



• ASSEMBLY SUPPORT INITIATIVE  
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**“Assembly needs to oversee  
the work of the government  
and the implementation  
of legislation”**

## Editorial



The current, thematic edition of the ASI Newsletter focuses on parliamentary oversight over the government. Chairpersons of several Committees share their experience and observations. Expert authors from within the Assembly and of ASI partner organizations provide their analysis. During the second mandate of the Assembly of Kosovo, oversight over the government has become central stage in the political process. As noticed during the recent South East Europe Parliamentary Roundtable in Prishtinë/Priština, parliamentary oversight has become a crucial issue in other parliaments of the region as well.

The Assembly of Kosovo has conducted debates on the preparations for the talks on Kosovo's future status. With the submission of the report of Mr. Kai Eide to UNSG Kofi Annan, political developments in Kosovo have speeded up. This ASI Newsletter gives an overview of recent developments in Kosovo's institutions, to a large extent related to the status determination process.

We hope you will find this information useful. We look forward to your feed-back.

*Franklin De Vrieze,  
Co-ordinator of the "Assembly Support Initiative"*

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## Self-consciousness and legitimacy

"The relationship between parliaments and governments is crucial. Too often, when there is no good parliament, governments monopolize politics, not only in this part of Europe, but also elsewhere. Often governments tend to forget that not them, but the parliaments are the highest institutions in a democratic society, because parliamentarians represent the people. Parliaments therefore have the difficult task to remind the government of the importance of a balanced relationship between governments and parliaments.

Citizens who elect their parliamentarians expect from them that they are not only developing new legislation, but are also

the cornerstone of democratic control over the functioning of all democratic institutions. They must reflect the problems people feel and see.

In order to control and oversee the work and the functioning of the government, parliamentarians can rely on formal instruments, but also on a whole range of informal instruments. Learning how to use both of them in the most effective way, in order to establish an efficient control over the government without obstructing the system to function, is one of the most important objectives of this round table.

In more than 20 years as a German diplomat, I have experienced that parliamentarians all over the world have a certain self-consciousness, a certain awareness about their role, based on the fact that they are elected, have a mandate and have legitimacy.

More than governments, members of parliaments have the opportunity to discuss problems, far from the media, but also far from any pressure of interest groups and to look for common solutions, to develop a strategy serving not a personal or local interest, but a common interest and the interest of the whole region."

*Ambassador Werner Wnendt, Head of the OSCE Mission in Kosovo, at the opening of the South-East Europe Parliamentary Roundtable in Prishtinë/Priština on 9 June 2005.*

# “Assembly needs to oversee the work of the government and the implementation of legislation”

Interview by Edita Buçaj and Blerim Vela, OSCE Mission in Kosovo

On September 15, 2005, the OSCE Mission in Kosovo invited six Assembly Committee Chairpersons to discuss parliamentary oversight of the executive branch of government as a democratic mechanism. Participants in this lively debate were Mrs. Nekibe Kelmendi (LDK) from the Committee on Public Services, Mr. Hydajet Hyseni (PDK) from the Committee on Legal, Judicial and Constitutional Framework Matters, Mr. Naim Maloku (AAK) from the Committee on Emergency Preparedness and Mr. Rifat Krasniç (KDTP, 6+) from the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning. Unfortunately, Committee chairpersons Mrs. Fatmire Mulhaxha-Kollçaku (ORA) and Mr. Randjel Nojkić (SLKM) couldn't join the debate due to different reasons. This is the first time that Assembly Committee Chairpersons are publicly addressing the issue of parliamentary oversight. It is being published as part of a special edition of ASI newsletter dedicated to parliamentary oversight.

ASI: Mrs. Nekibe Kelmendi, how would you define the function of parliamentary oversight?

**N.Kelmendi:** I think that parliamentary oversight is crucial for the work of the Assembly, especially to accomplish set goals, which had been promoted



by the government during the electoral campaign. I would be impressed to see the government being able to implement the most crucial promises made during the electoral campaign. In this perspective we must oversee the work of the government.

**H.Hyseni:** Parliamentary oversight and the implementation of laws are, in my opinion, the crucial components of an adequately functioning parliament and [vital for the] relationship between the legislative and the executive. Parliament has many functions, two of them being the most important: drafting and passing laws, implementation [of laws] and oversight on this implementation. Due to the specifics of Kosovo, its institutions and the institutional

and legal vacuum, this function has not reached its final form. It therefore remains one of the future challenges.

ASI: Mr. Naim Maloku, how do you see the role of the committees in oversight over the Government?

**N.Maloku:** It is essential for parliamentary committees to exercise the role of oversight on relevant ministries. Committees are composed in such way that certain committees are competent over two or three ministries, or they deal with issues related to two or more ministries. I consider Kosovo to be still in the phase of introducing parliamentary oversight, in gaining experiences and establishing a proper system

of parliamentary oversight over the work of government. We are making efforts and we are on the right track towards exercising full oversight, [even with] a reduced number of committees in comparison with the previous mandate. Also, during this mandate we have the normal division of position versus opposition. This implies that double oversight is going on: the oversight of parliamentary committees and the opposition oversight on government work.

**R.Krasniç:** Parliamentary oversight is the main function of the committee, to closely monitor the ministries in issuing subsidiary legislation, and implementing laws passed by the Assembly. And this has become more emphasised during the current legislative mandate

ASI: Mrs. Nekibe Kelmendi, what is your Committee's experience related to parliamentary oversight?

**N.Kelmendi:** The committee has monitored the work of the Ministry of Local Governance and the Ministry of Public Services, but not fully due to the lack of competencies. Oversight has been conducted through the invitation to participate in the work of the committee and report on legislation, as a means to make the laws more effective. We have monitored them through co-operation, respectively through the public debates

with civil society, UNMIK and Government representatives, in order to raise the awareness of public opinion on a certain issue or certain law. In the last mandate, the committee had invited the minister but he never participated. Instead, second rank officials were sent to the Committee. Hopefully, this will not happen again. When the Assembly and its committees start working on important issues for Kosovo society, ministers invited will participate and report.

*ASI: Mr. Hydajet Hyseni, how does the Committee on Legal, Judicial and Constitutional Framework Matters relate to this issue?*

**H.Hyseni:** The committee has identified future activities in implementing laws and oversight of institutional law implementation. The committee shall soon, in co-operation with its partners, conduct an evaluation in order to assess the function of oversight and find ways to exercise adequate control over the executive. Yet, I must stress that we do face many problems such as the lack of democratic parliamentary experience, bad quasi-parliamentary experience and, most importantly, the institutional and legal vacuum. In many areas the executive structure in Kosovo is incomplete; e.g. we lack the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Defence etc. This is a controversial situation taking into account the fact that Kosovo in the past had an executive structure equivalent to former Yugoslav republics. Therefore, Kosovo had these

powers established what is known in legal terms as 'droit acquis'. And any delay in this respect is not justified.

Parliamentary oversight is possible with institutions accountable to the parliament. Yet the committee I represent raised these issues and required an open debate with the representatives of the UNMIK Pillar I - Legal Office, Department of Justice, Legal Office of the Office of Prime Minister, and different experts from different ministries. All participated and important initiatives in this respect emerged. The co-operation and consistent communication have been established, which is promising for the future work.

We are working on a draft law on courts, a draft law on prosecution and other respective laws serving or related to these basic laws. We have also undertaken legal initiatives to draft a law on parliamentary investigation and a law on ombudsperson. We have requested from the Government to come up with draft laws that are missing in the government legislative programme. We have been focused on implementation of laws relevant to the nature of our committee. We have difficulties as these areas are reserved powers and any activity in this respect is regarded as optional, not mandatory, and this poses difficulties. Yet it does function. We believe that very soon this will result with further information or a report regarding the situation in the judiciary on law implementation. I believe this will help building a new



**Mrs. Nekibe Kelmendi**

institutional and legal reality in the important sphere of judiciary.

*ASI: Mr. Naim Maloku, what is the experience of the Committee for Emergency Preparedness in this respect?*

**N. Maloku:** First of all, I would mention my experience during the previous mandate in the Committee for Environment and Spatial Planning. The Committee had good access to the work of the Ministry, not only to the minister but to all departments, either with the invitations to whom the Ministry responded positively or with our visits in this Ministry. Currently, the Committee for Emergency Preparedness has competencies over the Department for Emergency Preparedness within the Ministry of Public Services, whose Head was invited by the Committee to present the overall situation in the Department. Also, the Committee is informed about

the Department's development plan for the next five years. So, we have complete oversight in this department. Since responsibilities of this Committee tackle the KPC a bit as well, we have had contact with the KPC Coordinator Office twice. In this way the functioning and entire work accomplished up to now, as well as development projects of this office which is lead by General Balfur, were presented to the Committee. The Committee was also informed with the developments within KPC, such as on the brigades for civil protection.

*ASI: Mr. Krasniç, what is your cooperation with the respective Ministry?*

**R. Krasniç:** The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning coordinates its work with two ministries within its scope of work. The Committee has drafted a list of problems to be reviewed that are also



priorities of the respective ministry. The Committee as well went on some field visits in municipalities together with the representatives of the respective ministry. Furthermore, the Committee requested the Government to solve certain problems of the municipalities visited by the Committee. During the visits we try to have an impact in solving problems. As far as legislation is concerned, co-operation is acceptable with both ministries. Representatives of the ministries are regularly invited to the Committee meetings where drafting of amendments is jointly conducted. Also, the Committee asked for the register of subsidiary acts issued by two ministries.

*ASI: Mr. Hyseni, you mentioned the legal vacuum and the lack of subsidiary acts. How much is this an obstacle for the work of your committee and have you undertaken any initiative in order to require from the Assembly to do something in this respect? Also, is there a possibility that the lack of legal acts provides someone with the possibility to make a different interpretation in comparison with content of the law?*

**H.Hyseni:** I would like to stress that the implementation of laws has to be a component that must follow through the entire process of drafting and approving laws. It means that when the laws are drafted and approved there must be an evaluation on how they will look in practice. Unfortunately, this is not always the case. Those who will be faced with the implementation of the law or with its consequences are

not part of the drafting process. Furthermore, even during the process of amending and reviewing legislation, we witness again a poor practice. The sponsor of the law, mainly the government or respective ministries, are often not part of amending the laws. They are not even included in the process of reviewing amendments proposed by MPs or parliamentary committees. As a consequence, during the amendment process, further applicability of laws is not taken into consideration. And instead of improving the laws, they can even be damaged in certain segments. So, it is a practice where the Rules of Procedure should be improved. The Government has the right and is obliged to be part of the process of amending laws. It should propose amendments based on public hearings or debates in parliament, because it would be able to find the most applicable solutions in practice, to see how certain solutions will be carried out during their implementation.

It is good that the Assembly started with to hold public hearings and engage stakeholders for every law, so they can contribute to the quality of the most applicable laws in practice. The need to accompany approved laws with subsidiary legislation must also be emphasized, as this is a huge handicap in our legislative process. In addition, our laws do not always have the correct interpretation. I think that these obstacles accompany democratic culture which still needs to be developed, to understand the right and the duty of the parliament and parliamentary committees and to oversee

practical functioning. I think that a functional interrelation between the executive in drafting laws, as well as in approving and amending laws, and later on in implementing laws and supplementing laws with subsidiary legislation is necessary. Our committee insisted and committed itself that this will be the main direction of the committee's future activities.

*ASI: One of the shortcomings is the lack of subsidiary laws or sub-legal acts. The other is that budgetary implications of laws are not emphasized. What is being done in this context?*

**N. Maloku:** This has improved in last few months. At the request of the Assembly we sent back some draft laws that were not accompanied by a statement of budgetary implications. Now every draft law that has gone through the first reading [in the plenary

session, comes with statement of implications, with an annex where budgetary implications are presented. If it lacks that part it will not move forward in the Assembly, so this issue is solved.

**H.Hyseni:** The issue of budgetary aspects during the adoption of legislation and in institution building, which oftentimes results from the law, is very important but is not regulated. For instance, we are currently reviewing the law on judiciary or prosecution. A financial statement can be made, as it is usually done with certain laws. However, if it is not reviewed in a serious way, how will it look in practice? So then again we come back to the issue of implementation of Law on Finance. This often has a boomerang effect because when it comes to implementing, it turns out that the calculations were not correct, and hence this becomes an impediment for

#### Mr. Hydajet Hyseni



implementing the law or part of the law. Consequently, for instance, in legislation there are many cases for which there are good solutions. Nevertheless, when it comes to implementation they turn out to be not so realistic, as there are no sufficient funds for implementing. This has happened with collective contracts and in some other cases.

*ASI: How do you execute financial control over respective ministries, especially their expenditures?*

**N.Kelmendi:** Thus far, we haven't done it at all, given that we trust our Office of the Auditor General as they are authorised to exercise control over budget expenditures. However, from now on, the Committee will be more active. And even if we don't request a full detailed financial expenditure we will at least request to be informed, in general, as to how the budget

was spent during certain periods say three months, six months, nine months, annually, and so forth.

**N. Maloku:** During the last mandate, I twice requested reports on budget expenditures from the Ministry of Environment and Spatial Planning. I did this because there was much information in the press that the budget had not been spent and, consequently, the Ministry was likely to end up with a budget surplus. And that was all. We only requested a general report on the budget allocated for the Ministry and how the budget was spent by the Ministry's departments. There was no other control or inquiry as to where, what and why it was spent.

*ASI: So this means that there is no report from the Auditor General on expenditures of respective ministries?*

**N. Maloku:** No, we have

#### Mr. Rifat Krasniç



#### Mr. Naim Maloku

requested it from the Ministry, but we didn't go down to the details. And, of course, the Minister reported on expenditures in front of the Committee.

**H.Hyseni:** Earlier on Mrs. Kelmendi mentioned the Ministry of Public Services, and there was information circulating in public opinion about unjustifiable financial activities and budget mismanagement, and illicit activities of ministries. However, this does not do favours to either the Assembly or to the Committee unless we have the right and correct information and the right position on these issues. As a Committee, but as the Assembly as well, we are obliged to oversee other Committees as well as other institutions such as Government, the Prime Minister's Office, the Presidency of Kosovo, even when it comes to expenditures, including here the Assembly bodies such as its Presidency

- all instances where there are irregularities. This is because such acts will not only deteriorate the already difficult situation of Kosovo's institutions but the image of Kosovo as well.

We should strive to ensure more transparency as well as proper and stable functioning of our institutions. The institutions should serve as an example as far as transparency, correctness and regularity are concerned. And I would like to reiterate once again that this goes for all and for everything, starting from the way the Assembly is chaired and managed.

It is inconceivable and scandalous what is happening in the "Gërmeia" complex and the involvement of Assembly officials in this scandal. This becomes even more scandalous when we see how Assembly members are even keeping quiet about this. I think this is something that we have to deal with more seriously, with more courage and maturity.

# Effective parliamentary oversight versus totalitarian temptation

*Senator Norica Nicolai is a member of the National Liberal Party and the deputy-chair of the Committee on Defence, Public Order and National Security of the Senate of Romania and chairs the Public Order and Security Subcommittee. Senator Nicolai was a very active participant in the South-East Europe Parliamentary Roundtable held in Pristina in June 2005 where she shared the Romanian post-communist experience regarding parliamentary oversight.*

*Senator Norica Nicolai, Vice-Chairperson of the Committee on Defence, Public Order and National Security, Senate of Romania*

Following the 1989 Revolution, Romania has engaged itself on a democratic course. The first post-communist democratic Constitution of 1991 laid down the legal foundations for parliamentary oversight. At that time we agreed on three levels of control. Firstly, there is everything related to questions and interpellations. This type of control has continuously been used and progressively enhanced. It is an important instrument used by parliamentarians to raise problems specific to individual constituencies. However, questions and interpellations look at the strict management of the administration and do not stir a real political debate. After a new Constitution was adopted in 2003, we changed the parliamentary Rules of Procedure. I insisted on amending the provisions related to questions and interpellations in order to allocate a longer time, reserve one day to discuss regional problems, when the Minister concerned must be present, and grant one day to the opposition because the voice of the opposition is very important in order to organize a real debate. My third proposal on improving the parliamentary control was to provide for half an hour meeting to discuss urgent issues. I believe this type of control on the management of the government could be more effective.

The second level of the parliamentary control according to our Rules of Procedure and



Constitution is budget control. This is something present in all democratic Constitutions. We adopt the budget in plenary session in both Chambers, after long debates in Budget Committees, but not only in the Budget Committee. Specific budget items are previously considered by all 15 Committees. Sometimes, when you are in power, it is very difficult to submit and adopt amendments. It is a tradition in our political system to be more "quiet" when you are in power, namely to have less initiatives that would contradict a government proposal. We normally adopt all issues submitted by our government because we are in a way a disciplined party. It would be better to also exercise oversight inside the party, even when you are in power, in order to avoid corruption, one of the main problems.

Another instrument of par-

liamentary control is represented by inquiry committees. Many such committees were set up in Romania after the Revolution. Unfortunately, many recommendations produced by these committees have not been implemented. Therefore one may conclude that inquiry committees are not always effective. For example, if we conduct an inquiry and find some elements of corruption by a Minister, that Minister doesn't resign and there is also no legal action taken. This seems to be a kind of "ceremonial" control. Also, we often organize hearings of high level officials including Ministers on Committee level. Unfortunately, such hearings do not take place in plenary sessions because there consistently is a lack of time.

However, I believe we should find a more effective and clear way of organizing

parliamentary oversight of the government. We must control government's accountability. We must control the procurement system. We must control the way money is spent. Perhaps the parliament should establish a special committee for the daily control of the budget to ensure that our money is spent according to the principles of good governance.

In my opinion, there are clearer constitutional mechanisms for oversight than our system has. Our Constitution was largely designed upon the model of the Belgian and French Constitutions. I personally prefer the clarity of the American Constitution, which is very straightforward in terms of oversight by the parliament and other bodies. I believe that in transition countries that type of oversight is needed in order to better control the govern-



ment and maintain a democratic balance. Often this balance is still fragile. When we are in opposition, we are always very critical to the ones in power. When we are in power, we often use the same methods. The rule of law is very important. We should never forget to aim at a genuine democratic balance between parliament and government, to avoid the totalitarian temptation when we are in the government.

For instance, our Constitution made it possible for the Government to use the so called "emergency ordinance". This special type of legal acts was originally designed for really urgent situations emerging during parliamentary recess periods. Normally all laws have to be discussed in the parliament, but for emergency issues, the government can decide on its own. However, this is the first step towards a bad regulation, social anomaly and corruption. It would be better if the parliament would be the sole body to legislate.

It is particularly important to have a good control of the security system. We have today a system of economic globalisation, but also a global system of crises. The security system should therefore be controlled domestically as effectively as possible. In the Senate of Romania we are not only controlling security structures, but also the procurement. The executive needs our approval whenever they like to buy something. It is better and democratically normal to control this system on a parliamentary level. Whenever this principle is not respected, democracy is in danger.

## Standards and status – the way ahead

*Eugen Wollfarth, Head of German Mission in Kosovo*



Germany is following the developments in Kosovo very closely. As a member of the Contact Group it is somehow also part of it. The very high involvement is only partly due to the high number of Kosovans living in Germany today but also because we are neighbours in Europe. Peace and stability in the region will affect the situation of our country and of the entire European Union. We are committed to help in order to foster economic growth, to promote employment, to guarantee peace and stability

and to build infrastructure and capacities to the benefit of all people living in and around Kosovo.

When the Kosovo Standards Implementation Plan was drafted in 2004, a long and winding road seemed to be ahead of both the International Community in Kosovo and the PISG. It was evident from the beginning that without the committed efforts by all stakeholders it would be impossible to achieve progress in all eight standards. Nobody expected fulfilment of all 460 action points within a year or two in splendid and flawless perfection, but in its essence.

So where do we stand today? This question will have to be answered by the Norwegian NATO-Ambassador Kai Eide whose report is expected soon. This is not the time to speculate on possible recommendations he might present to Secretary General Kofi Annan.

From our point of view a lot of progress has been made, but there are still deficits, e.g. in the field of returns. Another issue which is crucial for further progress in Kosovo is decentralization, even though this concept is not mentioned in the Kosovo Standards Implementation Plan. The reform of local government is one of the keys to a sustainable integration of minorities and therefore of utmost importance. There has been some movement recently which we welcome,

but more has to be done in this field.

Kosovo has surely performed in the right direction, but there is still a long way to go. For more than six years the International Community and the PISG have both achieved a lot.

But let us have a look forward. Even without a crystal ball it is clear to us that Kosovo is part of Europe. The European Union is already most intensively committed. Germany has always considered the standards as prequalification for the even higher thresholds set by the EU. Therefore it is absolutely necessary to continue the efforts in implementing the standards. Even after status negotiations might have started, we will have to insist on further progress in all the standards.

European political life and experience are very encouraging. If someone had asked anybody in France or Poland back in the late 1940s, if reconciliation with my country would be possible, the answer most likely would have been pessimistic. Today we are friends and partners within the EU. It took long years to build this mutual confidence. Kosovo and its neighbours will need time to achieve similar, too. We are convinced that Kosovo is and will be even more worth living for all its people, no matter what mother tongue they speak.



# Recent developments in Kosovo's institutions

Franklin De Vrieze, OSCE Mission in Kosovo



## President Rugova announces that he suffers from lung cancer

President of Kosovo Ibrahim Rugova returned to Pristina/Priština on 3 September after being treated at a U.S. Military hospital in Germany. On 5 September, Dr. Rugova gave a televised address in which he announced that he was suffering from a "localised lung cancer," but that his doctors were confident his condition would see improvement. He gave no indication that he would be stepping down from his post as President. Following his announcement, members of the international community, including SRSG Jessen-Petersen and EU High Representative Javier Solana, released statements expressing their sympathy for the President and his family.

## Assembly discusses transfer of competencies in the security sector

On 19 July, SRSG Søren Jessen-Petersen presented Prime Minister Kosumi with UNMIK's proposals for transferring competencies in police and justice to the PISG. In line with this proposal, two new ministries for justice and interior will be created in the forthcoming months. UNMIK will monitor and evaluate the performance of the new ministries before a possible transfer in a second phase of additional competencies to the PISG. The following day, the Assembly conducted an extensive plenary debate on security. Assembly members were addressed by the UNMIK Police Commissioner and a representative of the Kosovo Police Service (KPS). On 31 August, the Head of Pillar I, the Police Commissioner and the OSCE-run KPS School gave a joint briefing on the upcoming regulation on the KPS and the process of transfer of competencies in the area of security. The heads of the parliamentary groups, the Committee on Emer-

gency Preparedness and the Committee on Public Services participated in this meeting. The main areas of discussion evolved around the procedures of recruitment and appointment of police officers, the role of municipal bodies in decision-making as well as on the special provisions relating to minorities. On 12 September, Assembly President Nexhat Daci transmitted the consolidated Assembly remarks on the KPS regulation to the Head of Pillar I.

The OSCE has been engaged in involving the Assembly in the discussion on the transfer of competencies at the earliest possible date and in supporting the Committees in preparing for a functioning executive oversight role in the area of security. It was agreed that OSCE, in co-operation with the Geneva-based Centre for Democratic Control on Armed Forces (DCAF), would organize various workshops, roundtables and other support activities in the area of parliamentary oversight on security. It is expected that the Assembly will decide soon whether a newly formed Committee or an existing Committee shall be responsible for the security sector.

## Assembly conducts interpellation of Prime Minister and adopts laws

During the 25 July Assembly plenary session, Prime Minister Kosumi answered a series of questions from the opposition, principally related to allegations of corruption and irregularities in the recruitment and tendering procedures of ministries.

A series of draft laws were voted on during the July plenary session, most notably the draft Law on Cultural Heritage and the draft Law on the public broadcaster RTK, which were both passed at first reading. This draft law on RTK was presented by Deputy Prime Minister Adem Salihaj, despite the submission of a request by the Assembly Committee on Public Services and Media for it to be held back for re-examination.

## Local government reform goes through turbulent waters

By the end of July some progress on local government reform became clear when the SRSG issued an Administrative Direction on Pilot Projects, which sets the legal basis for setting up of new units of local self-government. The Administrative Direction provides for the establishment of five pilot municipal units (PMU's) within five existing municipalities.

On 12 August, the Principal Deputy SRSG signed five Executive Decisions establishing the territorial delineation of the five PMU's in Junik/Junik, Partëš/Partesh, Hani i Elezit/ Đeneral Janković, Gračanica/Graçanicë and Mamushë/Mamuša, and

referred to informally as “Plan B.” UNMIK, Prime Minister Kosumi and the Contact Group all appealed to Kosovo Serbs to take part in the process. Reaction from both Kosovo Serbs and Kosovo Albanian opposition parties was broadly negative. A Kosovo-Serb Assembly Member claimed that the plan jeopardized the existence of the Kosovo Serbs in Gjilan/Gnjilane area. The PDK General Secretary said the plan represented the “enclavisation” of Kosovo.

On 23 August, the SLKM Assembly group briefed the SRSG and Kosovo Prime Minister on their proposals to amend the Government’s decentralization plan. Following consultations with local leaders in Gračanica/Graçanicë and Partesh/Partesh, SLKM proposed to increase the Kosovo Serb proportion of the population in these PMUs and to expand the reform of local government throughout Kosovo.

For three of the five PMU’s progress has been seen. But discussions continue on the composition of the final two Serb-related PMU’s and the path of the decentralization process in general. On 13 September, the SRSG signed three Executive Decisions establishing the Provisional Assemblies for Junik/Junik, Mamushë/Mamuša and Hani i Elezit/Đeneral Jankovič, and appointing the respective Assembly members. As regards Partesh/Partesh and Gračanica/Graçanicë, Kosovo Serb leaders presented a new plan to the SRSG, informally known as “Plan C”. The plan proposes the redrawing of boundaries for the PMU’s of Partesh/Partesh and Gračanica/Graçanicë in order to more firmly establish a Kosovo Serb majority, and calls for a Kosovo-wide decentralization plan. Minister of Local Government Lutfi Haziri rejected “Plan C” as unacceptable. A meeting between the Ministers of Local Government/Administration, Lutfi Haziri for Kosovo and Zoran Lončar for Serbia and Montenegro, took place in Vienna on 16 September and the issue was discussed.

### Opposition accuses government of corruption

The second week of September has seen allegations of corruption against Prime Minister Kosumi and his government increase in intensity, with calls for his resignation, and culminating in the opposition party’s submission of a formal interpellation motion to the Assembly of Kosovo. The PDK intends to question the Prime Minister about his use of a private airplane to return to Kosovo after a holiday in Turkey. Mr. Kosumi has denied wrongdoing, saying that the use of the plane was provided as a favour by Minister of Energy and Mining Ethem Ceku so that Mr. Kosumi could return in time to Kosovo to meet with Special Envoy Kai Eide. According to the opposition, Mr. Kosumi’s use of the airplane violates the Anti-Corruption Law, which stipulates that official persons may not accept gifts worth in excess of EUR 50.



### Ambassador Kai Eide conducts last visit to Kosovo and Belgrade

The UN Secretary-General’s Special Envoy to Kosovo, Ambassador Kai Eide, returned to Prishtinë/Priština for a third visit to the region on 14 August. Ambassador Eide spent most of his time in Prishtinë/Priština, and focussed on issues of crime and corruption, ethnic relations and assessing progress on decentralization. In Belgrade, Mr. Eide conducted meetings with the Serbian President, Prime Minister, Foreign Minister and newly-appointed CCK Coordinator Sanda Rašković-Ivić. Mr. Eide’s fact-finding missions had been in preparation for the release of his report on Kosovo’s democratization process.

### The future of the Kosovo Forum

The Kosovo Forum, established upon the initiative of the SRSG to foster consensus among Kosovo’s leaders ahead of status talks, conducted its third meeting on 21 July. The participants approved draft proposals of the Forum Secretariat for the organization of preparations for the future status process, including the establishment of five Working Groups on clusters of potential issues in those talks: Constitutional/Judicial, Economic, Minority Issues, Cultural Heritage and missing persons/war damage.

The Secretariat of the Kosovo Forum met on 27 July and discussed status preparations, the agenda of the next Kosovo Forum meeting and the security situation in Kosovo. Party representatives resolved to draft Terms of Reference for the five expert Working Groups agreed to at the Kosovo Forum meeting before. They also agreed to draw up a list of possible local

and international members of the Working Groups.

During the month of August, the future of the Kosovo Forum became uncertain. Three meetings of the Forum had been cancelled on account of President Rugova's illness or Prime Minister Kosumi's absence. The Prime Minister proposed the establishment of working groups within the Government – rather than the Forum -- to initiate status preparations. He proposed to appoint Zëri newspaper editor Blerim Shala as coordinator for the working groups.

On 13 September, President Rugova released a statement requesting that the Assembly of Kosovo endorse his proposal for status preparations: Mr. Shala as Coordinator to oversee Forum working groups, and to be accountable to a "team of unity" consisting of President of Kosovo Rugova, President of the Assembly Daci, Prime Minister Kosumi and the two opposition leaders Hashim Thaçi (PDK) and Veton Surroi (ORA). Mr. Rugova also proposed that this team be a part of Kosovo's delegation to any future status negotiations. The SRSG welcomed the President's announcement while continuing to press the Kosovo Albanian parties to find consensus and move forward together. However, none of Kosovo's other communities were included in the "team of unity".

### **Assembly Committee establishes contact with the Auditor-General Office**

Upon the invitation of the chairperson of the Budget and Finance Committee, Mr. Naser Osmani, the Office of the Auditor-General provided an introductory meeting on auditing for the Committee on 13 September. International and local representatives of the Audit Office spoke about the main functions of the Office and the way how audits are performed. In particular, they presented the Audits on the Kosovo Consolidated Budget (KCB) for the years 2002 and 2003; see [www.audit-kosovo.org](http://www.audit-kosovo.org). It was said that the Budget and Finance Committee could start discussions on the KCB 2006 as soon as the draft is ready for consideration in the Economic and Fiscal Council (end of October).

In meantime, the ORA representative in the Assembly Presidency, Mr. Gazmend Muhaxheri, has requested clarity on the manner in which decisions were taken on budgetary spending for the Assembly this year. In line with the Law on Access to Official Documents, he requested to receive all relevant documents on the financial expenditures of the Assembly during last years as well on how the decision to build the Administrative-Protocol Center in Gërmia was taken.

### **Legal Committee prepares Law on parliamentary inquiries**

The Assembly Committee on Legal, Judicial and Constitutional Framework Matters in its meeting of 11 April 2005 decided to initiate the preparation of the draft law on parlia-

mentary inquiry committee. Questions whether the Assembly is competent to adopt legislation in this field were clarified following consultations with UNMIK's Legal Office and taking into account the transfer of competencies in the fields of justice and police. In its meeting of 27 June 2005 the Legislative Committee decided to establish a working group for the preparation of the draft law, consisting of 3 committee members and 13 other experts. In its constitutive meeting of 18 July, the working group discussed about the principles of the work for the preparation of the draft law on inquiry committees. The working group authorized Mr. Virtyt Ibrahimaga, Legal Expert of the OSCE-funded Project "Enhancing Quality of Legislation" to prepare the first draft of the law by September 2005.



### **Assembly honours Mother Teresa**

On 5 September 2005, the Assembly of Kosovo dedicated a solemn meeting to the beatifying of Mother Teresa (Gonxhe Bojaxhiu). The solemn session was attended by SRSG Soren Jessen-Petersen, the President of the Academy of Arts and Sciences Rexhep Ismajli, the Catholic Bishop of Kosovo Mark Sopi, KFOR Commander Giuseppe Valotto, representatives of the diplomatic Offices and the University of Pristina. As one of the well known biographers of Mother Teresa; Dom Lush Gjergji gave a special address to the Assembly session, which took place on the occasion of the 8th anniversary of the death of Mother Teresa.

### **Assembly decides to proceed with Law on War Veterans and civilian victims**

The Draft law on the rights of KLA war veterans, martyr families and civilian victims has been the topic of intense consultations during the last couple of months. On 26 January 2005, the Assembly had decided to adopt this draft law in the first reading under the condition that prior to the second



reading, the parliamentary groups and the Government had to harmonize their political views concerning the draft law. In a letter to the Prime Minister on 22 July, UNMIK requested for the government to withdraw the Draft Law from the Assembly procedure, to re-discuss it within the Government and to remove weaknesses, flaws and legal concerns as identified by UNMIK. By the end of August, the Assembly Committee for Health Labour and Social Welfare noted that a common stand on several of the delicate matters had not been reached yet. Following consultations between the Heads of all Parliamentary Groups on 2 September, the Committee met on 15 September in a joint session with all Heads of Parliamentary Groups and the Minister for Labour and Social Welfare. It was decided to proceed with this Draft Law through the regular procedure with a view to have the law adopted in plenary session as soon as possible. As the Draft Law deals with a very sensitive subject, it was said that remarks given by many interlocutors including UNMIK need to be taken into account. The cost for implementing this law is estimated at 7.3 million Euro.

### Crisis over University of Prishtinë/Priština resolved

The crisis over the leadership of the University of Prishtinë/Priština (UP) was resolved by an Administrative Directive issued by the Minister of Education, Science and Technology, Agim Veliu on 26 July. This Administrative Directive rolled back the implementation process of the Statute of the University of Prishtinë/Priština to 1st December 2004 and provided for a new election for the position of Rector as well as the establishment of a Management Board. The unlawfully elected Rector, Professor Bajrami, resigned a few days later despite some initial resistance and a protest in his support organised by the UP Students Union. In a press release, UNMIK welcomed the initiative of the Kosovo Government to restore lawful governance at the UP and underlined it had acted in the proper exercise of its competencies under the Constitutional Framework.

### Kosovo Ministers meet Belgrade counterparts

On 16 September, delegations from Prishtinë/Priština and Belgrade, represented by Lutfi Haziri, PISG Minister of Local Government and Zoran Lončar, Minister of State Administration and Local Self-Government of Serbia, met in Vienna. Kosovo Serbs joined the Belgrade delegation. The meeting focused on decentralization prospects, the Protocol on Returns and access to cadastral records. A commitment to meet again was expressed. The meeting was organized by UN Special Envoy for the Comprehensive Review Kai Eide, prior to submitting his report to the UN Secretary General.

On 23 September, the PISG Minister of Culture, Astrit Haraqija, and the Minister of Culture of Serbia, Dragan Kojadinović, met in Belgrade. The meeting marked the first official visit to Serbia



of a PISG Minister. The Ministers discussed the progress on the reconstruction of Serbian Orthodox churches damaged during the March 2004 violence. Both Ministers agreed to appoint cultural co-ordinators who will form working groups in the areas of return of documents, return of artefacts, archaeological issues and general cultural exchange. Minister Kojadinović accepted Minister Haraqija's invitation to hold a follow-up meeting in the near future. PDK, the main opposition party, rejected those inter-ministerial meetings without prior approval and mandate by the Assembly of Kosovo.

### Assembly endorsed "Team of Unity" for status talks

During the plenary session of 28 September 2005 the Assembly of Kosovo endorsed President Rugova's proposal for a "Team of Unity" to lead the talks for Kosovo's future status (see text above). The heads of parliamentary groups of LDK, PDK, AAK, ORA and 6+ emphasised the need for Kosovo's political parties to unite and develop a common approach for the status talks. A majority of Assembly members voted in favour of the proposed team with no votes against. Welcoming President Rugova's initiative, Veton Surroi (ORA) suggested for the Team of Unity to discuss the composition of working groups and for another Assembly plenary session to endorse the working groups and the negotiating platform. Representatives of smaller political parties protested for not being included in the consultations.



## Legislation I (2001-2004) - Processed and adopted Laws by the Assembly of Kosovo

Nr	Name of the Law	Sponsor	Law No.	Date of approval	Reg.No. and date of Promulgation SRSG
1.	Law on the method. for setting the level of Basic Pension	Government of Kosovo	2002/1	04.07.2002	2002/15 26.07.2002
2.	L aw on Primary and Secondary Education	-/-	2002/2	25.07.2002	2002/19 31.10.2002
3.	Law on Higher Education	-/-	2002/3	25.07.2002	2003/14 12.05.2003
4.	Law on Mortgages	-/-	2002/4	17.10.2002	2002/21 20.12.2002
5.	Law on Establishm. of an Immovable Property Rights Register	-/-	2002/5	17.10.2002	2002/22 20.12.2002
6.	Law on External Trade Activities	-/-	2002/6	08.05.2003	2003/15 12.05.2003
7.	Law on Telecommunications	-/-	2002/7	08.05.2003	2003/16 12.05.2003
8.	Law on Environmental Protection	-/-	2002/8	16.01.2003	2003/9 15.04.2003
9.	Law on Labour Inspectorate	-/-	2002/9	19.12.2002	2003/4 21.02.2003
10.	Law on Management of Public Finances and respons	-/-	2003/2	08.05.2003	2003/17 12.05.2003
11.	Law on Forest in Kosovo	-/-	2003/3	13.02.2003	2003/6 20.03.2003
12.	Law on liquid. and reorganizat. of Legal Persons in Bankruptcy	-/-	2003/4	13.03.2003	2003/7 14.04.2003
13.	Law on Seeds in Kosovo	-/-	2003/5	20.03.2003	2003/10 15.04.2003
14.	Law on Libraries	-/-	2003/6	04.04.2003	2003/19 23.06.2003
15.	Law on Archive Material and Archives	-/-	2003/7	17.04.2003	2003/20 23.06.2003
16.	Law on Impose of the Tax on Immovable Property	-/-	2003/8	7.04.2003	As UNMIK Regulation 2003/29 05.09.2003
17.	Law on Farmers Cooperatives	-/-	2003/9	15.05.2003	2003/21 23.06.2003
18.	Law on Artificial Fertilizers	-/-	2003/10	22.05.2003	2003/22 23.06.2003
19.	Law on Roads	-/-	2003/11	29.05.2003	2003/24 27.06.2003
20.	Law on Access to Official Documents	-/-	2003/12	26.06.2003	2003/32 06.11.2003
21.	Law on Amendments and Additions to Law 2002/5	-/-	2003/13	26.06.2003	2003/27 18.08.2003
22.	Law on Spatial Planning	-/-	2003/14	03.07.2003	2003/30 10.09.2003
23.	Law on the Social Assistance Scheme in Kosovo	-/-	2003/15	11.07.2003	2003/28 18.08.2003
24.	Law on Kosovo Population, Hous. and Dwellings Census	-/-	2003/16	11.07.2003	2004/53 13.12.2004
25.	Law on Public Procurement in Kosovo	-/-	2003/17	15.01.2004	2004/3 09.02.2004
26.	Law on Postal Services	-/-	2003/18	09.10.2003	2003/37 17.12.2003
27.	Law on security at work, health protect of employees Government of Kosova	-/-	2003/19	09.10.2003	2003/33 06.11.2003
28.	Law on Pesticides	-/-	2003/20	16.10.2003	2003/35 08.12.2003
29.	Law on Amendments and Additions to Law 2003/2	-/-	2003/21	23.10.2003	2003/38 17.12.2003
30.	Law on Sanitary Inspectorate of Kosovo	-/-	2003/22	06.11.2003	2003/39 17.12.2003
31.	Law on Disability Pension	-/-	2003/23	06.11.2003	2003/40 17.12.2003
32.	Law on Sport	-/-	2003/24	20.11.2003	2004/26 28.07.2004
33.	Law on Cadastre	-/-	2003/25	04.12.2003	2004/4 18.02.2004
34.	Law on medical product and medical devices	-/-	2003/26	04.12.2003	2004/23 07.07.2004
35.	Law on the annual Budget of Kosovo 2004	-/-	2003/27	22.12.2003	As UNMIK Reg. 2003/41 31.12.2003
36.	Law on Road Transport	-/-	2004/1	24.03.2005	2005/23 09.05.2005
37.	Law on gender equality in Kosovo	Assembly	2004/2	19.02.2004	2004/18 07.06.2004

Nr	Name of the Law	Sponsor	Law No.	Date of approval	Reg.No. and date of Promulgation SRS
38.	The anti-discrimination law	Government of Kosovo	2004/3	19.02.2004	2004/32 20.08.2004
39.	Kosovo Health Law	-/-	2004/4	19.02.2004	2004/31 20.08.2004
40.	Law on Cooperation with the Hague Tribunal	-/-		19.02.2004	SRS + Motion
41.	Law on Trade of Petroleum and Petroleum Products	-/-	2004/5	22.04.2005	2005/22 07.05.2005
42.	Law on Transport of Dangerous Goods	-/-	2004/6	01.04.2004	2004/17 05.06.2004
43.	Law on Chamber of Commerce	-/-	2004/7	20.05.2005	2005/30 02.06.2005
44.	Law on Energy Assembly of Kosovo	-/-	2004/8	29.04.2004	2004/21 30.06.2004
45.	Law on the Energy regulator	-/-	2004/9	29.04.2004	2004/20 30.06.2004
46.	Law on Electricity	-/-	2004/10	29.04.2004	2004/22 30.06.2004
47.	Law on Measuring Units Government of Kosovo	-/-	2004/11	29.04.2004	2004/14 28.05.2004
48.	Law on Standardization	-/-	2004/12	29.04.2004	2004/15 28.05.2004
49.	Law on Planting Material	-/-	2004/13	29.04.2004	2004/16 28.05.2004
50.	Law on International Financial Agreements	-/-	2004/14	06.05.2004	2004/30 09.08.2004
51.	Law on Construction	-/-	2004/15	27.05.200	2004/37 14.10.2004
52.	Law on Hotel and Tourist Activities	-/-	2004/16	27.05.2004	2005/6 03.02.2005
53.	Law on Consumer Protection	-/-	2004/17	16.06.2004	2004/42 19.10.2004
54.	Law on Internal Trade	-/-	2004/18	16.06.2004	2004/43 20.10.2004
55.	Law on Academy of Science and Arts Kosovo	Assembly	2004/19	16.06.2004	2004/25 28.07.2004
56.	Law for Personal Income Taxes in Kosovo	Government of Kosovo	2004/20	16.06.2004	As UNMIK Reg. 2004/52 04.12.2004
57.	The Veterinary Law	-/-	2004/21	16.06.2004	2004/28 30.07.2004
58.	Law on Cinematography	-/-	2004/22	08.07.2004	2004/38 14.10.2004
59.	Law on Profit Taxes in Kosovo	-/-	2004/23	08.07.2004	As UNMIK Reg. 2004/51 04.12.2004
60.	Water Law	-/-	2004/24	08.07.2004	2004/41 14.10.2004
61.	Law on Obligations	-/-	2004/25	28.07.2004	
62.	Law on Inheritance in Kosovo	Government of Kosovo	2004/26	28.07.2004	2005/7 04.02.2005
63.	Law on Concessions	-/-	2004/27	28.07.2004	
64.	Law on Precious Metal Products	-/-	2004/28	28.07.2004	2004/33 24.08.2004
65.	Law on Amend. and Addit. to Law 2003/3 on Forest	Assembly	2004/29	28.07.2004	2004/40 14.10.2004
66.	Law on Air protection	Government of Kosovo	2004/30	28.07.2004	2004/48 25.11.2004
67.	Law on Real Rights of Kosovo	-/-	2004/31	08.09.2004	
68.	Family Law of Kosovo	-/-	2004/32	08.09.2004	
69.	Law on Livestock Production	-/-	2004/33	08.09.2004	2004/39 14.10.2004
70.	Suppression of Corruption Law	-/-	2004/34	22.04.2005	2005/26 12.05.2005
71.	Law on Games of Chance	-/-	2004/35	08.09.2004	2005/5 03.02.2005
72.	Law on Competition	-/-	2004/36	08.09.2004	2004/44 29.10.2004
73.	Law on Inspection of Education	-/-	2004/37	08.09.2004	2004/55 17.12.2004
74.	Law on the rights and respons of the citizens in the Health Care	-/-	2004/38	08.09.2004	2004/47 19.11.2004
75.	Law on the Announcement of Memorial complex "Adem Jashari"	Assembly	2004/39	08.09.2004	
76.	Law on the Bar	-/-	2004/40	08.09.2004	
77.	Law on Financing of Political Parties in Kosovo	Government of Kosovo	2004/41	27.09.2004	



Nr	Name of the Law	Sponsor	Law No.	Date of approval	Reg.No. and date of Promulgation SRSG
78.	Law on Scientist Research Activity	-/-	2004/42	27.09.2004	2005/8 23.02.2005
79.	Law on Public Gatherings	-/-	2004/43	27.09.2004	
80.	Law on Crafts	-/-	2004/44	27.09.2004	2005/37 22.07.2005
81.	Copyright and related Rights Act	-/-	2004/45	27.09.2004	
82.	Law on Civil Registers	-/-	2004/46	27.09.2004	2005/21 07.05.2005
83.	Law on Official Gazette of Kosova	-/-	2004/47	27.09.2004	2005/25 12.05.2005
84.	Law on Tax Administration and Procedures	-/-	2004/48	27.09.2004	2005/17 09.04.2005
85.	Patent Law	-/-	2004/49	27.09.2004	2004/56 21.12.2004
86.	Law on Private Practice in Health	-/-	2004/50	27.09.2004	2005/1 13.01.2005

#### Codes

Nr	Name of the Code	Sponsor	Reg.No. and date of Promulgation SRSG
1.	Provisional Criminal Code of Kosovo	UNMIK	2003/25 dt.06.07.2003- amend. 2004/19
2.	Provisional Criminal Procedure Code of Kosovo	-/-	2003/26 dt.06.07.2003
3.	Customs Code of Kosovo	-/-	2004/1 dt.30.01.2004
4.	Juvenile Justice Code of Kosovo	-/-	2004/8 dt.20.04.2004
5.	Law on Execution of Penal Sanctions	-/-	2004/46 19.11.2004

#### Legislation II (2004-2007) - Processed and adopted Laws by the Assembly of Kosovo

Nr	Name of the Law	Sponsor	Law No.	Date of approval	Reg.No. and date of Promulgation SRSG
1.	Law on the annual Budget of Kosovo 2005	Government of Kosovo	02/L-13	23.02.200	As UNMIK Reg. n 2005/12 01.03.2005
2.	Law on Amendments and Additions to Law 2003/2	-/-	02/L-16	23.02.2005	2005/27 17.05.2005
3.	The Wine Law	-/-	02/L-8	23.02.2005	
4.	Law on freedom of Association in NGO	-/-	02/L-6	23.02.2005	
5.	Law on Market Inspection	-/-	02/L-1	23.03.2005	2005/29 31.05.2005
6.	Law on Support to Small and Medium Enterprises	-/-	02/L-5	23.03.2005	
7.	Law for the Irrigation of Agricultural lands	-/-	02/L-9	23.03.2005	
8.	Law on Animal Welfare	-/-	02/L-10	23.03.2005	2005/24 09.05.2005
9.	Law on Theatre	-/-	02/L-12	23.03.2005	2005/31 08.06.2005
10.	Law on Construction Product	-/-	02/L-14	23.03.2005	2005/28 17.05.2005
11.	Law on Nature Conservation	-/-	02/L-18	23.03.2005	
12.	Law on the Independent Media Commission	-/-	02/L-15	21.04.2005	2005/34 08.07.2005
13.	Law on Social and Family Services	-/-	02/L-17	21.04.2005	
14.	Law for general insurance of products	-/-	02/L-21	20.05.2005	
15.	Law of technical demands for products and valuation of conformation	-/-	02/L-20	24.06.2005	2005/36 21.07.2005
16.	Law on Agricultural Land	-/-	02/L-26	24.06.2005	
17.	Law on the Information Society Services	-/-	02/L-23	22.07.2005	
18.	Law for Adult Education and Training	-/-	02/L-24	22.07.2005	
19.	Law on the Administrative Procedure	-/-	02/L-28	22.07.2005	
20.	The Waste Law	-/-	02/L-30	22.07.2005	

## Draft Laws in proceeding

Nr	Name of the Draft Law	Sponsor	Date of receiving	Date of delivering to the Deputies	First Reading	Second Reading
1.	Law on the rights of KLA war participants	Government of Kosovo	28.12.2004	29.12.2004	26.01.2005	
2.	Law on Offices of Public Prosecutor	-/-	28.12.2004	29.12.2004	26.01.2005	
3.	Law on the Protection of Witnesses	-/-	29.12.2004	29.12.2004	26.01.2005	
4.	Law on Health Insurances	-/-	29.12.2004	30.12.2004	27.01.2005	
5.	Housing Law	-/-	02.02.2005	03.02.2005	23.02.2005	
6.	Law on Establishing the Kosovo Judicial Institute	-/-	15.03.2005	15.03.2005	22.04.2005	
7.	Law on Court Fees	-/-	21.03.2005	21.03.2005	Has been	postponed
8.	Law on Religious freedom and legal status of Rel. Communi.	-/-	21.04.2005	22.04.2005	20.05.2005	
9.	Law on Foreign Investments	-/-	05.05.2005	05.05.2005	24.06.2005	
10.	Law on Metrology	-/-	06.05.2005	09.05.2005	24.06.2005	
11.	Law on Forensic Medicine	-/-	16.05.2005	17.05.2005	Has been	postponed
12.	Tobacco Law	-/-	16.05.2005	17.05.2005	24.06.2005	
13.	Law on the use Languages	-/-	18.05.2005	18.05.2005	24.06.2005	
14.	Law on Health Inspectorate	-/-	25.05.2005	25.05.2005	24.06.2005	
15.	Law on Strikes	-/-	31.05.2005	31.05.2005	24.06.2005	
16.	Law on Bar Examination	-/-	07.06.2005	07.06.2005	25.07.2005	
17.	Law on Fire Protection	-/-	09.06.2005	09.06.2005	25.07.2005	
18.	Law on Vocational Education and Training	-/-	09.06.2005	09.06.2005	25.07.2005	
19.	Law for Accreditation	-/-	09.06.2005	09.06.2005	25.07.2005	
20.	Law on the Procedure for the Award of Concessions	Assembly of Kosovo	10.06.2005	10.06.2005	24.06.2005	
21.	Law on Industrial Design	Government of Kosovo	15.06.2005	17.06.2005	25.07.2005	
22.	Law on Cultural Heritage of Kosovo	-/-	29.06.2005	30.06.2005	25.07.2005	
23.	Law on RTK	-/-	29.06.2005	30.06.2005	25.07.2005	
24.	Law on Executive Procedure	-/-	05.07.2005	08.07.2005		
25.	Law on Central Heating	Assembly	06.07.2005	06.07.2005	25.07.2005	
26.	Law on Medical Emergency Services	Government of Kosovo	22.07.2005	22.07.2005		
27.	Law on Publishing Activities and Books	-/-	27.07.2005	28.07.2005		
28.	Law on Preschool Education	-/-	27.07.2005	28.07.2005		
29.	Law on Hunting	-/-	03.08.2005	03.08.2005		
30.	Law on Trade Marks	-/-	16.08.2005	18.08.2005		
31.	Law on Mines and Minerals	-/-	18.08.2005	19.08.2005		
32.	Law on Food		14.09.2005	15.09.2005		

Promulgated laws may be found at this website: [www.assemblyofkosovo.org](http://www.assemblyofkosovo.org) and [www.unmikonline.org](http://www.unmikonline.org)

Prepared by: Defrim Krasniqi, Senior Legal Officer, Department on legal and procedural assistance- Assembly of Kosovo

19.09.2005 Prishtinë/Priština

## Interview with Naser Osmani, Chairperson of the Committee for Budget and Finance

## “It’s my duty not to trust the Government”

Interview by Edita Buçaj and Blerim Vela, OSCE Mission in Kosovo



*Mr. Osmani, what is the role of your committee in parliamentary oversight?*

**N. Osmani:** The Committee for Budget and Finance has the task to monitor expenses of the government and to report to the Assembly on this matter. The Committee for Budget and Finance is also responsible for controlling annual, periodic reports and revised financial sheets of the Kosovo Consolidated Budget, which are related to the budget of provisional institutions starting from the presidency, the assembly, the government and other institutions.

From time to time, we receive periodic reports from Treasury through the Minister of Finance and Economy, covering 3, 6, 9 or 12 months. All these reports are reviewed in the committee. We analyze them, elaborate and send it to the Presidency with the proposal to include it on the agenda. Now we are done with the biannual report and we have distributed an analysis to all

MPs in the Parliament. As you have noticed from the agenda, we have requested from the Presidency to include it in the forthcoming session. This is envisaged in the law on managing public finances will represent bigger transparency regarding periodic spending of the budget.

*ASI: Have there been cases when you have noticed violations or mismatch of what had been declared and what was found in those reports?*

**N. Osmani:** Yes, there were cases when figures didn't match between what was approved with the law on budget and the narratives which came from the Ministry. I'm talking here about basic annual expenses. We asked the Minister to give us explanations how this happened and every member of the committee received a written response from the Ministry. In other cases, we have had remarks in the way the reporting was done, because not all MPs are economy specialists and might not understand them without explaining them properly.

*ASI: How do you hold government accountable?*

**N. Osmani:** The only way to control the government is through reports or the Office of the General Auditor. This institution is independent in its control. I have asked to improve the legislation for this Institution so that we can establish a link between the

Assembly and the Office of the General Auditor. This would enable the interaction on basis of our signals and report to the Assembly on their work, because they report to the SRSG. And for the time being we cannot suggest them to control the President, the PM or the Customs.

*ASI: When it comes to the oversight, some of your colleagues said they trust the ministries and that they did not challenge the reports they presented.*

**N. Osmani:** No, I do not trust them. I can trust them on some issues but when it comes to financial issues, we should always be reserved and suspicious; otherwise there is no logic. Figuratively speaking, I am the Opposition of the Minister - in the sense of performing duties. And I do not want to trust him. I always want to have my doubts.

*ASI: Is the Collective Contract one of the cases in which you have failed to hold the government accountable?*

**N. Osmani:** I have mediated in the last dispute between the Trade Union and the Government regarding the Contract and threats with strikes. And we agreed to implement it partially. I do not know who could agree and sign on this contract when it was proposed. Perhaps the change in the budget concept had influenced, because in the past we had a budget with pledges: sign as much as you

can because you'll pay them when you can. And now it's cash. You spend what you have. No transfer of budget for the next year. The budgetary year starts with a zero and this contract with huge budget implications which calculated to be around 70 million euros is insupportable for the Kosovo budget. The remarks were timely, from the IMF as well. The Collective Contract is a result of an earlier agreement, which they now are wanting to implement. But this is being done at the time when we have huge budgetary cuts. We have problems securing the minimal part of means for the budgetary agencies in order to perform their duties in a normal way. You are aware of the situation with municipalities.

*ASI: How satisfied are you with the law on budget for the last year, and will there be any changes next year, by determining limits how much from the means will go for salaries for example?*

**N. Osmani:** We have worked on the mid-term budgetary framework, and it was approved in the EFC. The framework anticipates what will be the budget for the next three years. Unfortunately, next year, 2006 we will have a budgetary cut of 14 million euros. Currently it is 714 million, not calculating here loans around 22 million euros given to KEK and the Airport. In 2006, the budget will be 700 million euros; in 2007 it will be 705 million, in 2008 it will be 708 million. So even three years from now, the budget will be smaller than the current one. What also determines the budget is economic



activity, because we depend entirely on imports. We have a spending budget. Around 30% goes for salaries and per diems, but the biggest part of the budget is continuously taken by the transfers and subventions, social assistance and means allocated to KTA, over 80 million which does not make sense because there is no place in the world which finances public companies from the budget, but the

opposite.

*ASI: You initially mentioned that your commission has control over all institutions which take money from the KCB. What is the case with the KTA?*

**N. Osmani:** Logically, we should not have been giving them money at all. But you know what are the reserved competences when it comes to the budget. This year (2005) was the first time that

the budget was processed through the Assembly. This is a change compared to the former committees and an improvement in this direction. But the Assembly does not have the final say. EFC [the Economic and Fiscal Council] is a higher body. It meets on this issue, gives its proposals and can make changes to the values, and then the SRSG is the last one to legitimize a law or a budget.

*ASI: Do you have knowledge, maybe from colleagues from the previous mandate or during your mandate, if there has there been any report on the Assembly's spending?*

**N. Osmani:** I do not know. I have asked the finance director of the assembly administration to prepare for the next meeting a report on Assembly's spending.

## The Role of the OSCE Mission in Kosovo: Looking Ahead Within the Interim Administration and Beyond

*Kara Johnston-Molina, Deputy Director Office of Political Affairs, OSCE Mission in Kosovo*

Kosovo is facing a series of decisions on its political and economic future. The Comprehensive Review of Standards, led by a Special Envoy of the UN Secretary-General, is currently underway. The Review will not only provide a technical assessment of Kosovo's progress in meeting democratic standards, but will also constitute one part of a broader political process that makes recommendations on the commencement of status talks.

Upon completion, the review will be submitted to the UN Secretary-General and then discussed in the UN Security Council. It will serve as the foundation for the Council's decision on status talks. The outcome of the Review is not a foregone conclusion. If the report, expected to be submitted in early October, is positive, it could signal the beginning of status talks.

This has meant that UNMIK's Institution Building Pillar, the OSCE Mission in Kosovo, has had to look towards its future role and planning in the context of uncertainty. The Mission is required to show flexibility to meet challenges ahead.

UN Security Council Resolution (SCR) 1244 provides for an interim administration, through which the people of Kosovo can enjoy substantial autonomy while overseeing, inter alia, the development of provisional institutions for democratic self-government pending a political settlement and the outcome of future status discussions. As per its mandate, UNMIK is responsible for exercising the attributes of sovereignty in Kosovo, and must effectively carry out its overall authority until such time as this can be handed over to institutions following a political settlement.

UNMIK cannot divest itself of responsibilities mandated to it by the Security Council, but it can move further towards a monitoring, assistance and capacity building role. Hence, there will continue to be a functional engagement of the PISG in reserved areas and no revision yet of the Constitutional Framework.

As a Pillar of UNMIK, OSCE was consulted, in May and June of this year, on the restructuring process. The Mission participated in the Working Group on this issue, made up of staff members from all Pillars. The result was a series of wide-ranging recommendations for change over the periods before, during, and after Status talks. This process produced a series of recommendations that UNMIK shift its focus to monitoring, assistance and capacity-building. This policy shift is guided by two principles: (1) further

transfer of competencies unrelated to sovereignty to the Provisional Institutions; and (2) the Accountability Policy, with full compliance by PISG officials. With the policy of accelerated transfer of responsibilities to the PISG, increased operational involvement in reserved areas would be implemented by the end of 2005.

After the end of 2005, within the SCR 1244 framework, it can be assumed that the OSCE Mission continues with the same mandate, although the Pillar may take on additional functions and its focus areas may be revisited in light of further transfer and the envisaged creation of new Ministries (Justice and Interior) at the end of the year. Given the reaffirmed commitment to government accountability, and the steady transfer of responsibilities to the PISG, OSCE may be expected to assume an increased role.

The OSCE Mission will prioritize assistance for elected bodies, oversight mechanisms and PISG (or successor entity) accountability, compliance with standards of good governance, human rights and multi-ethnicity, especially the right of refugees and displaced persons to return. Governance programming will focus on transparency and will monitor executive decision-making and policy implementation. The formation of the new ministries of Justice and Ministry of Interior will complement efforts to enhance executive oversight through inter alia sound legislation. Generally, enhanced local government reform (decentralization) efforts may mean that OSCE will be asked to play a more substantial monitoring role.

In 2006 the OSCE will be working closely with the PISG in the implementation of the SRSG's accountability policy, whereby UNMIK monitors the PISG to ensure that powers are exercised responsibly in areas of transferred competency. Under the policy, the PISG is encouraged to take corrective actions in cases brought to its attention - with UNMIK retaining the right to intervene in the last resort. The Mission will work on a pro-active monitoring policy to encourage preventive and "self-corrective" measures through a slight reorientation of its activities and an enhanced field presence.

Hence, a new component of the Mission's activities will be the introduction of Municipal Teams (MT) in each municipality of Kosovo, helping to institutionalize existing best practices. The work of the teams will include

working with municipal governments for compliance with best democratic practices, with particular attention to respect for democratic procedures, legally foreseen public consultation, transparency mechanisms and equitable service provision to ethnic communities and returnees.

In a scenario that might see the beginning of status talks before the end of 2005 and thereafter a post-status situation in Kosovo on a new legal basis, the OSCE may have to take a leading role together with the EU. European principles are also the driving force in the governance of Kosovo. Kosovo needs to continue moving forward on its European agenda which means continuing working on Standards. The European ideal is that democracy is based on the people and that there is no discrimination between peoples. The PISG willingness to restructure governance in a way that accommodates legitimate minority interests is therefore an important element. Certainly, only if there is the application of European principles in Kosovo can there be the hope of co-existence and efficient sharing of local capacity and resources and allow Kosovo to become the integral part of a European family.

The challenge for OSCE now is that in defining its new structure it must continue to support the present structure of the international presence, but also needs to prepare for its future work in a new arrangement, which will be coherent with the existing pillar structure while allowing for continuity of its work. In

either event, OSCE will focus on making the democratic system and a multi-ethnic society in Kosovo sustainable. European Integration is linked to our entire mandate of human rights, democracy and institution building.

In that respect, OSCE is providing the cornerstone, or the foundation, for the European future of Kosovo.

This European perspective is particularly important as OSCE is likely to retain a long-term presence, monitoring areas related to Standards protection and sustainable multi-ethnicity, much beyond future status and the existence of the United Nations Interim Administration Mission in Kosovo.



### Technical dialogue working groups

From 20 to 23 September, fostering effective negotiating skills were the focus of a capacity building programme aimed at supporting the PISG structures involved in the current Prishtinë/Priština-Belgrade technical dialogue. The four-day capacity building event was co-organized by the Office of the Prime Minister and the OSCE Mission in Kosovo, and implemented by the Geneva-based Centre for Applied Studies in International Negotiations (CASIN). The first group of participants included civil servants from Prime Minister's Office for International Co-operation and Regional Dialogue. The second group included the members of the Kosovo Working Groups on Returns, Missing Persons, Energy and Transport from the Prishtinë/Priština-Belgrade technical dialogue. Participants from all ethnic communities were present during the 4-day programme. One of the key negotiators of the Good Friday Agreement in Northern Ireland shared his experience on various problems which negotiators might face at the start of the process, as well as the importance of early focus on the implementation of any settlement. Mr. Jens Mødvig, Deputy Head of Mission, confirmed OMiK's plans for support on negotiations skills for the Kosovo Team on Status talks.

# Compliance of Kosovo Legislation with EU Acquis Communautaire

Venera Hajrullahu, Director of the Office for European Integration Processes, Office of the Prime Minister



The Office for European Integration Processes (OEIP) was established within the Office of the Prime Minister in July 2004, pursuant to the UNMIK Administrative Direction 2004/18. The OEIP is responsible for co-ordination of Government action in aligning practices and legislative activities with relevant European Union (EU) norms and standards in the context of the EU Stabilisation and Association Process (SAP).

Specifically, the OEIP is envisaged to be the leading co-ordinating authority in the area of compatibility check and, in the future, of adequate planning of legal harmonization sequencing. To this, the major role of the Legal Harmonization Unit in the OEIP is about the development of procedures and of capacities in legal harmonization and compatibility check with the EU acquis as well as about the participation in drafting activities of the new EU based legislation and in formulating

proposals of the priority areas of legal harmonization with the EU acquis. As a matter of fact, the Rules of Procedures of the Government (RPG) of 05/07/2005 require that compatibility with the EU acquis be ensured since at early stages of drafting activities commonly undertaken by the Ministries. For this, the OEIP is developing its ability to act as "a friendly assistant" to those institutions engaged in the process of drafting new EU based legislation. In addition, the OEIP and the Prime Minister's Office Legal Support Services (OLSS) should work in close co-operation.

But at an early stage of functioning there are not sufficient legal expert skills in the EU acquis matters in the OEIP itself, the OLSS, and in the line Ministries. Therefore, legal compatibility check process is being supported by programmes of technical assistance like the ones currently run by the EAR and the EAR/Sofreco in order to carry out the compatibility

check of PISG draft legislation. This also offers a learning opportunity to the legal experts of the OEIP, the OLSS and the line ministries before they fully take over those tasks.

Procedurally, before a draft law or other legal acts may be submitted to a Government meeting, the OEIP has fifteen (15) working days to provide the OLSS with its statement on the draft's consistency with the EU acquis and if necessary a memorandum specifying any additional modifications that the OEIP believes are required or advisable. Upon receipt of the OEIP's statement and memorandum, the OLSS works with the OEIP to adjust the draft law as necessary to incorporate the OEIP's comments and suggestions.

Since March 2005, 35 draft laws have been checked by the OEIP. Along with the Statement of EU compliance, the OEIP has provided also a legal memorandum specifying appropriate recommendations aiming at increasing the draft's

consistency with the EU acquis. Yet, the most common problems remain the shortage of legal expert skills in EU law in the PISG, the lack of professional translation of new legislation in quality and time and in several cases, the lack of a stronger co-ordination of the law-drafting activities.

To address these issues, both the OEIP and the OLSS have currently undertaken three initiatives:

- 1) the development of a legal-data base as an essential information tool at the service of the law-drafting process;
- 2) the development of a set of templates associating the preparation of draft-laws in line with the requirements of the RPG; and
- 3) the articulation of adequate recommendations for the prioritization of the Legislative Table 2006. In addition, the EAR is initiating a project of assistance to the OLSS and the line Ministries that aims to enhance their skills in drafting EU compliant legislation.

Finally, the legal approximation process takes efforts of all relevant actors who should ensure that Kosovo laws and policies are compatible with the EU acquis communautaire. EU compatible legislation would facilitate the economic, social and other reforms in support to the involvement of Kosovo in European integration process.



# Improving the oversight of the executive in Kosovo

*The Assembly of Kosovo has many powerful tools for oversight of the executive branches and its implementation of laws. Effective oversight is one of the Assembly's most important functions, and must be done both in the plenary and, perhaps more important, in the committees responsible for various ministries and agencies. It is widely recognized that implementation of laws in Kosovo can be more effective, but also that there are better ways to spend the annual budget. NDI and other ASI partners are ready to support the Assembly in more effectively and actively exercising their oversight function.*

**Edmond Efendija, National Democratic Institute (NDI)**

The instruments of oversight are available for both parliamentary groups and individual MPs, including those from opposition. These instruments enable members to raise issues and debate about them in the Assembly committees and in plenary session and - in front of the public eye - criticize the government. Unfortunately, so far those instruments have been used only rarely and not always very effectively.

In an effort to improve the Assembly's understanding and use of the oversight tools, NDI and Bearing Point, in April 2005, conducted a joint four-day training session on executive oversight for each of the party groups in the Assembly. The training focused on the main components of executive oversight: implementation of the laws, conducted by NDI; and oversight of the Kosovo annual budget, conducted by Bearing Point.

## **Implementation of the laws**

The session explored the mechanisms provided in the Constitutional Framework and the Assembly Rules of Procedures, which can be instrumental to help the Assembly exercise proper legislative oversight of the executive. By the time the training was taking place, no parliamentary questions had been posed to the new government, none of the Assembly committees had decided to assess the implementation of any of the laws under their jurisdiction.

Although many individual MPs recognize that there is more to be done pertinent to the implementation of promulgated laws, there still is not enough action seen within the Assembly to address this issue. In fact, many agree that committee work mainly focuses on their lawmaking function, while it has become obvious that, apart from reviewing draft legislation, committees need

to allocate time to oversight activities, namely examining the implementation of the laws that fall under the committee's jurisdiction.

In order to assist Members, NDI has produced a manual which is designed to offer information on the oversight practices in various legislatures around the world, which can be adopted and adjusted for the circumstances in Kosovo.

## **The oversight of the Kosovo annual budget**

The centerpiece of each day's training consisted of an hour-long simulation of a committee hearing on improving government spending efficiency. Oversight often means that members not only have to ensure that the taxpayer money was spent legally but also with economy and in a prudent manner. The Bearing Point presentation indicated that government spending during the much speculated December 2004 period was legal, though it

could have been spent more economically.

The Budget Committee is the one to play the significant role in the process of the budget oversight. With the latest amendments in the Assembly Rules of Procedure, financial reports submitted by the government need to be reviewed within the Committee and also debated in the plenary session.

## **In conclusion**

Observing recent plenary sessions some promising signs are being seen. We have witnessed more parliamentary questions for government ministers, more requests from opposition to debate issues in the plenary, and this gives reason to believe that Assembly is doing its first steps in exercising oversight function. There is still a long way to go, but it is good to see MPs that are actually taking oversight actions, because, as the old saying goes, "better to light a candle than to curse the darkness."





# Parliamentary oversight on the new Ministry of Interior

*"The Assembly should take care that concerns and views living in the society are properly translated and discussed."  
"The police is always politically neutral. Political appointments or promotions are therefore not allowed."*

Peter Vanhoutte, OSCE Mission in Kosovo

In a few weeks, the establishment of the Ministry of Interior will go ahead. The police will be the most important part of the transfer of competencies from UNMIK to the Kosovo Government. From the start, the police should be a police at the service of all citizens, under the responsibility of the new Minister of Interior. A continuous parliamentary oversight is crucial in order to guarantee that these police structures will be part of an effective democratic system.

## Accountability

In a democratic society, the police services should be accountable to the three branches of governance: the Legislative (Assembly) the Executive (Government) and the Judiciary (Courts). The Government exercises direct control from the central and local level and determines the budget, the general guidelines and priorities of the police. The Legislative exercises the parliamentary oversight by passing and reviewing laws that define and regulate the police services and their competencies and by adopting the necessary budget. Whereas the police are directly accountable to the competent Ministers, the Ministers in turn are accountable to the Assembly. Basic parliamentary oversight techniques are the use of

questions, interpellations and motions, the organization of debates, hearings and visits, scrutinizing the budget and draft legislation and reviewing existing legislation.

## An effective relationship

As part of the development of an effective oversight on the police, both the Assembly and the Government should play a different role, while both are responsible for the well functioning of the security sector. To achieve this, the Assembly not only has to control the government and the police, but also has to develop a close relationship and good cooperation with both, based on mutual understanding.

The development of a sound oversight relationship between the Assembly and the police is based on a series of principles. Primarily, in a democratic society, state-like authorities (or their quasi-equivalent in Kosovo) have the legitimate monopoly of force. This means that, with the exception of the police, citizens, private security companies or paramilitary organizations don't have the right to raise a weapon against fellow citizens.

The police is directly accountable to the legitimate democratic authorities, first of all the Minister of Interior. The Assembly holds the

Government accountable for the development of a police policy and checks if and how this policy is implemented. The most effective instrument for this is the budget. The Assembly approves and scrutinizes the police budget and the expenditures.

## Politically neutral

As the ears and eyes of citizens, the Members of the Assembly will at all times check that principles of good governance and the rule of law apply to the police. However, with

the exception of investigative committees, civil servants (e.g. police officers) can never be directly accountable to the parliament. On an individual basis, police officers and civil servants are accountable to judicial courts for violations of laws.

The Government, and especially the Minister of Interior, and the Assembly have to be aware that a democratic police is always politically neutral. Political appointments or promotions are therefore not allowed.



Besides the regular parliamentary oversight, there is also a need for additional external oversight structures. These include the Ombudsman and the Committee for Petitions who can both investigate citizen complaints. The Judiciary should also monitor the police and prosecute the wrongdoings of police officers through civil and criminal proceedings whenever necessary. At all times a strict separation between the Judiciary, the Executive and the Legislative should be secured.

### **Developing a police policy**

A comprehensive police policy is part of a global security policy that involves all the relevant players and aspects of security. This security policy has to be brought in line with the one developed by other (international) actors. As far as the Assembly is concerned, the security debate is part of a process and consists of four phases: development, decision-making, implementation, and evaluation.

The Assembly plays only a limited role in the development phase of a security and related police policy. This task belongs primarily to the government. The Assembly nevertheless could try to have the public concerns translated and taken into account from the start. Therefore, the Committee on Security / Police should be informed by the government on the policy development early in the planning phase, so that it can give useful input.

The Assembly can and should play an important role in the decision-making phase,

especially related to police and security policy documents and legislation. The Assembly can give its consent to a new policy or legislation proposed by the government. However, in most cases the Assembly will suggest changes, resulting in a final document based on a broader consent. In the phase of decision making, the Assembly can have a decisive voice, through budgetary appropriation.

Later on, while scrutinizing the expenses, the Committee can try to evaluate the real impact of the approved policy and take it into account while discussing next year's budget.

### **Getting public support**

The parliament is a key player when it comes to increase the public support and to ensure the legitimacy of the policy finally adopted. Transparency at this level is of the utmost importance. Debates have to be public as much as possible. The agenda of the upcoming parliamentary meetings should be made public in a timely manner. All MP's should receive all preparatory documents and the agenda for the upcoming committee meetings as early as possible, but at least one day before the meeting.

The Assembly should take care that concerns and views living in the society are properly translated and discussed. As MP's do not always have the time to make a proper analysis about the perception of citizens, independent institutions and local NGO's can play an important role in representing the voice of citizens.



# Parliamentary Instruments for Executive Control

*Virtyt Ibrahimaga, LL.M. Senior Legal Expert and legal advisor to the Assembly of Kosovo*

*“Democracy is the government of the people, by the people, for the people” (Abraham Lincoln).*

This is the principle of democracy as their founders maintain. The people elect institutions that assert their power on their behalf in terms of free elections. In democratic systems the separation of three powers rules; legislative, executive and judiciary. The separation of powers aims at preventing any one person or group from gaining too much power. In other words, the separation of power avoids the concentration of authority in a single body and, accordingly, the control of the power of these three authorities respectively. In principle, these authorities exercise their powers and functions independently. Nevertheless, they are subject to reciprocal monitoring. This control allows for the retention of sovereignty and prevents the take-over of power by another branch or body. Hence, the government determines policies, the parliament adopts them and codifies them into laws, while the judiciary ensures the application and interpretation of these laws in the spirit of their adoption, devoid of favouring a certain party.

One of the most classical controls of power is the parliamentary control, which will be the main topic of this article, with a special focus on instruments of this function. Apart from the adoption of laws, the parliament carries out the classical function of executive control. This task

is specified explicitly in the Constitutional Framework. However, given the democratic principles and worldwide parliamentary practices, it has been acknowledged as a principle that parliament, beside the adoption of the legislation, has another essential task that has to do with the control or oversight of the executive. Parliamentary oversight aims at increasing the efficiency in the exercise of power and the creation of a balance between the branches of power. In old European democracies, this task was carried out since the inception or establishment of democratic parliaments. For the purpose of efficient exercise of this duty, parliaments were provided with various instruments of control. These instruments were generally regulated by internal parliamentary rules of procedure.

The new Assembly Rules of Procedure stipulate instruments similar to those applied in European parliamentary policies. These instruments will be elaborated in this article, aiming to provide the clearest overview of their aim and use. It is important to emphasize that the instruments stipulated by the Rules of Procedure on the execution of parliamentary oversight are subject to fixed procedures. Procedures aim at ensuring the use of these instruments so as to serve the purposes of their creation.

## 1. Questions and Answers

Parliamentary sessions are the

common instrument used for debates on policies and actions of the Government. Apart from the possibility to list the points of discussion that relate to the activities of the executive branch in an agenda of the Assembly, members of Assembly, in the course of a regular Assembly session, are able to address specific questions to the government, within a timeframe set up for question and answer session. The question and answer session is about updating the Assembly on specific social and political affairs. Each member of the Assembly is entitled to make parliamentary questions orally or in writing in accordance with the Rule 26. Questions must be submitted in writing to the Table Office at latest 5 days prior to the plenary session. The government, namely the Ministers are obliged to provide answers to the members of the Assembly during a plenary session. The Presidency may choose to decline to answer only if the question is not posed in line with the Assembly Rules of Procedure and the rules thereto. As per discretion of the Presidency, it must be pointed out that the Presidency can judge the question only from procedural point of view.

### a. Questions made by the Members

Amongst questions posed by members of the Assembly, one can distinguish between formal and non-formal ones. Non-formal questions are spontaneous questions made

during an Assembly session, in the course of a debate on a certain topic, which the Minister or Prime Minister may choose not to answer, if they deem it unnecessary. On the other hand, formal questions to the government are questions in writing addressed to the Government by members of the Assembly. Questions may be posed requiring oral and written answers. Every member of the Assembly has the right to address questions to the government. Formal questions are made in writing and submitted to the Assembly Presidency, which forwards them to respective Ministers or the Prime Minister. The Assembly Presidency may decide to reject a question, if the question do not comply the procedure rules of the Assembly. The Assembly Presidency may not reject a question because of its content. However, the question should not contain elements that undermine the personal integrity of a Minister, a party or community. In addition, it must be concrete and related to an action undertaken by the executive branch or its failure to do so.

According to a practice common to Western European states, concrete issues on certain topics are raised in the form of questions generally involving local and regional affairs. In some states, such as Germany, questions to the government are also referred to as “small questions”, as they relate to concrete and practical issues. Hence, intricate





political questions are raised through other instruments. The government may refuse to provide an answer to a question made by a Member of the Assembly by giving preliminary notice. In this case, the government must provide a written justification to its decision to do so. Accordingly, the question and refusal including its justification shall be published in the Kosovo Assembly Bulletin. Upon the request of a parliamentary group or 5% of Assembly Members (6 Members of the Assembly), the Assembly may decide to require the respective Minister or the Prime Minister to give an answer to a question made by a member of the Assembly. The procedure envisaged in rule 26.1 is applied in this case.

Only oral answers may given to questions made for oral answers. Members may also submit questions for written answers. The same procedure for questions made also applies for oral answers.

### **b. Question and Answer Sessions**

Questions to the Government shall be put every plenary week on Thursdays from 14.00 to 16.00 hours. Regular sessions of the Assembly are usually held on the last week of the month starting from Wednesday. Questions are usually made five days prior to

the plenary session. However, the President of the Assembly may call a Member to ask a question provided both the President and the respective member of the Government have been given prior notice of at least two hours, in writing, or when the President of the Assembly considers the question to be of an urgent nature. The Minister shall answer on the question made by a Member after the question is read out. The Member who posed the question is entitled to additional questions. The additional question must be related to the first question. The additional question must not last longer than 2 minutes and the answer provided not longer than 5 minutes. Following this, the Member has the right to make another question for which he/she shall have only one minute at his/her disposal, while the Minister or a given member of the Government shall have 2 minutes to answer. This limitation aims at giving the question and answer session the direction for the purpose of which this instrument has been created.

### **2. Interpellation**

The interpellation is a procedure of demanding that a government official explain some act or policy that gives rise to a large public interest. Therefore, contrary to the

questions, the interpellation is about raising issues with a special political significance.

The very fact that the interpellation needs to be supported by at least 10 Members of the Assembly speaks to the fact that it can not be delivered for issues that do not constitute a special political interest and do not involve a considerable political spectrum. The interpellation must be submitted to the Presidency in writing, who is then obliged to forward it immediately to the Government. The Government must announce its decision on the request within 15 days. Ten days following the date on which the Government has provided an answer, the interpellation must be included into the Assembly agenda of the plenary session. If the Government fails to communicate its position regarding the interpellation within the mentioned deadline, the interpellation shall be placed as the last item on the Agenda for the next plenary session. Similar to questions, the Presidency may consider the request for interpellation only from the procedural viewpoint and not from that of its content. From the formal point of view, the interpellation, besides the support of 10 Members, may be tabled only in relation to a single issue, to contain a conclusion or a justification for it and to include names and signatures of the proposer and supporters of interpellation. Justification must contain facts or figures supporting the draft conclusion.

The draft conclusion relates to

the verification of a fact and may contain elements of a decision or recommendation. Hence, it cannot involve a request or a legal or political consequence; otherwise, it will be rejected for formal deficiencies. The conclusion only relates to a conclusion about a fact that is related to the topic of interpellation. Should the proposer wish the conclusion about a fact be supported by the Assembly, the conclusion matter must be based on facts that have to be attached to the justification. Otherwise, the whole debate on the issue will be fruitless and nothing but a political argument. The interpellation must never be motivated by political arguments. Substantial political arguments can become parts of debates on issues raised as points of an agenda. Interpellations should only be raised in relation to an event with a special political significance, for which the Assembly requires information. Interpellation ends following the vote on the draft conclusion. Accordingly, it is important for the request to be properly compiled and justified, in order to achieve its effects. It is important to mention that in case the conclusion succeeds, it shall have no legal or political consequence, except when required as a result of Assembly conclusions based on the interpellation, through the means specified by the Rules of Procedure. In case the Government rejects the interpellation, the Assembly may force the government to attend the session, in terms of a decision, as per the procedure specified in Rule 26.1.



### 3. Mandatory Participation of a Government in a Plenary Session

A more severe instrument for the exercise of parliamentary oversight is the mandatory participation of the Prime Minister or respective Ministers in a plenary session. Different to other instruments mentioned above, this instrument is not subject to any formal obstacle, with the exception of a certain necessary quorum. Pursuant to Rule 26.1, a parliamentary group or 5% of Assembly Members may call a member of the Government to take part in an Assembly session. This request may also be filed in the course of plenary sessions. The Assembly decides on the request with a simple majority. In case the simple majority of Assembly members support the request, the respective Minister or the Prime Minister must show up at the plenary session. In this case, Assembly proceedings are suspended until the respective Minister or the Prime Minister joins the session. Nevertheless, a member of the Government may be urgently called to attend a plenary session only in relation to an issue to be discussed under a certain point of agenda. As per other issues, the regular procedure stipulated in the Rules of Procedure may be applied. In case of urgent matters, provisions on the Assembly Agenda are applied. Attendance of a Minister or the Prime Minister in a plenary session is mandatory. The attendance does not only imply their passive presence. The Prime Minister or respective Minister must update the Assembly on certain issues

and questions raised during the session. The Assembly committees are also entitled to request the attendance of the member of the government in its meeting.

### 4. Investigative Committees

Parliamentary Investigative Committees represent important instruments for the parliamentary oversight upon the government and the collection of information on issues of public interest. The establishment of an investigative Committee aims at shedding light on a case deemed to be of a special public interest. The parliamentary investigative Committee is usually established in cases when it is considered that a certain issue is not clarified through questions and answers or parliamentary interpellation. According to the Rule 59, the Assembly may decide to set up an investigative Committee for a certain issue. The procedure for establishing the investigative Committee is not envisaged in the Rules of Procedure. This procedure is regulated by a special legal act during the preparation of the Rules of Procedure and in line with the most common practices of other parliamentary systems.

### 5. The Constructive Motion of Non-Confidence

The motion of no-confidence is the only instrument of control that entails a direct political or legal consequence. The Assembly can express its no-confidence to the Government only if, simultaneously, it manages to elect the Prime Minister and the new government. Consequently, the request for no-confidence

must also contain a proposal for the new government. The request for no-confidence for a current government and vote of confidence for the new government are made in terms of a single vote<sup>9</sup>. Shall the Assembly support the request, the new government with the new Prime Minister presiding will substitute the old one. If the proposal is ruled out, the current government and the Prime Minister will carry on with their jobs.

The Assembly Rules of Procedure do not provide any other instruments for voting out the government, apart from the motion of non-confidence, motion of confidence and the dissolution of Assembly. The motion of non-confidence can be filed by 30 members of the Assembly. From the formal point of view, the request must contain signatures of 30 Members of the Assembly and the names of candidates for the Prime Minister and Ministers. The request is put to vote. The President of Kosovo plays no role in this procedure. If the majority of Assembly members support the motion, the new government takes office for the remaining period of legislature.

### 6. Remarks

As could be noticed so far, parliamentary oversight represents an indispensable function in modern democracies and a guarantee for a proper separation and balance of power. Parliamentary oversight avoids the possibilities to abuse the governing authority, represents a form of political sanctioning of illegal and illegitimate actions and

has a positive effect on the transparency of state bodies. At any rate, the exertion of parliamentary oversight may be misused by the Members of the Assembly or groups for personal political ends that do not relate to the interests of the public. The abuse of this function is detrimental to democratic developments in a country as well as to the credibility of a parliament or politics in general. During the exercise of this function, due attention should be paid to the legitimacy of the parliament in general, and each Member in particular. Their mandate extends to the representation of people's interests and not to the personal or party favours.

For the purpose of due exercise of the function, the Rules of Procedure provide instruments that allow this important democratic task to be carried out. It is very important that procedures to use these instruments are applied and respected by every member or other body of the Assembly or Government. It is also important that Members assess in advance which of these instruments suit best the issue that has to be raised. Only this way can the exercise of oversight be effective. The situations of tendencies to open a political debate for a certain political issue through these instruments must be avoided. The political debate must be focused on specific matters. In this manner, efficiency of Assembly proceedings can be maintained. At the same time, it is important for Assembly Members to have unlimited access to the use of these instruments.

# Oversight of the Municipal Executive by the Municipal Assembly in Gjilan/Gnjilane

*Silvia Eckert, OSCE Mission in Kosovo*

The system of parliamentary oversight and checks and balances between the executive and legislative branch is not a new concept. Its roots can be traced back to the French political philosopher Charles de Montesquieu who first formulated the idea of separation of powers between the legislative, executive and judicative branches of government in his most famous book, *On the Spirit of Laws*. Montesquieu argued that dividing governmental power into three branches would ensure that too much power was not placed with one group or individual and each branch would limit the power of the other two. The crucial legal framework document for municipal institutions is UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo which serves as the basis for Municipal Statutes.

## Checks and Balances in Practice

Most of the draft municipal regulations are initiated by the executive branch and tabled for discussion at the specialized Municipal Assembly (MA) sub-committees, such as those on health, urban planning, and education. Actual discussion of policies and regulations takes place in these committees before being forwarded to the Board of Directors, the Policy & Finance Committee and finally the Municipal Assembly for adoption. Alternatively, the specialized committees can also initiate regulations, but this hardly happens. The municipal lawyer in Gjilan/Gnjilane

confirmed that “the expertise for identifying the need, drafting and implementing municipal regulations and policies lies with the municipal executive since civil servants deal with these instructions on a daily basis”. The Municipal Assembly also has the responsibility to finally approve the periodic work reports of the municipal departments; this usually happens without major discussion or objection.

However, due to the political situation in the Gjilan/Gnjilane Municipality Assembly (LDK holds 22 out of 41 assembly seats) where one party has a bare majority but still can rule without needing a coalition, discussions at MA sessions are not controversial and voting results are predictable. Thus, the Municipal Assembly’s role is actually reduced to approving work reports, draft regulations and policies as proposed by the executive and later amended in the respective committees rather than critically executing its oversight function of the administration.

## Power Accumulation of the Executive Branch

There is a trend of accumulated power on the side of the executive branch as perceived not only by the PDK opposition leader in the Gjilan/Gnjilane Municipal Assembly, Mr. Qemajl Mustafa. Interestingly, the MA President, Mr. Xhemajl Hyseni, also notes a similar tendency of power accumulation in the administration. According to him the central level

administration – among them the Ministry for Local Self-Government headed by the former Gjilan/Gnjilane MA President Lutfi Haziri – claims too much room in the interaction between the ministries in Prishtinë/Priština and Gjilan/Gnjilane municipality and pointed out the ministries’ drive to regulate matters from the central level and to issue instructions to the municipalities limiting their room to maneuver. In addition, the CEO applies his competence to issue administrative instructions, e.g. to enact a municipal economic development plan, a document of long-term importance for the municipality, without consulting the Municipal Assembly or the public. Montesquieu might also argue that currently there is too much power placed with the municipal and central executive branch.

## Political Appointments in the Executive – Government “with one key”

Members of the opposition parties, in particular PDK as the biggest opposition party in the Municipal Assembly with 13 seats, complain about it, while LDK municipal officials do not deny it. Senior level executives and civil servants in most democracies are appointed according to professional standards and not their political party affiliation. However, a common practice observed in Kosovo is the opposite, where the “spoils” go to the political party that holds the majority in the central or local parliament.

In this, Gjilan/Gnjilane is no exception: both the legislative and the executive branch are dominated by LDK supporters or delegates, a municipal government “with one key”. Although municipal civil servants are mostly competent, there is the danger that this practice compromises the objective to have the best possible professional civil service by placing loyal party supporters in the administration.

## The Public as the Fourth Branch

Gjilan/Gnjilane municipality has taken steps to involve another player in the system of checks and balances by offering the citizens the possibility to participate in the decision-making process and to increase its transparency. Since 2003 the Municipal Assembly occasionally holds public hearings to consult the citizens’ opinion prior to the discussion of a regulation at the Municipal Assembly. However, the turnout at public meetings is usually rather low. The MA President’s role as a representative of all citizens in the Gjilan/Gnjilane municipality and as an integration figure needs to be strengthened beyond party or ethnic lines to the benefit of the municipality. To make the oversight role of the Municipal Assembly fully functional and to counterbalance the strong municipal executive branch, MA delegates need to be well-informed and engaged with a high level of expertise.





## ASI Mission Statement

The Assembly Support Initiative (ASI) is the inter-agency co-ordination mechanism of democratization programmes in support of the Assembly of Kosovo, seeking to strengthen and professionalize the Assembly of Kosovo. The work of ASI focuses on a democratic political culture based upon acknowledge of and respect for democratic rules of procedure, transparency and accountability to the public, developing and implementing a legislative agenda, oversight over the Executive, respect for the multi-linguality and participation in regional and inter-parliamentary contacts.

ASI partners work to bring resources together, share information and coordinate programs while identifying needs in direct interaction with the Assembly. As coordinator of the ASI, the OSCE Mission in Kosovo liaises with all ASI partners and calls regular coordination meetings in consultation with Assembly representatives. A regular ASI Newsletter informs a broad domestic and international public on the developments in the Assembly of Kosovo as well as the ASI support programmes.

### *Currently participating in ASI:*

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### Editorial board:

Sven Lindholm, Ramush Tahiri, Franklin De Vrieze, Blerim Vela, Labinot Hoxha, Edmond Efendija, Krenar Loshi.

OSCE Mission Headquarters, 10000 Prishtinë/Priština  
Tel. (+381-38) 500 162 Fax: (+381-38) 500 188  
contact: [franklin.devrieze@osce.org](mailto:franklin.devrieze@osce.org)  
<http://www.osce.org/kosovo>

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