December 2009 were reviewed in first reading in compliance with Rule 35.1. The first readings of three other above-referenced draft laws were not held in compliance with the Rule above as they were reviewed in first reading after three working weeks from the dates of their distribution.

Legislative process

- At the 6 November plenary session, Mr. Rustem Mustafa (PDK), Chairperson of the Committee on Internal Affairs and Security proposed that the Draft Law on Private Security Companies should be returned to the sponsor for further revision. The President of the Assembly called for a vote on Mr. Mustafa's proposal, which was approved with 71 votes in favour and no votes in opposition.

Under Rule 35.3, "[t]he sponsor may withdraw the draft law during the first reading, before the procedure of voting it in principle takes place" (emphasis added). By analogy, the Committee on Internal Affairs and Security should have proposed to the Assembly to return the Draft Law on Private Security Companies to the sponsor in accordance with Rule 35.3. Moreover, Rule 35.7 provides that "[t]he functional or main committee may review the draft law in principle even before the first reading of the draft law takes place in plenary session" (emphasis added). If the above-mentioned functional committee had reviewed the draft law in question before its first reading, as allowed by Rule 35.7, it would have had the opportunity to notice earlier the flaws of the draft law and propose to return it to the sponsor during its first reading, rather than making such a proposal six months after the first reading. It is highly recommendable for the Assembly committees to utilize the opportunity of reviewing draft laws before their first readings in order to make the legislative process more efficient.

- At its 18 November meeting, the Presidency reviewed the request of six Members of the Assembly to include the first reading of the Draft Law on Rights of Ex-Political Prisoners, which was sponsored by them, in the agenda of the next plenary session. The Presidency members decided not to include the draft law for debate in a plenary session as it lacked the financial statement on its implementation and instructed the sponsors of the draft law to secure a financial statement from the Ministry of Economy and Finance.

Rule 33.2(d) provides that when a draft law is introduced for debate in the Assembly, it must include the statement on budgetary impact for the first and following years of its implementation. Thus, the Presidency decision to seek a financial statement on the implementation of the draft law in question was in compliance with the Rule above. The Members of the Assembly, who sponsored the draft law, should therefore secure a financial statement, so that the draft law could be included for debate in the Assembly.

- During the 15 February 2008 plenary session, the Assembly adopted a procedural motion departing from the Rules of Procedure in order to review and approve in short procedure the laws envisaged in the UN Special Envoy's "Comprehensive Proposal for Kosovo Status Settlement" (hereinafter, Ahtisaari's proposal).² According to the procedural motion, financial statements of laws shall be submitted by the Government to the Assembly within 60 days and no later than 180 days after the approval of laws. Nevertheless, it appears that the Government has not yet submitted financial statements of 25 laws deriving from Ahtisaari's proposal, which were approved by the Assembly before 180 days, as required by the procedural motion.

Recommendation regarding Mr. Sabit Rrahmani's status as Member of the Assembly

- At the 18 November meeting, after obtaining the opinion of the Committee on Mandate, Immunity and Rules of Procedure, the Presidency decided to include the recommendation

² See OSCE Report 01/2008 on the monitoring of the Assembly of Kosovo, section entitled "Procedural motion", for more details

regarding Mr. Sabit Rrahmani's (PDAK/Ashkali) status in the agenda of the next plenary session, scheduled for 4 December.³

According to the Rules of Procedure (Rule 14.3), "[i]f a Member of the Assembly throughout a period of six months attends none of the sessions of the Assembly or of a Committee, of which he/she is a member, and cannot show good cause to the satisfaction of the President of the Assembly, the President shall propose to the Assembly that the Member concerned cease to be a Member. The opinion of the Committee on Mandate and Immunity is required on this matter (emphasis added)." On 13 September, Mr. Sabit Rrahmani (PDAK) reached the limit of six months of abstention from Assembly proceedings without providing a justification, which is one of the causes to lose the status as Member of the Assembly. Accordingly, in compliance with the Rules, the President of the Assembly recommended that Mr. Rrahmani's status as member of the Assembly should be ended. The recommendation was supported by the Committee on Mandate, Immunity and Rules of Procedure.

Assembly advertises again the position of Ombudsperson

- At the 18 November meeting, the Presidency members had a debate whether the Committee for Legislation and Judiciary should be the only one dealing with the selection of Ombudsperson or whether the Committee for Human Rights, Gender Equality and Public Petitions should be also authorised to deal with the matter. Mr. Daut Beqiri, Head of the Legal Department, explained that in the previous legislature, the Committee assigned for the selection process was the Committee on Legislation, Judiciary and Constitutional Framework, which included the sub-committee for Human Rights, Gender Equality and Public Petitions. Therefore, he argued that it was logical to authorize both Committees to deal with the selection process since in the current legislature they operate as separate committees, which was not the case in the previous legislature. Thus, the Presidency decided to authorise both committees to form a joint recruitment panel to select three candidates for consideration by the Assembly. In its decision, the Presidency stipulated that the Committee on Human Rights, Gender Equality and Public Petitions and the Committee for Judiciary and Legislation should be represented, respectively, by four and three members in the recruitment panel.

On 24 November, following the Presidency decision, the Committee on Human Rights, Gender Equality and Public Petitions and the Committee for Legislation and Judiciary appointed their members to the recruitment panel.⁴

This is the fourth attempt of the Assembly of Kosovo to appoint the Ombudsperson or the second attempt during the current term of the Assembly. The previous process for the appointment of Ombudsperson was annulled by an Assembly decision at the 25 September plenary session 2008.⁵ During its previous term, the Assembly of Kosovo had likewise made two attempts to appoint the Ombudsperson, but the same ones did not succeed.

Questions to the government

- At the 3 October plenary session, 11 out of 12 questions received response, while many other questions were postponed for the next plenary session, because the time for the question period had expired. At the 17 October plenary session, the President of the Assembly proposed that one question per Member be asked during the question period because of high number of questions

³ The Assembly decision on the recommendation regarding Mr. Sabit Rrahmani's status will be covered in the next report on the monitoring of the Assembly.

⁴ According to the Assembly rules on the appointment of Ombudsperson, each parliamentary group should be represented in the recruitment panel with one member. Thus, the two committees appointed their members in compliance with the rules. The Committee on Human Rights, Gender Equality and Public Petitions appointed Ms. Nerxhivane Dauti (PDK), Mr. Ismet Beqiri (LDK), Mr. Ibrahim Makolli (AKR) and Špresa Murati (7+). While, the Committee for Judiciary and Legislation appointed Mr. Adem Salihaj (LDD), Mr. Bajram Kosumi (AAK) and Mr. Branislav Grbić (SLS).

⁵ See OSCE Report 04/2008 on the monitoring of the Assembly of Kosovo, section entitled "Assembly advertises the position of the Ombudsperson for the fourth time", for more details.

submitted and in order to give the opportunity to each Member, who submitted questions, to put them forward and receive a response. The President of the Assembly further proposed that this becomes a practice for next plenary sessions as well and called for a vote on his proposal, which was approved with majority of votes in favour. Thus, at the 17 October plenary session, 11 out of 20 questions received a response during the question period, while remaining 23 questions were postponed for the following plenary session, because the time for the question period had expired. At the 6 November plenary session, the Chairperson announced that because of high number of questions, the Presidency had proposed that the question period should be extended from 50 minutes to 60 minutes and that it should be held also during the continuation of the plenary session on 7 November. He then called for a vote on the Presidency decision, which was approved with majority of votes in favour. Thus, on 6 November, ten out of 11 questions received response. Nevertheless, on 7 November, the question period was removed from the agenda and postponed for next plenary session due to the absence of the Government. At the 20 November plenary session, 11 out of 15 questions received response, while many other questions were postponed for the following plenary session, because the extended time for the question period had expired.

Question periods during the 3 and 17 October plenary sessions were carried out by the Assembly in compliance with the 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.

The decisions of the Assembly to extend the time of question period and make an order of one question per Member represent a step forward in trying to regulate question periods in a more efficient way. It has been noted that all questions could not be processed during the 50 minute period because of high number of questions, submitted by Members. In its previous reports, the OSCE had therefore recommended that the Assembly should either extend the question period or limit the number of questions per Member in order to give the opportunity to all Members, who submitted questions, to put them forward and receive a response.

Under 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.” However, the Assembly has not yet published its monthly bulletins for October and November, and so the pending questions during these months were not published, as required by Rule 26. The removal of the question period from the agenda of 7 November session due to the absence of the Government shows that the Assembly should make more efforts and use its authority to ensure the Government’s accountability, which is a key parliamentary democratic standard.

4. Access

- During the reporting period, Pillar III (OSCE) received access to the plenary sessions, Presidency meetings and committee meetings under review. Pillar III (OSCE) also received copies of documents considered by the Assembly and transcripts of plenary sessions.

5. Transparency

- During the reporting period, the Assembly has not published on its website any record of electronic votes of plenary session decisions. The Assembly had earlier published several records of electronic votes, but it failed to do so later. The Assembly should publish the records of electronic votes in a consistent manner in order to enhance the transparency of the Assembly, especially Members’ accountability to their constituencies.⁶

⁶ At the 15 February 2008 plenary session, the President of the Assembly had announced that the Assembly would publish on its website the records of electronic votes of plenary session decisions. Following the President’s announcement, the Assembly began publishing the records of electronic votes from the 17 February extraordinary

Radio Television Kosovo provided live television coverage of the plenary sessions under review. Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly has a website (www.kuvendikosoves.org, www.skupstinakosova.org, www.assembly-kosova.org) containing biographical details of Members of the Assembly, information about the structure and functioning of the Assembly, minutes and transcripts of Assembly sessions and Committee meetings, copies of laws and resolutions adopted by the Assembly, along with other information.

ENDS.