



KOSOVAR INSTITUTE FOR POLICY RESEARCH AND DEVELOPMENT

**HOLDING TO ACCOUNT AND HELPING
TO IMPROVE PUBLIC POLICY
THE COMMITTEE FOR
OVERSIGHT OF PUBLIC FINANCES**

Prishtina, July 2010

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I. ACKNOWLEDGEMENT

This report has been prepared as part of the initiative to enhance the functioning of the new Committee for the Oversight of Public Finance (COPF) of the Assembly of Kosovo and public financial accountability in Kosovo. The preparation of the visit was managed by KIPRED in Kosovo and I would like to thank in particular Artan Venhari and Albert Krasniqi for their help in planning the visit and the arrangements made in Kosovo. This report and its recommendations have been prepared to assist the effectiveness of COPF, a committee which has been in operation since November 2009. The report can not be truly comprehensive due to the shortness of my visit and the lack of dialogue with chairs of committees and representatives from Party caucuses. I hope, however, that the report's content and recommendations will be taken into consideration as part of the wider efforts to promote and strengthen democracy and good governance in Kosovo.

II. LIST OF ACRONYMS AND ABBREVIATIONS

AAK	ALLIANCE FOR THE FUTURE OF KOSOVO
AG	AUDITOR GENERAL
AKR	NEW KOSOVO ALLIANCE
CBF	COMMITTEE FOR BUDGET AND FINANCE
COPF	COMMITTEE FOR THE OVERSIGHT OF PUBLIC FINANCE
DFP	DEPARTMENT FOR FINANCE AND PERSONNEL (JERSEY)
EPAP	EUROPEAN PARTNERSHIP ACTION PLAN
EU	EUROPEAN UNION
ICR	INTERNATIONAL CIVILIAN REPRESENTATIVE
ISSAI	INTERNATIONAL AUDITING STANDARDS FOR THE SUPREME AUDITING INSTITUTIONS
KIPRED	KOSOVAR INSTITUTE FOR POLICY RESEARCH AND DEVELOPMENT
LDD	DEMOCRATIC LEAGUE OF DARDANIA
LDK	DEMOCRATIC LEAGUE OF KOSOVO
NAO	NATIONAL AUDIT OFFICE (UK)
OAG	OFFICE OF AUDITOR GENERAL
PAC	PUBLIC ACCOUNTS COMMITTEE
PDK	DEMOCRATIC PARTY OF KOSOVO
SAI	SUPREME AUDIT INSTITUTION
UK	UNITED KINGDOM
UN	UNITED NATIONS

III EXECUTIVE SUMMARY

On 2 November 2009 the Committee for Oversight of Public Finances (COPF) was established by the Kosovo Assembly. The remit of the committee is along the lines of a Public Accounts Committee (PAC), a committee which exists in an increasing number of legislatures around the world, but particularly prevalent in Westminster systems. Such committees are responsible for examining the public accounts, the comments on the public accounts and all the reports drafted by the Supreme Audit Institution (SAI). The goal of a PAC is improving the delivery of public policy and ensuring citizens get what they deserve: good governance.

This report has been prepared as part of the initiative to enhance the functioning of the new COPF and public financial accountability in Kosovo. It therefore considers the role and work of the Office of Auditor General (OAG), currently headed by Lage Olofsson who was appointed to his post at the beginning of 2009 by the International Civilian Representative (ICR). His role and mandate is to build up the organizational capacity and pave the way for a sustainable Supreme Audit Institution (SAI) under Kosovan ownership.

There is widespread support for the work of the current Auditor General (AG). However, there is some criticism at the performance and conduct of some auditors within the organisation. There are also issues relating to the legal basis of the OAG; the lack of performance reports received by the COPF; and whether the office is strong enough to withstand the partisan pressures when the current AG leaves his post and his successor is appointed by the Assembly. There are also resource considerations for both the OAG and COPF.

A working relationship has been established between the OAG and the COPF, but a true partnership relationship needs to be established. The Assembly of Kosovo, through the COPF, depends on high quality audit reporting to exercise effective scrutiny while the AG requires an effective Assembly and COPF to ensure that departments take audit outcomes seriously. This is the concept of “adding value” to AG reports.

The basic requirement for good governance within Kosovo is developing a culture of accountability which will require the involvement and support of the media and civil society concerning public audit matters and the work of the OAG and COPF. At the same time, the members of COPF need to demonstrate greater awareness of the *raison d'être* of the COPF and OAG which is to encourage, assist and secure improvements in the efficiency and effectiveness of the use of public money. Unfortunately, the highly partisan nature of Kosovar politics as expressed in the Assembly has permeated the early work of the COPF.

It is also necessary that other Members, especially Chairs of Committees, understand the role and remit of COPF, particularly with regard to the differences between policy and policy implementation. The relationship between COPF and the Committee for Budget and Finance (CBF) is particularly critical. COPF has taken over some of CBF's functions and these two committees need to establish a constructive relationship given the importance of the legislature's role in the budget *ex ante* and *ex post*. Unfortunately tensions exist between the two committees, caused partly by the two mandates (shown as Annex A) and partly by issues relating to membership and performance. Further difficulties facing COPF include how to ensure that audit recommendations are considered and implemented by the government or relevant public body and how the committee should measure its own performance as it tries to establish itself both within the Assembly and beyond.

This report contains recommendations to strengthen the work and performance of COPF, as well as the OAG. The report concludes, however, that greater attention now needs to be placed to the broader accountability environment through which both COPF and OAG operate. At present the external environment is not conducive to impartial financial scrutiny. This is partly because accountability structures are often subordinated to the needs of the political parties and it is also partly because the executive dominates the Assembly. But it is not readily apparent that stakeholders within Kosovo society – from the government, bureaucracy, Assembly, COPF, OAG, media and civil society – are aware of the requirements and responsibilities of accountability and act in such a way to support fair, objective and predictable outcomes. A fundamental question needs to be posited concerning how best to ensure the key principles and values needed to achieve a robust system of horizontal accountability exist within Kosovo.

IV. SUMMARY OF RECOMMENDATIONS

1. It is unfortunate that the external auditor to the OAG has not yet been appointed for 2009 and the COPF needs to address this as a matter of priority.
2. To generate greater confidence in the OAG and to support the current reform efforts of the AG, either the UK NAO or Slovenian Court of Audit should be invited to carry out a comprehensive performance audit/assessment of the OAG at the end of the Twinning Project in 2011.
3. The law on public enterprises needs to be tightened to prevent the audited organization, the company or the enterprise, from appointing their own auditors.
4. COPF must also be more proactive in ensuring the OAG has the expertise and resources enabling it to scrutinise and assess government expenditure, with access to official sources of information. In return, the SAI needs to deepen cooperation and support to the COPF through regular briefing material, oral or written, and the establishment of a parliamentary liaison officer.
5. The COPF and OAG may find it useful to establish an agreed protocol governing appropriate relations between the AG, Assembly and government. This should be agreed and implemented with or without the cooperation of the executive. The protocol could include an agreed strategic timetable for publications, hearings, parliamentary debates and announcements; and targets for achieving a better balance between regularity and performance reports.
6. The responsibility of the CBF must be restricted to the budget process *ex ante* – an area where legislative oversight is of crucial importance - and COPF's responsibility should be in the *ex post* phases of the budget cycle. There needs to be a clear and agreed distinction between the scrutiny and authorization of proposed government expenditure and taxation and the oversight of past expenditure. Both parts of the budget process are of equal importance.
7. The COPF should become the fifth main or permanent committee of the Assembly. The two parts of the budget cycle – authorization and implementation of expenditure – will then be given the same prominence by the Assembly.
8. The chair of the CBF should not sit as a member of the COPF (and vice versa).
9. The relationship between the CBF and other committees needs to be evaluated especially in the area of scrutinising the budget. All Committees should be making non-binding recommendations to the CBF on the spending within their areas. Such a system would ensure the use of sector expertise, as well as the enforcement of budget constraints and determination of budgetary priorities through the CBF. This is also true of the *ex post* financial scrutiny responsibilities of the COPF. The conclusions of the COPF should have a

strong bearing upon the work and recommendations of the CBF and future budget policy decisions by government.

10. The COPF may like to consider asking Members who join the COPF to sign a code of conduct (formal or informal) in which they pledge to respect the non-partisan nature of the Committee.
11. No member of COPF should participate in its consideration of any matter if he or she was at the relevant time a member of the government.
12. The Chair of COPF must act more independently of party pressure than the chairs of other committees, *even when commenting on matters outside the committee*. This will assist the effective operation of COPF and generate greater trust and support for its work.
13. COPF should establish close relationships with the other functional and main committees that are charged with the oversight and scrutiny of specific government policies so its unique role is understood and supported. Signing and respecting a memorandum of understanding is one option that should be considered.
14. COPF may wish to ask itself the following questions before undertaking an Inquiry (taken from the Isle of Man's PAC).
 - The significance or potential significance of the matter for the reputation of the Assembly or Kosovo more generally;
 - The credibility of any allegation the Committee has been asked to investigate;
 - The *quantum*; the sum of money involved; and
 - The question whether the issue could be referred to another existing committee of Kosovo.
 - The advice of the AG
15. The Kosovo Assembly needs to agree legislation or a code of practice requiring government to respond to COPF (and other committee) reports and recommendations to ensure that their work has meaning and produces results.
16. In addition to COPF reports being tabled in the Assembly, there should be an annual debate on the work of the committee, perhaps based on an Annual Report (this recommendation is also applicable to the other committees of the Assembly).
17. The COPF should assess and report the extent to which the COPF keeps up-to-date with AG Reports as well as the costs of delivering outputs (its budget, the time spent by parliamentary staff and Members).
18. The COPF should assess and report the frequency of its reports as well as the number of recommendations accepted, follow-up actions undertaken, the extent to which implementations are accepted and the degree of wider parliamentary debate and media coverage.

19. COPF and OAG must attempt to measure the durable improvements in public administration as the intended consequences of the COPF accountability process and its outputs.
20. There is sufficient support for COPF in the short-term as long as KIPRED continues its guidance and assistance to the committee and the OAG develops its linkages with the committee through a parliamentary liaison officer and regular briefings. However, there is a need for the parliament to take ownership of the committee in the medium to long term. Training is therefore key – not just for the Chair and Members but also staff and especially the Clerk. As the capacity of the support staff of the committee increases and COPF becomes more firmly established within the Assembly, the KIPRED Institute and other actors should spend less time on the technical day-to-day life of the committee and focus more on the wider strategic accountability issues within Kosovo.
21. The COPF and KIPRED may wish to investigate the feasibility of a delegation from COPF (including the Clerk) attending the annual summer school for parliamentary public accounts Committees at La Trobe University in Australia in February 2011.
22. A secondment could be arranged for the clerk to attend one of the PACs in Wales, Scotland, or Northern Ireland. Alternatively, assistance could be requested from another legislature in the form of a clerk visiting Kosovo to act as an adviser to the current Clerk and Chair, oversee the period from initiating an Inquiry, planning a Hearing, conducting a Hearing, writing the report etc.
23. There is also a need to build capacity within the Assembly to increase the ability of Members to comprehend the role of COPF and wider accountability issues. This capacity building should take place after the next election (in the form of a post-election seminar) and be arranged for all Members. The focus of this seminar should be their responsibilities as Members of the Assembly rather than as representatives of a political party.
24. The role, functions, reports and funding of all ethical watchdogs or “independent institutions” within Kosovo should be reviewed to ensure uniformity in structure, good practice and a coherent framework is struck between independence from the Executive and accountability to Parliament. Such a report should be concluded and implemented before the next General Election.

V. PROGRAMME¹

- 22 June Meeting with members of COPF. The following five presentations were delivered and discussed²:
- The Public Accounts Committee
 - The Relationship between the PAC and Auditor General
 - Preparing for a PAC Hearing
 - Measuring PAC Performance
 - Good Practice and Experience of other PACs.
- 23 June Meeting with the chairs of committees and representatives from Party Caucuses on Parliament and the Audit of Public Accounts³
- 24 June Meeting with representatives of the media and society
- Meeting with the Clerk to COPF, Fatime Qorri
- Meeting with the Chair of COPF, Haki Shatri
- Meeting with the Auditor General, Lage Olofsson

VI. BACKGROUND AND CONTEXT

Kosovo is independent, supervised by the international community following the conclusion of the political process to determine Kosovo's final status envisaged in UN Security Council Resolution 1244. The last election took place in December 2007 which resulted in the two largest parties in the Assembly (the PDK and LDK) forming a coalition government. The opposition is formed of three parties, the AKR, LDD and AAK.

The Assembly of Kosovo adopted a declaration of independence on 17 February 2008, declaring Kosovo an independent and sovereign State. To date all member states of the European Union (EU) have recognised Kosovo (excluding Romania, Spain, Cyprus, Greece and Slovakia) as well as an increasing number of other countries, including the United States.

One of the current five strategic objectives of the Assembly of Kosovo is to ensure effective parliamentary oversight of the government. This is partly a reflection of the greater international attention that has been placed in recent years on the role of the legislature in overseeing governments' actions and activities. There is now widespread acceptance that effective legislative *and financial* scrutiny provides an assurance of government integrity and will strengthen the capacity of parliaments to oversee the allocation and use of public funds. The problem that exists in many countries however, is that the political environment may not be conducive to effective oversight and in many emerging democracies there may be no tradition of independent scrutiny.

¹ There were ongoing meetings and discussions with KIPRED representatives during the course of my visit.

² Copies of each presentation were given to KIPRED for distribution to COPF members.

³ It is regrettable that this meeting had to be cancelled due to lack of interest of Members.

At the same time many legislatures face capacity constraints when seeking to hold the executive to account. These are some of the issues currently facing Kosovo.

One of the instruments that parliaments can use to check government activities is a PAC. The PAC is the parliamentary committee responsible for ensuring financial accountability in government as well as assisting the wider accountability of ministers and their departments to parliament. The PAC is part of the parliamentary infrastructure that helps to ensure that governments account for their operating policies and actions, and their management and use of public resources (McGee 2002).

Kosovo has joined a number of countries⁴, including countries from outside the traditional “Westminster model”, in establishing a PAC (although it has been called the COPF). Previously the oversight of public finances in the Kosovo Assembly was carried out through the CBF, but “its role as a steward of public money [was] only symbolic and superficial”⁵. International pressure led the Assembly on 24 July 2009 to take the decision to establish the COPF. The committee became operational on 2 November and since then it has been responsible for budget control and control of other public finances.

VII. THE CHAIN OF ACCOUNTABILITY WITHIN KOSOVO⁶

A. The Vision

1. Authorisation of government expenditure by the Assembly;
2. Production of annual accounts by government departments and other public bodies;
3. The audit of those accounts by the AG;
4. The submission of audit reports to the Assembly for review by the COPF;
5. Issue of reports and recommendations by the COPF; and
6. Government response to COPF reports (within an agreed time limit).

B. Some Problems

- i. The primacy of informal accountability relationships (links with political parties);
- ii. The absence of informed and mobilised domestic political constituencies to support an accountability culture;
- iii. The lack of staff, facilities and financial resources (both with the Office of Auditor General (OAG) and COPF);
- iv. The relationship between the COPF and CBF
- v. The capability and approach of the COPF, and
- vi. The relationship between the COPF and the SAI (especially the Auditor General).

⁴ Examples include Czech Republic, Bhutan, Guernsey, Wales, Scotland, Jersey, Ethiopia, Finland, Liberia, Nepal, Rwanda, and Thailand.

⁵ Venhari, A & Marmullakaj, Q (2009) Oversight of Public Finance in Kosovo, KIPRD, Prishtina, Kosovo.

⁶ The Chain of Accountability has been adapted from a framework prepared by the Overseas Development Institute (2008).

VIII. THE SUPREME AUDIT INSTITUTION - THE OFFICE OF THE AUDITOR GENERAL AND THE KOSOVO AUDIT OFFICE

The current AG, Lage Olofsson, was appointed to his post at the beginning of 2009 by the International Civilian Representative (ICR). The Constitution and the Law on Establishment of the Office of the Auditor General of Kosovo and Audit Office in Kosovo sets out his mandate and duties. He is required to be independent from the government and report directly to the Assembly. His role is to build up the organizational capacity and pave the way for a sustainable SAI under Kosova ownership⁷.

The Office carries out two forms of audit – an annual Regularity Audit of the Consolidated Budget and budget organizations and a Performance Audit examining whether government programmes are being managed with due regard for economy and efficiency. The performance audit is not compulsory and is at the AG's own discretion. In the audit season 2008/09 (which ended in September 2009) the office carried out 53 mandatory regularity audits, covering 80% of the total expenditures and 95% of the total revenues. In addition, the two first performance reports were carried out. Four opinions were unqualified, seventeen opinions were unqualified with emphasis of matter; and four opinions were qualified. The audit is based on the International Auditing Standards for the Supreme Auditing Institutions (ISSAIs)⁸.

In my discussions with members of the COPF and other stakeholders, I found very little criticism of the current AG, who was seen as independent and supportive of the work of the COPF. The Chair of the COPF, Mr. Haki Shatri, confirmed to me that the committee had no problems with the AG who communicates normally and respects the requests the committee⁹.

However, there is a lack of confidence among some parties at the degree of independence and performance of some auditors working within the OAG. The Chair of COPF has raised concerns with the AG that within the OAG there are certain individual auditors who are politically influenced although all staff working at the OAG are required to sign annual code of conduct declarations, stating compliance with professional ethical requirements, and attesting to appropriate personal and professional conduct. Yet suspicions of party influence and conflicts of interest endure. There are also issues relating to the legal basis of the OAG; the quality of audit reports received by the COPF; and whether the office is strong enough to withstand the partisan pressures when the current AG leaves his post and his successor is appointed by the Assembly from within Kosovo itself. Independence and objectivity are essential.

The AG is currently developing the internal machinery of the office as well as carrying out an organizational and functional reform of OAG. He is seeking to restructure the office from being an organization similar to a court that looks at the compliance of financial statement (often a long time afterwards) towards a change-agent model of working. For example interim reports have been introduced during the financial year.¹⁰ This should be encouraged and the AG cites results such as improvements in the professionalism of staff working at OAG, better audit coverage and higher quality in the audit operations.¹¹

Concerns persist amongst stakeholders within the Assembly. In 2009 the auditors sent to the Ministry of Transport and Post-Telecommunication were expelled from the institution and the

⁷ OAG Annual Performance Report 2009, p.4.

⁸ OAG Annual Performance Report 2009.

⁹ Interview with Haki Shatri, Chair of the COPF, 24 June 2010.

¹⁰ Interview with Lage Olofsson, Auditor General of Kosovo, 24 June 2010.

¹¹ Annual Performance Report 2009, p.17

AG was obliged to send two other auditors (there is no mention of this in the Annual Performance Report). At the meeting of the COPF on 30 June 2010, one of the members disputed a report from the OAG alleging that the leader of the team that conducted the audit had a conflict of interest. This is often a problem – real or perceived – in countries in transition where many people know each other and have connections and ties with others. There is some suspicion within the COPF that audit reports from OAG are to a certain degree influenced by external influences and pressures.

Each year, the Assembly is required to appoint an external auditor to audit the OAG's Annual Finance Statements (AFS). **It is unfortunate that the external auditor has not yet been appointed and the COPF needs to address this as a priority.** In the long-term, the AG has said he will establish periodic external reviews by peers, such as other SAIs. The OAG has recently signed a Twinning Project with the United Kingdom's National Audit Office (NAO), as Lead Partner, and the Slovenian Court of Audit (as Junior Partner). Experts from both the UK and Slovenia are working closely with their Kosovo counterparts to assist them in applying EU best practice to the audit of public funds. The project is concentrating on mentoring OAG audit teams in their regularity audits and performance audits. There will also be help to produce new internal regulations for the OAG as well as help with Human Resources development. This project runs for 2 years and will end on July 2011¹². **I believe to generate greater confidence in the OAG and to support the current reform efforts of the AG, either the UK NAO or Slovenian Court of Audit should be invited to carry out a comprehensive performance audit/assessment of the OAG at the end of the Twinning Project in July 2011.**

The legal basis also needs to be tightened. One example given to me by a number of people in Kosovo is the current law on public enterprises which states that the audited organization, the company or the enterprise, shall appoint their own auditors. The result is that this audit is very superficial. In parallel to this audit the OAG has started undertaking management audits which delve much deeper as to how the public enterprise is managed and how the operations perform. This audit is more relevant and objective for stakeholders within Kosovo¹³. **This legal discrepancy should be removed at the earliest opportunity.**

A. Resources

The chair of COPF is very keen that the field of audit be extended to include more performance assessments in addition to regularity audits. However, he is concerned the OAG does not have the capacity to carry out such evaluations¹⁴.

The 2009 initial budget for OAG was 1,106,963 EUR, a reduction from the previous year. There were 64 audit staff in 2009 and 21 support staff. This compares to 280 audit office staff who support the Auditor General of Wales¹⁵. There are 293 whole-time equivalent staff in Audit Scotland as at 31 March 2010. In 2009/10, Audit Scotland spent £27.7 million on services for the Auditor General and the Accounts Commission; this is less than 0.1 per cent of the £36

¹² Information from the Annual Performance Report and the website of the OAG, <http://www.ks-gov.net/oag/english/home.htm>.

¹³ A recent example is the Audit Report on the Financial Management of D.H. "Termokos" Prishtina for the year ended 31 December 2009 available on the OAG's website: (<http://www.ksgov.net/oag/Raportet%20Anglisht/2009/TERMOKOS%202009%20Final%20150610%20Eng%20QM.pdf>) [Accessed 30 June 2010].

¹⁴ Interview with Haki Shatri, Chair of the COPF, 24 June 2010.

¹⁵ <http://www.wao.gov.uk/whoware/whoware.asp>. The UK NAO employs some 900 staff, but is not a useful comparison.

billion spent by the bodies that are audited. The majority of these costs are recovered through charges to these organisations, with the balance received as direct funding from the Scottish Parliament¹⁶.

The European Partnership Action Plan (EPAP) agreed between Kosovo and the EU foresaw a 20% increase in the numbers of national staff to compensate the reduction of international staff. This has not happened and the AG reports that he is facing challenges in developing and maintaining experienced and skilled personnel able to absorb and handle the reform process. **It is essential that the COPF and the Assembly of Kosovo puts pressure on the government to respect the EPAP agreement and start allocating sufficient resources to allow the OAG to fulfil its mandate.**

Cooperation between the OAG and the COPF needs to be intensified to establish a true partnership relationship. It needs to be understood and accepted that the Assembly of Kosovo, through the COPF, depends on high quality audit reporting to exercise effective scrutiny while the AG requires an effective Assembly and COPF to ensure that departments take audit outcomes seriously. This is the concept of “adding value” to AG reports. The AG has expressed concern, for example, of the limited interest by the Assembly to undertake actions on any report which is not adjusted to the timeframe of the budget process.¹⁷

At the same time, COPF must not divert or manipulate the AG; the AG must be allowed to determine the focus of his work in line with any relevant legislative requirements. It must also be understood that OAG reports must not be influenced or approved by any party be it the executive, the legislature or COPF. An audit report from the SAI is exactly that; it cannot be changed, but of course the COPF has the right to issue its own reports based on the specialised audit findings.

Finally, COPF must also be more proactive in ensuring the OAG has the expertise and resources enabling it to scrutinise and assess government expenditure, with access to official sources of information. In return, the SAI needs to deepen cooperation and support to the COPF through regular briefing material, oral or written, and the establishment of a parliamentary liaison officer. The COPF and OAG may find it useful to establish an agreed protocol governing appropriate relations between Auditor-General, Parliament and government, with or without the cooperation of the executive. The protocol could include an agreed strategic timetable for publications, hearings, parliamentary debates and announcements; and targets for achieving a better balance between regularity and performance reports.

¹⁶ Audit Scotland Annual Report 2009/10.

¹⁷ Annual Performance Report 2009, p.9.

IX. THE COMMITTEE FOR OVERSIGHT OF PUBLIC FINANCE

Based on research prepared by the World Bank Institute (WBI)¹⁸ an ideal PAC would have the following characteristics:

1. It would be small (5-11 members);
2. Senior opposition figures would be involved with it, possibly chairing it;
3. The chair would be a senior, fair-minded, respected parliamentarian;
4. It would be adequately staffed;
5. Its roles would be clearly understood;
6. It would hold regular and frequent meetings;
7. Hearings would be open with transcripts made publicly available;
8. A steering committee would plan work; typically taking evidence from an official;
9. Auditors' reports would be referred automatically to the PAC with the Auditor meeting them to discuss them;
10. The PAC would sometimes investigate issues other than those raised by the Auditor;
11. It would strive for consensus;
12. Reports would be issued to Parliament at least annually;
13. It would have measures for monitoring the implementation of recommendations;
14. The Auditor would be used as an adviser; and
15. There would be an annual parliamentary debate of its work.

From my discussions and observations over the course of my visit, the characteristics in need of development within the COPF in Kosovo are 5, 11 and 13. Particular attention is therefore placed on these three characteristics in this report.

A. Relationship between the Committee for the Oversight of Public Finance and the Committee for Budget and Finance

The Committee for Budget and Finance was previously responsible for budget control and control of other public finances, but a 2008 evaluation of the Assembly of Kosovo concluded it was “overwhelmed by a large number of draft laws in procedure, by the analysis of the budgetary implications of every draft law submitted in the Assembly and by the preparation of the Assembly budget”.¹⁹

The decision to remove financial audit from the mandate of this committee to a new COPF is to be applauded. However, there are clear tensions between the two committees, caused partly by the two mandates (shown as Annex A) and partly by membership. Despite new mandates being agreed for the two committees, there still exists scope for duplication. For example the CBF has the mandate to oversee the *implementation* of the law on Public Financial Management and Responsibilities, as well as other laws that deal with public finances; it also is engaged in the review of the Government programme, the manner and level of its implementation in the field of finances and gives recommendations to the Assembly; and finally reviews periodic reports of

¹⁸ Staphenurst, F., *et.al.* (2007) Scrutinizing public expenditures: assessing the performance of Public Accounts Committees. In: McGee, D., *The Budget Process, A Parliamentary Imperative*. London: Pluto Press, p. 162.

¹⁹ Milan Martin Cvikl (2008). *New Mandate New Opportunities*, OSCE, http://www.assembly-kosova.org/common/docs/Assessment_Report_English.pdf [accessed 30 June 2010]

the Ministry of Economy and Finance, on the expenditure of Kosovo institutions and budget organizations which report to the Assembly.

In my view the mandate of the CBF needs to be focussed further on the budget and the financial implications of new legislation leaving the COPF space and authority to handle the question of how money has been spent. In other words, the responsibility of the CBF must be restricted to the budget process *ex ante* – an area where legislative oversight is of crucial importance - and the responsibility of the COPF should be in the *ex post* phases of the budget cycle. There needs to be a clear and agreed distinction between the scrutiny and authorization of proposed government expenditure and taxation (*ex-ante*) and the oversight of past expenditure (*ex-post*).

The experience of the Scottish Parliament may be useful. The Parliament was established in 1999 following devolution in the United Kingdom and has 129 members – a similar size to Kosovo. The box below shows how the Parliament has clearly divided the competencies of the Finance and Public Audit Committee.

Box 1: The Remits of the Public Audit Committee and Finance Committee of the Scottish Parliament²⁰

Public Audit Committee

The remit of the Public Audit Committee is to consider and report on—

- (a) any accounts laid before the Parliament;
- (b) any report laid before or made to the Parliament by the Auditor General for Scotland; and
- (c) any other document laid before the Parliament, or referred to it by the Parliamentary Bureau or by the Auditor General for Scotland, concerning financial control, accounting and auditing in relation to public expenditure.

Finance Committee

The remit of the Finance Committee is to consider and report on-

- (a) any report or other document laid before the Parliament by members of the Scottish Executive containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;
- (b) any report made by a committee setting out proposals concerning public expenditure;

²⁰ For information about committees and how they operate in the Scottish Parliament, see <http://www.scottish.parliament.uk/business/committees/index.htm>.

(c) Budget Bills; and

(d) any other matter relating to or affecting the expenditure of the Scottish Administration or other expenditure payable out of the Scottish Consolidated Fund.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, "public expenditure" means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.

The duplication and cross-over between the COPF and CBF is exacerbated by two further problems or tensions. Firstly the CBF is a permanent committee of the Assembly while the COPF is a functional committee. Second is the presence of the Chair of the CBF on the membership of the COPF.

Under Article 70 of the Rules of Procedure, the Assembly appoints main, functional and *ad-hoc* committees. The CBF is one of four main or permanent committees²¹ while the COPF is one of 12 functional committees²². By convention the PAC is often regarded elsewhere as the pre-eminent parliamentary committee, but this is not applicable in the context of Kosovo. **However, the COPF should become the fifth main committee given the central importance of public financial accountability.** For example in the Scottish Parliament the Finance Committee and Public Audit Committees – the equivalent of CBF and COPF – are mandatory committees. In Northern Ireland the PAC is a permanent committee and the Welsh Assembly gives the Finance Committee and PAC the same classification. In this way the two parts of the budget cycle – authorization and implementation of expenditure - are given the same prominence by the Assembly.

The second issue is the presence of the chair of the CBF as a member of the COPF. This has caused some understandable disquiet and tension which is only heightened by the distinction between the two committees (see above) and the fact that one chair (CBF) is from the governing coalition and the other (COPF) is from the Opposition²³. **The overlap of committee membership in an Assembly the size of the Kosovo (120) is inevitable, but I do think there is a conflict of interest, perceived or real, in the chair of one the two committees sitting as a member of the other. There is also a practical consideration: the chairmanship of any committee is an important and arduous task and is bound to take up most of the chair's time. It is inevitable they will have less time for other duties. My**

²¹ The others are the Committee on Rights and Interests of Communities and Return; Committee on Legislation and Judiciary; and Committee on European Integrations.

²² The other functional committees are the Committee on Foreign Affairs; Committee on Education, Science, Technology, Culture, Youth and Sports; Committee on Economy, Trade, Industry, Energy, Transport and Telecommunication; Committee on Agriculture, Forestry, Rural Development, Environment and Spatial Planning; Committee on Health, Labor and Social Welfare; Committee on Public Administration, Local Government and Media; Committee on Internal Affairs and Security; Committee on Human Rights, Gender Equality, Missing Persons and Petitions; Committee on Oversight of Kosovo Intelligence Agency; Committee on Oversight of Kosovo Security Force; and Committee on Mandates, Immunities and Rules of Procedure of the Assembly.

²³ The current chair of the COPF used to be a member of the CBF, but resigned his position on being elected chair of COPF.

recommendation is that this be prevented either in the rules of procedure or in a memorandum of understanding between the two committees.

Although this may be outside the terms of reference of this report, I do feel **the relationship between the CBF and other committees needs to be examined when it comes to scrutinising the budget.** The major advantage of the CBF scrutinising executive budget proposals and expenditure proposals is that it can focus on the overall fiscal framework. It is also arguably easier to hold government accountable for their draft budget through the use of a single powerful committee. However, functional committees of the Assembly will have expertise in the particular area under scrutiny and thus are better equipped to handle budget matters within their sector. **Committees should be making non-binding recommendations to the CBF on the spending within their areas²⁴. Such a system would ensure the use of sector expertise, as well as the enforcement of budget constraints and determination of budgetary priorities through the CBF. This is also true of the *ex post* financial scrutiny responsibilities of the COPF. The conclusions of the COPF should have a strong bearing upon the work and recommendations of the CBF and future budget policy decisions by government.**

B. A Partisan Committee

The goal of a PAC is improving the delivery of public policy and ensuring citizens get what they deserve i.e. good governance. Parliamentary (financial) scrutiny should act as a deterrent against bad practice. The basic requirement for good governance within Kosovo is developing a culture of accountability which will require the involvement and support of the media and civil society concerning public audit matters and the work of the OAG and COPF. At the same time, COPF members need to understand that their ultimate purpose is to encourage, assist and secure improvements in the efficiency and effectiveness of the use of public money.

Unfortunately, the highly partisan nature of Kosovar politics as expressed in the Assembly has permeated the early work of the COPF. Partisanship will cause problems in most committees, but it is highly dangerous for an audit committee – the COPF will never be truly effective if its members give priority to partisan considerations. This is a behavioural problem rather than an institutional factor. In short, Members have to distinguish between their role as Party members and their role as COPF members with the aim of producing unanimous reports. Members of COPF must not make a judgement on the merit of a particular policy. **One approach the COPF may like to consider is asking Members who join the COPF to sign a code of conduct (formal or informal) in which they pledge to respect the non-partisan nature of the Committee. Another important principle is that no member of COPF should participate in its consideration of any matter if he or she was at the relevant time a member of the government.**

Ultimately working practices which suit Kosovo must be established to foster and sustain effective inter-party cooperation. Responsibility rests with the Chair of the COPF to provide the leadership necessary for effective values and working practices in the committee. Chairs of committees become more high profile public figures and will be expected to comment on matters relating to their committee. This becomes particularly important for the COPF as the chair, who is from the Opposition, will be expected to advance of the interests of the COPF in

²⁴ In some countries, financial committees approve aggregate ceilings for various expenditure areas, whereas sectoral or departmental committees have the power to shape the budget of departments under their jurisdiction. Such a two-tier committee structure for the consideration of spending proposals is used for instance in Sweden.

the Assembly and beyond and seek full cooperation from ministers and the bureaucracy in implementing the committee's recommendations. **In doing so, the Chair of COPF must act more independently of party pressure than the chairs of other committees, *even when commenting on matters outside the committee.* This will assist the effective operation of COPF and generate greater trust and support for its work.**

C. Respecting the Difference between Policy and Policy Implementation

Partisanship is not just counter-productive and unhelpful, it is also unnecessary. The focus of COPF should be the way in which resources have been disposed of in pursuance of a policy. This is not an ideological or party matter. The experience of other recently established PACs does suggest that as the committee gains experience it will better understand where the boundaries lie between policy and policy implementation. In the UK, for example, policy implementation includes those cases where Ministers are involved in making the detailed decisions on how policy should be implemented. It is also necessary that other Members, especially Chairs of Committees, understand this critical point and the following principles, adapted from the recently established PAC in Guernsey, may assist the work of COPF.

1. The COPF will need to know what a policy is before it can determine whether it is being implemented with due regard to value for money.
2. The COPF will therefore need to ask to see policy plans and objectives, as background to its examination of specific topics, not for the purpose of examining the policy itself but as a starting point for its examination of value for money.
3. The COPF may wish to examine the financial analysis behind policies. This is to ensure that the financial assessments and projections on which policies have been promoted are soundly based and proper procedures have been followed.

The following examples, again adapted from Guernsey, are apposite.

Policy	Functional/Main Committees	COPF
To reorganise secondary, post-16 and special needs education.	Are the Education Department's policies appropriate for Kosovo's educational needs?	Are the Department's individual programmes to implement the policies being put into effect efficiently and effectively?
To ensure the best achievable health for the greatest number of residents within the available resources	Are the policies succeeding? Are there gaps in the policies? Are the priorities reasonable?	Is the Department meeting the policy objectives and is it making best use of resources?

To ensure Kosovo raises sufficient tax revenues to meet its expenditure	What are the government's tax and spending policies/priorities?	Are the authorities collecting all the tax revenues the legislature has approved? Do they pursue all tax debts promptly and effectively?
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It is also important to recognise the potential for overlap (see table overpage from Guernsey). When considering the relationship between the COPF and other committees of the Assembly, it is worth stressing that in most countries with PACs no other committees are involved in scrutinizing audit reports. However, in some countries it is permissible for other committees to take evidence on an NAO report *if* the PAC does not wish to do so (perhaps because policy issues are likely to figure prominently in the inquiry). In addition committees may follow up on PAC committee/AG reports and/or provide advice on a relevant topic. This can broaden the access to Parliament to independent expert analysis. **What is necessary is for COPF to establish close relationships with the other functional and main committees that are charged with the oversight and scrutiny of specific government policies so its unique role is understood and supported. A memorandum of understanding is one method of achieving this.**

	Functional/Main Committee	COPF	Overlap
Main Interest	Where government's policies meet country's needs	Where programmes and services are delivering value for money	
Policy	Interested in whether current policy is appropriate or whether other policies should be explored or developed.	Takes current policy as starting point. Does not question policy but may examine whether the financial analysis underpinning policy was correctly carried out.	NO
Policy Implementation	Interested in whether current policy is producing the desired outcomes or whether other policies would be more effective.	Interested in whether programmes and services are being delivered in accordance with the wishes of the legislature.	YES

Cost	Interested in cost in broad terms in order to help evaluate policy options.	Interested in whether programmes and services can be delivered more cost-effectively or whether more can be achieved for the same money.	NO
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D. Undertaking Inquiries

One issue raised during my visit was the lack of agreement within the COPF on what should be investigated by the committee. This is partly due to the highly partisan nature of the Assembly and its committees. **In the event of disagreement, the COPF may wish to learn from the practice of Isle of Man and ask itself the following questions before undertaking an Inquiry.**

- **The significance or potential significance of the matter for the reputation of the Assembly or Kosovo more generally;**
- **The credibility of any allegation the Committee has been asked to investigate;**
- **The *quantum*; the sum of money involved; and**
- **The question whether the issue could be referred to another existing committee of Kosovo.**

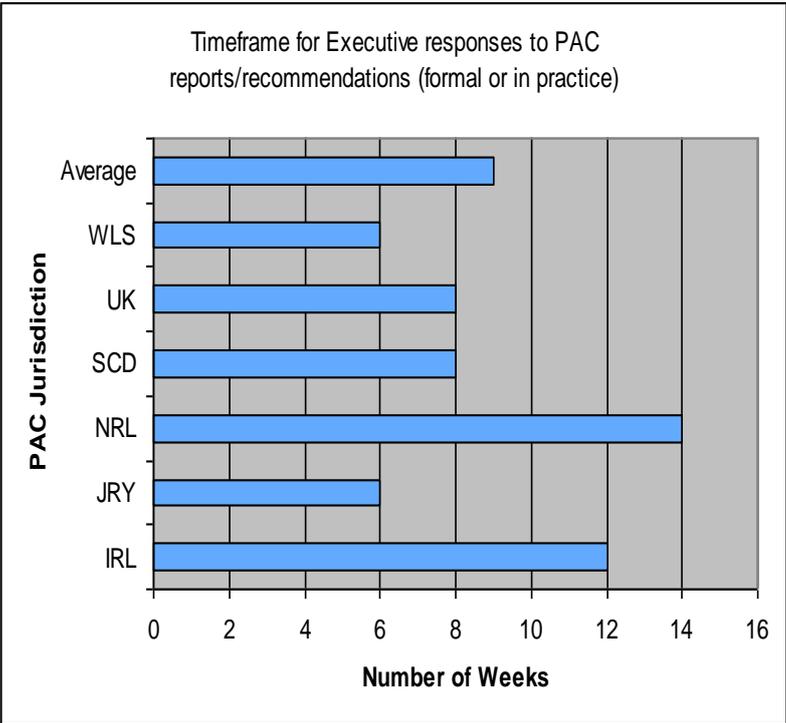
In addition, the advice of the AG should be sought (the Isle of Man is in the process of establishing the position of AG).

E. Government Responses to Audit Reports

Many stakeholders said this was a real problem within Kosovo. To assist the Assembly and COPF, I provide below some examples of experience from the British Isles.

Almost all PACs in the British Isles have a time frame for responses from the executive. Both the Isle of Man and Ireland require a response within 3 months, through the Finance Minister. The time frame in Wales is normally 6 weeks, and the response is through the relevant portfolio minister. The Scottish Public Finance Manual sets out a time frame of 2 months (which is strictly enforced) and responses are made through the accountable officer of the relevant department.

In Jersey, the relevant portfolio minister will normally provide a detailed response to the findings and recommendations within 6 weeks of publication of the report. Where the executive is only



able to provide an *interim* report within this time frame, a full response is expected within 3 months. The Department of Finance and Personnel (DFP) responds to all PAC reports in Northern Ireland in the form of a Memorandum of Reply that addresses each conclusion and recommendation of the PAC. No response was given relating to the time frame, but a quick study of recent PAC reports and responses from the DFP suggests a time frame of 3–4 months is normal.

In almost 70 percent of cases across the Commonwealth, PAC chairs stated that the government responds favorably to Committee recommendations, while in 56 per cent of cases, the government also implements those recommendations.²⁵ PACs in the British Isles report even greater success: more than 90 per cent of recommendations from the U.K. PAC are accepted by the government and all recommendations from the Wales PAC were accepted by the Welsh Assembly Government from September 2007 to December 2008.

The first question to ask is whether the executive is required to respond to audit recommendations; the next question to be posed is whether a systematic system exists for checking recommendations are actually implemented. Virtually every PAC in the British Isles have processes in place to monitor and follow-up the implementation of government responses to PAC recommendations. There is a mix of formal and informal mechanisms, and Wales leaves it to the NAO to monitor government responses²⁶.

This is what is known as ‘status reporting’ on progress in securing improvements through accountability process. In Kosovo the AG reports that audited bodies have hitherto implemented a rather low percentage of the recommendations given and concludes that the willingness or the ability to take their advice is of an insufficient level.²⁷ It is hoped that the establishment of the COPF will assist the acceptance and implementation of audit findings. One logical step is for the AG and COPF to undertake a follow-up Inquiry on their reports based on performance audits. In the UK, for example, the AG is increasingly returning to all the recommendations and Treasury minutes to ensure that the recommendations have been implemented. In Canada, departments are legally obliged to publish their plans for addressing criticisms from the PAC and AG. In many countries Departmental Annual Reports have a dedicated section on progress made in implementing recommendations and the outcomes of changes made. In Uganda, the Secretary to the Treasury is supposed to inform Parliament within 40 days on what action has been taken on each recommendation. If Parliament is not satisfied with the explanation received, it can make further recommendations.

A progress report on all accepted recommendations over the parliamentary session is provided by the Scottish Public Finance Manual and the PAC can seek progress reports twice a session (session is 4 years) or request more frequent updates if it wishes. In Northern Ireland there is ongoing monitoring from the NIAO, and the PAC follows up with the department for an update one year from the receipt of its reply. In some instances, statutory committees address issues that arise from PAC recommendations. The designated PAC subgroups monitor government responses in Jersey, on occasion through the AG. In Ireland, the AG can examine implementation in its next audit, but the PAC will follow up with the accounting officer at his or her next appearance, and the minute of the minister indicating acceptance of the recommendations will generally allow the PAC to follow up by way of a question at the next examination of those accounts. There are no formal mechanisms in the United Kingdom, but

²⁵ Stapenhurst et al. 2007 p.145.

²⁶ In Botswana the PAC has the option of referring inadequate responses from government departments to the Ombudsman Commission or the Public Prosecutor.

²⁷ Annual Performance Report 2009, p.8

the NAO produces comments for the Committee on all government responses. In addition, a number of issues (defense procurement, tax credits) are considered annually. The Isle of Man Government has to table an annual decisions report, which can be debated. In Guernsey, the PAC carries out its own follow-up program and revisits the areas reviewed. In some cases the follow-up will be by letter; other times it will be a full review leading to a debate in parliament.

In Kosovo, it seems likely that not much can be done to ensure that recommendations are considered and implemented unless the executive is compelled by law or an agreed code of practice to respond to the COPF's recommendations (although donors, civil society and the media also be putting pressure on government). It should also be pointed out that the funds saved from audit reports can encourage the executive to start appreciating the role of Parliament and the AG in fighting corruption. A further measure to raise the profile of audit reports and increase the pressure on government is actually devoting parliamentary time for debating them in plenary.

The Kosovo Assembly needs to agree legislation or a code of practice requiring government to respond to COPF (and other committee) reports and recommendations to ensure that their work has meaning and produces results.

In addition to COPF reports being tabled in the Assembly, there should be an annual debate on the work of the committee, perhaps based on an Annual Report (this recommendation is also applicable to the other committees of the Assembly). The matters addressed in a typical PAC annual report in the British Isles include procedures and powers of the PAC, relationship with the AG (where relevant), chairman's comments, number of meetings held, work covered, future work, people seen, outcomes of meetings and reports produced.

F. Measuring Performance

The COPF is a new committee, but it will need to demonstrate progress and achievements over the coming years. This is why an Annual Report and regular Information Bulletins are so useful. There are various benchmarks that have been identified by the WBI²⁸ and other international organisations that can be used for measuring the performance of the PAC which will be relevant to the COPF in the years ahead and can be used as indices for the Annual Report.

1. Activity Level

- To measure events and the extents of resources used in the operation of PAC**

The COPF should assess and report the extent to which the COPF keeps up-to-date with AG Reports as well as the costs of delivering outputs (its budget, the time spent by parliamentary staff and Members).

2. Output Level

- To measure the immediate visible results of the PAC's work.**

The COPF should assess and report the frequency of its reports as well as the number of recommendations accepted, follow-up actions undertaken, the extent to which implementations are accepted and the degree of wider parliamentary debate and media coverage.

²⁸ Presentation by Rick Stapenhurst at a Study Group on Parliamentary Audit, Helsinki, Finland, 16 May 2010.

3. Outcomes Level

- To measure the durable improvements in public administration as the intended consequences of the COPF accountability process and its outputs.

Outcomes will hopefully include better compliance by officials with laws/regulations, the increased efficiency and effectiveness of government programs, improvements in financial control structures, enhanced public knowledge and support of government programs, enhanced legislative knowledge concerning the quality of public management of programs and resources; and an improved outward perception of financial probity for domestic and international audiences.

Box 2: Summary of Potential Performance Measures for the COPF²⁹

- Number and attendance of meetings and hearings
 - Number of reports delivered
 - Actual work completed (reports issued) compared to plan and budget
 - Timeliness of reporting
 - Percentage of recommendations accepted
 - Percentage of recommendations implemented
 - Number of parliamentary referrals
 - Number of repeat findings
 - Amount of measurable savings in public expenditure achieved as a direct result of COPF
- Inquiries
- Awareness of COPF reports
 - Number of submissions received on COPF inquiries
 - Parliament's and public satisfaction with COPF effectiveness.

G. COPF Staffing and Facilities

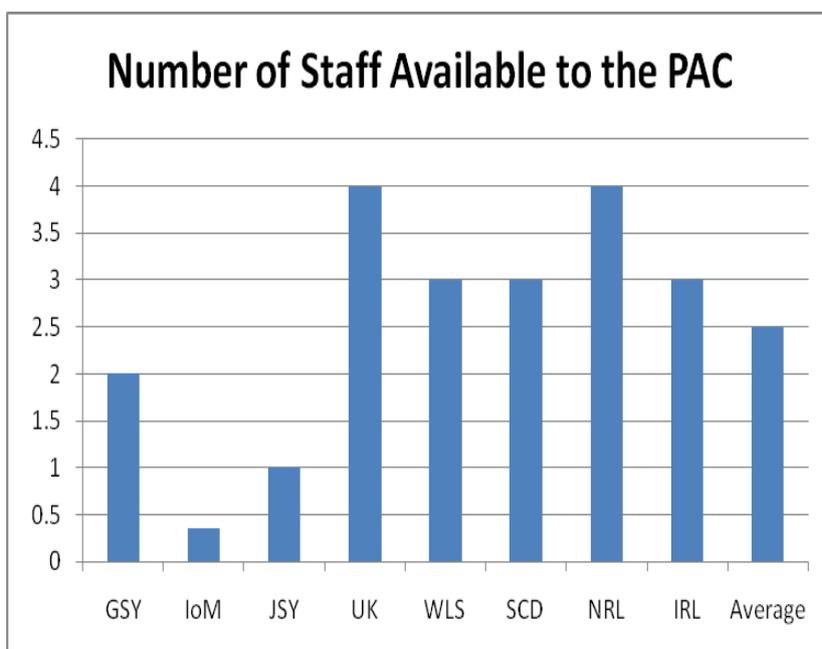
A common complaint of PACs is that resources can be a constraint on effective performance. This is especially true in developing countries and smaller Parliaments. In Kosovo, the COPF has two people supporting its work. The Clerk acts more like a secretary to the committee or the chair of the committee. Recently a second staff person has been added to help the committee prepare for public hearings and prepare reports from them. The COPF has at its disposal 10,000 EUR a year to develop its activity which is true of all other functional committees in the

²⁹ Adapted from KPMG. 2005. "The Parliamentary Public Accounts Committee: An Australian and New Zealand Perspective", pp. 48-49.

Assembly. This will be doubled in the event of COPF becoming classified as a main or permanent committee (see recommendation above).

The current Chair of COPF is of the view that the committee is short of resources and needs an experienced auditor or accountant. He also said that he needed more Members with in-depth knowledge of accountability issues on the committee³⁰ (although it is not unusual for Members serving on PACs to lack detailed knowledge of accountability issues, especially given the general policy preoccupations of Members). The COPF also has the support of two staff members from KIPRED. KIPRED have also brought in other experts to offer professional support to the Committee and support from British Foreign and Commonwealth Office has allowed the COPF to visit the UK Parliament and the NAO in London.

It is worth comparing the situation in the Kosovo Assembly with experience in the British Isles and beyond. The typical PAC in the British Isles has (approximately) two or three full-time staff members, but the results are somewhat varied. A recent WBI survey of Commonwealth PACs shows an average of fewer than two



professional staff assigned full-time.³¹ However, it should be stressed that most PACs have access, either directly or indirectly, to the resources of the Audit Office. The vast majority of PACs in the British Isles report that their staff receive some broader training in relation to public sector developments/reforms (Guernsey, Ireland, Isle of Man, Northern Ireland, United Kingdom and Wales). This is not the situation in Jersey and Scotland, where it is argued the technical background can be supplied by the AG.

In my view there is sufficient support for COPF in the short-term as long as KIPRED continues its guidance and assistance to the committee and the OAG develops its linkages with the committee through a parliamentary liaison officer and briefings. However, KIPRED support should not be a long-term solution and there is a need for the parliament to take ownership of the committee in the medium to long term. Training is therefore key – not just for the Chair and Members but also staff and especially the Clerk.

In addition to visits to other Parliaments (the COPF visited the UK Parliament and National Audit Office in January 2010), there are some international meetings in this field from time to time. The Chair and Clerk attended a Study Group on Parliamentary Audit at the Parliament of Finland in May 2010. These programmes can normally be accessed through conventional diplomatic channels. There is also an online (<http://parliamentarystrengthening.org/index.html>) Parliamentary Strengthening Learning Program, supported by the WBI and other international organizations, developed for parliamentary staff around the world, which includes a Module on

³⁰ Interview with Haki Shatri, Chair of the COPF, 24 June 2010.

³¹ Stapenhurst *et al.*, 2007 p. 155.

Parliament and the Budget. The Internet is a valuable resource and can disseminate information on PAC practice from other jurisdictions.

Box 3: Website Addresses of PACs in the British Isles

UK

<http://www.parliament.uk/business/committees/committees-archive/committee-of-public-accounts/>

Wales

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-other-committees/bus-committees-third-ac-home.htm>

Scotland

<http://www.scottish.parliament.uk/s3/committees/publicAudit/index.htm>

States of Guernsey

<http://www.gov.gg/ccm/navigation/government/public-accounts-committee/>

States of Jersey

<http://www.scrutiny.gov.je/panel.asp?panelid=30>

Northern Ireland

<http://www.niassembly.gov.uk/public/accounts.htm>

Ireland

<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/PAC/Homepage.htm>

The COPF and KIPRED may wish to investigate the feasibility of a delegation from COPF (including the Clerk) attending the annual summer school for parliamentary public accounts Committees at La Trobe University in Australia from 6-12 February 2011. This School is normally attended by up to 45 members of public accounts committees and auditors general from African, Asian and Pacific parliaments³². The cost is A\$2250 (1550 EUR) per participant, plus airfares and therefore some form of international sponsorship would be required.

The Clerk of the COPF may also benefit from a secondment at another Parliaments' PAC. In my view the legislatures in Wales, Scotland, and Northern Ireland would be suitable places to visit. However, I believe the best option in the short-term would be to ask another legislature for the assistance of an experienced clerk to visit Kosovo and act as an adviser to the current clerk and chair to oversee the period from initiating an Inquiry, planning a Hearing, conducting a Hearing, writing the report. When investigating these options, I would suggest the COPF and Parliament focus on the smaller legislatures of Scotland, Wales, Northern Ireland or perhaps Jersey which have all established PACs in the last 10-15 years.

Finally, it is clear that there is also a need to build capacity within the Assembly to increase the ability of Members to comprehend the role of COPF and wider

³² There may be a potential language problem to overcome as I believe all sessions are in English with no translation facilities.

accountability issues. The lack of interest on the part of committee chairs and representatives from party caucuses to attend a meeting on this very subject on 23 June is instructive. **This capacity building should take place at the start of the next Parliament (in the form of a post-election seminar) and be arranged for all Members with the focus on their responsibilities as Members of the Assembly rather than as representatives of a political party.**

IX. CONCLUSION: BUILDING A CULTURE OF ACCOUNTABILITY

The internal institutional development of COPF has been fairly impressive. The committee became operational on 2 November 2009 and has since then held two meetings a month. In February 2010 the COPF approved its annual Work Plan and its activities were approved on 29 April 2010 with the amendment of the Rules of Procedure for the Assembly. In May the COPF released its first Information Bulletin and the Committee is currently engaged in agreeing its own Rules of Procedure regulating its internal organisation and manner of work.

This report contains some further recommendations to strengthen the work and performance of COPF, as well as the OAG. The COPF and the OAG require further resources in order to become effective. At this stage priority should be given to the OAG as it moves towards more resource intensive performance audits and the COPF is reliant on the OAG for their own work which should be both ongoing and on an 'as needed' basis. At the same time, the COPF must have confidence in the audit findings and a performance audit of the OAG would, I believe, help build trust among COPF and assist the current AG in his reform efforts. The ethical standards of the OAG and the COPF must be above suspicion to create a viable system of good governance.

The mandates and membership of the COPF and COB need to be re-examined to ensure equal status and prevent duplication or competition between the two committees. There also needs to be greater attention to the relationship between all sectoral (functional) committees and the COPF and COB. It is particularly important that the Assembly delineates a clear division of responsibility between the committees especially as related to the functioning, oversight and funding of independent organizations.

Perhaps, however, there has been too much focus on the internal factors impacting on COPF and OAF as opposed to the broader accountability environment through which both entities operate. Even the most advanced financial accountability structure in the world will prove of little practical use if the political will does not exist to respect and use political governance accountability structures appropriately.

At present the external environment is not conducive to impartial financial scrutiny. This is partly because accountability structures are often subordinated to the needs of the political parties and it is also partly because the executive dominates the Assembly. But it is not readily apparent that stakeholders within Kosovo society – from the government, bureaucracy, Assembly, COPF, OAG, media and civil society – are aware of the requirements and responsibilities of accountability and act in such a way to support outcomes which are fair, objective and predictable. To give one example, when the time comes to appoint an AG from within Kosovo it will be very difficult, perhaps impossible, to find somebody without long-standing connections to one of the political parties, so there could be accusations of influence with any domestic appointment to the position of AG.

Yet a culture of accountability cannot be imposed from the outside, although it must be supported by the international community and donors. This must come from within Kosovo itself as it continues the democratization process and a path which may lead in time to membership of the European Union. This will demand leadership on the part of all politicians. The work of OAG and COPF is not a zero-sum game. There is an accountability price that governments must pay in exchange for office (McGee 2002), but at the same time public audit

exists to help governments meet their objectives and improve the delivery and implementation of public policy. This is in the interests of the public and all political parties. Opposition Members should not use or expect the committee to attack the government or make criticisms of government policy. There are plenty of other opportunities within the Assembly for adversarial party political debate. Financial accountability must be exercised for the good of the country and not for the good of one political party or a few institutions.

There needs to be greater appreciation of the wider public-sector governance environment of the OAG and COPF. As well as the international community, other domestic stakeholders must support the efforts of COPF and OAG by holding government to account. Experience shows from other countries that the media can prove very influential on the actions of government and individual public officials. At the same time, the Assembly of Kosovo and COPF need to reach out to the media and civil society and ensure they are kept abreast of COPF meetings and investigations and important audit findings. OAG and COPF reports will contain some technical detail, but care must be taken to ensure they are drafted in a readable form for a wider audience. As the capacity of the support staff of the committee increases and COPF becomes more firmly established within the Assembly, the KIPRED Institute and other actors should spend less time on the technical day-to-day life of the committee and focus more on the wider strategic accountability issues within Kosovo.

The fundamental question which needs to be posed is whether the key principles and values needed to achieve a robust system of horizontal accountability exist within Kosovo? This will require a strong Assembly at its centre working alongside other agencies or “constitutional watchdogs”³³ to share the burden of accountability. The Assembly alone can not ensure accountability across the wide range of activities of government and the myriad of other public sector bodies. There are a number of bodies in Kosovo which have been designed to ensure the integrity of the executive (examples include the OAG, the Parliamentary Ombudsperson and the Anti-Corruption Commission). However, the goal of the Assembly should be what was described elsewhere as “sitting at the apex of broad accountability structures in order to provide a framework for their activity, publicise their existence and use the information they provide to challenge Ministers.”³⁴ **I believe there is an urgent requirement to review the role, functions, reports and funding of all ethical watchdogs or “independent institutions” within Kosovo to ensure uniformity in structure, good practice and a coherent framework is struck between independence from the Executive and accountability to Parliament. Such a report should be concluded and implemented before the next General Election.**

³³ The term “constitutional watchdogs” has been used as shorthand for “bodies with powers of persuasion and publicity to alter the actions of the executive in areas characterised as constitutional. These include human rights, electoral matters, the redress of grievances and the voting of supply. Gay, Oonagh (2005), “Time for Coherence: Parliament and the Constitutional Watchdogs” in P.Giddings (ed.) (2005) *The Future of Parliament*, Palgrave Macmillan.

³⁴ Report of the Hansard Society Commission on Parliament Scrutiny. *The Challenge for Parliament: Making Government Accountable*, Vacher Dod Publishing Limited 2001 p.1

ANNEX A

Mandate of the Committee for Oversight of Public Finance

Committee for Oversight of Public Finance is a functional committee; its scope of work is:

- oversight of the legality of expenditure of public funds based on audited annual and periodic reports and financial statements as well as audit reports of the Office of Auditor General;
- oversight of all audit reports of the Office of Auditor General and of budget organisations and public enterprises;
- oversight of performance reports drafted by the Office of Auditor General;
- oversight of audit and performance reports of financial expenditure drafted by institutions that conduct oversight of public funds, public agencies, public enterprises and public institutes receiving funds from the budget of the Republic of Kosovo;
- oversight of public expenditure through reports from the Central Harmonisation Unit (CHU) which through the Minister of Economy and Finance are delivered to the Assembly and to this Committee;
- oversight of public expenditure through reports from budget organisations drafted based on the special request of the Committee;
- review annual report on the work of the Office of Auditor General;
- undertake activities in the procedure of selection of external auditor that will carry out the audit of the Office of Auditor General;
- review the requirements of the Office of the Auditor General, necessary for the fulfilment of duties assigned to it by law, and give recommendations in this regard to the Committee for Budget and Finance;
- review the implementation of laws within its scope of work;

Review of other issues foreseen under this Regulation and other duties transferred to this Committee by a special decision of the Assembly;

Mandate of the Committee for Budget and Finance

The Budget and Finance Committee is a permanent committee.

The Committee within its scope of work and its responsibilities shall review all issues related to the budget and finances in Kosovo. The scope of work of this committee are:

- Review the annual Budget of Kosovo and its revision;
- Budgetary and financial matters;
- The budgetary implications for the first and the following years reported with a draft law and make recommendations to the appropriate Functional Committee or Assembly;
- Reviews periodic reports of the Ministry of Economy and Finance, on the expenditure of Kosovo institutions and budget organizations which report to the Assembly;
- Report time to time, on its own initiative or after a request from the Assembly, in a plenary session on the issues falling under its scope of work;
- Engage in the review of the Government programme, the manner and level of its implementation in the field of finances and gives recommendations to the Assembly;
- Oversee the implementation of the Law on Public Financial Management and Responsibilities, as well as other laws that deal with public finances;
- Cooperate with the Ministry of Economy and Finance and the Government, which is obliged to provide all the information requested by the Committee, including the reports of the minister and all other authorized persons within ministries;
- Review legislation in the fields relating to budget and finance;
- The right to initiate and draft laws;
- Review draft laws and substantive motions relating to the budgetary cost, as well as the general activities of the Assembly and other institutions relating to its scope of work;
- The committee also exercises other duties which are assigned to it by this Rules of Procedure.
- Review of other issues prescribed by the Rules of Procedure and other issues which, by a special decision of the Assembly, are transferred to this Committee;

In exercising its functions, the Committee cooperates with respective line ministries and other ministries, from which it can request concrete information, including the direct reports from ministers or other responsible persons, if this is requested by the Committee.

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