

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

Pillar III (OSCE) Report 10/2005
On the Monitoring of the Assembly of Kosovo
26 November – 23 December 2005

Highlights

- **ORA motion on Gërmia construction project reviewed more than one month after its submission, still no date set for extraordinary plenary session during reporting period¹**
- **Six previously unaffiliated Assembly members establish new parliamentary group entitled “For Integration”**
- **Technical problems and opportunities for inaccuracy or manipulation in the use of the electronic voting equipment continue**
- **Assembly adopts 2006 Kosovo Consolidated Budget**

1. Background

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

During the reporting period, the Assembly held one plenary session, on 15, 16, and 19 December, and one regular Presidency meeting, on 8 December. Nine Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during that period.² Pillar III (OSCE) monitored the plenary session and the Presidency meeting, as well as 24 out of 32 Committee meetings and one public hearing.³

¹ At its 12 January meeting, after the reporting period of this report ended, the Presidency prepared the agenda for the 19 January plenary session, which includes a “Debate according to the request of the Reformist Party ORA Parliamentary Group”. It is generally understood, although not specified in the agenda item, that the topic of the debate will be the Gërmia construction project and Assembly budget spending.

² The Committee for Judicial, Legislative, and Constitutional Matters met on 5, 12 and 22 December, while the Committee for the Rights and Interests of the Communities and Returns met on 7 and 14 December. The Committee for Budget and Finance met on 30 November, 5, 8, 12, 13 and 14 December while the Committee for Economy, Trade, Industry, Energy, Transport and Communications met on 6 December. The Committee for Health, Labour, Social Welfare and Missing Persons met on 29 November, 2, 13, 20, 21 and 22 December, while the Committee for Education, Science, Technology, Culture, Youth and Sports met on 1, 5, 6, 7, 9 and 14 December. The Committee for International Cooperation and EU Integration met on 7 December, while the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 29 November, 6, 13 and 20 December. The Committee for Public Services, Local Administration and Media met on 22 December, while the Sub-Committee for Human Rights, Gender Equality, Public Petitions and Claims met on 29 November and 13 December. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning held a Public Hearing of the Draft Law on Food on 5 December.

³ The Committee for Judicial, Legislative, and Constitutional Matters on 5 and 12 December; the Committee for the Rights and Interests of the Communities and Returns on 7 and 14 December; the Committee for Budget and Finance met on 30 November, 5, 8, 12, 13 and 14 December; the Committee for Economy, Trade, Industry, Energy, Transport and Communications on 6 December; the Committee for Health, Labour, Social Welfare and Missing Persons on 29 November, and 2, 13, 20, 21 and 22 December; the Committee for Education, Science, Technology, Culture, Youth and Sports on 1, 5, 6, 7 and 9 December. The Committee for International Cooperation and EU Integration met on 7

2. Overview

The 15, 16, and 19 December plenary session of the Assembly of Kosovo was chaired by President of the Assembly Nexhat Daci (LDK) and co-chaired by Member of the Presidency Mr. Xhavit Haliti (PDK).

- Ninety-six, 84, and 81 Members of the Assembly were present, respectively, on 15, 16, and 19 December⁴
- Main agenda items of the 15, 16, and 19 December plenary session⁵:
 - Second reading of the Draft Law on the Bar Examination
(The second reading of the draft law was postponed in order to allow the functional committee more time to review all proposed amendments.)
 - Second reading of the Draft Law on Hunting
(The draft law was approved with 76 votes in favor, two in opposition, and three abstentions.⁶)
 - **First and second readings** of the Draft Legislative Proposal on the Approval of the Kosovo Consolidated Budget and Authorizing Expenditures for the Period 1 January to 31 December 2006⁷
(The draft legislative proposal was endorsed in principle (first reading) with 47 votes in favor and 19 votes in opposition on 15 December. It was approved (second reading) with a majority of votes in favor, 28 votes in opposition, and two abstentions on 19 December.)
 - First reading of the Draft Law on Publishing Activities and Books
(The draft law was endorsed in principle with 68 votes in favor and two votes in opposition.)
 - First reading of the Draft Law on Cultural Institutions
(The draft law was endorsed in principle with 72 votes in favor and two votes in opposition.)
 - First reading of the Draft Law on Private Education and Training
(The draft law was endorsed in principle with a majority of votes in favor and 23 votes in opposition. See the second item under “Voting Process”.)
 - First reading of the Draft Law on the Opera, Ballet, and Philharmonic of Kosovo
(The draft law was endorsed in principle with 67 votes in favor.)
 - First reading of the Draft Law on Freedom of Association in Trade Unions
(The draft law was endorsed in principle with 63 votes in favor.)
 - First reading of the Draft Law on the Inspectorate of Construction Products
(The draft law was endorsed in principle with 62 votes in favor.)
 - Review of the proposal to form a Committee on Security
(The agenda item was postponed at the request of LDK with the justification that more time was needed in order to reach a decision on its establishment.⁸ The decision to postpone the item was taken with a majority of votes in favor and no votes in opposition.)

December while the Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 6 and 13 December; Public hearing of the draft law on Food on 5 December.

⁴ These are the figures announced by the President of the Assembly at the beginning of the plenary session each day.

⁵ Former Member of the Assembly and PDK Parliamentary Group Leader Mr. Fatmir Limaj addressed the Assembly briefly before the plenary session began on 15 December. The address did not appear on the agenda because it was held separately from the plenary session.

⁶ Unless otherwise indicated, the number of votes in opposition and abstentions were not announced. Since the electronic voting equipment was used, the entire voting result was shown on the display screen at the front of the plenary hall, but the numbers are not visible from the observers’ gallery in the back of the hall.

⁷ Hereinafter, “the 2006 Kosovo Consolidated Budget”. A special exception was made in holding the first and second readings within a few days of each other, since the Assembly was under pressure to adopt the budget by the end of the calendar year, and since the draft legislation was not to be adopted as a normal Assembly law but as a “legislative proposal” to the SRSG.

⁸ See Pillar III (OSCE) Report 09/2005 on the Monitoring of the Assembly of Kosovo.

- Review of the proposal to appoint Member of the Assembly Mahir Yagcilar to the Presidency of the Assembly
(The proposal was approved with a majority of votes in favor and no votes in opposition.)
- Review of the proposal to appoint Member of the Assembly Džezair Murati as a member of the Committee on International Cooperation and Euro-Atlantic Integration
(The proposal was approved with a majority of votes in favor and no votes in opposition.)
- Review of the proposal to appoint members to the Council of the Anti-Corruption Agency
(The agenda item was postponed because no biographical information was supplied for the candidates proposed from outside the Assembly. The decision to postpone the item was taken with a majority of votes in favor and no votes in opposition.)
- Recommendation of the Committee on Judicial, Legislative and Constitutional Framework Matters regarding the motion of ORA parliamentary group
(The Committee Chairperson presented the recommendation to the Assembly. See “Procedural motions”.)
- Response of the Prime Minister of Kosovo to the question of Member of the Assembly Berat Luzha (PDK)
(The agenda item was postponed because the Prime Minister was not present to respond to the question. See “Questions to the Government”.)

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- The agenda of the 15, 16, and 19 December plenary session was not presented to the Assembly for approval at any time, whether at the end of the previous session or at the beginning of the session on 15 December. Similarly, the agenda for the upcoming plenary session was not presented to the Assembly for approval at the end of the session on 19 December.
This was in violation of Rule 23.1, which requires that the agenda for any plenary session shall be proposed by a Member of the Presidency and approved by the Assembly at the end of the previous session. “At the end of each session the President of the Assembly or another Member of the Presidency shall propose the agenda for the next session. This proposal shall be deemed approved, unless one or more parliamentary groups or . . . six Members object to it.”⁹
- At its 8 December meeting, the Presidency discussed the ORA motion, submitted on 7 November, to hold an extraordinary plenary session dealing with the issue of Gërmia and Assembly budget spending.¹⁰ The Secretary of the Assembly commented that it would not be appropriate to hold a debate on such an issue, and that the administration had prepared materials that explained the issue quite well, adding that the Gërmia issue had been decided upon much earlier. The President of the Assembly proposed that the materials should be distributed to all Members of the Assembly. Mr. Gazmend Muhaxheri (ORA) pointed out that ORA had requested that a plenary debate be held, not simply that explanatory materials be distributed, and that the Presidency should set a date for the extraordinary session at that meeting. Mr. Ramë Buja (PDK) remarked that it would be to the benefit of the transparency of the Assembly to hold a debate on the issue. The President of the Assembly opined that it would not be reasonable to hold such a debate, arguing that the Government and the SRSG would not have approved such a budget line if there were anything irregular about it, and that the Presidency (during the previous Assembly mandate) had approved the initiative unanimously. Mr. Muhaxheri reiterated that the

⁹ See all previous Pillar III (OSCE) Reports on the Monitoring of the Assembly of Kosovo.

¹⁰ On 7 November, ORA parliamentary group submitted, together with 40 signatures of Members in support of the initiative, a motion to hold an extraordinary plenary session to discuss (1) the manner in which the decision to build the “Administrative-Protocol Center” in Gërmia Park was taken and (2) Assembly budget spending during the first half of 2005. As justification for the extraordinary session, the motion cites the imperative of determining whether there were procedural irregularities in the decision-making process and the allocation of Assembly funds for capital expenditures and other expenses. See Pillar III (OSCE) Report 09/2005 on the Monitoring of the Assembly of Kosovo.

Presidency was required to convene an extraordinary session, since ORA had collected the necessary forty signatures of support. Mr. Naim Maloku (AAK) agreed that the Presidency was obligated by the Rules to call an extraordinary session but proposed that it would be best for Members of the Assembly to first be provided with background materials in order to properly prepare for the debate. The Presidency discussion eventually ended with no agreement on convening an extraordinary session but an assertion that ORA should first provide additional materials.

Under Rule 23.5, “[t]he Presidency shall . . . in response to a request by . . . not less than one-third, respectively 40 (forty) Members of the Assembly, convene the Assembly for an extraordinary session in order to deal with an urgent matter. The request shall state the matter or matters to be considered, and the reasons why they are considered urgent and important in such a way as to justify recalling the Assembly. In such cases, only the items of business that form the basis of the request shall be considered.” The Rules do not require that those requesting the plenary session must provide any additional material.¹¹ While the provision of background material would facilitate a more fruitful debate, it is not required by the Rules and should therefore not be made a precondition to setting a date for an extraordinary plenary session. Extraordinary plenary sessions are by definition urgent issues and should be treated as such. Instead, the motion was reviewed for the first time more than a month after it was submitted, and the Presidency indefinitely postponed the convening of an extraordinary session by adding preconditions not stipulated in the Rules of Procedure.¹²

- As noted in the previous report, ORA submitted on 25 October a proposal to hold a plenary session debate on “the crisis in education in Kosovo”, as well as mismanagement of the Assembly budget. The proposal was not included in the agenda of the 1 November plenary session, with the justification that the materials for the Presidency meeting had already been distributed to Members of the Presidency when ORA submitted its proposal.¹³ The proposal was likewise left off the agenda of the next regular Presidency meeting on 8 December, with no explanation.

Under Rule 6.5, the Presidency “shall ensure that any substantial motion supported by six or more Members of the Assembly is placed on the agenda of the plenary session of the Assembly within three working weeks of securing this degree of support.” The deadline for including the item in a plenary session agenda has already passed and it has not even been discussed by the Presidency yet. The motion should be urgently reviewed at the next meeting of the Presidency.

- At the beginning of the 15, 16, and 19 December plenary session, Mr. Jakup Krasniqi (PDK) remarked that the Assembly was failing to carry out its obligations in dealing with the many problems that Kosovo faces and requested on behalf of his parliamentary group that the Assembly should begin to hold weekly plenary sessions, in order to intensify the pace of its work. In the first quarter of 2006, he suggested, the Assembly should discuss: education, health, the documents to be used by the negotiations team, the annual report on the work of the Government, the creation of a parliamentary investigatory committee to examine Assembly and Government budgetary spending, local government reform, and the upcoming census, among other things. He stressed that the Presidency should consult with parliamentary group leaders in planning the work of the Assembly and reiterated that PDK considered weekly plenary sessions absolutely essential.

¹¹ Other than the “reasons why [the matters to be considered] are considered urgent and important in such a way as to justify recalling the Assembly”, which ORA provided in the motion. See footnote 9.

¹² See footnote 1.

¹³ The proposal for a plenary debate was submitted five working days before the meeting, well in advance of any two or three-day deadline that has been cited in the past. The assertion that the proposal was submitted after the other materials for the meeting had been distributed to the Members of the Presidency was not a valid justification for excluding it from the agenda and was tantamount to an arbitrary and unannounced change in the deadline. See Pillar III (OSCE) Report 09/2005 on the Monitoring of the Assembly of Kosovo.

Ms. Teuta Sahatqija stated on behalf of ORA that she supported all of Mr. Krasniqi's proposals. Ms. Sahatqija remarked that the approval of the agenda had become a problem at all plenary sessions, but that the Assembly perhaps "forgot" the problems from session to session, since sessions are held only on a monthly basis, and that the same problems were therefore repeated time after time. Ms. Sahatqija read aloud Rule 23 and asked that in the future the agenda should be *proposed* by the Presidency for *approval* by the Assembly, as required in Rule 23.1. Ms. Sahatqija likewise commented that Rule 23.5, on convening an extraordinary plenary session, was not being respected by the Presidency, citing the recent ORA request for an extraordinary session on the Gërmia issue as an example (see the second item under "Agenda", above).

Distribution of Documents

- The Draft Legislative Proposal on Kosovo Consolidated Budget and Authorising Expenditures for the period from 1 January to 31 December 2006 was distributed on 21 November; the Draft Law on Publishing Activities and Books was distributed on 27 July; the Draft Law on Cultural Institutions was distributed on 6 October; the Draft Law on Private Education and Training and the Draft Law on Opera, Ballet and Philharmonic of Kosovo were distributed on 28 October; the Draft Law on Freedom of Association in Trade Unions was distributed on 31 October; and the Draft Law on the Inspectorate of Construction Products was distributed on 25 November. Thus, the draft laws were distributed, respectively, 17, 101, 50, 34, 35, 34, and 15 working days prior to their scheduled first reading at the 15, 16 and 19 December plenary session.

Rule 35.1 requires that the first reading of the draft law shall take place no earlier than ten working days and no later than three working weeks from the day of its distribution. When the Assembly is holding plenary sessions only once per month, it is extremely difficult to schedule the first reading of each law no earlier than ten working days and no later than three working weeks from the day of its distribution, as required by the Assembly's procedural rules. If, for instance, a draft law is submitted to the Assembly and distributed during the third week of a month and the plenary session takes place, as stipulated in the Rules of Procedure, during the fourth week of a month, the draft law may not be considered in first reading during that same month, because Members of the Assembly would have not had ten working days to study the draft law prior to the first reading. If, then, the first reading is held during the fourth week of the next month, approximately five working weeks will have passed between the distribution of the draft law and its first reading, in violation of the Rules of Procedure. The maximum limit of three working weeks between distribution of a draft law and its first reading, which was stipulated by the Assembly itself when revising its Rules of Procedure, is feasible only if the Assembly is meeting in plenary session every week or at least every two weeks.

Debates

- At the beginning of the 15, 16, and 19 December plenary session, Mr. Ramë Buja (PDK) made reference to the speculations in the media about the recent purchase of an armored vehicle for the President of the Assembly, paid for with €236,500 from the Assembly budget, and asked for an official explanation in order to put a stop to speculations. Mr. Buja stated that while the Presidency is asked to decide on the allocation of miniscule sums of money, it had not been consulted on this purchase, nor did he know when and by whom the decision had been taken. Mr. Buja continued that he hoped this would be the last such occurrence and reiterated that financial decisions should be taken by the Presidency. The President of the Assembly responded that he agreed that nothing should be hidden from the Assembly or from citizens of Kosovo and that any lack of transparency would automatically lead to suspicions. He announced that the official documentation would be prepared and distributed to the Presidency, who would make an evaluation before forwarding it to the relevant functional committees and then the plenary session.

Voting Process

- A quorum was present for all voting at the plenary session under review. As the President of the Assembly was about to call the Assembly to vote during the first reading of the Draft Law on Cultural Institutions, he noticed that a quorum was not present and called on Members to return to the plenary hall. Voting began only after the quorum had been reached. During the first reading of the Draft Law on Private Education and Training, Members walked out and left the session without a quorum, but no voting was carried out at that time. See the next item for a more detailed account.

This was in compliance with Section 9.1.32 of the Constitutional Framework and Rule 31.1, which provide that a majority of the Members of the Assembly must be present in order for decisions to be taken.

- During the first reading of the Draft Law on Private Education and Training, Members of PDK and ORA proposed that the draft law should be returned to the Government for revision. When the debate was over, the Chairperson called the Assembly to prepare to vote. Noticing that the number of Members registered as present by the electronic equipment far exceeded the number of Members actually present at that time, the Chairperson asked Members to withdraw the cards of any Members not present in the hall at that time and asked the administrative support staff to carry out a physical count of the Members in the hall. The Chairperson announced that, according to the physical count, 72 Members were present. He then called on the Assembly to vote and he read aloud the voting results as registered on the electronic equipment: 41 in favor, 31 in opposition, and three abstentions. Several Members called attention to the discrepancy between the physical count (72) and the total number of votes and abstentions (75), and the Chairperson concluded that it was necessary to repeat the vote. Members of PDK and ORA then walked out of the plenary hall, leaving the session without a quorum. At that point, the President of the Assembly returned to the plenary session. Mr. Fatmir Rexhepi (LDK) informed the President of the Assembly that “41 voted in favor, 31 voted against, 72 were present, and three abstained, so I consider that the draft law has been approved.” Mr. Alush Gashi (LDK) remarked that LDK had requested that when the President of the Assembly is absent, he should always be replaced by someone from the same parliamentary group, and if that principle had been followed, the Assembly would not be wrestling with the current procedural issue. Mr. Xhavit Haliti (PDK) responded that the manner in which plenary sessions are chaired has nothing to do with parliamentary group affiliation. He stated that three Members *not present in the plenary hall* had voted and advised Members that they cannot delegate their votes to other Members when they leave the plenary hall. Mr. Haliti stressed that *he* was chairing the session when the incident occurred and under the Rules of Procedure, he had the *final authority* in interpreting the Rules at that time. The President of the Assembly thanked Mr. Haliti for assisting him in chairing the session, adding that Mr. Fatmir Sejdiu (LDK) and Mr. Naim Maloku (AAK) were both absent and could therefore not replace him as chairperson of the plenary session. The President of the Assembly acknowledged that the Rules of Procedure grant the Chairperson the authority to interpret the Rules during the plenary session. In the absence of a quorum, he called an end to proceedings for that day. The next day, the President of the Assembly remarked that the Chairperson had acted correctly in calling a revote on the previous day and called the Assembly to vote once more on the draft law, which was adopted with a majority of votes in favor and 23 votes in opposition.

A previous report described a similar case in which observers in the back gallery noticed a Member of the Assembly voting on her device, as well as the device of her neighbour, who had temporarily left the plenary hall.¹⁴ Such opportunities for manipulation and inaccuracy will

¹⁴ Each Member possesses an electronic identification card, which must be inserted into his or her device in order to register the Member as present in the hall and enable him or her to vote. Members are instructed to keep their electronic identification cards with them at all times but often leave the cards inserted in the equipment when they leave the hall temporarily. See Pillar III (OSCE) Report 04/2004 on the Monitoring of the Assembly of Kosovo.

need to be eliminated in order to maintain the integrity of the voting process. The Chairperson's initiative to ask Members to remove the cards of absent Members from the equipment was intended to bring the number of Members registered electronically into conformity with the number actually present in the plenary hall, but it appears that the cards of at least three Members not present in the hall remained inserted in the equipment. It may further help if, in the future, the President of the Assembly or the Chairperson always calls over the loudspeaker for Members to return to the hall when it is time to vote, rather than only in instances when there is no quorum. If Members continue to leave their cards behind when they exit the plenary hall, the Presidency may wish to consider more radical measures such as holding all votes consecutively, after all corresponding debates have been completed. Under such a system, any Members who wished to leave the session temporarily during the debates would have a much greater incentive to return to the hall to vote.

Formation of new Parliamentary Group

- On 1 December, Mr. Ferid Agani (PD – Party of Justice) submitted a letter, “based on Chapter IV of the Rules of Procedure . . . and Rule 11.3,” notifying the Presidency of the Assembly that on 23 November, he and the following Members of the Assembly had decided to form a parliamentary group entitled “For Integration”: Mr. Gjergj Dedaj (PLK – Liberal Party of Kosovo), Mr. Sabit Rrahmani (PDAK – Democratic Party of Ashkali of Kosovo), Mr. Numan Balić (SDA – Party of Democratic Action), Mr. Rustem Ibiši (GIG – Citizens’ Initiative of Gora), and Mr. Zylfi Merxha (PReBK – United Roma Party of Kosovo). Mr. Agani informed the Presidency that he would serve as parliamentary group leader for the first three months under a rotation plan of all members of the parliamentary group.

Towards the beginning of the plenary session on 15 December, but after several Members had already spoken, Mr. Gjergj Dedaj (“For Integration” – PLK) stated that since the President of the Assembly had not informed Members of the formation of the new parliamentary group, he would do so himself. Mr. Dedaj stated that he and the other Members had formed the parliamentary group in order to improve their opportunities to participate fully in the Assembly. He remarked that the parties in power do not do enough to protect the interests of minority communities and professed that membership in the parliamentary group “For Integration” would facilitate their quicker and fuller integration into Kosovo society. Mr. Dedaj commented that he had attempted to speak around thirty times over the last six months in the Assembly but was not granted the floor a single time. Mr. Dedaj requested that, in accordance with the Rules of Procedure, members of parliamentary group “For Integration” should be included in all areas of the Assembly’s work, such as committees.

The President of the Assembly responded that he had intended to inform the Assembly about the formation of the new parliamentary group during point 12 of the plenary agenda, the endorsement of the appointment of Mr. Mahir Yagcilar (6+/KDTP) as Member of the Presidency of the Assembly, replacing Mr. Džezair Murati (6+/Vakat).

During the debate on the 2006 Kosovo Consolidated Budget, after one Member each had spoken on behalf of LDK, PDK, AAK, ORA, and 6+, Mr. Dedaj requested to speak on behalf of parliamentary group “For Integration”. The President of the Assembly responded that he had already told Mr. Dedaj that he would inform the Assembly about the new parliamentary group during the “relevant item” of the agenda and that the “procedure should be carried out”. He told Mr. Dedaj that he would be given the floor later in the debate, along with other Members of the Assembly. After several other Members had spoken, Mr. Dedaj was given the floor, and he asked whether he was being allowed to speak on behalf of his parliamentary group or simply as a Member of the Assembly. He added that Mr. Ferid Agani was the current parliamentary group leader but was absent that day.

On 16 December, the President of the Assembly did not grant the floor to any Member to speak on behalf of parliamentary group “For Integration” at the beginning of the debates on draft legislation, when other Members made comments on behalf of their parliamentary groups, nor

did any Member of “For Integration” ask to speak on behalf of the parliamentary group. On 19 December, the President of the Assembly called on Mr. Ferid Agani to speak on behalf of “For Integration” during the first reading of the Draft Law on the Opera, Ballet, and Philharmonic of Kosovo. Mr. Agani stated that since the parliamentary group had been formed so recently, it had not yet had an opportunity to review the draft law as a group, and so he could not deliver a statement representing a unified opinion of the group, but added that he would speak later in the debate, representing his own views on the draft law.

Under Rule 11 (Chapter IV of the Rules of Procedure), any six or more Members of the Assembly may form a parliamentary group, based on a common political aim, and the parliamentary group shall inform the Presidency of the Assembly of the name of its leader and other members.¹⁵ The Rules grant the Presidency a role in allocating funds to the parliamentary group (Rule 11.6) and proposing a distribution of Assembly committee positions among parliamentary groups (Rules 41.1 and 42.3) but no role in the actual formation of the parliamentary group, such as endorsing the initiative. “For Integration” automatically became a parliamentary group when the six Members of the Assembly decided to form such a group and notified the Presidency accordingly. It was therefore already a parliamentary group when the plenary session began on 15 December; its establishment did not depend on any further procedure. It follows that “For Integration” should have been given the floor at the beginning of the debate on the Kosovo Consolidated Budget, when other Members were making statements on behalf of parliamentary groups. The Assembly’s Rules provide that during a debate on any draft law or substantive motion, the chairperson of each parliamentary group¹⁶ is allowed to speak on behalf of the parliamentary group before all other Members of the Assembly speak. The practice in the Assembly holds that parliamentary groups are called upon in descending order, according to the respective number of seats held in the Assembly. Therefore “For Integration”, with six seats, should have automatically been granted the floor either after ORA (seven seats) or 6+ (six seats) during each debate.

Representation of the Government at Plenary Sessions

- After Minister of Finance and the Economy Haki Shatri (LDK) presented the 2006 Kosovo Consolidated Budget at the plenary session on 15 December, Mr. Alush Gashi (LDK) expressed his surprise that the Prime Minister was absent. Jakup Krasniqi (PDK) commented that not only the Prime Minister, but the entire Government cabinet should be present for the discussion of the budget and that it was “scandalous” to debate the budget of the Government in the absence of the Government.¹⁷ Ms. Gjylnaze Syla (AAK) stated that the Prime Minister had intended to attend the budget discussion but had been informed that it would be the fourth agenda item, rather than the first item. She proposed that the Prime Minister should be informed of the schedule change and that a short break should be called in order to allow him time to arrive. The Prime Minister arrived and the session continued, but he left once more not long afterwards and did not return throughout the rest of the debate. Later during the debate, Mr. Berat Luzha (PDK) likewise commented that it didn’t seem very serious to hold this debate in the absence of most of the ministers. During the first reading of the Draft Law on Publishing Activities and Books, Mr. Genc Gorani (ORA) remarked that three important draft laws originating from the Ministry of Culture, Youth, Sports, and Non-Residential Issues were on the agenda that day but it appeared the Minister “didn’t want to modify his itinerary to come and present the draft law

¹⁵ See Rules 11.1 and 11.3: “The parliamentary group is a political formation that consists of no less than 5%, respectively 6 Members of the Assembly, on account of a common political aim . . . The name of the leader and members of the parliamentary group shall be communicated to the President and the Presidency of the Assembly in writing.”

¹⁶ In practice, another designated representative often speaks on behalf of the parliamentary group in place of the group leader.

¹⁷ At that point, only three ministers were present in addition to Minister Shatri.

before the Assembly.” Mr. Gorani commented that Minister Haraqija’s absence was “systematic” and called on the Presidency to look seriously into the matter.

- Before calling on Deputy Minister of Culture, Youth, Sports, and Non-Residential Issues Angjelina Krasniqi to present the Draft Law on Publishing Activities and Books on 16 December, the President of the Assembly announced, “in order to avoid any confusion in the future,” that he had received a document from the Government confirming that deputy ministers are authorized to present draft laws at plenary sessions, since they were elected by the Assembly. On 19 December, Mr. Hydajet Hyseni (PDK) commented that the Assembly had become tolerant of the practice of draft legislation being presented by deputy ministers rather than ministers, arguing that the Assembly’s Rules require that draft legislation must be presented by ministers. He called on the Assembly to “interrupt that practice” and to require that draft legislation be presented by ministers. The President of the Assembly replied that he “almost fully” agreed and that he and the Secretary were currently preparing a work plan that would address that issue as well.

No provision of the Assembly’s Rules of Procedure makes mention of the role of Deputy Ministers, whether to permit or to prevent their participation at plenary sessions. Rule 33.1 provides that draft laws may be introduced for discussion to the Assembly by the Government (among others) but does not specify that the Government must be represented by a Minister rather than a Deputy Minister. In the absence of any relevant legal act of the Assembly, the issue is regulated only by the Government’s Rules of Procedure. Article 77.2 of the Rules of Procedure of the Government provides that “[i]n case of absence of a Minister who has to present a draft law, he shall be replaced by the Deputy Minister, and in his absence by the Prime Minister, the Deputy Prime Minister or another minister appointed by the Prime Minister.” It is not within the scope of this report on the monitoring of the Assembly to comment further on compliance of the Government with its procedural rules. The question of whether deputy ministers are authorized to represent the government at plenary sessions has come up a number of times, most recently at the 17/21 November plenary session.¹⁸

Questions to the Government

- At the end of the plenary session on 19 December, the final agenda item (Response of the Prime Minister of Kosovo to the question of Member of the Assembly Berat Luzha (PDK)) was postponed because the Prime Minister was not present to respond to the question. Mr. Luzha stated that he had submitted his question on the Law on Games of Chance on 3 September, and recalled that the Prime Minister was also not present at the previous session to respond to the question. Mr. Luzha commented that the Prime Minister’s absence from both sessions showed either a lack of respect towards the Assembly or a fear of confrontation. The President of the Assembly responded that he didn’t know what to do other than to call the Prime Minister once more or to postpone the agenda item for the next session. Many Members of the Assembly called out that the issue should be postponed and stood up, preparing to leave and indicating that they considered the plenary session to be finished. The Prime Minister then arrived at the plenary hall at that point, but proceedings were nonetheless discontinued.

As noted in the previous report, it was not clear whether the Prime Minister had been instructed to attend the 17/21 November plenary session in order to respond to the questions orally.¹⁹ In

¹⁸ See Pillar III (OSCE) Reports 01/2005, 05/2005, and 09/2005 on the Monitoring of the Assembly of Kosovo.

¹⁹ See Pillar III (OSCE) Report 06/2005 on the Monitoring of the Assembly of Kosovo. The Prime Minister was not present at the plenary session to respond to the questions of Mr. Berat Luzha (PDK) and Mr. Ramadan Kelmendi (LDK). It was widely known that he was attending a meeting of the Kosovo negotiations team that afternoon, at the time that the questions were discussed at the plenary session. Neither the Chairperson nor any other Member of the Assembly (except Mr. Luzha, see below) made any statement implying that the Prime Minister was expected to attend the plenary session in order to respond orally to the questions. The Chairperson noted that the Prime Minister was not present but announced that written responses had been provided to the questions and asked Mr. Kelmendi and Mr. Luzha whether they had comments on the responses. Mr. Kelmendi replied that he was content with the response he

light of the objections raised by Mr. Luzha and others²⁰ to the delays of the Government in responding to questions, it is surprising that the Assembly postponed the Prime Minister's response to Mr. Luzha's questions despite his arrival at the plenary hall.

Interpellation

- At its 8 December meeting, the Presidency reviewed the interpellation calling on Minister of Public Services Melihate Tërmkolli (LDK) to respond to allegations of violations of the Law on Public Financial Management, the Law on Public Procurement, and UNMIK Regulation 2001/36 on the Kosovo Civil Service, submitted by PDK on 25 October. The Presidency agreed without discussion to forward the motion to the Government.

Under Rule 25, “[a]t least ten (10) Members may file a motion to review a certain issue related to the work of the Government or ministry . . . The interpellation is put forward to the Presidency of the Assembly. As soon as the text of the interpellation is received, the Presidency of the Assembly shall submit it to the Government, which is obliged to review it within fifteen (15) days . . . The interpellation shall be included in the agenda within ten (10) days of receipt of the answer by the Government. If the Government does not reply to the interpellation within [fifteen days], it shall be placed as a last item on the agenda of the ongoing plenary session of the Assembly. If the Assembly is not in session, it shall be placed as the first item on the agenda for the next Assembly session. The Assembly cannot reject the inclusion of the review of interpellation in the agenda, with the exception of cases when it does not meet the formal conditions stipulated in paragraph 3 of this rule.”²¹ The Presidency did not review the interpellation motion at its 1 November meeting and therefore did not forward the interpellation motion to the Government “as soon as the text of the interpellation [was] received”, as required by Rule 25.²²

Electronic voting equipment

- *As noted in the second item under “Voting Process”, the existing potential for inaccuracy and manipulation during voting needs to be addressed.*
- Throughout the course of the voting at the plenary session, the color system representing votes in favor, votes in opposition, and abstentions changed several times. Votes in favor were represented, alternatively, with green, orange, and light blue. During the second reading of the Draft Law on Hunting, the colors representing votes in favor were initially represented by green and votes in opposition by orange. The color system then abruptly reversed from one amendment to the next, with votes in favor subsequently represented by orange and votes in opposition by green.

This technical problem has been commented upon in earlier reports.²³ Each type of vote needs to be represented consistently with one color, in order to make the display of the voting results more clear. When the colors for votes in favor and votes in opposition were reversed during the second reading of the Draft Law on Hunting, the result of the voting appeared to be the exact

received, but Mr. Luzha stated that he was not satisfied with the response to his questions, adding that he had asked for an oral answer and complaining that the Government was neglecting its responsibilities to the Assembly. *Both Mr. Kelmendi and Mr. Luzha had requested oral answers to their questions. Although it was not explicitly stated in Mr. Luzha's request that an “oral answer” was required, the request nonetheless cited Rule 26, which deals exclusively with oral answers, not written answers. The Presidency, however, appears to have included the questions in the agenda with no expectation that the Prime Minister should present oral answers to the questions at the plenary session. The Prime Minister should have been asked to present oral answers to both sets of questions.*

²⁰ Mr. Hydajet Hyseni (PDK), for instance, announced during the session that he had submitted a question to Minister of Returns and Communities Slaviša Petković more than three months earlier but had not yet received a response.

²¹ Rule 25.3 stipulates that the motion shall be in writing and include: “a concise formulation of the issue dealt with by the interpellation, the suggested conclusion and justification, the full name of the Member who brought the interpellation before the Assembly, and the signatures of the Members supporting the interpellation.”

²² See Pillar III (OSCE) Report 09/2005 on the Monitoring of the Assembly of Kosovo.

²³ See Pillar III (OSCE) Report 06/2005 on the Monitoring of the Assembly of Kosovo.

opposite, in particular for those unable to see the numbers, who must therefore rely on the colors.

Procedural motions

- Towards the end of the plenary session on 19 December, Mr. Hydajet Hyseni (PDK), Chairperson of the Committee on Judicial, Legislative and Constitutional Framework Matters, read aloud the recommendation of the Committee with regard to the motion submitted by ORA.²⁴ Mr. Hyseni added that a number of provisions of the Rules are not being respected, such as Rule 8, which provides that the President of the Assembly shall convene plenary sessions, rather than the Secretary of the Assembly; Rules 7.5 and 23.3, on consultation by the Presidency with parliamentary groups; and Rule 23, on the proposal of the plenary session agenda by the Presidency and its approval by the Assembly. The President of the Assembly responded that he had cancelled the 26 August plenary session because he had been informed by the Government that the Prime Minister would not be able to attend the session, and that opposition parties had stated that they would not come if the Prime Minister was not there. The President of the Assembly stated that he agreed that the Rules must be respected, but they must be respected in their entirety and by all Members, not just by him and by the Presidency. He reiterated that his office was developing a work plan that would oblige the entire Government to be present at plenary sessions and to respond in a timely manner to questions submitted by Members of the Assembly. He added that the Presidency had tried for three years, also during the previous mandate, when Mr. Hyseni was a Member of the Presidency, to prepare plenary session agendas far enough in advance in order to present each agenda for approval by the Assembly at the previous plenary session, but that a lack of information had made it impossible. Mr. Hyseni responded that he had merely suggested that the Assembly should begin to correct the practice and that it would perhaps be useful to hold a plenary debate on the functioning of the Assembly. The President of the Assembly responded that “there will always be debate, but not political games in violation of the [Constitutional Framework] and the Rules of Procedure.” *The remarks of the President of the Assembly regarding difficulties in adoption of the agenda are consistent with observations included in previous reports: “As noted in all past reports from February 2004 onward, the setting of agendas has become extremely problematic since the Assembly began to hold plenary sessions on a monthly basis in February 2004. At its meeting before each plenary session, the Presidency does not even attempt to compile an agenda for the plenary session following the upcoming session, due to uncertainty about which items will be ready for review one month later.” In this respect, the current monthly system of plenary sessions is not compatible with the Rules of Procedure.*²⁵

4. Equal Access and Participation of Communities

- During the first reading of the Draft Law on Publishing Activities and Books on 16 December, Mr. Džezair Murati (6+) remarked that “not a single representative of other communities” was included in the working group that drafted the law and added that his parliamentary group had requested several times “to have at least one representative in the Government working groups.” Similarly, Ms. Nuran Malta (6+) commented during the first reading of the Draft Law on

²⁴ See Pillar III (OSCE) Report 08/2005 on the Monitoring of the Assembly of Kosovo. On 24 August, ORA parliamentary group submitted to the Presidency a motion asserting that the manner in which the planned 26 August plenary session had been cancelled, through a forwarded e-mail from the Assembly administration citing “technical reasons”, constituted a procedural violation. The Committee on Judicial, Legislative and Constitutional Framework Matters discussed the motion on 10 October and concluded that ORA’s motion was justified and that “the procedural rules should be adhered to.”

²⁵ For more detailed comments, see the first item under “Agenda” in Pillar III (OSCE) Report 09/2005 on the Monitoring of the Assembly of Kosovo and earlier reports.

Private Education and Training that it seemed that “no minorities were involved in drafting this law.”

Similar objections have been raised on numerous occasions in the Assembly.²⁶ On 8 April 2005, the Prime Minister issued a “Decision on the Inclusion of Experts in Working Groups for Drafting and Evaluating Draft Laws,” which provides that the Permanent Secretary of the Office of the Prime Minister must include representatives of minority communities in working groups drafting legislation that is “relevant to national minorities or to their interests”, but it is not clear from the text on what basis it is determined which draft laws are relevant to community interests.²⁷

5. Access

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

6. Transparency

Radio Television Kosovo (RTK) provided only partial coverage of the plenary session under review. The plenary session was broadcast live on television on 15 December, but only the first couple of hours of the session were broadcast on 16 and 19 December. In past cases when the plenary session has lasted into the evening, RTK began broadcasting its normally scheduled programming at 5:00 pm and broadcast the remainder of the plenary session later that evening. On 16 and 19 December, however, RTK discontinued its broadcast of the plenary session well before 5:00 pm and did not broadcast the remainder of the session, even later that night. Ms. Teuta Sahatqija (ORA) remarked during the session on 19 December that plenary sessions are public, under Rule 24, and that every family is paying for RTK reception and should therefore have the opportunity to follow the plenary sessions on RTK.

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

ENDS.

²⁶ See Pillar III (OSCE) Report 02/2004 and 01/2005 on the Monitoring of the Assembly of Kosovo.

²⁷ Decision No. 041/2005, 08 April 2005