



POLICY BRIEF

Parliamentary Oversight of Defence in Kosovo: Capacities and Functionality

Parliamentary Oversight of Defence in Kosovo: Capacities and Functionality

By **Lulzim Peci**

Lulzim Peci is the Executive Director of the Kosovar Institute for Policy Research and Development. He previously served as Ambassador of Kosovo to Sweden.

Introduction

The Assembly of Kosovo has been continuously criticised and requested to improve its legislative function and its oversight of the executive. Parliamentary committees have failed to implement their oversight tasks, limiting their performance to reviewing draft laws proposed by the Government of Kosovo. While parliamentary oversight of the defence sector is in place, it is not yet functioning well. The Parliamentary Committee on Security and Defence Affairs has a large scope of work, with numerous institutions and agencies under its oversight mandate, and yet, it lacks the capacity to review draft laws, perform oversight of the executive or conduct post-legislative scrutiny. This directly affects the quality of the oversight of the newly-created defence sector and of its military arm, the Kosovo Security Force (KSF).

This policy brief analyses the capacities, scope of work, work plans, performance, and relations with other oversight institutions and actors of the Parliamentary Committee on Security and Defence Affairs.

Key points:

1. The Parliamentary Committee on Security and Defence Affairs is overwhelmed with responsibilities, while lacking the necessary members and staff to perform its oversight tasks.
2. The annual work plans of the Committee have failed to cover all of its responsibilities and have been poorly implemented, indicating a lack of critical oversight culture in holding the government to account.
3. Whereas the Kosovar Assembly is not averse to joining forces with civil society or making use of expertise from independent oversight bodies, cooperation to strengthen oversight of defence has been limited.

In order to strengthen parliamentary oversight of the defence sector, it recommends to choose between two policy options: the creation of a separate parliamentary committee for defence affairs, or the establishment of a permanent working group within the current committee that would be responsible for defence matters. In addition, whatever option is chosen, it is necessary to strengthen the overall capacities of the Committee's Support Unit with more personnel and external expertise.

Developing a defence sector and subsequent democratic oversight

Although Kosovo declared independence in February 2008, the process that led to the creation of its defence sector lasted over a decade. Initially, on 8 July 2013, the North Atlantic Council issued a declaration on the full operational capability of the Kosovo Security Force, which paved the way for the Kosovo Government to change the KSF's mandate. Accordingly, in 2014 the Kosovo Government completed the 'Strategic Security Sector Review' that proposed the transformation of the KSF into a defence force. The efforts of the Kosovo Government and NATO partners to enhance the mandate of the KSF were completed four years later, on 14 December 2018, with the approval of a package of laws by the Assembly of Kosovo that granted defence competences to the KSF and created the Ministry of Defence (MoD).

Kosovo has more than two decades of experience in parliamentary oversight of the security sector. Its origin dates from the formation of the Parliamentary Committee for Emergency Readiness in 2002. In September 2006, the Committee changed its name to the Parliamentary Committee on Security. Following the Declaration of Independence in 2008 and the subsequent creation of the KSF, the Committee was renamed once more to the Parliamentary Committee for Internal Affairs, Security, and Oversight of the KSF. At the same time, the Parliamentary Committee for the Oversight of the Kosovo Intelligence Agency was created. Finally, after the transformation of KSF into an armed force and the creation of the Ministry of Defence in 2019, the Committee was renamed the Parliamentary Committee on Security and Defence Affairs by the Seventh Legislature of the Kosovo Assembly on 13 February 2020.

Capacities and scope of work

The Parliamentary Committee for Security and Defence Affairs (henceforth the Committee) has a large oversight portfolio, but it is composed of only 11 parliamentarians and assisted by a Support Unit composed of just two civil servants. The Committee faces a lack of basic infrastructure and external expertise, which, in combination with its large oversight portfolio, severely limits its capabilities to perform an effective oversight of Kosovo's defence sector.

The Committee is in charge of the oversight of the Ministry of Internal Affairs and its executive agencies, namely the Kosovo Police, the Police Inspectorate, the Agency for the Management of Emergencies, the Academy of Public Security, and the Agency of Civil Registration, as well as the Kosovo Security Council, the Civil Authority of Aviation, and the Agency for Information and Privacy. On the other hand, the defence sector portfolio covers the Ministry of Defence, and the Kosovo Security Force and the Parliamentary Commissioner of the KSF. The Committee's scope of work envisages a large assortment of oversight tasks related to the defence sector, ranging from reviewing laws, policies, and budgets, to exercising parliamentary control over defence institutions, and cooperation with external actors and interest groups.¹

Since the establishment of parliamentary oversight of the security sector in Kosovo, the Committee has faced several structural problems, related to an insufficient infrastructure and inefficient internal organisation. The Committee has only two offices at its disposal, that of the Chair and that of the Supporting Unit, and a rather symbolic budget amounting to €5,000, which barely covers activities such as field visits, workshops, working lunches, reception of foreign delegations, among others.² At the same time, parliamentarians who are members of the Committee have to perform their duties without an office or even stationaries.

In July 2022, the new Rules of Procedure of the Kosovo Assembly were adopted, allowing parliamentary committees to form working groups or appoint referees for issues related to their mandate and scope of work.³ Working groups carry out activities based on authorisations given by the respective committees and report to them. However, the Committee has not yet used neither a working group nor a referee to carry out its mandate of oversight. The creation of a specific working group would increase efficiency and help better focus efforts, by clustering the oversight of the institutions and agencies that are under its competence.

Meanwhile, the Committee's Support Unit continues to be limited to two civil servants – a Coordinator and an Officer for Professional Support – who are primarily engaged in administrative work. The Unit faces a fundamental lack of research and advisory capacity in legal, financial, security, and defence matters, and is thus incapable of meeting the basic needs of the Committee to ensure an effective oversight of security and defence institutions. When it comes to reviewing draft laws, the Committee is supported by legal advisors of the Assembly's General Directorate of Legal and Procedural Affairs. The Directorate for Research, Libraries, and Archives has only provided research reports related to the draft budgets proposed by the Government for the security sector before their adoption by the Assembly of Kosovo. This is a result of both a lack of capacity and a lack of research requests addressed to the Directorate by the Committee or its members.

¹ See also 'Scope of Work of the Parliamentary Commission on Security and Defense Affairs', February 2020, available at <https://www.kuvendikosoves.org/shq/komisionet/komisioni/?committee=55#sectionCommitteeDescriptionBottom>

² Written communication with Mr. Nur Çeku, Coordinator of the Support Unit of the Parliamentary Committee on Security and Defense Affairs, August 2022.

³ Art. 43.1. 'Parliamentary Committee, for certain issues, may establish working groups or appoint a referrer from the members of the Committee', Rules of Procedure of the Assembly of the Republic of Kosovo, 28 July 2022.

Planning oversight and performance

The Annual Work Plans of the parliamentary committees of the Kosovo Assembly are the guiding documents for oversight of the respective governmental institutions, which are adopted by its members usually at the beginning of each fiscal year. To date, the work plans approved by the Committee on Security and Defence Affairs have not covered its whole range of responsibilities and powers. Moreover, implementation of these plans has been weak at best.

The Committee approved its first Annual Work Plan in February 2020. The plan envisaged limited activities related to oversight of the defence sector, namely reporting on a meeting with the Minister of Defence and one with the Director of the NATO Advisory and Liaison Team (NALT), on the financial expenditures of the first six months of fiscal year 2020, a hearing session with the Minister of Defence, and a working visit to the Doctrine and Training Command (TRADOK) of the KSF. In addition, the Committee planned the initiation of the drafting of the Law on the Parliamentary Commissioner for the KSF and the revision of the Draft Law on the Status, Temporary Stay, and Transit of Foreign Armed Forces in the Territory of the Republic of Kosovo.⁴ Unfortunately, the Annual Report of the Committee for the Year 2020 highlights that even these limited oversight activities have not been fully implemented. The Committee did not succeed in initiating the drafting of the Law on Parliamentary Commissioner for the KSF, or in reviewing the Draft Law on the Status, Temporary Stay and Transit of Foreign Armed Forces in the Territory of the Republic of Kosovo, or in organising a reporting session on the financial expenditures of the Ministry of Defence for the first six months of fiscal year 2020.⁵

The Committee's composition of the Eighth Legislature of the Kosovo Assembly was established in April 2021. An Annual Work Plan was adopted that same month. This plan also envisaged a limited number of activities for the oversight of the defence sector. In addition to the activities of the previous legislature, it also envisaged a hearing session with the Minister of Defence.⁶ The Committee again failed to initiate the drafting of the Law on the Parliamentary Commissioner for the KSF or organise a reporting session on the financial expenditures of the MoD for the first six months of fiscal year 2021. On the other hand, the Committee did review four additional draft laws related to the KSF.⁷

⁴ Annual Work Plan for the Year 2020, Parliamentary Commission on Security and Defense Affairs, February 2020.

⁵ Annual Report for the Year 2020, Parliamentary Commission on Security and Defense Affairs, February 2021.

⁶ Annual Work Plan for the Year 2021, Parliamentary Commission on Security and Defense Affairs, April 2020.

⁷ Annual Report for the Year 2021, Parliamentary Commission on Security and Defense Affairs, January 2022.

The Committee's Annual Work Plan for the year 2022 is more ambitious. In addition to reporting requirements and visits to the MoD and the KSF, this plan envisages reviewing three new draft laws (Draft Law on the Parliamentary Commissioner for the KSF, Draft Law on the Military Police of the KSF, and the Draft Law on the Ratification of the Agreement on the Status of Forces between Kosovo and Kuwait), as well as amending/changing three existing laws related to the defence sector. For the first time, the plan did not include a reporting session on the financial expenditures of the Ministry of Defence for the first six months of fiscal year 2022.⁸ On a positive note, the Committee has already reviewed the three new draft laws, including an amendment to the Draft Law on the Parliamentary Commissioner for the KSF and the Draft Law on the Military Police of the KSF, which were adopted by the Kosovo Assembly during its spring session.⁹

A close review of these Work Plans and Annual Reports reveals that the Committee has not paid attention to important oversight tasks, such as the revision of draft budgets of the KSF before their submission for approval to the plenary of the Assembly or of the annual budgets of the KSF; the post-legislative scrutiny of laws adopted in relation to the Ministry of Defence or the KSF; the oversight of the issues related to the organisation, financing, personnel, and equipment of the KSF; the implementation of the rule of law within KSF; or the oversight of the implementation of gender equality and human rights protection within the KSF.¹⁰ Furthermore, the Committee did not organise reporting sessions on the financial expenditures of the Ministry of Defence for the first six months of the fiscal years 2020 and 2021 (as mentioned above, this was not even included in the 2022 Annual Work Plan). Thus, the Committee has so far not been able to comply with its legal obligation of controlling defence expenditures.

It is practically impossible to review the draft budgets of governmental institutions before the approval of the laws on budget by the Kosovo Government and their proceeding to the Kosovo Assembly for first and second readings, given that these readings quite often happen within a time span of only a few days. This impedes the Committee from discussing the connection between operational policies and the needs of security and defence institutions and their respective budgetary requirements.¹¹ Thus, it is not an accident that the 2022 Annual Plan of the Committee did not envisage the revision of the annual budget of the MoD/KSF, given that in practice their role is without any effect. This greatly weakens parliamentary oversight of the defence sector.

These deficiencies could be reduced if the Committee requested to pre-review the draft annual budget of the Ministry of Defence before its submission to the Kosovo Government. This would provide the Committee oversight at the budgetary planning stage of the MoD, and make it easier to act during the first and second readings of the annual budgets in the Assembly to ensure that they meet the financial needs of the defence sector.

⁸ Annual Work Plan for the Year 2022, Parliamentary Commission on Security and Defense Affairs, February 2022.

⁹ Minutes of the Meetings of the Parliamentary Committee on Security and Defense Affairs, Spring Session, Kosovo Assembly, 2022.

¹⁰ Annual Work Plan for the Year 2022, Parliamentary Commission on Security and Defense Affairs, February 2022.

¹¹ Minutes of the Meetings of the Parliamentary Committee on Security and Defense Affairs, Spring Session, Kosovo Assembly, 2022.

Relations of the Committee with other institutions

Relations of the Committee with other institutions and actors have remained limited so far. There have not been significant initiatives involving the Office of the Auditor General, the Ombudsperson, civil society, external experts, or academia in the oversight work of the Committee.

However, the Ministry of Defence has made significant efforts to increase transparency and accountability with the Committee on Security and Defence Affairs. In September 2020, a Memorandum of Understanding (MoU) on the Appointment of a KSF Legislative Liaison Officer/ Official to the Kosovo Assembly was signed between the MoD and the Assembly of Kosovo, in order to increase coordination and communication in the fulfilment and implementation of constitutional and legal duties of both institutions. The rationale behind the MoU was to improve the exchange of information, including various reporting requests addressed by the Committee or its members to the Ministry of Defence and the KSF, and the coordination and facilitation of oversight visits of MPs to the MoD and the facilities of the KSF.¹²

While in the past there was a practice of reviewing audit reports of the Office of the Auditor General of Kosovo on different security institutions and agencies, this oversight has not been performed by the current Committee. Furthermore, none of the Committee's work plans since its establishment at the beginning of 2020 has envisaged this activity. The same negligence has been shown towards the institution of the Ombudsperson. That said, the Committee was helpful in developing the Law on the Parliamentary Commissioner for the Kosovo Security Force, adopted by the Kosovo Assembly in July 2022.¹³ This law mandates the Commissioner to carry out investigations related to allegations of violations of the rights of military personnel, with the aim of strengthening parliamentary control and the rule of law in the defence sector.

Although the Rules of Procedure of the Kosovo Assembly entitle parliamentary committees to engage external experts and invite civil society organisations, academia, and citizens to hearing sessions, the Assembly, in general, and the Committee, in particular, have not built a system that would enable their active participation in and contribution to the Committee's oversight activities. Furthermore, since its outset, the Committee has not organised a single hearing session with these stakeholders and has not engaged any external experts, even though the Committee's Support Unit is heavily understaffed.

¹². Correspondence with Mr. Faton Krasniqi, KSF Legislative Liaison Officer to the Kosovo Assembly, 14 July 2022.

¹³. Law 08/L-133 on the Parliamentary Commissioner for the Kosovo Security Force, Official Gazette of the Republic of Kosovo, 11 August 2022.

Towards better parliamentary oversight of the defence sector

Parliamentary oversight of the defence sector in Kosovo is superficial. Oversight by the Committee on Security and Defence Affairs is limited to the reporting of the Minister of Defence and Commander of the KSF, working visits, and reviewing of draft laws. The Committee has not tackled the oversight of fundamental matters related to the defence sector of Kosovo, such as budgetary, organisational, and personnel issues of the Ministry of Defence and the Kosovo Security Force. Furthermore, the Committee's Support Unit lacks the basic research and advisory capacities in legal, budgetary, security, and defence matters, which has direct implications on the quality of the oversight exercised by the Committee. However, there are also positive developments, such as improvements in promoting the protection of the rights of the military personnel of the KSF with the establishment of the post of the Parliamentary Commissioner.

In order to improve parliamentary oversight of the defence sector, there are two realistic policy options. The *first* option would be to create two separate parliamentary committees: a Parliamentary Committee on Security Affairs to cover the Ministry of Internal Affairs and its agencies, the Security Council of Kosovo, the Civil Authority of Aviation, and the Agency for Information and Privacy; and a Parliamentary Committee on Defence Affairs to oversee the Ministry of Defence and the Kosovo Security Force, and work with the Parliamentary Commissioner for the KSF. The work of these committees would have to be supported by separate support units, which would automatically discharge the current unit from its unrealistic workload. In addition to a Coordinator and an Officer for Professional Support, the support units should include advisory and research personnel with legal, budgetary, and defence expertise. Such an expanded and more clearly defined focus area would benefit oversight and, in turn, defence policy.

The *second* option would be to cluster the current oversight scope by creating three permanent working groups under the present Committee. The first, on internal affairs, covering the Ministry of Internal Affairs and its executive agencies; the second, on defence affairs; and the third, on other security affairs, covering the Security Council, the Civil Authority of Aviation and the Agency for Information and Privacy. This would enable the Assembly to move the Committee's oversight activities from scattered agenda-setting and discussions to a more focused and continuous oversight effort in clearly defined sub-areas. In this case, the structure of the support unit should be reshuffled by dividing it into two parts, namely, an administrative section and a research and advisory section. The latter should include experts who can provide legal and budgetary expertise for the entire scope of work of the Committee, and specific experts on matters pertaining to each permanent working group.

Regardless of what option is chosen, there is a need to increasingly use internal and external expertise in the oversight of defence. Internally, the Committee should effectively use the research and advisory resources that can be provided by the General Directorate of Legal and Procedural Affairs of the Assembly, and make full use of internal parliamentary research capacities. Externally, the Committee should make increased use of academic and think tank expertise. In doing oversight of defence, information provided by the Government is crucial, but should not be the exclusive source on which to base oversight.

Under the current circumstances, parliamentary oversight of the defence sector remains weak, which consequently makes defence institutions vulnerable and prone to mismanagement, misuse of power, as well as unaccountable towards parliament and society. Hence, strengthening capacities and achieving effective functionality of parliamentary oversight is an urgent matter to ensure the democratic governance of the defence sector in Kosovo.



CESS

The Centre for European Security Studies (CESS) is an independent institute for research and training, based in Groningen, the Netherlands. CESS seeks to advance security, development, democracy and human rights by helping governments and civil society face their respective challenges. CESS is an international, multidisciplinary and inclusive institute. Its work is part of the European quest for stability and prosperity, both within and outside Europe. CESS encourages informed debate, empowers individuals, fosters mutual understanding on matters of governance, and promotes democratic structures and processes.



DECOS

The DECOS project seeks to empower democratic institutions and civil society actors in their function of oversight of security. It does so by increasing capacities, enhancing cooperation, and fostering a culture of oversight of the security sectors of Albania, Kosovo, and North Macedonia.

In the DECOS project CESS works with:

- The Albanian Institute for Political Studies
- The Institute for Democracy and Mediation, Albania
- The Kosovar Institute for Policy Research and Development
- The Institute for Democracy 'Societas Civilis', North Macedonia



Ministry of Foreign Affairs of the
Netherlands

DECOS is funded by the Ministry of Foreign Affairs
of the Netherlands.