

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

**Pillar III (OSCE) Report 02/2006
On the Monitoring of the Assembly of Kosovo
11 March 2006 – 7 April 2006**

Highlights

- **PDK submits interpellation about the condition of roads in Kosovo**
- **Assembly discusses Prishtinë/Priština-Belgrade decentralization talks**
- **Parliamentary Group for Integration faces difficulties joining functional committees**

1. Background

This forty-fourth 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 three plenary sessions, on 16 March, 24 March, and 6 April, as well as four regular Presidency meetings, on 14 March, 21 March, 24 March¹, and 30 March. All ten Committees and the Subcommittee on Human Rights, Gender Equality, Public Petitions and Claims held meetings during the reporting period.² Pillar III (OSCE) monitored the plenary sessions and the Presidency meetings, as well as 14 out of 20 Committee meetings and a meeting of the subcommittee.³

¹ The Presidency met on 24 March with parliamentary group leaders to plan the plenary debate on decentralization talks later that day. See “Debates”.

² The Committee on Judicial, Legislative and Constitutional Matters met on 13 and 27 March and 5 April while the Committee on Public Services, Local Administration and Media met on 20 March. The Committee on Budget and Finance met on 14, 27 March, and 5 while the Committee on the Rights and Interests of Communities and Returns met on 31 March. The Committee on Health, Labour, Social Welfare and Missing Persons met on 22 and 30 March, while the Committee for Education, Science, Technology, Culture, Youth and Sports met on 22 and 23 March. The Committee for International Cooperation and European Integration met on 20 March while the Committee for Emergency Preparedness met on 15 March and 4 April. The Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning met on 21 March, while the Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications met on 21 and 28 March. The Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims met on 15 and 30 March.

³ The Committee for Judicial, Legislative and Constitutional Matters on 27 March and 5 April; Committee for Budget and Finance on 27 March and 5 April; Committee for the Rights and Interests of Communities and Returns on 31 March; Committee for Health, Labour, Social Welfare and Missing Persons on 22 and 30 March; Committee for Education, Science, Technology, Culture, Youth and Sports on 22 and 23 March; Committee for International Cooperation and European Integration on 20 March; Committee for Emergency Preparedness on 4 April; Committee for Agriculture, Forestry, Rural Development, Environment and Spatial Planning on 21 March; Committee for Economy, Trade, Industry, Energy, Transport and Telecommunications on 28 March; and Subcommittee for Human Rights, Gender Equality and Public Petitions and Claims on 15 March.

2. Overview

The 16 March plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK) and co-chaired by Member of the Presidency Mr. Mahir Yagcilar (6+/KDTP).

- Eighty-eight Members of the Assembly were present at the 16 March plenary session.⁴
- Main agenda items of the 16 March plenary session:
 - Second reading of the Draft Law on Publishing Activities and Books
(The draft law was approved with 85 votes in favor and one vote in opposition.⁵)
 - Second reading of the Draft Law on Administrative Conflicts
(The draft law was approved with 76 votes in favor and no votes in opposition.)
 - First reading of the Draft Law on Energy Efficiency
(The draft law was endorsed in principle with 45 in favor and 37 votes in opposition.)
 - First reading of the Draft Law on Road Traffic Safety
(The draft law was endorsed in principle with 52 votes in favor and 18 votes in opposition.)
 - First reading of the Draft Law on Deterrence of Money Laundering
(The draft law was endorsed in principle with 69 in favor and one vote in opposition.)
 - Review of ORA Parliamentary Group proposal on the replacement of committee members
(The proposal was approved with 64 votes in favor and four votes in opposition.)
 - Review of the recommendations of the Committee for Judicial, Legislative and Constitutional Framework Matters with regard to the appointment of members to Kosovo Judicial Council
(The recommendations were endorsed with 36 votes in favor and 29 votes in opposition.)
 - Proposal of the agenda for the plenary session on 24 March 2006

The 24 March plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK), and co-chaired by Member of the Presidency Mr. Sabri Hamiti (LDK).

- Eighty-nine Members of the Assembly were present at the 24 March plenary session.
- Main agenda items of the 24 March plenary session:
 - Report of the Negotiation Team on Decentralization Talks in Vienna
(Deputy Prime Minister Lutfi Haziri (LDK) made a presentation to the Assembly, followed by a plenary debate and responses by the Deputy Prime Minister.)

The 6 April plenary session of the Assembly of Kosovo was chaired by President of the Assembly Kolë Berisha (LDK), and co-chaired by Mr. Xhavit Haliti (PDK).

- Eighty-three Members of the Assembly were present at the 6 April plenary session.
- Main agenda items of the 6 April plenary session:
 - Second reading of the Draft Law on the Construction Products Inspectorate
(The draft law was approved with 72 votes in favor and one vote in opposition.)
 - Second reading of the Draft Law on Cultural Institutions
(The draft law was approved with 63 votes in favor and one vote in opposition.)
 - Second reading of the Draft Law on Protection Against Fires
(The draft law was approved with 69 votes in favor and one vote in opposition.)

⁴ Unless otherwise indicated, the figure given is the one announced by the President of the Assembly or Chairperson at the beginning of the day.

⁵ Unless otherwise indicated, the number of abstentions was 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.

- First reading of the Draft Law on the Code of Conduct for Civil Servants
(The Assembly voted to *send the draft law back to the Government*, with 15 votes in favor of the draft law and 49 votes in opposition.)
- First reading of the Draft Law on the Termination of Pregnancies
(The draft law was endorsed in principle with 59 votes in favor and five votes in opposition.)
- Review of the LDK parliamentary group proposal for the replacement of members on Assembly committees
(The proposal was approved with a majority of votes in favor, no votes in opposition, and no abstentions.)
- Review of the LDK parliamentary group proposal for the replacement of Mr. Fatmir Sejdiu by Mr. Sabri Hamiti on the ad-hoc media committee
(The proposal was approved with a majority of votes in favor, no votes in opposition, and no abstentions.)
- Proposal of the agenda for the 13 April plenary session

3. Parliamentary Practices and Proceedings of Assembly Sessions

Agenda

- At the end of the 16 March plenary session, the President of the Assembly presented the agenda of the 24 March plenary session to the Assembly for approval. At the beginning of the 6 April plenary session, the President of the Assembly apologized that the agenda for that day's session could not be voted upon earlier and therefore invited the Assembly to vote on it that day. A number of Assembly members made statements related to the work of the Assembly or Government but the President of the Assembly concluded that only one of the statements constituted a proposed urgent item for immediate consideration by the Assembly, the proposal of Ms. Teuta Hadri (PDK) to discuss hemorrhagic fever. Ms. Hadri's proposal was approved with 45 votes in favor and 29 votes in opposition and was therefore added to that day's agenda as the final item. The agenda for the 13 April plenary session (which was later postponed until 20 April) was presented for approval at the end of the 6 April plenary session.

Presentation and approval of the agenda at the previous plenary session was in compliance with Rule 23.1, which provides that "[a]t the end of each session the President of the Assembly or another Member of the Presidency shall propose the agenda for the next session" for adoption by the Assembly.

The addition of the urgent agenda item was in compliance with Rule 29.1, which states that "[a]t any plenary session, any Member, in agreement with the President of the Assembly, may propose that the Assembly should immediately consider an urgent matter. If the President of the Assembly is satisfied that the matter merits the Assembly's immediate attention, he/she shall permit the Member concerned to put his proposal to the Assembly, and then put it to a vote. If the Assembly resolves to consider the matter, it shall do so during that meeting while the timetable and order shall be adjusted accordingly."

Distribution of Documents

- The Draft Law on Energy Efficiency was distributed on 27 January 2006; the Draft Law on Road Traffic Safety was distributed on 3 February; and the Draft Law on Deterrence of Money Laundering was distributed on 14 February. Thus, the draft laws were distributed, respectively, 33, 28 and 21 working days prior to their first reading on 16 March 2006 plenary session. The Draft Law on Code of Conduct for Civil Servants was distributed on 24 February, and the Draft Law on Termination of Pregnancy was distributed on 20 March. Thus, the draft laws were distributed, respectively, 28 and twelve working days prior to their scheduled first readings at 6 April 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. Most draft laws during the reporting period were reviewed in first reading well after three working weeks from the dates of their distribution. The Assembly is still having some difficulties reviewing incoming draft legislation according to the timeframe set forth in its procedural rules, despite the fact that it has begun to hold plenary sessions more frequently. Some of the plenary sessions, however, are dedicated solely to discussions of vital current issues and not to the review of draft legislation.

Debates

- On 24 March, before the plenary session began, the Presidency met with parliamentary group leaders to plan the plenary debate on decentralization talks later that day. After discussing different options, there was general agreement for each parliamentary group to limit its number of speakers from one to three, depending on the size of the parliamentary group and interest to debate the issue. It was likewise agreed that Mr. Emrush Xhemajli (LPK)⁶ should be granted the floor during the debate, since he was the first to request a plenary discussion on decentralization talks.⁷ In opening the plenary session that day, the President of the Assembly informed members that, in line with Rule 6.2, the Presidency had reached an agreement among parliamentary groups on the form and duration of the debate, and he asked the Assembly if an agreement could be reached at the plenary session to limit members' statements to less than ten minutes. Mr. Emrush Xhemajli stated that he was against shortening the discussion time, so the President of the Assembly did not put his proposal to the vote and informed the Assembly that the time limit on speeches would remain at ten minutes.

Although agreement was reached between the Presidency and the parliamentary group leaders to limit the number of speakers from each group to three or less, at least three members from most groups spoke, and five and nine members spoke from the larger parliamentary groups. Towards the end of the debate, Mr. Xhavit Haliti (PDK) opened his statement by saying that he had not intended to speak, because he expected parliamentary groups to abide by the limits they had agreed to, but he could see that Assembly members wished to keep debating.

The meeting of the Presidency with parliamentary group leaders to make plans for the upcoming plenary debate represented an improvement over previous reporting periods, when there was little or no consultation between the Presidency and parliamentary group leaders. Regular consultation with parliamentary group leaders is required by Rule 6.2 and Rule 23.3.⁸ Under Rule 22.7, "a discussion in the Assembly shall not exceed ten (10) minutes for all Members of the Assembly . . . [i]f not otherwise decided by the Assembly." At the request of the Assembly Member who had first proposed a debate on decentralization talks, the President of the Assembly decided not to ask the Assembly to vote on setting a shorter limit for Members' statements. The overall length of the debate was longer than originally agreed upon, because more Members were allowed to speak at the debate than had been intended, but there were no notable objections thereto within the Assembly.

Voting Process

- A quorum was present for all voting at the plenary sessions under review. *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.*

⁶ Mr. Xhemajli is not affiliated with any parliamentary group in the Assembly.

⁷ See Pillar III (OSCE) Report 01/2006 on the Monitoring of the Assembly of Kosovo.

⁸ Rule 6.2: "The Presidency is responsible for the work program of the Assembly. It shall review and prepare the agenda of the following meeting of the Assembly and shall ensure an agreement amongst the parliamentary groups on the form and duration of the debate on a particular item of business."

Rule 23.3: "The Presidency shall consult parliamentary groups when setting the agenda for Assembly sessions."

Representation of the Government at plenary sessions

- The Prime Minister and most Ministers were present at the beginning of the 16 March plenary session but left after about 45 minutes, before the Assembly began to discuss draft legislation. The President of the Assembly explained to the Assembly that there was a meeting of the Government already scheduled, but that the Deputy Ministers would represent the Government in the Ministers' place. During the second reading of the Draft Law on Administrative Conflicts, Mr. Hydajet Hyseni (PDK) commented that it would be better to postpone the final approval of draft laws until the Ministers could be present at the plenary session. The President of the Assembly responded that the Government was holding a meeting right then but that the Deputy Ministers were present at the session and that they were valid representatives of the Government under the procedural rules. Mr. Hyseni commented that the presence of the Deputy Ministers was not evident, since they were sitting in the back of the plenary hall, rather than in the seats of the Ministers, and asserted that a Minister's priority should be to follow the Assembly's discussion of draft legislation within his or her field.

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. 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 would be preferable for future plenary sessions to be scheduled such that they do not coincide with meetings of the Government.

Questions to the Government

- At the beginning of the 24 March plenary session, Mr. Hydajet Hyseni (PDK) commented that there were questions submitted to the Government months ago that were still waiting to be answered, citing in particular a question he had submitted regarding displaced people from the Preševo/Presheva valley. He stressed that parliamentary practice and the procedural rules dictate that ministers are obligated to respond to questions from Assembly members by the established deadline. The President of the Assembly responded that the plenary session in progress was a special plenary session with only one agenda point, but that the procedure would be followed at other sessions.

Mr. Hyseni first mentioned the pending question at the 15/16/19 December plenary session, stating then that he had submitted it three months earlier.⁹ Under Rules 26-27, questions to the Government for oral answer shall be placed on the agenda of an upcoming plenary session soon after the question has been submitted, and questions to the Government for written answer shall be responded to within two weeks of their submission and "included in the records of Assembly Proceedings for the day on which it is answered, or the first day thereafter on which the Assembly sits in plenary session." The same provisions require that questions to the Government that receive no written response within the deadline (Rule 27) or that are rejected within the Assembly for inconsistency with the procedural rules (Rule 26.5) "shall be published in the bulletin of the Assembly." When Mr. Hyseni raised the issue at the 24 March plenary session, approximately six months had passed with no response from the Government. The Assembly of Kosovo bulletin does not contain a section on questions that have been submitted to the Government.

Interpellation

- On 14 March, the PDK parliamentary group submitted an interpellation motion for Minister of Transport and Communication Qemajl Ahmeti (LDK) regarding the maintenance of roads in

⁹ See Pillar III (OSCE) Report 10/2005 on the Monitoring of the Assembly of Kosovo, footnote 20.

Kosovo. In the motion, PDK sought detailed information on the current condition of roads in Kosovo, work that has been done so far, and projects planned for the current fiscal year. The Presidency reviewed the motion at its 21 March meeting and 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.”¹⁰

Representation of parliamentary groups in committees

- Towards the end of the 6 April plenary session, as the Assembly was reviewing the agenda of the upcoming plenary session, Mr. Ferid Agani (Group for Integration/PD) proposed that it should include a discussion of his parliamentary group’s request to be included in functional committees, submitted already three times to the Presidency since the parliamentary group was formed four months earlier. Mr. Agani added that the Presidency had approved Group for Integration’s request in principle at earlier meetings but had not yet found a way to implement it. He informed the Assembly that his parliamentary group had submitted a proposal to increase the number of members of each functional committee¹¹ from twelve to thirteen, adding one member from Group for Integration, in which case the governing coalition would still hold a majority – seven out of 13 seats. The President of the Assembly responded that the Presidency had debated the request at length and was unable to reach an agreement to approve the request, as it was difficult to do so without “disturbing the balance” in the committees. Mr. Agani responded that this was the first time he had heard that the Presidency considered it impossible to grant his parliamentary group’s request. He argued that the proposal of expanding the functional committees by one member would not affect the balance of power in the committees and asked once more for his parliamentary group to be included in functional committees in order that it could make a “maximal contribution” to the democratic functioning of the Assembly. Mr. Nazim Jashari (ORA) reiterated Mr. Agani’s earlier assertion that the proposal to expand the functional committees by one member would not disturb the political balance, since there would be five LDK members, one AAK member, and one 6+ member, with a total of seven out of 13 seats belonging to the governing coalition. He added that under the rules of procedure, any six members have the right to form a parliamentary group and that all parliamentary groups have the right to participate fully – as members, not merely as observers – in Assembly committees. Mr. Jashari stated that the Assembly should respect those two fundamental principles and include Group for Integration in functional committees. Mr. Sabri Hamiti (LDK) asserted that of Group for Integration’s six members, only one – Mr. Gjergj Dedaj – did not belong to an Assembly committee and should be granted committee membership. Mr. Hamiti added that LDK and PDK were respecting the rule that each Assembly member should serve on only one committee, but members of smaller parliamentary groups belonged to two or even three committees. The President of the Assembly closed the discussion by stating that there had been a proposal at the

¹⁰ 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.”

¹¹ The composition of the Committee on the Rights and Interests of Communities and the number of seats in the Budget Committee are regulated by the Constitutional Framework, so no change was proposed to those committees.

Presidency meeting that either the Group for Integration and Parliamentary Group 6+ should reach an agreement on dividing between themselves the committee seats originally allocated to 6+ or that members of the Group for Integration could have observer status at Assembly committees.

Rule 48.4, which was cited during the discussion at the plenary session, states that as a general principle, Assembly members should serve on only one committee; it does not strictly forbid Members from serving on more than one committee. In December 2004, soon after this Assembly was established, the Presidency and parliamentary groups reached an agreement that parliamentary groups would be represented in all functional committees as follows: five LDK members, three PDK, and one each from AAK, SLKM, ORA, and 6+. The proposal was formally endorsed by the Assembly plenary not long afterwards. Under such a distribution of committee seats, to which all parliamentary groups agreed, it was clear that some members of smaller parliamentary groups would have to serve on more than one committee.

The assertion that the Group for Integration already holds several committee seats fails to make a distinction between the Committee on the Rights and Interests of Communities and functional committees of the Assembly. Currently, four members of the Group for Integration are members of an Assembly committee – the Committee on the Rights and Interests of Communities. The composition of the Committee on the Rights and Interests of Communities is dictated by the Constitutional Framework and is based on ethnic community, not political affiliation. Furthermore, the primary mandate of the committee is to review draft legislation and Government work from the aspect of its implications for ethnic communities. Not a single member of the Group for Integration belongs to any functional committee of the Assembly,¹² although the Constitutional Framework requires that “the membership of all functional committees shall reflect the diversity of the membership of the Assembly.” Representatives of Group for Integration should be given full membership in functional committees of the Assembly, in accordance with the Constitutional Framework.

4. Equal Access and Participation of Communities

- During the first reading of the Draft Law on Energy Efficiency at the 16 March plenary session, Mr. Džezair Murati (6+/Vakat) raised the objection that minority community representatives were not included in the working group that drafted the law and stressed that lack of minority representation was a wider problem that applies to many working groups that draft legislation. *Similar objections have been raised on numerous occasions in the Assembly.¹³ 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.¹⁴*

5. Access

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

¹² AAK offered their seat on the Committee on Agriculture, Forestry, Rural Development, Environment and Spatial Planning to the Party of Justice (PD) but Mr. Ferid Agani chose not to join the committee, hoping instead to join a committee more relevant to his area of expertise.

¹³ See Pillar III (OSCE) Report 02/2004, 01/2005, 10/2005, and 01/2006 on the Monitoring of the Assembly of Kosovo.

¹⁴ Decision No. 041/2005, 08 April 2005

6. Transparency

Radio Television Kosovo (RTK) provided coverage of the plenary sessions under review. Members of the public and institutional monitors were granted admission to the plenary sessions. The Assembly of Kosovo has a website (www.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.