

STRENGTHENING PARLIAMENTARY OVERSIGHT OVER KOSOVO-SERBIA DIALOGUE

NOVEMBER, 2020



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Note: This analysis was conducted within the project *"Promotion of a well-informed and participatory process in the final phase of the Kosovo-Serbia dialogue"*, supported by the Swiss Embassy and the German Embassy in Kosovo.

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1. INTRODUCTION

The Kosovo-Serbia dialogue process started on March 9, 2011 after the adoption of the resolution in the United Nations General Assembly¹, which welcomed the readiness of the European Union to mediate a dialogue between Kosovo and Serbia. In the framework of the technical dialogue, seven conclusions were reached, regarding free movement, civil registers, cadastral registers, IBM, regional representation, mutual recognition of diplomas and customs stamp. Then the dialogue process in October 2012 advanced from technical to political dialogue, including discussions on other internal issues of Kosovo such as the north of the country. In the framework of the political dialogue, on April 19, 2013, the First Agreement of Principles for the Normalization of Relations was reached, the only agreement which was brought before the Assembly of Kosovo for ratification. Other agreements were reached after the April agreement, most of which were derivatives of the first agreement. The legal status of the agreements reached before and after the April agreement has remained unclear. So far, a total of about 38 agreements have been reached within the dialogue.

In 2017, the dialogue process entered a new phase called the final phase of this process, the purpose of which was to reach a final legally binding agreement between the parties. Before it even started, this phase was interrupted at the end of 2018 after Kosovo imposed a 100% tariff on Serbian goods. The latter conditioned the return to dialogue with the lifting of the tariff. In March 2020, the tariff was replaced by reciprocity measures, which was followed by another refusal by Serbia to continue the dia-

logue. However, the more active involvement of the US in the dialogue process in January and February 2020, resulted in the signing of three Letters of Intent between the parties, for the revitalization of the airline, railways and highways. However, the dialogue as a process for reaching a final agreement did not resume until after the repeal of all trade measures imposed by Kosovo in June 2020. This resulted in a meeting of the parties at the White House in Washington, where under the mediation of the US President a new agreement was reached in the form of unilateral commitments to normalize economic relations. On the other hand, the process has continued in Brussels where the elements of the final agreement are being negotiated.

Since the beginning of the dialogue, the Assembly has tried to exercise its oversight role mainly through parliamentary debates, interpellations, invitations to report to Government representatives and resolutions related to the dialogue. So far, the Assembly has adopted a total of 15 resolutions related to the dialogue process with Serbia, through which is intended the authorization of the Government regarding the conduct of the dialogue and to address various issues arising from this process. Through these resolutions, the Assembly has occasionally exceeded its constitutional mandate as a foreign policy oversight institution, interfering with executive powers. These competencies have been finally clarified by the recent judgment of the Constitutional Court regarding the dialogue during the interpretation of the Law on State Delegation, a team which was established by the Assembly initially through a resolution in December 2018 and then the adoption of the law in question.

1 United Nations, General Assembly, "Resolution A / RES / 64/298", 9 September 2010. Available at , http://www.un.org/en/ga/ search/view_doc.asp?symbol=A/RES/64/298





The role of the Assembly remains essential even in this final phase of the dialogue. So far the process has been kept largely out of the eyes of the Assembly and the public and there has been little information on the topics that have been discussed and agreed so far between the parties in Brussels. In this regard, the Assembly has also failed to guarantee effective oversight, transparency and accountability of the executive regarding these developments.

Therefore, the need to strengthen parliamentary oversight of the Kosovo-Serbia dialogue process is the focus of this analysis. Throughout the three chapters the analysis presents a summary of how the Assembly has exercised its oversight role over the dialogue so far. It also provides concrete recommendations for members of the Assembly to effectively fulfill their oversight mandate towards this process.



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2. PARLIAMENTARY OVERSIGHT MECHANISMS ACCORDING TO THE LEGISLATION IN FORCE

The Constitutional provisions clearly define the competencies and responsibilities of the three institutions regarding foreign policy. In this regard, the executive, respectively, the Government / Prime Minister in coordination with the President, lead foreign policy, while the Assembly is the highest oversight body of foreign policy, including dialogue as its domain. Article 65 of the Constitution regarding the competencies of the Assembly, point 12 explicitly states that 'the Assembly oversees foreign and security policies'. The Constitution also stipulates that the Assembly ratifies international treaties, which is regulated by Law on the Ratification of International Agreements.² Despite the clear constitutional provisions, since the beginning of the dialogue with Serbia, the parties' discussions about the role of the respective institutions in foreign policy have abounded both inside and outside the Assembly.

The constitutional provisions regarding the responsibilities of institutions in foreign policy were finally clarified by the

Constitutional Court in its judgment of 27 June 2019 regarding the Law on the State Delegation for Dialogue.³ The Court's arguments focused precisely on the separation and balance of powers by clearly interpreting the competencies of each branch of the executive and legislative powers in foreign policy.⁴ The Court confirmed that the Government / Prime Minister in coordination with the President conduct foreign policy, while the Assembly oversees it.

The Constitutional provisions regarding the oversight of foreign policy by the Assembly are also reflected in the Rules of Procedure of the Assembly.⁵ According to it, the oversight mechanisms in the sessions and committees available to the deputies of the Assembly are parliamentary inquiries, parliamentary debates, interpellations, resolutions, invitations to executive for reporting and investigative committees. Whereas, regarding the scope of the committees in the oversight of foreign policy, the com-

2 Constitution of the Republic of Kosovo, Article 65 Competencies of the Assembly at, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

3 On March 7, 2019, the Assembly adopted the Law on Duties, Responsibilities and Competencies of the State Delegation of the Republic of Kosovo in the Dialogue Process with the Republic of Serbia and the Platform for Dialogue on the Final Comprehensive and Legally Binding Agreement for the Normalization of Relations between the Republic of Kosovo and Serbia. Despite efforts for these documents to find broad political support, the LDK and LVV parliamentary groups challenged their legitimacy and challenged the Law on Delegation before the Constitutional Court.

4 The Constitutional Court announced its judgment declaring the law unconstitutional, because the essential articles of the Law were not in accordance with the Constitution. With this decision, the Constitutional Court reconfirmed that foreign affairs were the responsibility of the Prime Minister, in consultation with the President, thus concluding the long discussion on who should lead the dialogue process. See the judgment of the Constitutional Court regarding the Law on State Delegation at: https://gjk-ks.org/wp-content/uploads/2019/06/ko_43_19_agj_shq.pdf

5 See Rules of Procedure of the Assembly of the Republic of Kosovo at: http://kuvendikosoves.org/Uploads/Data/Files/6/Rr_K_RK_29_04_2010_1_ED-bu8aqXYd.pdf





Article 65 of the Constitution regarding the competencies of the Assembly,

point

12

explicitly states that ‘the Assembly oversees foreign and security policies’.



The Constitution also stipulates that the Assembly ratifies international treaties, which is regulated by Law on the Ratification of International Agreements.

petencies in this regard are mainly listed in the Committee for Foreign Affairs. The Rules of Procedure expressly state that this committee follows the negotiations led by the Government for its co-participation in the new treaties and starts the debate for their ratification. As well as oversees the actions of the Government in the field of foreign policy.⁶ However, the process and dialogue agreements have regulated various areas which fall within the scope of other parliamentary committees. Consequently, the issue of recognition of diplomas falls within the scope of the Education Committee, that of energy within that of the Economic Development Committee, Mitrovica Bridge within the scope of the Spatial Planning Committee and so on.

2.1 Parliamentary oversight of dialogue through resolutions

On the basis of the constitutional provisions, the Assembly aimed to further materialize its oversight role from the very beginning of the dialogue process with Serbia,

through resolutions.⁷ The Assembly has adopted resolutions on the dialogue process before the start of each phase of the dialogue. Since 2011, the Assembly has adopted four resolutions on the phases of dialogue. However, during this period, 11 other resolutions were adopted regarding specific aspects or topics related to the dialogue and relations with Serbia. They addressed the issue of missing persons, energy, the situation in the north of the country and the rights of Albanians in the Presevo Valley.⁸

The first resolution directly related to the dialogue process between Kosovo and Serbia was adopted by the Assembly on March 10, 2011, one day after the start of the technical dialogue with Serbia. It determined the manner of overseeing the dialogue by the relevant committees and in sessions of the Assembly. This resolution determined, among other things, the reporting of government representatives to the Assembly on the dialogue process, at the Parliamentary Committee on Foreign Affairs and other relevant committees.⁹

The Assembly adopted a **second resolution** on the dialogue process with Serbia in 2012 after the technical dia-

⁶ Ibid, p.45.

⁷ A resolution is a written motion by which the Assembly, through voting, expresses its will on a particular issue. See Assembly Rules of Procedure p.40.

⁸ See the KDI infographic regarding the adopted resolutions on dialogue at: <http://www.votaimo.org/Public/Article?InfoDialog=true&InfoDialog=false&SelectedTab=Infographics&InfoSelectedMonthID=&InfoSelectedYear=>

⁹ Resolution on the dialogue between the Republic of Kosovo and the Republic of Serbia, 10 March 2011 at: http://old.kuvendikosoves.org/common/docs/Rezoluta_per_dialogun_midis_R.Kosoves_dhe_R.Serbise_2.pdf



The Assembly has adopted resolutions on the dialogue process before the start of each phase of the dialogue. Since 2011, the Assembly has adopted four resolutions on the phases of dialogue.

Resolution

1

Directly related to the dialogue process between Kosovo and Serbia was adopted by the Assembly on March 10, 2011, one day after the start of the technical dialogue with Serbia.

Resolution

2

The Assembly adopted a second resolution on the dialogue process with Serbia in 2012 after the technical dialogue had evolved into the so-called political dialogue.

Resolution

3

After the start of the new phase of the dialogue in 2017, about a year later, on December 15, 2018, the Assembly adopted the third resolution on the final phase of the dialogue.

Resolution

4

After the resolution of December 2018, the Assembly has adopted the fourth resolution regarding the dialogue process with Serbia during the last Kurti government.

logue had evolved into the so-called political dialogue. This resolution, entitled the resolution on the normalization of relations between the Republic of Kosovo and the Republic of Serbia, also provided for the oversight role of the Assembly and the relevant parliamentary committees over the dialogue. However, unlike the first resolution which provided for the oversight role of the Assembly and the committees, this resolution also provided for the participatory role of the committees in the dialogue, along with the executive.¹⁰ If this were to be seen in the framework of the Constitutional Court decision of June 2019 regarding the Law on State Delegation for Dialogue,¹¹ such a role for

parliamentary committees as participants in the dialogue process alongside the Government violates the principle of separation and balance of powers. This is in the sense that only the executive has constitutional powers to implement foreign policy, while the legislature only oversees it.

Despite the fact that the dialogue process continued from 2012 and the Assembly adopted various resolutions on various topics raised in the dialogue, until 2018 no resolution was adopted on the dialogue process. After the start of the new phase of the dialogue in 2017, about a year later, on December 15, 2018, the Assembly adopted the **third resolution** on

10 Resolution on the normalization of relations between the Republic of Kosovo and the Republic of Serbia, 18 October 2012 at: http://old.kuvendikosoves.org/common/docs/Rezolute_Marredhenive_Kosova_Serbia.pdf

11 See the judgment of the Constitutional Court regarding the Law on State Delegation at: https://gjk-ks.org/wp-content/uploads/2019/06/ko_43_19_agj_shq.pdf

the final phase of the dialogue. This resolution initiated by the then opposition party PSD foresaw, inter alia, the principles of dialogue, the establishment of a state delegation for the dialogue and the establishment of a parliamentary committee to oversee the dialogue. Specifically, the text of this resolution, inter alia, stated that the state delegation for the dialogue with Serbia would report regularly to this committee. This committee would consist of members of all parliamentary entities as well as civil society representatives. Furthermore, the resolution provided for the committee to be chaired by a representative of the opposition parties participating in the dialogue process. So even this resolution provided for a participatory role of the opposition in the dialogue process, which contradicts the principle of separation and control of powers. In June 2019, the Constitutional Court had declared the Law on State Delegation, which stemmed from this resolution, in contravention of the Constitution, because the powers of the state delegation provided by this law were not in accordance with the Constitution.¹² The possibility of establishing a committee to oversee the dialogue was recently mentioned on the dialogue platform introduced by the present Prime Minister Avdullah Hoti. Even on this platform, it was foreseen that this committee would be led by the opposition.¹³ This idea is considered as interference of the executive in the mandate of the Assembly, as only the Assembly decides on the establishment of its oversight bodies over the executive. However, no concrete steps have been taken yet regarding the materialization of this initiative.

After the resolution of December 2018, the Assembly has adopted the **fourth resolution** regarding the dialogue process with Serbia during the last Kurti government. Initiated by the LDK and LVV and adopted by the Assembly on March 15, 2020, this resolution expressed Kosovo's commitment to dialogue with Serbia. It also determined the conduct of

the dialogue by the Government in accordance with the Constitution and the Judgment of the Constitutional Court regarding the state delegation. However, its text did not state that the dialogue would be conducted in coordination / consultation with the President, as provided by the constitutional provisions and the judgment of the Court. Regarding the oversight role of the Assembly in this resolution it was stated that the Assembly stipulates that no one has the right to talk or negotiate regarding the territory of Kosovo.¹⁴

In general, the resolutions adopted by the Assembly on the dialogue with Serbia have failed to guarantee the Assembly an effective oversight of this process. As a start, there was no political unity in the Assembly for their drafting and approval. Although the dialogue process with Serbia has been a matter of national interest around which the political spectrum should build a unique position, this has not happened so far. Resolutions on the dialogue have been initiated sometimes by the position and sometimes by the opposition, and on rare occasions they have been supported by both camps. Consequently, the drafting of the resolutions itself was more an expression of the will of a political group in the Assembly, the content of which was then not acceptable to the other parties in the Assembly. As a result, the proposal and adoption of resolutions on dialogue has been followed by numerous debates and disagreements. Based on this, the resolutions on dialogue proposed by the MPs in the future should be drafted in such a way that they are accepted by the rest of the political spectrum in the Assembly. The drafting of the resolutions should be preceded by a broader debate between the parliamentary parties, which aims to include the views of a wider political spectrum represented in the Assembly. This is taking into consideration that dialogue is a process that goes beyond a political party or group in the Assembly

12 See the judgment of the Constitutional Court at, https://gjk-ks.org/wp-content/uploads/2019/06/ko_43_19_agj_shq.pdf

13 See the statement of Prime Minister Hoti at the KDI round table held on June 17, 2020 "From the KDI round table - Hoti: there are no other compromises, Kosovo goes into dialogue only for recognition" at, <http://www.votaimo.org/Public/DialogActivity/Detail/455>

14 See the resolution on the dialogue adopted on 15 March 2020 at, http://www.votaimo.org/Uploads/Data/Documents/Rezolutanr.07-R-001perbisedimet-dialogunKosove-Serbi_EH8KpbGXLw_GqTrfnntg.pdf

and that a resolution supported by a wider parliamentary majority strengthens its own impact.

MPs must ensure that the proposed resolutions on dialogue do not overlap with previously adopted resolutions on dialogue. There have been cases when several different resolutions have been adopted on the same issues. Therefore, instead, the deputies should put more pressure on the Government to implement the resolutions already adopted by the Assembly, avoiding the overlapping of resolutions on the same issue. They should also ensure that from a legal point of view the content of the resolutions does not exceed the oversight mandate of the Assembly and does not interfere with the mandate of the executive, as discussed in the following chapter.

2.2 The Assembly beyond its oversight mandate over dialogue with Serbia

As mentioned above, some of the resolutions adopted have provided for a role for the Assembly beyond its oversight mandate over the dialogue process, designating Assembly bodies as participants in the dialogue alongside the executive. In addition, the Assembly had exceeded its powers by appointing AAK MP Blerim Shala as political coordinator in dialogue by former President Jahjaga on November 22, 2012. His appointment was met with controversy after the opposition parties of the time, LDK and LVV, had considered this action as unconstitutional, as the deputies did

not have the right to exercise executive roles at the same time as the mandate of the MP. While AAK described the position of political coordinator as a non-executive position.¹⁵ However, the case was not sent for interpretation to the Constitutional Court, while Mr. Shala had continued to exercise in parallel the position of MP and coordinator for dialogue. Moreover, after the elections in June 2014, Mr. Shala was re-elected member of the Assembly and again became part of the delegation of the Government of Kosovo for talks with Serbia at that time. On the proposal of PDK and LDK he was voted in the Assembly with 56 votes in favor, 4 abstentions and 1 vote against.¹⁶ Prior to the vote, PDK MP Nait Hasani had warned that the Assembly was again committing a violation with the appointment of Mr. Shala because the issue of dialogue did not belong to the Assembly but to the Government, respectively the executive.¹⁷ None of the other MPs asked for the floor and this time no interpretation was requested from the Constitutional Court, although this time too, Mr. Shala had continued to hold two positions, that of MP and that of a member of the government delegation for talks with Serbia. Even in his declaration of assets to the Anti-Corruption Agency (ACA), there are two salaries noted, one from the Assembly and one from the Government, described as a term contract as well as per diems for travel.¹⁸

Based on these practices, it is important for the Assembly to consider its constitutional competencies as a foreign policy oversight body. In this regard, the resolutions and other acts of the Assembly must be in accordance with its constitutional mandate, without violating the principle of separation and balance of powers.

¹⁵ Top Channel, "Jahjaga violated the Constitution?", December 25, 2012 at, <https://top-channel.tv/2012/12/25/jahjaga-shkeli-kushtetuten/>

¹⁶ See the Assembly voting session transcript of 16 April 2015 at, http://old.kuvendikosoves.org/common/docs/proc/trans_s_2015_04_16_10_5890_al.pdf

¹⁷ See the statement of the MP Nait Hasani about this issue p. 53, at http://old.kuvendikosoves.org/common/docs/proc/trans_s_2015_04_16_10_5890_al.pdf

¹⁸ See Mr. Shala's asset declarations at ACA, Year 2014: https://akk-ks.org/assets/cms/uploads/files/Deklarimi%20i%20Pasurise/Deklarimet/declaration/2014/Kuvendi_i_Republikes_se_Kosoves/Blerim_Shala.pdf, 2015: https://akk-ks.org/assets/cms/uploads/files/Deklarimi%20i%20Pasurise/Deklarimet/declaration/2015/Kuvendi_i_Republikes_se_Kosoves/Blerim_Shala.pdf dhe 2016: https://akk-ks.org/assets/cms/uploads/files/Deklarimi%20i%20Pasurise/Deklarimet/declaration/2016/Kuvendi_i_Republikes_se_Kosoves/Blerim_Shala.pdf



3. THE TOPIC OF DIALOGUE IN THE ASSEMBLY: OVERCOMING THE POLITICAL PARTY DIFFERENCES AND FOCUSING ON TRANSPARENCY OF DIALOGUE

The dialogue process with Serbia has been one of the main causes of disagreements and debates in the Assembly. Since this process started in 2011, political parties have expressed their disagreements with the start of this process, its continuation and the agreements reached. The process of ratification of the first agreement of principles governing the normalization of relations with Serbia reached on April 19, 2013, was conducted with objections in the Assembly and street protests.¹⁹ Another agreement which was followed by controversy in the Assembly was the one on the Association of Serb-majority Municipalities, reached on August 25, 2015. This agreement and the one on demarcation with Montenegro signed at the same time caused fierce clashes in the Assembly, use of tear gas and boycott of the work of the Assembly. The then Prime Minister Isa Mustafa was prevented from reporting to the MPs on the Association Agreement.

The new phase of the dialogue which started at the end of 2017 was also followed by debates in the Assembly. Initially, the then Prime Minister Ramush Haradinaj had delegated his powers to the President to lead the dialogue himself, which had disabled the oversight role of the Assembly, as the latter had no mandate to invite the President to report. Moreover, the President during this time was supporting the idea of border correction for which there was no political and civic support within the country. In this regard, the partisan disagreements prevented the Assembly from adopting a resolution which was intended to stop the president from discussing the territory. When the then government led by Ramush Haradinaj managed to secure votes in the Assembly to establish a State Delegation for Dialogue, which would represent Kosovo in dialogue alongside the President, the Law on the establishment of this team was

¹⁹ Free Europe, "Ratification and protest for the Kosovo-Serbia agreement", June 25, 2013 at <https://www.evropaelire.org/a/25027683.html>



The dialogue process with Serbia has been one of the main causes of disagreements and debates in the Assembly. Since this process started in 2011, political parties have expressed their disagreements with the start of this process, its continuation and the agreements reached.

dismissed by the Constitutional Court on the grounds that it violated the principle of separation of powers. Neither the 100% tariff on Serbian goods imposed by the former Haradinaj Government nor its replacement by reciprocity measures imposed by the former Kurti Government had found widespread political support in Assembly.

Even the period after these developments has been characterized by deep controversies and disagreements in the Assembly regarding the dialogue. The resumption of dialogue under the leadership of the Hoti Government has been characterized by ambiguity and lack of transparency. Although Prime Minister Hoti reported to the Assembly about the meetings held in the framework of the dialogue, he did not provide concrete details about the topics of discussion and the demands of Kosovo and towards Kosovo in this process. The Government has not yet brought to the Assembly the platform for dialogue and it has not yet been made public on the official website of the Government.

In general, these developments have testified to the extreme polarization between parliamentary political parties on the topic of dialogue. Public consumption debates and

political party calculations have dominated the discourse about dialogue. Given that the issue of dialogue with Serbia goes beyond partisan interests, parliamentary parties should seek to build a common position on the approach to Serbia and dialogue in particular. A common position of a wider political spectrum would strengthen the Assembly's oversight role on the dialogue process. In this way the focus would shift from political differences over dialogue to the Assembly's demand for transparency and executive accountability regarding dialogue.

This is given that in general, the process of reaching agreements with Serbia has been accompanied by a lack of transparency and the Assembly has almost always been informed of the content of the agreements, only after they have been reached and published. The lack of transparency has also stemmed from the very nature of the dialogue process, which from the outset has been conducted with a dose of confidentiality. Also, the EU approach to leaving the interpretation of the agreements at the discretion of the parties has caused confusion in the understanding of the content of the agreements. As a result, the Assembly of Kosovo as the highest oversight body of foreign policy has been limited in

overseeing this process. In the framework of the dialogue so far, about 38 agreements have been reached, of which only one of them has been ratified in the Assembly, namely the First Agreement of Principles Governing the Normalization of Relations between Kosovo and Serbia reached in Brussels on April 19, 2013. Agreements before that were called conclusions, while those that were reached after were called derivatives, letters of intent and commitments and consequently their legal status remains unclear. In this regard, legal experts have assessed that the Assembly itself should analyse the form and text of any agreement before considering them as an instrument for ratification.

The Assembly's oversight activity towards the dialogue with Serbia has so far materialized mainly through the adoption of resolutions on the dialogue as well as through other oversight mechanisms such as parliamentary inquiries, debates, interpellations and the call for reporting of executive representatives. Nevertheless, it depends on the will of the executive how much information it has provided to members of the Assembly regarding the dialogue. Moreover, there have been agreements that have been published late by the executive, as was the case with the justice agreement. The executive reports to the Assembly regarding the dialogue were characterized by superficial information without providing concrete details regarding the content of the process. On the other hand, the members of the Assembly have not managed to get enough information about the dialogue from the executive representatives. This is mainly due to the lack of preparation of the MPs themselves on this topic. MPs have conducted very little preliminary research on topics related to dialogue, which is reflected in questions to the executive. Within their scope, parliamentary committees have made little use of professional expertise on various topics, through requests for

parliamentary research. In this regard, MPs have the opportunity to seek more research at the Assembly Directorate for Research, Library and Archives (DHBA)²⁰, as well as external research of civil society organizations, in the framework of projects to strengthen the Assembly.²¹

Since the beginning of the dialogue in 2011, the topic of dialogue has been discussed in some of the sessions and meetings of the Committees. The most discussed topics in the last two legislatures were the first agreement of principles governing the normalization of relations, the Association of Serb-majority Municipalities, missing persons, the justice agreement, the idea on border correction, 100% tariff on Serbia, state delegation for dialogue etc. (See Table 1.1) Members of parliament have not used enough parliamentary questions to the executive regarding the dialogue. In the spring session of 2019 and 2020, out of the total number of questions asked by MPs to the executive, only 5% of them were related to dialogue. Also, there have been few invitations to report to ministers regarding the dialogue, where during the last two sessions only six ministers have been invited, on average three ministers per session. MPs need to ask more questions about the dialogue so that they can get the necessary information from the executive. They should also invite the relevant ministers to report on developments in the implementation of previous dialogue agreements, after reaching new agreements and the topics discussed in the continuation of the dialogue.

In general, the topic of dialogue was discussed more in the sessions of the Assembly and less in the meetings of the committees.²² During 2018, a period when the issue of the future of dialogue has been one of the central topics, MPs have been very active in discussing this topic in sessions,

20 Legislative Research at, <http://www.kuvendikosoves.org/shq/per-publikun/hulumtimet-legjislative/>

21 At the request of MPs, some of the thematic research was conducted by KDI in the framework of the USAID project "Support to external parliamentary research activities" and the project "To strengthen parliamentary oversight over the government and increase citizen participation in the Kosovo-Serbia dialogue process", supported by the Swiss Embassy in Pristina.

22 KDI, Report: Kosovo-Serbia Dialogue during 2018 in the Assembly of Kosovo, p.5, at <file:///C:/Users/KDI/Downloads/DialoguKosove-Serbigjateviti->

raising this issue in 50% of Assembly sessions. Whereas, it was raised as an issue in only 12% of committee meetings, of which in only 3% of these meetings, this topic was part of the agenda.²³ Finally, during the spring session of 2019 and 2020, a greater dynamics of discussions about dialogue in sessions was observed compared to the committees. During this period, dialogue was discussed in about 45% of the sessions and in only 10% of the committee meetings.

Usually, due to the wide range of issues that are within their scope, the committees have not adequately addressed issues related to the Kosovo-Serbia dialogue. Dialogue and related issues have been addressed by a small number of parliamentary committees, among which an increased role of the parliamentary committee on foreign affairs has been noted. As part of their oversight activities, parliamentary committees have sometimes conducted field visits to closely monitor the state of implementation of the Brussels agreements. Most of these visits were carried out with the support of KDI²⁴, but there have been cases when the committees have taken the initiative themselves for field visits related to the dialogue. Such was the one realized in the Presevo Valley by the committee for education and the one for public administration on June 5, 2019.²⁵ These visits were then followed by resolutions in the Assembly and requests for reporting to the executive, to demand transparency and accountability regarding the information received from the site visit. This was done by the parliamentary committee for economic development, which after the field visit organized on March 22, 2018 in the public energy company KOSTT²⁶

has subsequently invited to report the implementing institutions of this agreement, on November 26, 2018.²⁷ While after the field visit, a resolution on this issue was initiated in the Assembly and it was approved on June 5, 2018.²⁸ However, in general the number of field visits related to the dialogue still remains low.

During the spring session of this year, the Assembly of Kosovo has had poor performance in both legislation and oversight, due to the political situation and circumstances that arose as a result of the COVID pandemic 19. As a result, the autumn session is charged with legislative, but also oversight activities, as the Government has planned to send a large number of draft laws for consideration, especially in the last months of this year. The addressing of these draft laws will undoubtedly affect the work and performance of parliamentary committees, which will have significantly less time available for the effective exercise of the oversight role, especially in relation to the Kosovo-Serbia dialogue. In these circumstances, the committees should plan in a timely manner the oversight activities for the dialogue, anticipating them in their work plans and during the updating of these plans at the beginning of the working sessions.

As an oversight institution, the Assembly needs more coordination on the topic of dialogue. In this regard, the parliamentary committees should continue the good practice of organizing coordination meetings among themselves, supported by KDI since 2016 but also on the initiative of

[2018neKuvendineKosoves_wwaghsUUG%20\(3\).pdf](#)

23 See the report Kosovo-Serbia Dialogue during 2018 in the Assembly of Kosovo, at [file:///C:/Users/KDI/Downloads/DialoguKosove-Serbigjatevitet-2018neKuvendineKosoves_wwaghsUUG%20\(1\).pdf](file:///C:/Users/KDI/Downloads/DialoguKosove-Serbigjatevitet-2018neKuvendineKosoves_wwaghsUUG%20(1).pdf)

24 Since 2016, KDI in cooperation with parliamentary groups has conducted seven field visits to closely monitor the state of implementation of the Brussels agreements. See details at, <http://www.votaimo.org/Public/DialogActivity>

25 Telegrafi, "Kosovo MPs visit the three municipalities of the Presevo Valley", June 5, 2019, <https://telegrafi.com/deputetet-e-kosoves-vizitojne-tri-komunat-e-lugines-se-presheves/>

26 See details of this visit at, <http://www.votaimo.org/Public/DialogActivity/Detail/177>

27 See details from this report at, <http://www.votaimo.org/Public/DialogActivity/Detail/257>

28 See the content of the resolution on the energy situation at, http://old.kuvendikosoves.org/common/docs/2018_06_11_Rezoluta%20nr.06-R-008.pdf



During 2018, a period when the issue of the future of dialogue has been one of the central topics, MPs have been very active in discussing this topic in sessions, raising this issue in



50%

of Assembly sessions.

Whereas, it was raised as an issue in only

12% → 3%

of committee meetings, of which in only

of these meetings, this topic was part of the agenda.

the committees themselves. These meetings serve as a platform for discussion and coordination between parliamentary committees to strengthen the oversight role of the dialogue, as well as in order to advance the transparency of this process, based on the preliminary resolutions of the Assembly on this issue.²⁹

Finally, members of the Assembly must ensure that they use all available oversight mechanisms as effectively as possible. In order to strengthen parliamentary oversight of the dialogue, MPs should consider combining parliamentary oversight mechanisms. In this regard, the requests for

transparency and accountability to the Government can start with parliamentary inquiries, requests for reporting to the committee, to be later extended to requests for parliamentary debate, interpellations and resolutions of the Assembly on the issue at hand. Consequently, oversight of the dialogue must be carried out effectively and systematically until the Assembly's oversight mission towards the executive is fulfilled.

²⁹ See details of all coordination meetings between parliamentary committees at, <http://www.votaine.org/Public/DialogActivity>





4. CONCLUSION AND RECOMMENDATIONS

Since the beginning of the Kosovo-Serbia dialogue, the Assembly has exercised its oversight role through the adoption of resolutions on dialogue and other oversight mechanisms such as parliamentary inquiries, parliamentary debates, interpellations and invitations to ministers for reporting. In its efforts to ensure transparency of the dialogue process, the Assembly has several times exceeded its oversight role by interfering in the executive mandate. The constitutional competencies of the Assembly and other institutions have been finally clarified by the Judgment of the Constitutional Court regarding the State Delegation. Resolutions adopted by the Assembly on dialogue are often superimposed on each other, thus adopting several resolutions on the same issue.

The topic of dialogue has been and remains one of the main causes of disagreements between political parties. The fierce debates in the Assembly, the use of tear gas and the boycott of the sessions have had as their object the topic of dialogue with Serbia. The continuation of the dialogue mediated by the US and the European Union has again highlighted the polarization of the political spectrum over the dialogue. The process is continuing with past practices of lack of transparency. Although the Prime Minister has reported several times to the Assembly regarding the meetings in Washington and Brussels, he was reserved in providing information on all topics that are expected to be discussed in the dialogue process. The Government has not yet brought to the Assembly the platform for dialogue and it has not yet been made public on the official website of the Government.

Statistically, the topic of dialogue was discussed more in the sessions of the Assembly and less in the meetings of the parliamentary committees. The reason for this seems to be the large number of other issues that fall within the scope of the committees, preventing the latter from paying special attention to issues related to dialogue.

Overall, parliamentary oversight of the dialogue can be further improved and the Assembly needs to make more effective use of the oversight mechanisms available to ensure transparency and accountability of the executive regarding the dialogue.



To strengthen parliamentary oversight of the dialogue, KDI recommends that members of the Assembly take the following steps:

- **Increase the number of parliamentary inquiries:** MPs need to ask more parliamentary questions to the executive regarding dialogue in general and discussion topics in particular.
- **Organize debates and interpellations:** MPs should organize more parliamentary debates on dialogue and invite the Prime Minister and relevant ministers to interpellate on dialogue in general and specific aspects of dialogue. MPs should ensure that new information provided by debates and interpellations is followed up with requests to the executive through other available oversight mechanisms such as resolutions and reporting to committees and sessions.
- **Resolutions about dialogue:** MPs should ensure that the proposal of new resolutions on a particular issue related to dialogue does not overlap with previous resolutions on the same issue, adopted by the Assembly.
- **Increase executive reporting:** MPs should increase the number of invitations to report on dialogue with the Prime Minister and ministers in sessions and committees.
- **Thematic discussions about dialogue in Committees:** Committees should include the topic of dialogue in a concrete way in their work plans. Relevant committees should organize thematic discussions during regular meetings and public hearings, related to specific parts of the Washington agreement and topics in Brussels, according to the scope of the committees.
- **Organize field visits:** The committees should organize field visits to closely monitor the state of implementation of past dialogue agreements and new agreements.
- **Coordination meetings between committees:** The committees should continue the good practice of organizing coordination meetings between them, as a platform for teamwork and coordination in overseeing the dialogue.
- **Conduct of parliamentary research:** The committees should make more use of the opportunity to conduct parliamentary research on certain topics of the dialogue process, through the Assembly and civil society. Also use the research / reports already published by NGOs and experts in this field.

Appendix 1: Parliamentary oversight of dialogue in numbers

Table 1.1: Parliamentary oversight of Kosovo-Serbia Dialogue 2014-2019

Dialogue in Sessions and Committees	In the Fifth Legislature (2014 -2017)	In the Sixth Legislature (Spring and Autumn session of 2018)	In the Sixth Legislature (spring session (January - August 2019)	In the Seventh Legislature (spring session (January - August 2020)
Discussions on dialogue in Sessions	63 sessions 	43 sessions 	14 sessions 	11 sessions
Dialogue as an agenda item	23 sessions 	24 sessions 	22 sessions 	6 sessions
The most discussed topics about dialogue in sessions	First Agreement of Principles Governing the Normalization of Relations Between Kosovo and Serbia, Association of Serb-majority Municipalities, Serbian Parallel Structures, Missing Persons And the Justice Agreement	The idea of border correction/ land swap, Law 06 / L on the State Delegation, Platform for Dialogue, 100% tariff, reciprocity towards Serbia, as well as the condemnation of the Serbian genocide committed in Kosovo, energy issue, missing persons, Telecommunication Agreement, lack of transparency in dialogue and First Agreement of Principles of 2013.	Border correction, Law on the State Delegation, Platform for Dialogue, 100% tariff, reciprocity towards Serbia, as well as the condemnation of the Serbian genocide committed in Kosovo.	100% tariff on Serbia, reciprocity to Serbia and modalities for resumption of the dialogue process.
Parliamentary Debates on Dialogue	4	4	1	3
Interpellation for dialogue	3	1	0	1
Resolution on dialogue	4	3	1	1



Dialogue in Sessions and Committees	In the Fifth Legislature (2014 -2017)	In the Sixth Legislature (Spring and Autumn session of 2018)	In the Sixth Legislature (spring session (January - August 2019)	In the Seventh Legislature (spring session (January - August 2020)
Parliamentary questions on dialogue	28	16	7	2
Discussions on dialogue in committee meetings	115	62	18	18
Dialogue as an item on the agenda in committee meetings	27	33	20	1
The most discussed topics about dialogue in committees	North Fund, Justice Agreement, First Agreement of Principles, Diploma Agreement, Telecom, Energy, Association And Missing Persons.	Energy agreement, Justice agreement, Serbia lobbying campaign, Missing persons, Law on State Delegation, 100% tariff and Agreement on Telecommunications.	Law on State Delegation, 100% tariff, Serbia's obstacles to Kosovo's international subjectivity, Agreement on Telecommunications and Missing Persons.	The derecognition campaign from Serbia, the resumption of the dialogue process and the energy agreement.
Reporting of ministers to committees	11	9	4	2



Appendix 2: Dialogue agreements according to the scope of Parliamentary Committees

Table 1.2: Dialogue agreements according to the scope of Parliamentary Committees

Committee	Dialogue Agreements
3. Committee on Budget and Transfers	Washington Agreement, IBM, Customs Stamps, Customs Revenue Collection
4. Committee on the Rights and Interests of Communities and Returns	First Agreement of Principles, Association of Serb-majority municipalities
1. Committee on Legislation, Mandates, Immunities, Rules of procedure of the Assembly and Oversight of the Anti-Corruption Agency	First Agreement of Principles, Association of Serb-majority municipalities, Justice Agreement
2. Committee for European Integration	Washington Agreement, Free Movement, Regional Representation and Cooperation, IBM
5. Committee on Foreign Affairs and Diaspora	Washington Agreement, Free Movement, Regional Representation and Cooperation, Liaison Officers, Official Visits, First Agreement of Principles
6. Committee on Education, Science, Technology, Innovation, Culture, Youth and Sports	Washington Agreement, Mutual Recognition of Diplomas
8. Committee on Economy, Employment, Trade, Industry, Entrepreneurship and Strategic Investments	Washington Agreement, Free Movement, Regional Representation and Cooperation, IBM, Customs Stamps, Energy, Telecom, Recognition of ADR Certificates, Vehicle Insurance
11. Committee on Agriculture, Forestry, Rural Development, Infrastructure and Environment	Washington Agreement, Mitrovica Bridge
10. Committee on Health and Social Welfare	Drug agreement



Committee	Dialogue Agreements
7. Committee on Local Government, Public Administration, Regional Development and Media	Civil Registers, Cadastral Registers, Free Movement
9. Committee on Security and Defense	Free Movement, IBM, Dissolution of Civil Protection, Mitrovica Bridge, Recognition of ADR Certificates, Parallel Structures
12. Committee on Human Rights, Gender Equality, Missing Persons and Petitions	Washington Agreement, First Agreement of Principles, Free Movement
13. Committee for oversight of public finances	Washington Agreement, Customs Revenue Collection
14. Committee for the Oversight of Kosovo Intelligence Agency	Dissolution of Civil Protection, parallel structures



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