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CODE OF CONDUCT FOR THE DEPUTIES

An analysis of adherence to constitutional principles, Assembly Rules, and the standards of democratic parliaments

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KLI, Kosovo Law Institute, is a non-governmental and non-profit organization of public policy, a think tank specialized in the justice sector.

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ACRONYMS

KRK	Assembly of the Republic of Kosovo
PG LV	Parliamentary Group of VETËVENDOSJE Movement!
PG PDK	Parliamentary Group of the Democratic Party of Kosovo
PG LDK	Parliamentary Group of the Democratic League of Kosovo
PG AAK	Parliamentary Group of the Alliance for the Future of Kosovo
PG LS	Parliamentary Group of the Serbian List
PG MULTIETNIK	Parliamentary group of deputies from non-majority communities
VC	Venice Commission
RPA	Rules of Procedure of the Assembly
KLI	Kosovo Law Institute
QRK	Government of the Republic of Kosovo
CC	Constitutional Court
OI	Ombudsperson Institution

1. Executive summary

The Committee for Legislation, Mandates, Immunities, the Rules of the Assembly, and the Supervision of the Anti-Corruption Agency has recommended the adoption of a Code of Conduct for Deputies of the Assembly to the Assembly of Kosovo. This Code aims to establish principles, define unacceptable behavior, prescribe punitive measures, and form an Ethics Council for its implementation. Despite having one year and nine months to draft a code that complies with the Constitution, the Rules of the Assembly, and international standards, the Committee on Legislation failed to draft and submit a code of conduct to the plenary session that meets these criteria.

The current draft code contains several issues that undermine its effectiveness and its alignment with the Constitution and democratic parliamentary standards. For these reasons, the Kosovo Law Institute (KLI) has found it necessary to publish a document to inform the deputies of the assembly about this draft code. The KLI requests that the president and the deputies of the assembly withdraw the code from approval at the next plenary session, make changes in accordance with the KLI's comments, and then resubmit it for approval in a future plenary session.

The primary issues with the Draft Code of Conduct for deputies of the assembly are:

1. Codes of Conduct for Deputies are designed to foster a political culture characterized by correctness, transparency, and honesty. However, the Draft Code of Conduct for Deputies of the Assembly fails to establish the political will and actions necessary to achieve and elevate ethical standards. Instead, it focuses exclusively on regulating deputies behavior through exclusionary and financial sanctions, which weakens representative democracy. These restrictions undermine the representation of citizens through the deputies they have elected.

2. The exclusion of deputies from the next three plenary sessions is contrary to the Rules of the Assembly. According to these rules, an deputy may be removed from the session in which they commit a violation, but not from subsequent sessions, as specified in the Draft Code. This disciplinary sanction violates the act authorizing the Assembly to approve the Code of Conduct for its deputies. The consequence of exclusion should only apply when the non-parliamentary action occurs on the spot, resulting in exclusion from that session alone, not future sessions. Furthermore, suspending or expelling an deputy from future session

may be abused by the parliamentary majority to remove opposition deputies and distort the natural majority. This provision could lead to excessive use of exclusion measures, impacting the balance between the parliamentary majority and the opposition. Additionally, such application violates the MA's right to represent citizens and participate in the voting process, as guaranteed by the Constitution. In this specific case, the individual rights of the deputy are secondary to the citizens' right to be represented in the Assembly by the deputy they elected.

3. The financial penalties outlined in this code exceed those established by the Assembly Regulation, which allows sanctions up to the amount equal to the compensation for a plenary session, but not up to 50% of the basic salary. This is contrary to the Regulation and grants the Ethics Council excessive discretion, potentially leading to arbitrariness. Financial penalties may not effectively deter wealthy deputies or those with significant income outside the Assembly and may be perceived as the cost of political action. Emphasizing financial penalties shifts the focus from principles of good behavior and public service to a purely monetary punishment system

4. The Assembly should incorporate international values and standards into the code, ensuring they are reflected in the daily work of the deputies of the assembly. Deputies should view the principles of the Code of Conduct as positive rather than restrictive, which the current draft fails to achieve. One of the aims of the code should be to encourage deputies to understand and apply the adopted principles and standards, reflecting on them and behaving accordingly.

5. The MA's knowledge of the code is considered from the moment they take the oath of office. However, this regulation is problematic because it does not specify who is responsible for delivering the code to the deputies, and the connection between the oath and knowledge of the code is unclear. The Draft Code should clearly specify who submits the Code of Conduct and require a statement signed by the MA, confirming their acceptance and application of the code's principles in their work.

6. The Draft Code lacks provisions for the legal remedy of appealing against decisions made by the Ethics Council. This contradicts Article 32 of the Constitution of Kosovo, which guarantees the right to a legal remedy. The absence of such a provision goes against the fundamental legal principle of the right to appeal and democratic parliamen-

tary standards. The Committee on Legislation should send the draft back for revision, ensuring the inclusion of the right to appeal and the designation of the appropriate body for reviewing appeals.

7. The proposed Draft Code prohibits deputies of the assembly from dissenting against majority decisions in the Ethics Council or presenting alternative opinions when they agree with the vote but not with the provided reasoning. The Committee should anticipate dissenting and alternative opinions to foster clear, well-supported arguments that challenge majority decisions and enhance the depth of legal analysis. This approach will facilitate dynamic interpretations of the Code of Conduct.

8. The inclusion of provisions from the law on declaration of assets, gifts, and conflict of interest in the code is unnecessary. This inclusion suggests a lack of seriousness on the part of the drafters. Codes should establish standards of conduct rather than delving into minutiae, especially when these provisions are already covered by existing laws.

9. The Committee for Legislation has instituted a provision whereby representation in the Council of Ethics aligns with the outcome of parliamentary elections. This arrangement implies that decisions will be influenced by the parliamentary majority. The Ethics Council should refrain from leveraging political power in adjudicating violations of the Code of Ethics, instead basing decisions on evidence of transgressions and reaching consensus. KLI suggests that the composition of the EC should be balanced between the majority and the opposition, incorporating former judges from the Constitutional Court. Additionally, the presidency should rotate between the opposition and the majority or be held by the opposition.

10. The Draft Code lacks provisions for drafting and approving the annual work report, which undermines the transparency and accountability of the Ethics Council. This omission makes it difficult to plan and prioritize future activities and assess the effectiveness of their work.

By implementing these recommendations, the Assembly of Kosovo can adopt a more effective Code of Conduct free from constitutional and legal flaws. This would elevate ethical standards without compromising democratic representation.

2. Foreword

On July 28, 2022, the Assembly of Kosovo approved the new Rules of Procedure, which had previously failed to be approved in the 5th, 6th, and 7th legislatures. This regulation also included the obligation for the Assembly to approve a Code of Conduct for Deputies of the Assembly at a later stage. Such a code has not yet been approved, despite the fact that more than twenty-two (22) months have passed since the Regulation of the Assembly came into force. Despite the Committee for Legislation having formed a Working Group to draft this code, and this group having visited several countries to learn from their experiences, the drafting of the first draft of this code was formally submitted to the committee to be examined and processed for a plenary session after receiving remarks in the Report on the monitoring of the work of the Assembly of Kosovo for the year 2023[1], a publication by the Kosovo Law Institute.[2]

The Committee for Legislation, Mandates, Immunities, Rules of the Assembly, and Supervision of the Anti-Corruption Agency approved the Code of Conduct for Deputies on April 30, 2024[3], including some changes that were made on the spot by some members of this committee.

The Kosovo Law Institute analyzed this code and provided its remarks at the invitation of the Legislation Committee on November 7, 2023. After the changes on April 30, 2024, KLI addressed the Speaker of the Assembly and all deputies with comments regarding the proposed draft and the changes made on this date.

Due to major flaws and the changes made in the meeting on April 30, 2024, KLI asked the President and deputies to withdraw the Code from approval in the session on May 23, 2024, to make changes in accordance with the comments of the KLI, and then bring it to the plenary session for approval.

[1] "After the publication of the report on the work of the Assembly by the KLI, the Legislation Committee, in today's meeting, will address the Draft Code of Conduct for MA's." *Betimi për Drejtësi*, May 2024. (See: <https://betimiperdrejtesi.com/pas-publikimit-te-raportit-per-punen-e-kuvendit-nga-ikd-komisioni-per-legjislacion-ne-mbledhjen-e-sotme-do-ta-trajtoje-draft-kodin-per-sjelljen-e-deputeteve/>). (Last accessed 7 May 2024).

[2] Jakaj N. "Assembly of failures - Report on the monitoring of the work of the Assembly of Kosovo for the year 2023." Pristina, April 2024. See: <https://kli-ks.org/wp-content/uploads/2024/04/WEB-Kuvendi-i-deshtimeve-Raport-i-monitorimit-te-punes-se-Kuvendit-te-Kosoves-per-vitin-2023-.pdf>). (Last accessed 7 May 2024).

[3] "The Code of Conduct for MPs is approved". *Betimi për Drejtësi*, 30 April 2024. (Shih linkun: <https://betimiperdrejtesi.com/miratohet-kodi-i-sjelljes-per-deputetet/>). (Last accessed 7 May 2024).

The Code was not approved in the plenary session at the request of the President of the Assembly due to the lack of participation from deputies of the opposition parliamentary parties.[4]

This short document aims to address the concerns raised through the comments of the KLI, so that the MA's of the Assembly of Kosovo, before its approval in the Assembly, can consider a different approach from the perspective of civil society.

3. Violations of parliamentary ethics in the Kosovo Assembly

Deputies of the Assembly are aware that taking office in the Assembly of Kosovo includes a number of obligations in addition to privileges. Citizens look to them as examples to promote best practices, enforce standards, and 'penalize' misconduct, expecting deputies to carry out these responsibilities diligently. However, good practices in each legislature of the Assembly of Kosovo have not been observed by a large number of deputies, as well as by the Prime Minister and other members of the government.

The work in the bodies of the assembly, in parliamentary committees, and in plenary sessions has been marked by the use of unparliamentary language (sexist, racist, misogynist, and homophobic) and physical altercations between deputies and with the government cabinet have occurred almost in every legislature. Conversely, during the 6th legislature, tools were also utilized in the Assembly, which, according to the Criminal Code, constitute a criminal offense.

As for the non-parliamentary language that the Code of Conduct is supposed to address, such language has been particularly prevalent in the 8th Legislature. The findings of the KLI, in the two reports monitoring the work of the Assembly for the years 2022 and 2023, show that, in general, the non-parliamentary language, especially the sexist language, was initially initiated by members of the government cabinet[5] and then also by other deputies of the Assembly, who used racist language.[6]

[4] "The Assembly conducted the plenary session proceedings". Kosovo Assembly, 23 May 2024. (See: <https://www.kuvendikosoves.org/shq/punesimi/per-publikun/lajmi/kuvendi-zhvilloi-punimet-e-seances-plenare-35279/>). (Last accessed 7 May 2024).

[5] "... Your lust for public attention is senseless, but that is irrelevant.", the words used by the deputy Prime Minister Besnik Bislimi to deputy Ariana Musliu Shoshi. Assembly of failures - Report on the monitoring of the work of the Assembly of Kosovo for the year 2023." Pristina, April 2024. (See: <https://kli-ks.org/wp-content/uploads/2024/04/WEB-Kuvendi-i-deshtimeve-Raport-i-monitorimit-te-punes-se-Kuvendit-te-Kosoves-per-vitin-2023-.pdf>). (Last accessed 7 May 2024).

[6] "Valentina Bunjaku of LDK says "gypsy" and "monkey" to deputy Adnan Rustemi". Koha, 22 June 2023. (See: "The Assembly conducted the plenary session proceedings". Kosovo Assembly, 23 May 2024. (See: <https://www.kuvendikosoves.org/shq/punesimi/per-publikun/lajmi/kuvendi-zhvilloi-punimet-e-seances-plenare-35279/>), fq.7.). Last accessed 7 May 2024).

On the other hand, some members of the Kosovo government did not have the patience to leave a photo of the Prime Minister of Kosovo on the floor of the Assembly, as a symbolic action of a deputy of the parliamentary opposition. The removal of the photo caused the deputies and the government cabinet to engage in violence between them, actions for which some of the deputies involved in the fight and the First Deputy Prime Minister are now facing indictments filed by the Basic Prosecutor's Office in Pristina.[7]

On the other hand, in many cases, KLI has found that the President of the Assembly and the chairpersons of the plenary sessions have not managed to respect the Assembly's regulations regarding instances where disorder has occurred. In the session of July 13, 2023, instead of suspending the session due to the chaos and postponing it for another day[8], the President called the police. However, they were more concerned about the Prime Minister's safety than the general progress of the session. After a short pause, the Speaker resumed the plenary session.

4. Nature of the Draft Code of Conduct

The code of conduct constitutes as a document that will formally regulate the behavior of deputies, defining what is considered acceptable behavior and what is not. However, codes of conduct generally aim to create a political culture of fairness, transparency and honesty.

The purpose of the code should not be to exclusively regulate the conduct of representatives through sanctions because this could constitute a weakening of representative democracy. Any unnecessary limitation is reflected in the violation of the representation of citizens through the MA's they have elected.

Bearing in mind the obligation and the need for the approval of the Code of Conduct for the Deputies of the Assembly of the Republic of Kosovo, it should be emphasized that the implementation of this code is exclusively dependent on the level of political will and not

[7] See for more about the non-parliamentary language in the Assembly of Kosovo, the Report on Monitoring the Work of the Assembly for the year 2022 and 2023, the chapters on the non-parliamentary language accessible in these reports from these links: Dobët (2022): <https://kli-ks.org/wp-content/uploads/2023/04/DOBET-Raport-i-monitorimit-te-punes-se-Kuvendit-te-Kosoves-per-vitin-2022.pdf> dhe Kuvendi i Dështimeve (2023): <https://kli-ks.org/wp-content/uploads/2024/04/WEB-Kuvendi-i-deshtimeve-Raport-i-monitorimit-te-punes-se-Kuvendit-te-Kosoves-per-vitin-2023-.pdf>. (Qasur për herë të fundit me 7 maj 2024).

[8] "Article 67, Regulation of the Assembly of Kosovo". Kosovo Assembly, 28 July 2022. (See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=61266>). (Last accessed 8 Maj 2024).

on the sanctioning measures defined by this code. As it seems, the Assembly of Kosovo is faced with many problems during the plenary sessions, where even the role of the President/Chairperson of the session was not enough to implement such measures. For this reason, these measures risk remaining unimplemented because, by itself, the norm fails to succeed.

This is the reason why the main tool for raising ethical standards within the Assembly should be political will and action and not exclusively financial sanctions or exclusion from some sessions of the Assembly. In the way institutional life develops within the Assembly, such non-proportional norms may be ineffective or counterproductive, but not achieve the intended goal. Regarding the high financial penalties (as will be elaborated, they represent an excess of the powers of the Assembly), as defined by this code up to 50% of the basic salary, the penalties may not be an effective deterrent for all Deputies of the Assembly, especially those who are independently wealthy or receive substantial income from abroad. And in certain cases, this sanction can also be assessed as the price of a political action, which is contrary to the provisions of this Code. On the other hand, by focusing on financial penalties, the focus will be lost from the principles of good behavior and public service to a purely monetary punishment system.

The Assembly should aim to include accepted international values and standards through the code and then reflect them in the daily work of the deputies. Deputies of the Assembly should view the principles of the Code of Conduct as positive and non-binding aspects, and as seen in the draft code, it will not be able to achieve this. One of the goals of the code should initially be to encourage and understand how deputies apply the principles and standards that they themselves adopt, that is, reflection on the principles and behavior based on them.[9]

5. Exceeding authorizations

The basis for the approval of the Draft Code of Conduct is the Regulation of the Assembly of the Republic of Kosovo. Article 129 of this Regulation stipulates that "The Code of Conduct for Deputies of the Assembly of the Republic of Kosovo is a separate act and is approved by the Assembly with the proposal of the relevant committee for Assembly Regulations".

[9] "Review of the Code of Conduct: proposals for consultation", pg. 12. House of Commons Committee on Standards, 29 November 2021. (See: <https://committees.parliament.uk/publications/7999/documents/82638/default/>). (Last accessed 8 May 2024).

In the Rules of Procedure of the Assembly, the types of measures that can be taken against deputies are defined. Article 64 of this Regulation lists a total of five (5) measures that can be imposed on deputies, which are: 1.1. Word withdrawal; 1.2. Interruption of speech; 1.3. Notice; 1.4. Notice with a warning for leaving the plenary session; 1.5. Leaving the plenary session. Article 66.3. of the Regulation in question determines that "The measure "removal from the plenary session" is accompanied by a financial sanction equal to the compensation for a plenary session". Thus, the list of measures that can be imposed on deputies is exhaustive.

In spite of this, the Draft Code contains provisions that are contrary to the Rules of the Assembly. Article 26 of the Draft Code contains the punitive measures for violating the provisions of the deputies. Among other things, these punitive measures are: "... c. Suspension from participation for up to three (3) plenary sessions, depending on the level of violation of the Code. d. Suspension from participation in up to three (3) committee meetings, depending on the level of violation of the Code. e. Financial sanctions that include up to 50% of the basic salary".

Thus, the sanctions defined in the Draft Code are not in accordance with the Rules of Procedure of the Assembly. This Regulation has allowed the sanction to the deputy up to the level of the amount that is equal to the compensation for a plenary session, but not the amount of 50% of the basic salary. On the other hand, the Rules of Procedure of the Assembly have defined the possibility of removing the deputy from the session in which the deputy commits a violation, but not in the next sessions, as is the case in the Draft Code, up to three (3) sessions.

Article 76 of the Constitution of the Republic of Kosovo stipulates that "the Rules of Procedure of the Assembly are approved by two-thirds (2/3) of the votes of all its deputies and determine the internal organization and way of working of the Assembly". Meanwhile, the Code of Conduct for Deputies of the Assembly is approved by a majority of all deputies who are present and vote. In this situation, the number of required votes also speaks about the importance of a certain act, in the specific case, the Rules of Procedure of the Assembly. For this reason, the Assembly has no possibility to exceed the Rules of Procedure, which are approved by two-thirds of the votes of all the Deputies of the Assembly, with another act, in this case, the Code of Conduct for Deputies of the Assembly, which is approved by a simple majority of votes.

For this reason, the provisions related to financial sanctions represent an excess of authorizations, because these provisions conflict with the Rules of Procedure of the Assembly.

When read together with other articles of this Regulation, Article 129 of the Rules of Procedure of the Assembly mandates the Assembly to establish the scope of violations, specifically actions deemed to constitute ethical breaches, but not to establish other norms, such as financial measures, which surpass the provisions of a superior act like the Rules of Procedure of the Assembly of the Republic of Kosovo.

6. Violation of citizens' representation

The disciplinary sanction, as elaborated, of removing the deputy for the next three (3) sessions due to the violation of the Code of Conduct, is an overreach of the act by which the Assembly gains the authority to approve the Code of Conduct for its Members. The consequence of exclusion should only be applied in cases where the non-parliamentary action of the Member of Assembly occurs during the session, leading to exclusion from that session alone, rather than from future sessions.

Beyond this, it should be noted that suspension or expulsion from subsequent sessions of a deputy may result in abuse by the parliamentary majority to remove opposition deputies and distort the natural majority. Thus, such a provision may lead to the excessive use of the exclusion measure in many sessions, which will ultimately affect the balance between the parliamentary majority and the opposition.

On the other hand, the application of this provision would violate the deputies right to represent the citizens, as well as their constitutional right to participate in the voting process. In this specific case, the right of the deputy as an individual remains subordinate to the right of the citizens to be represented in the Assembly by the deputy they have voted for.

A negative aspect could be the lack of consistency. The Assembly of Kosovo has never had an Ethics Council since its establishment. Therefore, it remains uncertain how effective this council will be in ensuring the continued implementation of expulsion sanctions, given the short parliamentary history in this area. This is an additional reason not to consider such intrusive measures at this early stage.

7. Non-obligation of deputies to sign the Code of Conduct

In article 2, paragraph 3, of the Code, it is foreseen that the same will be provided to the Deputies of the Assembly after confirmation of their election. The MA's awareness of the code will be considered from the moment they take the oath as a member of the assembly in the constitutive session or in one of the sessions when a deputy takes the oath.

Such regulation is problematic because initially it is unclear who delivers the code to the members of the assembly. Additionally, the connection made to the oath and knowledge of the code is problematic because this issue is not linked in that manner. The Draft Code must accurately specify who submits the Code of Conduct along with a statement signed by the deputies of the assembly, indicating their acceptance of the Code and commitment to adhere to it during their work in committees and plenary sessions. Similar regulation is found in the Code of Conduct of the deputies of the Parliamentary Assembly of the Council of Europe. Upon receiving credentials, deputies of this institution sign a declaration affirming agreement with the goals and basic principles of the Council of Europe, as mentioned in the preamble, and undertake to adhere to the provisions of the Code of Conduct.[10] The official acceptance of the Code by the deputy is also strongly supported by the Indicators of the Democratic Parliament.[11]

8. Legal remedy

The draft code does not foresee in any of the provisions the legal remedy of appeal against the decision of the Council of Ethics. In this way, this draft is contrary to Article 32 (Right to legal remedy) of the Constitution of Kosovo. Consequently, the Draft Code of Conduct for Deputies of the Assembly appears to be against the basic concept in legal systems of the right to appeal which ensures that a person has the right to have their case examined by a higher body than the body that received the first-instance decision, in this case by the Ethics Council.

The adoption of the Draft Code, avoiding the right to appeal, is against the Constitution, against the law and against parliamentary standards. Exercising the right to appeal against the decisions of the Parliamentary Ethics Council serves as a check and balance

[10] "Code of conduct for members of the Parliamentary Assembly". Parliamentary Assembly of EC, January 2022. (See: <https://assembly.coe.int/LifeRay/APCE/pdf/Procedure/CodeOfConduct-EN.pdf>). (Last accessed 8 May 2024).

[11] "Indicators for Democratic Parliaments". InterParliamentary Union (IPU), October 2023. (See:

<https://www.parliamentaryindicators.org/indicators/accountable/parliamentary-ethics/code-conduct>). (Last accessed 8 May 2024).

mechanism within a parliament. The Council of Ethics, since it is responsible for supervising and evaluating the behavior and ethics of deputies, it can make decisions that affect the reputation and activity of deputies. In this context, it is important that deputies have a means to challenge these decisions.

Different kinds of appeals have been anticipated in certain countries following the adoption of codes of conduct and procedures for decision-making in the event of violations. An appeal against the findings of the so-called Commissioner and an additional appeal against the ethics councils' decision regarding sanctions are anticipated in certain situations.[12]

The Committee on Legislation should review this draft again and ensure that the right to a remedy has been established and that the appropriate body has been identified to investigate potential complaints.

9. The inability of deputies to hold opposing or divergent views

It is stipulated that members of established parliamentary committees, which are subject to special laws[13] and procedures, have the option to present a dissenting or contradictory opinion that formally differs from the majority opinion when they vote against it. However, under the laws and bylaws[14] that govern the operations of special bodies, members may hold divergent views, for example, in a situation where the deputy concurs with the ruling but disagrees with the justification offered.

This option is not included in the proposed Draft Code. The deputies are not given the opportunity to express dissenting, contradictory, or competing opinions in any of its provisions.

[12] "Review of the Code of Conduct: proposals for consultation", pg. 53, 54 and 55. House of Commons Committee on Standards, 29 November 2021. (See: <https://committees.parliament.uk/publications/7999/documents/82638/default/>). (Last accessed 8 May 2024).

[13] "Article 23, par. 3, Law No. 03/L-176 for Parliamentary Investigation". Official Gazette of Kosovo, 4 June 2010. (See: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2683>). (Last accessed 8 May 2024).

[14] "Article 56 and 57, Rules of Procedure of the Constitutional Court of the Republic of Kosovo, No. 01/2023". Constitutional Court of Kosovo, 7 July 2023. (See: <https://gjk-ks.org/wp-content/uploads/2023/07/Rregullorja-e-pun%C3%ABs.pdf>). (Last accessed 8 May 2024).

Giving the deputy a chance to voice opposing opinions in the event of dissenting opinions will enable them to present coherent, well-reasoned arguments that can refute the decision made by the majority.

When opposing viewpoints diverge, the goal ought to be to enhance the breadth of legal analysis, particularly in the logic put forth by the majority of the Ethics Council, thereby enhancing the fluidity of Code of Conduct interpretations. The demust include text in their opposing opinions that explains why the arguments they make have been disregarded or rejected.

Opposing and dissenting views are published concurrently with the EC's decision, becoming an essential component of the Ethics Council's decision.

10. Unnecessary application of the law's provisions regarding gifts, conflicts of interest, and assed declaration

The Code sets out a number of issues that are noted to have been carried over from other laws, among them certain provisions of the Law on Declaration of Assets, Gifts and Conflict of Interest. The purpose of the code is to define the ethical standards of deputies which must be respected while exercising their function. Carrying the provisions of some laws, instead of them being in the form of principles, shows the ease and low level of seriousness with which the drafter of this code was taken. Moreover, the rules of conduct defined in Article 7 (Conflict of interest), Article 8 (Incompatibility of the function of the deputy with other activities), Article 9 (Declaration of assets and gifts) and Article 10 (Gifts) are clearly described and precisely in Article 3 (General principles of behavior of Deputies).

To be more applicable, it must be accepted by all Deputies of the Assembly. Its acceptability is also made real by the fact that such codes, when written and enacted, set out acceptable standards of behavior rather than unnecessary, orderly, elaborate details to cover every possible eventuality, and that they carry the provisions of the laws in force.

Deputies of the Assembly, upon assuming the position of a member of an assembly, are handed the necessary documents by the Assembly's administration and the political support staff of the specific parliamentary group, participate in information sessions

on his/her responsibilities in relation to certain laws, and are not unaware of any violations that he/she may commit while performing his/her duties. Also, for this reason, it is considered unnecessary to establish Article 7, 8, 9, and 10.

If it is seen in terms of the number of words, the Draft Code of Conduct has given more importance to the unnecessary text of the aforementioned articles than to the explanation of the principles that the deputies must adhere to. The number of words in the carried articles is 100% greater than in the principles. The practice of other countries with consolidated democracies shows that the codes of conduct of parliamentarians are short, clear and precise.[15] On the other hand, the procedures for how it is applied in cases where there are violations are special.[16]

11. The problematic composition of the Council of Ethics

In terms of the Ethics Council's composition, it should be noted that the Committee for Legislation based its decision on the composition of the permanent and functional parliamentary committees, which reflects the political representation that emerged from the certified results of the parliamentary elections. This appears okay at first glance because generally the majority should be the leader because of the greater trust it has received from the citizens in relation to the second party. However, in such cases, the legislator, in this case the proposer, the Committee for Legislation... must keep in mind that the composition of the Ethics Council does not have to be led by the parliamentary majority, because this assumes that the Ethics Council will strictly adhere to the idea that decision-making will be based on the parliamentary majority. See the cases of the establishment of parliamentary investigative committees, where one of the most important instruments of control by the parliamentary minority, their work in the 8th legislature is facing problems only because the parliamentary majority has been given the largest number of members, and this majority (one more in relation to the opposition) is seen to have abused the exclusive right of representation in investigative committees.[17]

[15] *"The Code of Conduct, together with The Guide to the Rules relating to the Conduct of Members"*. House of Commons, 12 December 2022. (See: <https://publications.parliament.uk/pa/cm5803/cmcode/1083/1083.pdf>). (Last accessed 8 May 2024).

[16] *"Procedural Protocol in respect of the Code of Conduct"*. House of Commons, 12 December 2022. (See: <https://publications.parliament.uk/pa/cm5803/cmcode/1084/1084.pdf>). (Last accessed 8 May 2024).

[17] Jakaj N. *"Assembly of failures - Report on the monitoring of the work of the Assembly of Kosovo for the year 2023."* Pristina, April 2024. (See: <https://kli-ks.org/wp-content/uploads/2024/04/WEB-Kuvendi-i-deshtimeve-Raport-i-monitorimit-te-punes-se-Kuvendit-te-Kosoves-per-vitin-2023-.pdf>). (Last accessed 7 May 2024).

To avoid such situations, when the Council of Ethics' decisions are not contested for political or other reasons, the legislator must take into account that the composition of the majority and the parliamentary opposition is equal, and that the composition also includes persons of external with high professional and ethical integrity. It would be prudent for the legislator to anticipate that any former Constitutional Court judges or members of any other institution whose mandates have expired three or five years after being appointed to the Ethics Council will serve on the Ethics Council. On the other hand, the Committee for Legislation should consider that the Council's chairmanship should be held by deputies from the parliamentary opposition.[18] Another option is leadership by rotation, which can be found in the Advisory Committee for the Conduct of Deputies of the European Parliament.[19]

The draft code in Article 22, par. 2 has left open the possibility that if a parliamentary group does not wish to propose a member to the Council, even if this right has been granted, it will be transferred to the next relevant parliamentary group in line. Such a provision is correctly drafted, but there is a technical issue. Another supplement should be added to this provision, or it should be reformulated so that a reasonable deadline is set for the proposing parliamentary group to submit to the Assembly's Presidency. The Draft Code failed to do this.

12. Failure to anticipate provisions to draft and approve the annual work report

The drafting and approval of an annual work report is an essential component of the Kosovo Assembly's bodies. Although the Draft Code has included procedural issues, for which we have stated above that they should be separated from the principles of the code, and since we already have a code where principles and procedures are included, the Draft Code fails to decide an essential issue such as the establishment of a provision that envisages the drafting and approval of the annual work report for the previous year.

[18] *“Review of the Code of Conduct: proposals for consultation”*, pg. 81. House of Commons Committee on Standards, 29 November 2021. (See: <https://committees.parliament.uk/publications/7999/documents/82638/default/>). (Last accessed 8 May 2024).

[19] *“Rule 4 of the Rules of Procedure of the Advisory Committee on the conduct of members of the European Parliament”*. European Parliament, 14 November 2023. (See: https://www.europarl.europa.eu/pdf/meps/Rules_of_Procedure_EN.pdf). (Last accessed 8 May 2024).

Failure to include such a provision seriously violates transparency and accountability, and does not hold the Ethics Council accountable to the public and other interested parties. Future activities cannot be planned or prioritized because previous ones have not been summarized, and the effectiveness of the Ethics Council's work cannot be measured.

A code of conduct that does not include the creation and approval of an annual work report is generally undesirable and should not be trusted by deputies. Such reports are critical for ensuring transparency, accountability, strategic planning, and effective communication. As a result, including the requirement to draft and approve the Annual Work Report in the Code of Conduct is a best practice that promotes good governance and effective legislative functioning.[20]

For the reasons stated above, the Legislation Committee should establish clear provisions requiring the approval of the annual work report, specifying the date and month when this report is sent to the deputies for notification and approval, and the time when it is published for approval on the assembly's official website.

[20] "Rule 14 of the Rules of Procedure of the Advisory Committee on the conduct of members of the European Parliament". European Parliament, 14 November 2023. (See: https://www.europarl.europa.eu/pdf/meps/Rules_of_Procedure_EN.pdf). (Last accessed 8 May 2024).

