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## Challenges to parliamentary oversight and accountability of independent agencies in Kosovo

### What is parliamentary oversight?

According to Interparliamentary Union, parliamentary oversight is defined as 'review, monitoring and oversight of government and public institutions, including implementation of policies and laws'.<sup>3</sup> For realisation of the oversight role, the Parliament utilizes tools, some of which are determined in the Constitutions, while others are detailed in Kosovo Parliament's Rules of Procedure. These include:

- Parliament can ask the Government to provide information through written and oral parliamentary questions;
- Parliament can ask for further clarifications from the Government for public policies through interpellations;
- Parliament can secure information from sources outside the Government through public hearings, creation of investigative parliamentary committees and field visits;
- Parliament can express its stance vis-a-vis the Government and citizens through confidence motion for Prime Minister, laws, resolutions, statements etc.; and
- Parliament can discharge heads of public institutions that have been appointed by it if it considers that they are not implementing their duties and mandate accordingly.

More specifically, Parliament's Rules of Procedure enable usage of parliamentary oversight tools vis-a-vis the Government in cases when nomination of persons for managing bodies is done by the Government. Based on the existing Parliament's Rules of Procedure, members of the parliament have the right, among others, to fulfil their oversight function by presenting parliamentary questions to the Government (both oral and written). This instrument of parliamentary accountability allows clarification on which procedures were followed and

### I. EXECUTIVE SUMMARY

*Democratic governance is based on two pillars of institutional functioning - transparency and accountability. Implementation of these two concepts in a parliamentary system of governance is entirely the responsibility of legislative branch of power. Through oversight function, Parliament holds the Government accountable for the actions (not) undertaken on behalf of citizens by ensuring that actions and policies implemented by the Government and other public institutions are in accordance with the needs of citizens and effectively implemented. Also, parliamentary oversight enables controlling and eliminating excesses of authority stemming from laws by the Government and other public institutions.*

*According to Constitution of Kosovo, domestic governance is based on the principles of separation of powers and institutional checks and balances.<sup>1</sup> At the centre of institutional architecture is Assembly of Kosovo (the Parliament) with its representative, law-making and oversight role. According to article 65, paragraph 9 of the Constitution of Kosovo, on duties of the Parliament, the Parliament 'oversees the work of the Government and other public institutions that according to Constitution and laws report to Assembly'.<sup>2</sup> This constitutional provision provides the necessary legal mandate for execution of parliamentary oversight of independent institutions/agencies. According to Parliament's Rules of Procedure, relation of the legislature with independent agencies is based on receiving and reviewing annual activity/work report of independent agencies. However, members of the Parliament and parliamentary committees can utilize existing mechanisms that allow for active parliamentary oversight.*

1 Constitution of Kosovo (2013), article 4, paragraph 1, last accessed on 15 November 2015: [http://www.gjk-ks.org/repository/docs/Kushtetuta\\_RK\\_shq.pdf](http://www.gjk-ks.org/repository/docs/Kushtetuta_RK_shq.pdf)

2 Ibid, article 65, Paragraph 9.

3 Yamamoto H. (2007), 'Parliamentary Oversight Tools', Interparliamentary Union, Geneva, last accessed on 15 November 2015: <http://www.ipu.org/PDF/publications/oversight08-e.pdf>

rationale for each person nominated by the Government for managing bodies of independent agencies. To date, members of the parliament have not fully utilised this possibility to pose such parliamentary questions to the Government.

This policy brief derives from a research paper on balancing independence and parliamentary oversight of independent agencies prepared for Institute for Development Policy.<sup>4</sup> The policy brief addresses the topic of strengthening oversight and accountability of independent agencies by Parliament of Kosovo. Specifically, the policy brief analyses this subject based on the existing practice of the Parliamentary Committee on Economic Development, Infrastructure, Trade and Industry and independent agencies that report to it.<sup>5</sup> The policy brief reviews the constitutional and legal framework, as well as current practices of parliamentary oversight of independent agencies implemented by Parliament of Kosovo. The policy brief looks into main challenges and policy options related to effective parliamentary oversight of independent agencies, measurement of their performance and their functional independence. The policy brief concludes with recommendations based on best practices of other countries in transition and the current context of Parliament's relations with independent agencies. Valuable input in preparation of the policy brief have provided officials of the Parliament's administration that are responsible for interaction with independent agencies.

Last part of the policy brief offers several recommendations that target improvement of legal framework and parliamentary oversight practices in Kosovo while having in mind the need to secure functional independence of independent agencies and their accountability vis-à-vis the Parliament. Recommendations are categorized into political and technical since amendments to existing legal framework and parliamentary oversight practices are conditioned by political will of decision-makers in the Parliament. Among political recommendations, it is advised establishment of additional mechanisms that would improve communication and interaction between the Parliament and independent agencies.

Specifically, it is proposed creation of roundtable between the Parliament and independent agencies that

4 Vela, B. (2015), 'Balancing Independence and Accountability: Existing practices and recommendations for parliamentary oversight of independent agencies', Institute for Development Policy, Prishtina, pp. 30, last accessed on 15 November 2015: <http://indep.info/?id=5,0,0,1,a,267>

5 The following independent agencies report to the parliamentary committee: Civil Aviation Authority of Kosovo, Kosovo Competition Authority, Railway Regulatory Authority of Kosovo, Regulatory Authority of Electronic and Postal Communications, the Independent Commission for Mines and Minerals and Energy Regulatory Office.

would be conferred by the Speaker of the Parliament. Participants of the roundtable would be heads of all independent agencies that report to the Parliament as well as chairpersons of parliamentary committees that are responsible for reviewing the annual work reports of independent agencies. Additionally, it is suggested to establish an ad-hoc parliamentary committee to conduct functional review of mandate and operations of independent agencies. The committee would be tasked to detail improvements to existing and suggest new mechanisms for parliamentary oversight and accountability of independent agencies as well as prepare corresponding amendments to the legal framework. As part of technical recommendations, it is suggested creation of adequate instruments for parliamentary oversight of independent agencies through supplementing the Parliament's Rules of Procedure and enhancement of Parliament's capacities to conduct effective parliamentary oversight of independent agencies.

## II. CONTEXT RELATED TO PARLIAMENTARY OVERSIGHT OF INDEPENDENT AGENCIES IN KOSOVO

### What are independent agencies?

Independent agencies are important link in the functioning of any democratic system of government. The notion "independent" refers to the need for agencies to be outside the influence of other public or private institutions, thus giving them operational autonomy. The creation of independent regulatory agencies is thought to bring important benefits such as enabling the accumulation of knowledge and specialization in a specific field, long-term capital investments and the protection of markets from short-term political influences.

In the context of Chapter XII on independent agencies of Constitution of Kosovo, article 142 on independent agencies stipulates that independent agencies are institutions established by the Parliament that perform their functions independently from any other body or authority. Moreover, the Constitution obliges every institution in Kosovo to cooperate and respond to the requests of independent agencies during the exercise of their legal powers. Most issues of internal organization and accountability mechanisms are determined by special laws, which establish independent agencies. The OSCE Mission in Kosovo report '*The State of Independent Institutions in Kosovo*', lists two types of independent agencies in Kosovo: (1) those performing oversight over the government's compliance with good governance and human rights standards, such as the Ombudsperson Institution (OIK), the Office of the Auditor General (OAG)

and the Independent Oversight Board for Civil Service of Kosovo (IOBCSK); and (2) agencies and regulators which perform a regulatory, licensing or quasi-judicial function such as the Independent Media Commission (IMC) and the Energy Regulatory Office (ERO).<sup>6</sup>

#### Institutional set up of regulatory bodies based on OECD<sup>7</sup>

First, ministerial departments are agencies that are part of the central government and do not have the status of a separate corporate body. They are part of the civil service and headed by or report directly to a minister. They are typically and largely funded from tax revenue. They can have statutory independence in carrying out some regulatory functions, and can have considerable administrative autonomy from other ministries.

Second, ministerial agencies are executive agencies, set at arm's length from central government, which may or may not have a separate budget and autonomous management. They may be subject to different legal frameworks (where administrative procedures laws or civil service regulations may not apply). They may have a range of powers, but are ultimately subordinate to a ministry and subject to ministerial intervention.

Third, independent advisory bodies are agencies with the power to provide official and expert advice to government, lawmakers, and firms on specific regulations and aspects of the industry. They may also have the power to publish its recommendations. The scope for public decisions to depart from this advice or recommendations may vary.

Finally, independent regulatory authorities are agencies charged with the regulating specific aspects of an industry. They are typically under autonomous management, and their budget may be under a Ministry. However, there is no scope for political or ministerial intervention with the body's activities, or intervention is limited to providing advice on general policy matters rather than specific cases. These bodies have a varying range of powers. Independent regulatory authorities in OECD account for approximately two thirds of regulatory agencies operating at arms' length from the government.

The Rules of Procedure of the Parliament reduce the relation of the Parliament with independent agencies to receiving and reviewing the annual work reports of independent agencies.<sup>8</sup> This provision of the Rules of Procedure does not clarify what should annual work

reports contain and what happens if the report is not approved by Parliament. Such provision is an example of *lex imperfecta* because it contains no sanctions in case of failure to vote the annual work report of independent agency by the Parliament.

The governing practices in Kosovo reveal that Parliament, the Government and independent agencies are still failing to build balanced relations based on power sharing and accountability. This is partly due to the fact that independent agencies are not directly elected by citizens or not managed by officials elected by citizens while at the same time they are responsible for managing important sectors such as human rights or supervision of certain industries. Often, independent agencies operate in the middle area of policy formulation, which in the concept of rule of law and democratic governance is the duty of publicly elected officials. Moreover, independent agencies have been delegated the task of implementation of rules/laws.<sup>9</sup>

In Kosovo, the Parliament often supported initiatives for creation of new independent agencies without a proper analysis of rationale for their existence. Furthermore, the Parliament has yet to provide sufficient budgetary resources for autonomous functioning of independent agencies and prevent political influences in their work. While most of the time the Government fails to make nominations on time, there were instances when Parliament delayed appointment of persons/managing bodies of independent agencies. In such cases work of independent agencies was paralysed as a result of expiration of the terms of appointed persons/managing bodies.

Kosovo 2015 Report issued by European Commission noted that Parliament should supervise independent institutions, regulatory authorities and agencies more closely, based on a clear mandate and with suitable reporting and accountability mechanisms. The Commission further stresses that Parliament should address delays in the selection of managing board members for these institutions and authorities, and determine mechanisms for their accountability. Moreover, it highlights the need that such appointments should be done on the basis of professional qualifications and merit, not political patronage.<sup>10</sup>

From Parliament's point of view, accountability and

6 OSCE (2012), 'State of Independent Institutions in Kosovo', OSCE Mission in Kosovo, Prishtina, pg. 6, last accessed on 15 November 2015: <http://www.osce.org/sq/kosovo/92052?download=true>

7 Jacobzone S. (2005), 'The independent regulatory authorities in OECD member states: An overview' in OECD, 'Designing independent and accountable authorities for quality policy', London, UK, pg. 82.

8 Parliament of Kosovo Rules of Procedure (2010), pg. 33, last accessed on 15 November 2015: [http://assembly-kosova.org/common/docs/Rr\\_K\\_RK\\_29\\_04\\_2010\\_shqip.pdf](http://assembly-kosova.org/common/docs/Rr_K_RK_29_04_2010_shqip.pdf)

9 Malyshev N. (2006), "Evolution of the Regulatory Policies in OECD countries", OECD, pg. 19-20, last accessed on 15 November 2015: <http://www.oecd.org/dataoecd/24/10/41882845.pdf>

10 European Commission (2015), 'Kosovo 2015 Report', Commission Staff Working Document, Brussels, pg. 7, last access on 15 November 2015: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

oversight of independent agencies can be improved in two ways. Firstly, by amending and supplementing Parliament's Rules of Procedure with clear rules on how Parliament conducts oversight of independent agencies and allocation of necessary human capacities within Parliament's administration to do so. Secondly, by reviewing applicable laws that establish independent agencies, to ensure proper operation and enforcement of accountability rules by agencies. In this regard, particular attention should be paid to creating a legal framework that would enable independent functioning,

accountability for the shown performance and the fulfilment of the mandate. Moreover, focus of the review should be to assure sufficient financial and human resources for implementation of the mandate as well as the harmonization of procedures for nomination and appointment of persons in managing bodies of independent agencies. This process of reviewing existing legislation, can contribute to avoid overlaps in mandates of independent agencies with other executive/advisory institutions in Kosovo.

**Table 1:** Instruments and indicators of independence and accountability of independent agencies<sup>11</sup>

	Instruments	Indicators
Independence	1. Institutional features and governance	a) Decisions are taken by a managing body or individual b) Head of the agency is appointed by the Parliament c) Members of the managing body are appointed by the Parliament d) Criteria for removal are clear e) Duration of the term of persons appointed is clearly defined f) Restrictions before and after appointment of person are clearly and strictly defined
	2. Political and actual independence	a) Incompatibility with other functions b) Interference of ministries in decisions of agency c) Political appointments d) Frequent turnover of heads of agency e) Independence from industry
	3. Budget and financial resources	a) Sources of budget: state budget or own revenues b) Agency prepares its budget c) Parliament approves the budget
	4. Staffing policy and human resources	a) Staff recruitment by agency b) Selection criteria for staff are set by agency c) Remuneration for staff: according to law or regulations set by the agency d) Salary for head of agency: according to law or regulations set by the agency
Accountability	1. Reporting and transparency	a) Annual report submitted to parliament b) Requirements on structure and content report c) Own initiative to submit info and reports d) Publication on the web e) Official Gazette
	2. Performance assessment	a) Financial report submitted b) Financial Audit by Office of Auditor General c) Clear objectives d) External performance assessment e) Publicly availability of agency's performance assessment
	3. System of appeals	a) Appeal to court or minister b) Timely processing of appeals by courts c) Appeals may suspend agency decisions d) Functioning judicial system
	4. Consultations and coordination	a) Agency conducts informal and formal consultations b) Conclusions of consultations are published and publicly accessible

<sup>11</sup> Adapted according to the table prepared by De Vrieze F. and Ieseanu L. (2011), "Independent and regulatory agencies in Moldova and their relationship with Parliament", UNDP, pg. 33-34, last accessed on 15 November 2015: <https://iniciativatpa.files.wordpress.com/2010/06/report-on-independent-institutions-final-version-original.pdf>

### III. KEY ISSUES RELATED TO PARLIAMENTARY OVERSIGHT OF INDEPENDENT AGENCIES IN KOSOVO

Implementation of effective parliamentary oversight of independent agencies depends on a number of factors and entails several key issues that Parliament of Kosovo should address. The main challenge for implementation and introduction of new mechanisms of parliamentary oversight is lack of harmonized legal framework. Furthermore, Parliament doesn't pursue a proactive approach in its relations with independent agencies. The content of annual work reports of independent agencies and recommendations drafted by Parliament on these reports are not used in a systematic way to improve the legal framework and public policies that regulate the sector by these agencies. Appointments of persons/managing bodies of independent agencies are often postponed, while their leadership structure is still facing difficulty to reflect the gender and communities representation as a whole.<sup>12</sup> Below are presented details of key issues related to parliamentary oversight of independent agencies in Kosovo:

#### **1. Practices of parliamentary oversight of independent agencies**

Parliament's relation with independent agencies and existing parliamentary oversight mechanisms are presented in its Rules of Procedure - which includes receiving and reviewing the annual work reports of independent agencies. However, members of the parliament and parliamentary committees can use existing mechanisms that enable parliamentary oversight. Specifically, Parliament's Rules of Procedure enable the use of instruments of parliamentary oversight of the Government when nomination of persons for managing bodies of independent agencies is done by the Government. Parliamentary oversight tool that is widely used by MPs are oral and written parliamentary questions. Parliamentary questions can be used to strengthen accountability in relation to certain aspects of the functioning of independent agencies. More specifically, this instrument of parliamentary accountability enables shedding light on procedures that were followed and the rationale for each person nominated by the Government for the managing bodies of independent agencies. To date, members of the parliaments have not fully exploited this opportunity to ask such parliamentary questions to the Government.

Also, in the context of strengthening transparency as a prerequisite for accountability and effective

parliamentary oversight, existing Parliament's Rules of Procedure provide that each members of the parliament has access to information, material or official documents from public institutions including independent agencies to accomplish his or her tasks. To date, members of the parliament have rarely used legal opportunity through substantive motions to address various aspects of functioning of independent agencies. Indirectly as part of the authority of the Parliament to monitor the implementation of laws, parliamentary committees can initiate overseeing the implementation of basic laws which established independent agencies and thus exercise parliamentary oversight over them. Additional parliamentary oversight tools are the establishment of investigative/inquiry parliamentary committees, and review of audit reports prepared for each independent institution by the parliamentary committee for oversight of public finances.

#### **2. The legal framework related to independent agencies**

Existing legal framework is the main challenge to realization of parliamentary oversight of independent agencies. Basic laws which establish the agency, determine the manner of nomination and appointment of persons to the managing bodies of independent agencies. Most of them are nominated by the Government while voting for their appointment is done in the Parliament. Currently, the Parliament has no legal basis to ensure the transparency of this process but only to state whether or not it supports the nominations proposed by the Government.

To address this challenge, the Parliament should create the legal basis for implementation of effective parliamentary oversight of independent agencies through introduction of new oversight mechanisms in its Rules of Procedure such as organization of interpellations, the review of the work plan and assessing the performance of persons/managing bodies of independent agencies appointed by it. Also, the Parliament should determine the legal sanctions in cases when it does not approve the annual work report of independent agencies.

#### **3. Appointments of persons in managing bodies of independent agencies**

The way in which appointment of persons to the managing bodies of independent agencies by Parliament is done remains questionable in part due to lack of transparency of the process of identification and nomination, as well as because of not respecting the principle of separation of powers. This process has resulted in the creation of asymmetric relations between Parliament, Government and independent agencies. Since Government nominates the majority of persons to managing bodies of independent agencies it has dominated the appointment

12 OSCE (2012), 'State of Independent Institutions in Kosovo', OSCE Mission in Kosovo, Prishtina, pg. 15, last accessed on 15 November 2015: <http://www.osce.org/sq/kosovo/92052?download=true>

**Table 2:** The procedure of nomination and appointment of persons/managing bodies of independent agencies reporting to the Parliamentary Committee for economic development, infrastructure, trade and industry

Independent Agency	Open vacancy	Nomination	Appointment
Civil Aviation Authority of Kosovo Appointed body: Supervisory Board	No	Government based on Ministry's proposal	Government
Kosovo Competition Authority Appointed body: Kosovo Competition Commission	No	Government	Parliament
Railway Regulatory Authority of Kosovo Appointed body: RRAK Board	No	Government based on Ministry's proposal	Parliament
Regulatory Authority of Electronic and Postal Communications Appointed body: RAEPC Board	No	Government based on Minister's proposal	Parliament
The Independent Commission for Mines and Minerals Appointed body: ICMM Board	Yes	Government after review of applications based on open vacancy	Parliament
Energy Regulatory Office Appointed body: ERO Board	No	Government	Parliament

process, which has resulted in direct impact on agency's way of functioning.

Criteria for nomination or application for persons on the managing bodies of independent agencies should be made public and should be based on professionalism, competence and political impartiality. The whole procedure of identifying candidates to be nominated and voting should be managed by the Parliament. Person or managing body appointed by the Parliament in independent agencies should have a mandate that exceeds one election cycle with or without the possibility of reappointment. Moreover, the legal framework should clearly stipulate restrictions regarding the possibility of re-election more than twice and employment before or after appointment to leadership positions in the independent agency in order to prevent potential conflict of interest. Parliament should organize public hearings with qualified candidates in advance so that members of civil society and citizens have the opportunity to familiarize themselves with their platforms.

#### **4. Budget and financial independence of independent agencies**

There is no uniform model for financing of independent agencies. Some are entirely financed from Kosovo Budget, while others are funded by dedicated taxes or fees. Independent agencies have often raised the issue of funding as a barrier for realization of functional independence and implementation of their work plan. Most independent agencies are faced with a chronic lack

of operational and professional capacities that is due to lack of reliable and competitive salaries. As a result independent agencies fail to ensure the performance of staff and to attract qualified candidates.<sup>13</sup> Besides securing financial independence of independent agencies, the Parliament should establish clear accountability mechanisms in order to ensure that the expenditure of public funds is done in transparent way and in line with agency's mandate. The main role in this process should play functional parliamentary committees and parliamentary committee for budget and finance - who should lead the process of reviewing the annual budget proposal of the independent agencies.

#### **5. Annual (work, financial and audit) reports of independent agencies**

The annual work report of the work of independent agencies is the most comprehensive document that Parliament receives from independent agencies that provides information about the agency's operation and general conditions in the regulated sector. According to Parliament's Rules of Procedure and basic laws establishing independent agencies, Parliament once a year, reviews the work report of the agency. Improvement of reporting of independent agencies should be done with supplementing Rules of Procedure which should aim, inter alia, harmonizing and linking annual work reporting with findings of the audit report. Moreover, in the future, Parliament should consider establishment of permanent mechanisms for external evaluation of the

13 Ibid.

performance of independent agency. Findings of such evaluation should be part of the review of the annual report of the agency.

### **6. Measuring performance of managing bodies of independent agencies**

To realize evaluation of performance the independent agency should have clear objectives of regulatory policy. Moreover, the external evaluation should be done to determine the extent to which such objectives have been realized. Best practices from member countries of the OECD are based on this formula of preparation of performance reports of independent agencies by external and independent entities.<sup>14</sup> Also, accountability can be increased if independent agencies are subject to external audit. In certain cases, the evaluation of performance can be achieved through regular surveys on customer/client satisfaction with services provided by the independent agency. In the case of independent regulatory agencies, the external performance evaluation should be done through economic evaluation. This means assessing the impact of regulations issued by regulatory agencies in economic efficiency and productivity of the sector/industry.

## **IV. RECOMMENDATIONS FOR IMPROVED PARLIAMENTARY OVERSIGHT OF INDEPENDENT AGENCIES IN KOSOVO**

Improvement of parliamentary oversight of independent agencies is closely related to existence of political will in Parliament to increase communication and addressing issues related to functioning of independent agencies. By supplementing Parliament's Rules of Procedure, new parliamentary oversight mechanisms should be introduced that will allow MPs and parliamentary committees to fully exercise their oversight function. Moreover, Parliament's administration should have all the necessary human and financial resources for implementation of new mechanisms for parliamentary oversight of independent agencies.

### **1. Parliament's roundtable with independent agencies**

To improve partnership and ensure accountability of independent agencies, it is proposed to initiate a roundtable of the Speaker of the Parliament with heads of independent agencies. Participants of these meetings could be chairpersons of parliamentary committees that review the annual work reports of independent agencies. This advisory body would meet twice a year to review issues raised by the Parliament and independent

agencies on parliamentary oversight and implementation of recommendations of the Parliament, functional and financial independence of independent agencies, as well as harmonization of legislation and practices of management of agencies.

### **2. Ad-hoc parliamentary committee on functional review and accountability of independent agencies**

The purpose of this functional review would be to assess the rationale for existence of 37 existing independent agencies. During this review, the Parliament should ensure that there is no duplication of duties between independent agencies and other public institutions. Another focus of the review should be to establish harmonized framework of accountability of independent agencies. Realization of functional review and accountability of independent agencies could be done through the creation of an ad-hoc parliamentary commission that would be obliged within a year to present to Parliament a report with its recommendations.

### **3. New instruments for parliamentary oversight of independent agencies**

Parliament should examine the possibility of creating additional parliamentary oversight instruments, such as organization of interpellations, the review of the work plan and assessing the performance of persons/managing bodies of independent agencies appointed by Parliament. Implementation of this recommendation depends on the supplementation of Parliament's Rules of Procedure and amendment of basic laws that establish independent agencies, as well as creation of necessary capacities within Parliament's administration to support MPs and parliamentary committees in their oversight role. Also, the Parliament should prepare guidelines for the parliamentary committees and staff of administration on implementation of the oversight role vis-à-vis independent agencies.

### **4. Completion of the legal framework for parliamentary oversight of independent agencies**

Parliament should create the legal basis for implementation of effective parliamentary oversight of independent agencies through introduction of new mechanisms oversight in its Rules of Procedure. These would include organization of interpellations, the review of the work plan and assessing the performance of persons/managing bodies of independent agencies appointed by Parliament. Also, Parliament should define legal sanctions in cases when it does not approve the annual work report of independent agencies. Legal changes could be introduced through functional parliamentary committees or the proposed ad hoc parliamentary committee on functional review and accountability of independent agencies. Supplementation of Rules of Procedure can be done by the parliamentary sub-committee for mandate,

<sup>14</sup> Jacobzone S. (2005), 'The independent regulatory authorities in OECD member states: An overview' in OECD, 'Designing independent and accountable authorities for quality policy', London, UK, pg. 86.

immunity and rules of procedure with input from MPs and other functional committees.

### **5. New procedures for nomination of persons in managing bodies of independent agencies**

Existing prevailing practices on nomination of persons/managing bodies of independent agencies by the Government reduce Parliament's role in formal vote on their appointment. These practices should be amended to ensure transparency and selection based on merit and objective criteria. While there may be concern that Parliament is turning into "employment office" for independent agencies, ensuring functional independence and prohibition of political influence starts from the way persons are appointed to the managing bodies of independent agencies. Therefore it is the duty of Parliament to ensure the functional independence and separation of powers by taking over the process of selection of people who will be subject to vote in the Parliament for appointment in managing bodies of independent agencies. In this way Parliament shields independent agencies from political interference and increases their credibility vis-à-vis citizens.

### **6. Monitoring performance of independent agencies**

Submission of independent agencies work plan and objectives for Parliament's consideration would enable the Parliament to conduct an objective assessment of performance of persons/managing bodies it appoints. At the same time such an approach would ensure continuity in functioning of independent agencies. Based on the work plan and objectives, Parliament should develop performance indicators based on which it would oversee

implementation of work plan. To ensure that the work plan and objectives are realistic and consistent with needs of the sector, Parliament in reviewing the performance of persons/managing bodies could organize public hearings with participation of civil society representatives, professionals in the field and other stakeholders.

### **7. Enhancing Parliament's capacities for effective parliamentary oversight of independent agencies**

Implementation of above recommendations depends on increasing the capacity of Parliament's administration to support execution of effective oversight of independent agencies by MPs and parliamentary committees. For the moment, Parliament's administration has only one dedicated liaison officer with independent agencies. Indirectly, also, parliamentary committee support officers when reviewing the annual work report are in touch with independent agencies. It is therefore necessary to examine the idea of forming a separate directorate on liaison and oversight of independent agencies. Additional human capacity assigned to cover legal affairs, budgetary issues and monitor meetings of managing bodies appointed by Parliament. Also, Parliament should prepare guidelines for MPs, parliamentary committees and Parliament's administration staff on implementation of parliamentary oversight role over independent agencies. In technical terms, Parliament should consider the possibility to expand the capacity of the database on independent agencies to include issues such as addressing the recommendations of parliamentary functional committees, Office of the Auditor General and monitoring the implementation and performance indicators of independent agencies work plan.