



ASSEMBLY OF KOSOVO PUBLIC HEARING MANUAL

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I. PUBLIC HEARINGS AS AN INTEGRAL PART OF THE WORK OF PARLIAMENTARY COMMITTEES

A public hearing may be defined as an information gathering mechanism used by parliamentary committees, when analyzing policies, as well as for the purpose of government supervision. Public hearings may be held in relation to issues such as lack of legal frameworks, though it is more common to hold public hearings on drafts and proposed laws. In any case, parliaments draw different benefits from public hearings.

Public hearings inform members of parliament (MPs), staff from different departments and the public on different issues considered in a particular draft or proposal, on measures to be taken in order to improve the act, and sets the intensity of support for a particular law.

The purpose of public hearings is: to follow the level of implementation of the Government's program of work; to monitor the activities of the Government, and to present problems in a given field; that the Kosovo Central Assembly may deal with later.

Even though the government already usually holds round tables and public hearings when drafting a piece of legislation, public hearings in the Committees are not a repetition. It gives the Committee the chance to invite previously unheard experts, expand the catalogue of questions and also to question the government. The Committees shall not rely solely on the information as provided and probably filtered by the government.

Public hearings allow citizens to take part in developing positions on certain issues, thus assisting in developing public opinion on a measure or an issue.

II. TYPES OF PUBLIC HEARINGS

All types of public hearings share the same elements of preparation and conduct. Some of those are set by the existing Rules of Procedure. At the same time, there are differences between the types of public hearings, due to various reasons.

It is common for each working body to prepare and adopt its own Rules of Procedure. The Rules must follow the Rules of Procedure of the Kosovo Central Assembly, but may also expand and elaborate provisions contained in them.

Public hearings are also conducted for different purposes. In terms of purpose, public hearings may be divided into three principal categories:

- legislative
- supervisory
- investigative

A public hearing may at times serve a dual purpose, such as legislative and supervisory. The Rules of Procedure for the Central Assembly provide some details as to how all three types of hearings are to be carried out.

Legislative public hearings are conducted by parliamentary committees on issues and problems related to particular draft laws, or in order to promote options that may later become draft laws. In the Kosovo Central Assembly, the Main Committees and the functional committees are provided with this mandate.

A committee can conduct hearings to address an issue that may eventually be a draft law or requires some other form of action by the government. Alternatively, a committee may be designated to review a draft law as part of the legislative process of reviewing a law prior to its adoption as an Act.

Supervisory public hearings consider an Act, an issue or a problem, or a proposed activity, often focusing on the quality of government programs and the level of performance of government officials. The mandate of such a committee is provided in Rule 44 of the Rules of Procedure.

A supervisory public hearing also ensures that the implementation of the law by the executive is in accordance with the intention of the legislature, and that the administrative policy reflects the public interest. The idea of this type of public hearing is to promote effective, economical and efficient government activity. It is common that parliamentary committees conduct this type of public hearing when re-authorizing and passing new programs, or establishing government agencies.

Investigative public hearings share some of the features of legislative and supervisory ones. The difference rests in the actual investigative nature, usually if there is a suspicion that an offence was committed by a public official while acting in an official capacity, or if a company or individual is suspected of an offence.

Rule 39 of the Rules of Procedure grants only the Assembly the right to establish of an investigative committee that has all the rights of a functional committee, plus the right to compel witnesses to attend and testify.

Conducting public hearings in the field

Most public hearings are held on the parliamentary premises, but a working body may decide that there is a need for a public hearing to be held elsewhere. There are several reasons for organizing public hearings in the field. A public hearing brings the parliament closer to the people. Through public hearings in the field, a parliamentary committee may hear witnesses who are unable to come to the seat of the parliament to testify. In this way, a public hearing may discuss a problem or an issue with the people directly affected by it.

It is important to mention, though, that on field visits a Committee only gathers and shares information. No ordinary sessions, with binding decisions of the Committee, will take place in the field. Field visits of the Committees shall take place only in extraordinary cases, even though individual members are free to visit any institution for their personal information gathering.

III. PREPARATION AND CONDUCT OF PUBLIC HEARINGS

When deciding on holding a public hearing, the parliamentary committee should consider different issues. The committee must define the information it wishes to obtain through the hearing and then consider whether a public hearing is the best method for the realization of the parliamentary committees' specific objectives. Several factors will bear an impact on the plan of the public hearing, including the importance of the subject matter, the level of interest of different groups in the subject matter, and the significance of the public hearing for the parliament itself.

Parliamentary committees world-wide often receive thousands of requests for public hearings. In the context of an overflow of requests of this kind, the committee must decide whether or not a public hearing on a particular topic is appropriate. This is based on the terms of reference provided by the Assembly and the mandate of the committee as provided in the Annex to the Rules of Procedure. The committee must also consider if a hearing would be the best utilization of funds and personnel. Finally, the committee must also consider whether a public hearing would fit into the general plan of work for the committee.

In order to receive an approval for a public hearing, the secretary of a committee must prepare for the chair of the committee a preliminary note on the public hearing, containing information such as the purpose and scope of the public hearing, list of potential witnesses and questions, number of days needed for the public hearing and if available, positions of parliamentary groups. In addition to this, a written summary of informal discussions with committee members may be useful.

Sources of external assistance

Numerous government and non-government resources are available to parliamentary committees, to assist them in conducting public hearings, since most public hearings are focused on government programs or potential programs. Therefore, executive agencies may often be the best source of information. Committees may request information directly from a government office. If the Government Ministry is not forthcoming with information, the committee has the power under Rule 44 (2)(c) to compel the Minister or staff to attend and testify before the committee.

Non-governmental organizations may be a rich source of information for parliamentary committees. Academics and personnel from other organizations are often willing to provide assistance by presenting specific data, analyses and statements. Studies have shown that testifying before a parliamentary committee during a public hearing is an important and effective method of amending legislation. Additionally, the process of consultation of experts and interest groups provides committees with information and assistance from ordinary citizens who have direct experiences in relation to the proposed law or issue, and who will be directly affected by the decisions made by the committee and the parliament.

Joint public hearings

It is sometimes useful to consider holding public hearings jointly with another committee. In such cases, the committees should agree on procedural rules and should consider logistics, such as the venue. If two (or more) committees desire to hold a public hearing on the same topic or draft law, they should hold a joint committee meeting to decide upon a date and procedure for a joint public hearing.

The decision on joint public hearings is likely to be received better by the parliament primarily due to the fact that this type of work is a more effective way of using the limited financial resources available for public hearings. Organizing joint hearings may reduce the difficulties and delays that may arise from sometimes contradictory actions and proposals.

Still, in most parliaments in the world such hearings are not frequent. Some legislatures think that the parliament would benefit more from parliamentary committees presenting separate views and approaches. Moreover, coordination between two committees may be hindered by the fact that there are different dynamics in holding committee meetings, which is of direct impact on the timetables of individual committee members.

IV. PUBLIC HEARING PREPARATION

Committee members – responsibilities

- A. If a public hearing is to be held on draft legislation or a specific issue of interest, the timing and subject of the hearing should be decided upon by committee members at least two weeks before it is to be held in order to provide adequate time for members to acquaint themselves with the subject, allow staff time to adequately prepare and allow witnesses time to prepare their testimony. (See sample calendar in Appendix #2)
- B. Members should decide on the type of witnesses they would like to participate, ensuring representation from all sides of the issue. Witnesses should include academic experts, representatives of government ministries, people involved in the conduct of the businesses or issue to be discussed, NGOs interested in the area and others who might possess critical information on the subject. Representatives of UNMIK shall also be invited to state their opinion and ensure the integration of their concerns before the promulgation of the law. Adequate time must be allotted for witnesses in opposition to the legislation or issue. Panels should be comprised of all representatives from the same community of organizations. For example, one panel could be comprised of academic experts, including the expert from the relevant government ministry; another panel could be comprised of NGO representatives, another comprised of business interests, etc. Each political group shall have the right to nominate witnesses according to their parliamentary representation, if there is no unanimous decision on the list of witnesses.
- C. The Committee should prepare a catalogue of questions being submitted to the witnesses together with the invitation to the Public Hearing (see Appendix #1). These questions help the witnesses to prepare and structure their statements and ensure that the statements address specific concerns. These questions are only guidelines and not binding for the statements of the witnesses nor to the oral questions of the members on the occasion of the public hearing.
- D. Members should decide on the timing of the presentation by the witnesses. Time limits should be set to preclude domination of the time by any of the witnesses. Witnesses can provide to the Committee complete papers of their ideas and work for committee evaluation at any time, but such written material is most useful if presented prior to any oral submission. Often presentation times are limited to 5-10 minutes for presentation by a specific witness with an additional 5-10 minutes for questions and answers by Committee members.
- E. During First Reading, Members should ensure that they keep accurate notes of the questions and comments made on the draft law they will be reviewing in Committee in order to appropriately address other Member's concerns.
- F. In the time available before the public hearing, members should make every attempt to brief themselves on the subject to be discussed. Staff will also provide briefing materials for the Committee.

Committee staff – responsibilities

- A. Upon notification of a committee decision to hold a public hearing, staff must locate and arrange for an adequate room for the hearing. Staff must ensure the location:
 - 1. Is available on the date decided upon by the committee;
 - 2. Is large enough to hold the number of participants expected at the hearing.
 - 3. Is equipped with a table and microphones adequate for 15-20 people at a time.
 - 4. Have enough chairs for observers.
 - 5. Has space for translators and media.
 - 6. Has personnel and equipment present to ensure a transcript of the hearing is produced.
 - 7. Is available at least one hour before the hearing to allow time for setup and available at least one-half hour after the conclusion of the hearing.
- B. Arrange for Translators and Translation equipment.
- C. Send invitations, agendas and questions to witnesses suggested by Committee members (see appendix #1 for a list of general questions). Invitations should be sent at least one week before the hearing and follow up confirmation calls should be made following the sending of the invitations. Time limits for presentations, as established by the Committee, should be noted on the invitations. It should also be noted that witnesses are welcome to provide additional written comments.
- D. Upon confirmation of their attendance, witnesses should be told of the time limits for presentation with the stipulation that written comments can be submitted for consideration of the Committee following the hearing.
- E. Prepare a Public Hearing Agenda. Include in the agenda the Committee name, the title of the draft law or subject that is being considered, the date, time and place of the hearing and the names and approximate times that each witness will appear.
- F. Ensure transport and security for attending Serbian members.
- G. Tell the security staff as soon as possible about the date, time, and place of the hearing and the fact that it is public. Provide a list of witnesses for the security staff and discuss with them how the witnesses will be able to enter the building.
- H. Prepare a press announcement for the media for delivery before the hearing and a more complete press release and press packet for distribution the day of the hearing. The Media and Public Relations Division, in consultation with the committee chairperson, should issue both the press announcement, the press release and prepare the press package. The packet should include:

1. The venue;
 2. The agenda for the hearing;
 3. A list of committee members;
 4. A list of witnesses;
 5. Prepared statements of the witnesses, if available;
 6. A summary of the draft law;
 7. A code of conduct for media in the Assembly
- I. Prepare briefing papers for members of the Committee. The briefing papers or book should contain:
1. Information on the draft law or issue;
 2. Relevant budget information as to its impact and where funding will be obtained;
 3. Press coverage about the law or issue;
 4. Catalogue of questions for the members;
 5. Background information on witnesses;
 6. Paper on which members can write.
- J. Specific Items for Preparation
1. Prepare and deliver Chairperson's notes for the Chairperson to conduct the hearing.
 2. Prepare a notice to put on the door of the hearing room during the hearing. It should contain the committees name, the time and purpose of the hearing, and information that members of the public are welcome to attend and listen to the hearing.
 3. Make spare copies of the following and take them to the hearing:
 - a. Draft law;
 - b. List of Committee Members;
 - c. Public Hearing Agenda;
 - d. Additional copies of witness testimonies;
 - e. Press release;
 - f. Blank paper and a marker pen to make any extra nameplates that are needed;
 - g. Chairperson's notes for the Chairperson and briefing paper for Members. *(Do not allow these notes to go to anyone except the Chair and Members. They are not public documents)*

Each member of the committee staff should also take with them to the hearing a copy of the Provisional Rules, the briefing paper, the draft law, writing paper, pens etc and a list of witnesses and their telephone numbers so that they can be contacted if necessary.

K. Things to do before the day of the hearing:

1. Recheck the status of the hearing room for its availability and timing.
2. Recheck with translators and the availability of translation equipment.
3. One day before the hearing call each Member and confirm that they will attend and know when and where to go.
4. Call witnesses to confirm their attendance, timing of the hearing and any limits set by the Committee on presentations. Request that they provide the staff with written comments well before the hearing so they can be duplicated and provided for members in their briefing books. This will also provide members with the opportunity to frame additional questions based on the prepared testimony.
5. Confirm transcription services are available.
6. Notify the appropriate department for the transport of the Serbian MPs.
7. Notify the security unit in the Assembly Building the list of witnesses and other attendants at the Hearing.
8. In cooperation with the Assembly spokesperson disseminate the press release to media.
9. Prepare the nameplates for participants and members of the committee.

L. Things to do on the day of the hearing:

1. Well in advance of the hearing, go to the room to ensure it is set up accurately, that translators are there and equipment is on the table and working.
2. Place the nameplates for Members at the end of the table furthest from the door, arranging Committee members on one side of the table and witnesses on the other side. The Committee Secretary (*a person appointed by a committee as "secretary", whether it is staff or a committee member, to ensure that adequate notes are taken and assisting with any questions or needs that may be required during the meeting*) should sit next to the Chairperson.
3. Have available press packets for the media.
4. Make spare copies of the following and take them to the hearing.
 - a. Draft law;
 - b. List of Committee Members;
 - c. Public Hearing Agenda;
 - d. Additional copies of witness testimonies;
 - e. Press release;
 - f. Additional blank paper for members as needed.

5. Staff should determine a specific place for media in the room. The media should be told not to move their cameras and not to disrupt the hearing.
6. Ensure that one member of Committee staff is seated near the Chairperson and Secretary and one member of staff is near the door and can welcome and direct witnesses to their places, and provide the public with written information.
7. Provide the public with instructions for where to sit and how to submit questions, if any.

M. Things to do during the hearing:

1. Take extensive notes of the hearing, including a summary of what each witness said and any questions by committee members and corresponding answers.
2. Remind witnesses of the use of translation equipment and the need to use microphones to ensure translations services are functioning properly.

N. Things to do after the hearing:

1. Review transcript or tapes of the hearing.
2. Produce a summary of what was said by each witness for the members of the committee.
3. Identify any recommendations for amendments to the draft law and put potential amendments into categories, including technical or linguistic changes and substantive changes.
4. After the committee meets to review the testimony from the public hearing, work with the Chairperson, Vice-chairperson or Rapporteur to produce a report of recommendations for approval by the committee.
5. After the committee has reviewed the report, make any necessary changes and get final approval for the report from the committee.
6. Once the committee has approved the report, send the report to the Table Office of the Assembly and to the Main Committee s.

APPENDIX #1:

SAMPLE QUESTIONS FROM PUBLIC HEARING ON THE ANTI-DISCRIMINATION AND GENDER EQUALITY LAWS

Below is a list of general questions sent to all invited witnesses to the public hearing on the Anti-discrimination Law. The purpose of the questions is to focus the presentations of the witnesses on the issues and concerns that the committee has identified. By producing a list of general questions, the committee is soliciting the opinions of the witnesses in those areas of concern.

As the questions are general and broad, it should be explained to witnesses that their statement shall attempt to answer only the questions they feel competent to answer.

These questions however are only guidelines and not binding for the statements of the witnesses or the oral questions of the members at the public hearing.

1. *Would you briefly inform the committee on your expertise on the draft law on anti-discrimination and/or the gender equality draft law?*
2. *Do you support the general intention of the draft law on anti-discrimination and/or the gender equality draft law?*
3. *Do you think the draft laws can achieve their intended purpose in their present form?*
 - a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*
4. *Do you think that the draft laws will face or create legal or practical problems when implemented?*
 - a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*
5. *Do you think that the draft laws can and will be properly enforced by the institutions and by the foreseen legal sanctions?*
 - a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*
6. *How do the draft laws fit into the legal system of Kosovo? Do you see conflicts with existing laws or with the reserved powers of the SRSG?*
 - a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*
7. *How do both laws in your opinion interrelate legally? How complementary are they? Do you see problems between them both in practice?*
8. *Have the draft laws in your opinion implications for the Kosovo Consolidated Budget? If yes, how high do you estimate the costs?*
 - a. *The anti-discrimination draft law*

- b. *The gender equality draft law*
9. *Do the draft laws in your opinion affect the rights and interests of communities in a negative way?*
- a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*
10. *What are your specific concerns on the draft-law? In this respect, what amendments would you like the Committee to consider?*
- a. *The anti-discrimination draft law*
 - b. *The gender equality draft law*

Sample questions from simulated public hearing on an imaginary law on immovable property taxation (used in a Municipal Assembly Committee Training)

Context

On June 6, 2002 The Municipal Assembly of Dardania adopted the Regulation on Taxation of the Immovable Property for the Municipality. At the time that the Regulation was adopted it didn't exist any legislation that regulated the issue of the taxation on the immovable property. Therefore, the Municipal Assembly of Dardania had to come up with its own. Although, the taxes on immovable property were not very high, people were reluctant to pay them. This was due to many factors. It was a post war situation and the society was still recovering from war casualties. The economy was devastated and the personal incomes were low. Actually this was the main reason why the Assembly decided for lower taxes. The Regulation stipulated that for private and industrial immovable property the taxation per year is 0.02% of the total value of the property, whereas for commercial property the taxation per year took 0.03% of the total value of the property.

In May 2003, the Assembly of Kosovo has adopted the Law on Taxation of Immovable Property. This Law will be implemented Kosovo-wide and all Municipal Regulation will have to follow the framework set by the Law from the Central Assembly.

The new law sets other limits. According to the new law the taxation on the immovable property shall be between 0.05% and 1% of the total value of the property. The exact rate of the taxation shall be decided by the Municipal Assembly. However, it cannot be below 0.05% and not beyond 1% of the total value of the property.

It is clear that the Municipal Assembly of Dardania will have to amend its Regulation to comply with limits set by the new legislation from Central Assembly. Definitely, the taxes private properties have to be increased at least 0.03%, because the minimal rate is 0.05%.

There are many different opinions with regards to how much the tax should be on immovable property. There are those who think that the taxes are very low and that the occasion of having to amend the Regulation should be used to increase the taxes significantly for specific program. On the other hand, others believe that due to the very poor economic situation people simply cannot pay much more in taxes.

The Committee on Policy and Finance has to recommend the Assembly on what the taxation should be. A dilemma is posed before the Committee. They should either set lower taxes, which will keep taxpayers happy but will mean fewer services to be provided to the citizens, or set higher taxes, which would enable the local government to provide more services to the citizen and implement other development projects. Being able to provide better services and carry out development projects will result in more opportunities for the citizens of Dardania.

The Committee wants to make the best decision for the citizens of Dardania. Therefore, they have decided to conduct a series of public hearings on this issue. They will invite people from the Executive branch, independent experts, and representatives of various interest groups, nongovernmental organizations and specific groups of citizens who may be mostly affected by the issues under discussion.

On the hearing today, five witnesses are invited:

The Director of the Directorate on Economy and Finance

A representative of the Association of Pensioners of Dardania

A representative of the NGO Women for Women, an organization that supports women empowerment with a focus on single headed households.

A representative of the Associations of Farmers of Dardania.

A representative of "Youth Vision" a youth organization based in Dardania.

Sample of Questions

Possible Questions for the Executive Official:

1. Do you know what amount of money is going to be raised from the taxes?
2. Was the Executive able to collect taxes effectively so far? What were the main difficulties you faced in collecting taxes?
3. If you had problems with collecting taxes that were very low, why do you think that the government will be able to collect effectively even higher taxes?
4. Did you do any research before you came up with the recommended rate of taxation? If yes what are the findings?
5. What is the average income per household?
6. Did you contact the Center for Social Work and ask the data on the households that are in social assistance?
7. What are the plans of the Executive with regards to allocating the money raised from property taxes? What are the priorities? Who are the beneficiaries?
8. Do you plan to increase the remunerations for the Municipal Assembly Members any time soon?

Possible questions for the Association of Pensioners:

1. You were talking about the unaccompanied elderly couples and the extremely difficult situation they are in. I would be interested to know the accurate numbers.
2. Could your Association provide us with information on the number and whereabouts of this vulnerable category?
3. Do you think that there are pensioners who live in extended families with their children, which are employed and can stand the taxes?

Possible questions for Farmers Association:

1. What are really the ways that the Municipal Assembly can support you the best?
2. How much food is imported that can be produced here? Are there any possible projects that may enable you to produce more food here?
3. Could the money be used to improve the roads so you can get your goods to market?

Possible questions for the NGO "Youth Vision":

1. How important do you think youth priorities in comparing with the priorities of the pensioners and single headed households?
2. If you would have to choose the implementation of only one of the projects you mentioned here, which one would that be?
3. Do you have any ideas of how much your projects would cost the municipality?

Possible questions for the NGO "Women for Women"?

Can you be more specific what kinds of training you think women single head of household would need?

APPENDIX #2:

SAMPLE TIMEFRAME FOR PREPARING FOR PUBLIC HEARINGS (including sample calendar)

10 DAYS BEFORE THE HEARING:

- Committee sets a date and time for the public hearing
- Arrange a hearing room
- Confirm list of witnesses **and questions** with committee (or the committee chairperson in the absence of the entire committee)

9 DAYS BEFORE THE HEARING:

- Prepare and send invitations to witnesses
- Arrange for translation and transcription personnel and equipment

8 DAYS BEFORE THE HEARING:

- Prepare the press announcement **and get the approval of the chairperson** and then submit it to the Media Spokesperson for approval

6-7 DAYS BEFORE THE HEARING:

- Prepare an agenda and submit it to the chairperson for approval
- Prepare briefing book and provide to the members of the committee
- Confirm attendance of invited witnesses and members of the committee

4-5 DAYS BEFORE THE HEARING:

- Send approved press announcement to media

3 DAYS BEFORE THE HEARING:

- Confirm all logistics are ready for the hearing

2 DAYS BEFORE THE HEARING:

- Prepare press packet
- Assemble witness list and photocopy any written submissions

1 DAY BEFORE THE HEARING:

- Provide written submissions to the members of the committee

DAY OF THE PUBLIC HEARING:

- Provide press packets to media attending the hearing
- Ensure extra copies of materials are available

AFTER THE HEARING:

- Review the transcript of the hearing
- Summarize the testimony from the hearing and produce a list of recommended amendments to the draft law
- Based on the recommendations of the committee, produce a draft report of recommendations on the law
- Finalize the recommendations report and get final approval from the committee
- Deliver the recommendations report to the Table Office of the Assembly and the Main Committees

