

Going beyond Political Rhetoric

Turning Kosovo's Parliamentary Committee for European Integration into a real driver for Integration

KCSF Commentaries are brief, solution-oriented papers examining critical issues that fall under the Kosovar Civil Society Foundation's mission. Each edition spotlights key governance challenges and offers policymakers or relevant stakeholders practical suggestions to improve or resolve these challenges.

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Introduction

The Kosovo Assembly is the country's highest legislative body. It plays a central role in Kosovo's European integration process. The Assembly has mandated the Parliamentary Committee for European Integration (hereinafter CEI) to: (1) oversee the harmonization and approximation of Kosovo's legislation with that of the EU *acquis*, (2) to oversee the performance of the Government and public institutions in the European Integration process, and (3) to cooperate with EU member states and other countries and forums through parliamentary diplomacy. It has been eight years since the CEI was established. Yet to date it has not begun to properly exercise the mandate for which it was established.

The European Integration process has wide political and public support. Indeed, a commitment to EU integration is one of the few topics that unites most of the political parties. In order to convert this declarative support into concrete results, it is imperative that the Parliament create the necessary conditions for the effective functioning of the CEI. As emphasized in the EU's Kosovo 2014 Progress Report, "The function of the EU integration committee needs to be further enhanced to reflect its key role in Kosovo's European integration process."

In this *Commentary*, the Kosovar Civil Society Foundation introduces a number of preconditions - in the form of recommendations - to position the CEI to fulfil its intended mandate. The recommendations are not technically difficult to implement; rather, they rely on the political will needed to enhance the work of the CEI and the Assembly in this strategic process. In recent years, that political will has been manifested largely in the form of lip service. But with Kosovo's advancement in European integration processes, including the implementation of the Stabilisation and Association Agreement (SAA), it will be even more imperative that public statements in support of integration are translated into serious actions and results. Political will remains the most important precondition for the implementation of every recommendation set forth in this *Commentary*.

LEGISLATIVE ROLE

<u>CEI must increase its capacities for draft law review, from the standpoint</u> <u>of the harmonization and approximation of the EU acquis</u>

In 2008 the Kosovo Assembly instituted the Parliamentary Committee for European Integration as a Standing Committee. The Committee of the Fifth Legislature was adopted in December 2014.² Based on the Kosovo Assembly Rules of Procedure and the CEI Working Plan for 2015, one of the main responsibilities of the CEI is to review draft laws related to the harmonization and approximation of

"For over 90% of the reviewed draft laws, the CEI does not have at its disposal outside professional or legal assistance; instead it has to do the best it can within its own capacity. Had the support staff to the CEI been larger, more draft laws would have been sent back to the Government. The high number of draft law topics makes it impossible for the CEI to have knowledge and expertise in them all." - Vjosa Osmani. 1

Kosovo's legislation with EU legislation, namely the EU acquis.³

Every draft law the Government submits to the Assembly includes a "Statement of Compliance", issued by the Ministry of European Integration (MEI). This Statement confirms that the draft law in question is in compliance with EU legislation.⁴ In a few rare cases, the CEI has sent draft laws back to the Government which it did not

consider to be in accordance with the EU acquis, despite the accompanying "Statement of Compliance" from the MEI.⁵

The members of the CEI do not (nor are they expected to) possess the necessary expertise for reviewing the variety of draft laws. At the same time, the CEI's access to external expertise remains limited. This results in draft laws passing through the CEI review process with scant scrutiny. Sometimes this is justified by simply acknowledging that the MEI, through its Statement of Compliance, has confirmed the draft law is "in line with the EU acquis."

The Assembly Administration has the primary role in supporting the Parliamentary Committees. It is responsible for providing the Assembly, the Presidency, the Parliamentary Committees, the Parliamentary Groups, and Members of Parliament with professional, administrative and technical

assistance. The CEI has a modest support staff of four, which is led by a coordinator. The support staff is the main source of assistance with regard to the CEI's legislative role. The support staff remains woefully small when compared against the large number of draft laws the CEI is tasked with reviewing each year, and the wide range of thematic issues addressed by those laws. For example, in 2013 - the last full year in which the

"In the Assembly Administration there is a disproportion in the number technical staff with the number of professional staff. The Unit of Harmonization and Legal Approximation lack expertise and cannot be utilized sufficiently by the CEI."- Ilir Deda. ²

Assembly was active - there were 56 laws adopted, ¹⁰ while in 2015, 113 draft laws are planned to be adopted. ¹¹

¹ Osmani, Vjosa; Member of the Parliamentary Committee for European Integration in the Assembly of Kosovo. Interview 27-04-2015.

² Deda, Ilir; Member of the Parliamentary Committee for European Integration in the Assembly of Kosovo. Interview 23-03-2015.

Recommendation 1.1

Being a Committee established to advance Kosovo's main strategic priority, the CEI should request from the Assembly the requisite resources to field a sufficiently numbered and skilled support staff. This should include the engagement of EU policy professionals in order to professionally address the breadth of legislative areas.

In principle, another internal source of support (within the administration of the Assembly) to the CEI is the Unit of Harmonization and Legal Approximation within the General Directorate for Legal and Procedural Affairs. This Unit, staffed by three legislative officers, can provide assistance to the Parliamentary Committees. As with the CEI's support staff, however, this Unit also has insufficient capacities to professionally

The involvement of additional external experts is offered through a project which aims to support parliamentary research implemented by the Kosovo Democratic Institute (KDI), supported by USAID. By contracting independent experts and researchers from various fields, based on the requests of the Committees, the project aims to help the Assembly to adopt qualitative and applicable laws.³

assist with the range of topics covered by the EU acquis. 12

A third internal source of assistance for the CEI is the Assembly Research Unit which undertakes research in various fields at the request of the Parliamentary Committees. Currently, this Unit is staffed by four legal research officers. ¹³ It, too, lacks capacities to deliver quality and timely products. To illustrate, until the end of April 2015, the CEI has requested just one research paper from the Unit but ended up proceeding without it due to the long time it took to be completed. ¹⁴

Recommendation 1.2

The CEI should increase pressure on the Assembly Administration, including the Assembly Research Unit and the Unit of Harmonization and Legal Approximation, to increase the quality and speed of its work, from the viewpoint of the approximation and harmonization of legislation with that of the EU acquis.

Apart from internal capacities, the Assembly aspires to access external resources and expertise as well. According to CEI's 2015 Work Plan, one of its priorities is to engage external experts and local and international NGOs in the field of European Integration. In practice, though, cooperation with civil society remains limited. One meeting with civil society planned for February 2015 has not yet materialized even though it is the only such meeting planned for the entire year. The Kosovo Assembly has a functioning database of non-governmental organizations that have expressed an interest in cooperating with the Assembly, including with the Parliamentary Committees. As of May 2015, 20 civil society organizations have formally expressed their interest in being included in the work of the CEI. The majority of these organizations are relatively well-known and highly regarded for their professional work in their respective sectors. This list presents the first - but not the only - level upon which the CEI could start a structured and sustained dialogue with external expertise to advance its mission. This

³ Webpage of the Parliamentary Research Project http://kdi-kosova.org/hulumtime_parlamentare/ (Accessed 30-04-2015).

would also be in line with the strategic direction adopted by the Assembly of Kosovo through its Declaration for Partnership with Civil Society (April 2014).¹⁸

Recommendation 1.3

The CEI should launch a structured dialogue with civil society, including holding public hearings for all draft-laws it is reviewing, aiming to complement the expertise that it needs to review and professionally process the large and complex set of draft laws it is tasked with.

Recommendation 1.4

The CEI should approach the international donors to ask for support in deploying legal and political experts in order to help the CEI effectively accomplish its mission. This should be based on a comprehensive needs assessment undertaken by the CEI.

OVERSIGHT ROLE

The CEI must be more systematic and demanding in overseeing the work of the Government in light of the European Integration process

Though requested by the CEI members, the draft of the Stabilisation and Association
Agreement has only been made available to the CEI Chair, 4 not to the other CEI members. 5

One of the key roles of the Assembly is its oversight function, particularly in relation to the work of the Government. The CEI's priority is overseeing the harmonization and approximation process of Kosovo's legislation with the EU acquis. ¹⁹

One of the preconditions for proper oversight is regular and mutual communication between the CEI and the

ministries involved with European Integration, in particular the MEI. According to the MEI, aside from the Minister's regular reporting to the CEI, the Minister has daily coordination with the CEI, and the MEI shares documents regarding the European Integration process.²⁰ However, CEI members have pointed out that neither the MEI nor other ministries have regularly shared information with the CEI.²¹ Case in point is that the Government did not share the draft of the critical Stabilisation and Association Agreement with all the CEI members (at least not until early May 2015).

The CEI may also request concrete data, including direct reports, from ministers or other responsible actors.²² If a minister who has been called upon to report to the

"Parliamentary oversight is politicized and there is generally little initiative to challenge responsible Ministers." - Rinor Beka. 6

⁴ Sahatqija, Teuta; Chair of the Parliamentary Committee for European Integration. Correspondence. 08-05-2015.

⁵ Osmani, Vjosa; Member of the Parliamentary Committee for European Integration in the Assembly of Kosovo. Interview 27-04-2015.

⁶ Beka, Rinor; National Democratic Institute (NDI). Legislative Program, Senior Program Manager. Interview 31-03-2015.

CEI does not fulfil this obligation, the CEI may put this on the agenda on the following plenary session.²³ In the current legislature, similar to the previous ones, however, ministers who have been called upon to report have often failed to show up. By not taking advantage of the legal instruments at the CEI's disposal in cases where the CEI is ignored by the Government, the issue of reporting to the CEI (and other Committees) ends up being discretionary rather than obligatory in practice. This trend needs to be reversed.

Recommendation 2.1

The CEI should take advantage of the legal mechanisms available to it to oblige the ministries and other state institutions to proactively share relevant documents on European Integration processes with all CEI members, and to report to the CEI any time it is so requested by the CEI.

Recommendation 2.2

The CEI should establish a functional oversight system which includes: (1) processes to ensure its meetings with ministers take place when needed and in a highly professional manner, (2) that the requisite follow-up from those meetings and from CEI reports occurs, and that (3) there is systematic oversight of the implementation of important documents about the European integration process.

Connected to the abovementioned reporting obligations is also the oversight of the implementation of

policies, laws, strategies and agreements linked to the European integration process. It is not uncommon for the CEI to avoid conducting follow-up activities after reporting from a minister on a certain issue. ²⁴ Similarly, the CEI fails to take effective advantage of its participation in the National Council for European Integration which is an additional opportunity to demand accountability for the documents and reforms that are issued from the Council itself.

With the SAA in place, commitment to effectively overseeing its implementation raises the stakes for all Kosovo stakeholders. The SAA process not only requires the harmonization of legislation, but also the implementation of the SAA. Similar to other countries that have gone through the SAA process, a number of institutional bodies between the EU and Kosovo will

Stabilisation and Association Parliamentary Committee in other countries

- Created in every country, via the framework of the "European Agreement"⁷ or the "Stabilisation and Association Agreement"
- Costs are divided equally by the two parties
- Additional administrative and professional services fall under the responsibility of the Administration that supports the CEI (Estonia, Lithuania, Poland, Slovakia, Slovenia)

be established. Aside from a Stabilisation and Association Council²⁵ (political level) and a Stabilisation and Association Commission ²⁶ (expert level), the Stabilisation and Association Parliamentary Committee²⁷ will regularly gather Members of Parliament of the European Union and the Kosovo Assembly. In addition to being an inter-parliamentary discussion forum, this SAA Committee can make

⁷ The European Agreement is an Agreement between the EU and countries of Central and Eastern Europe, equivalent with the Stabilisation and Association Agreement for Western Balkan countries.

⁸ In some countries, where the responsible Committees for the European integration process have been the Committees for Foreign Affairs, the additional services have been provided by the staff of these Committees.

recommendations to the Stabilisation and Association Council on various issues related to the SAA. Practices from other countries demonstrate that the Assembly's commitments will largely be entrusted with the CEI, including its support staff. If no innovative alternatives are explored by the Assembly to invigorate any special support system, then it is even more imperative that the CEI swiftly begins to prepare itself for this increased workload and set of responsibilities.

Recommendation 2.3

The CEI should immediately begin preparing to implement the obligations of the Assembly deriving from the SAA.

Recommendation 2.4

The CEI should, by taking advantage of its participation in the National Council for European Integration, request responsibility vis à vis the recommended reforms by the Council itself, as well as oversee implementation of the National Strategy for European Integration.

Reinstating the practice of political opposition parties chairing the CEI

The Assembly's (and its Committees) oversight role of the executive gives the CEI a powerful position in

"The basic idea [of this practice] is to strengthen national consensus for the European integration agenda and the sustainability of the reforms. By including the opposition in the process and by entrusting the opposition with the Chair post, in one way or another, the inclusion of the opposition in the reforms that are relevant to the European integration process is ensured."- Ditmir Bushati.

its relation to the Government. But at the same time it requires that the CEI play an active role in exercising this oversight function. Considering European Integration is of paramount national interest and transcends political party agendas, the CEI is in a position to create equilibrium between the Assembly and the Government, being the body that oversees the latter. In order to reflect the importance of the European agenda and the need for consensus that cuts across party structures, since its creation in 2008 it has traditionally been chaired by an opposition party member. This practice was discontinued in the current mandate and the CEI is today chaired by one of the parties in power.

Most Western Balkan countries have followed the practice of appointing opposition figures to chair their respective CEIs. This has been the case in Albania, Montenegro and Serbia. The situation was similar in Croatia as well before it became an EU member. The only country that has not followed this practice is Macedonia. On the other hand, the opposition in Macedonia does chair another important body, the National Council for European Integration, thus maintaining a balance in terms of the contribution to and ownership over the integration process. On the other hand, the opposition in Macedonia does chair another important body, the National Council for European Integration, thus maintaining a balance in terms of the contribution to and ownership over the integration process.

Recommendation 2.5

The CEI should return to the practice of an opposition representative chairing the CEI.

⁹ Bushati, Ditmir; Minister of Foreign Affairs of Albania. Former Chair of the Committee for European Integration in the Parliament of Albania. Correspondence 17-03-2015.

PARLIAMENTARY COOPERATION

The CEI must raise the level of parliamentary diplomacy

Kosovo is not recognized by five EU member countries. This complicates its relations with the EU, particularly when it comes to entering into contractual relations. Kosovo's relations with the countries that *have* recognized it vary considerably as well. One way Kosovo can advance its European agenda is to utilize the good relations it maintains with a specific member state through the enhancement of inter-parliamentary cooperation. Due to the nature of the Committee's mission and mandate concerning parliamentary diplomacy, the CEI should naturally spearhead this initiative. The Parliament of a partner country could serve as Kosovo's "sponsor" at various EU levels and could advocate on its behalf. Moreover, this sponsor could potentially also be a useful "advisor" concerning the European integration process in general.

In identifying a target sponsor country, the CEI should consider: (1) that country's relationship with Kosovo to-date, (2) the country's support for Kosovo's state building and Euro-Atlantic integration, (3) its policy and legislative expertise and experience related to EU Integration, and (4) other possible means of assistance that it might be able to provide. Additionally, the impact of the potential sponsor country within EU structures should also be taken into consideration, thereby aiming for sponsors with greater decision-making power in the Council, documented impact in shaping EU policies and decisions, as well some influence over other EU members. A special kind of cooperation with the sponsor country would include regular communication between the CEI and the respective sponsor country's Parliamentary Committees; detailed discussions about issues of interest for Kosovo; assistance to help CEI members (and others) access Kosovo-related forums from which they are currently excluded. In order to augment Kosovo's position in various EU forums when Kosovo is discussed, Members of Parliaments from the sponsor country should have detailed and up-to-date information regarding the developments in and needs of Kosovo.

Recommendation 3.1

The CEI should review the possibilities for strategic cooperation for Kosovo's European integration process by identifying and establishing a partnership with a "sponsor country".

Recommendation 3.2

The CEI should engage in its support staff professionals covering the political elements of the EU integration process, where they would also support its role in parliamentary diplomacy, including the communication and cooperation with the "sponsor country".

CONCLUSION

Kosovo remains politically divided and increasingly polarized. European integration is one of the few issues to enjoy wide public and political support. Indeed, the European Agenda represents a golden opportunity to collectively move forward the single most transformative issue for Kosovo. This support can be summoned not only from the parliamentary political parties, but also from a broad swathe of

society. Due to its mandate, the Parliamentary Committee for European Integration is the optimal forum to cultivate this cooperation and translate it into meaningful advancements. Otherwise, the CEI will become a machine that legitimizes draft-laws without proper due-diligence and calls ministers to report without holding them truly accountable for their work. Failure to fulfil its potential and to take seriously its responsibilities will undermine Kosovo's European perspective and the opportunities for domestic reform that integration offers.

To realize its potential, KCSF recommends that:

- The CEI must raise its capacities for draft law review, from the standpoint of the harmonization and approximation of the EU acquis, by increasing the number and quality of its support staff;
- The CEI must be more systematic and demanding in overseeing the work of the Government in light of the European Integration process, among others also by returning chairing of the CEI by the opposition;
- The CEI should involve civil society and other parties in its work, by launching a structured and continuous dialogue with the sector;
- The CEI must raise the level of parliamentary diplomacy, through selecting and closely cooperating with a "sponsor country".

ANNEX

This *Commentary* has put forth recommendations to help the CEI realize its true legislative, oversight and parliamentary diplomacy potentials. These recommendations are not exhaustive. There are traditional means of approximating national legislation with that of the EU acquis as well as traditional means of legislative and political oversight of the Government. However, aside from the classical means, in different countries in the region and Europe, Parliamentary Committees for European Integration have developed and implemented new approaches to exercise their functions. Below are a few interesting practices presented, the intention is not to promote them, but to introduce the CEI to some interesting approaches it may wish to adopt.

Practices from Parliamentary Committees for European Integration³¹

Talks with the Hungarian Ambassadors before their departure to diplomatic missions in EU countries (Hungary).

Review of regular Government reports about the progress and oversight of undertaken obligations in connection to the European Agreement (Hungary), respectively the Stabilisation and Association Agreement (Montenegro).

Review of Government six month reports about the usage of IPA funds. (Croatia).

Special Committee for "European Legislation" (Poland) and "Approximation Committee" (Slovakia).

Inclusion of Administration personnel in negotiating groups, for each of the 33 chapters, as full members and contributors to analyses and preparation of state positions during negotiations (Montenegro).

Organization of programs of professional trainings for Members of Parliament and support staff about EU related issues (Slovakia). Courage

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