

# MEASURING THE DEVELOPMENT OF PRIVATE SECURITY IN KOSOVO

**AURHOR: FLORIAN QEHAJA**

**REVIEWER: RASTISLAV BACHORA**

**Keywords**

Western Balkans, Private Security Companies (PSC), Kosovo, private security industry, parliamentary oversight

*Introduction*

*The state of private security industry in Kosovo*

*Regulation of the private security market and the rights of employees*

*Organisation and cooperation with the police*

*Parliamentary oversight*

*Conclusions*

**Introduction**

Few could have imagined such an ever increasing private security sector in Kosovo. Some years back even the demand for structured private security was fairly unthinkable. The range of services offered nowadays by Private Security Companies (PSC) in Kosovo starts from the classical physical protection of private and public properties, close protection of VIP's, safeguarding 'properties of strategic importance' and security for sports and music events. The presence of PSCs on the ground directly and indirectly assists law enforcement authorities in preserving safety and security.

Rapid emergence of private security initiatives could in part be explained by a symbiotic drive to adapt to the new conditions but in field which matches their labour potentials (security) and the pursuit of financial gain. Similar developments were experienced with ex-combatants in other conflict areas in former Yugoslavia. However, one cannot exclude the fact that many such initiatives also came from shrewd entrepreneurs who transmitted the know-how from Western Europe. Barriers to entry for private security operators were initially relatively low: all the necessary tools, including relatively inexpensive labour units were readily available on the open market. The combination of global systemic and

structural factors and local responses to them has created both the demand for private security companies and the supply of labour and capital investment to meet that demand. This essay briefly evaluates the development of the private security industry in Kosovo. It refers to the extensive research conducted by the author up to the beginning of 2009 at the Kosovar Centre for Security Studies (KCSS). The project “Assessment of the private security companies in Kosovo” had a huge impact on unfolding both the shortcomings and the advantages of the growing private security industry in Kosovo. The first part addresses the current state of private security industry in Kosovo. The second part briefly runs through the regulation of private security market and the rights of employees. Later, specific focus has been given to the organization, selection and vetting and finally conclusions.

### **The state of private security industry in Kosovo**

The PSCs in Kosovo operate since almost a decade, much later than in other parts of former Yugoslavia. A long period of strained relations with Milosevic regime and the difficult political situation hardened social developments in general. The end of war in Kosovo in 1999 saw the introduction of market economy and pluralist democracy as well as contemporary practices on human security. Private security initiatives were taking shape rapidly as ineffective police structures were struggling to secure law and order. Most of the PSCs were established by ex-combatants of the Kosovo Liberation Army, former military officers of Yugoslav National Army (JNA) and individuals with a security background. Kosovo private security industry from 2000 until the present time operates only in two UNMIK Regulation pages. This regulation addressed some basic issues referring to the private security companies and in particular it explicitly excluded the right of local PSCs on getting the permission for handling weapons by challenging similarly other PSCs from the region. Only the international PSCs had the right to apply for weapon permissions.<sup>1</sup> There were several attempts to draft Law on PSCs in Kosovo and for two years it was either modified or sent back to the sponsor. Although there are some expectations that the Law will be approved very soon, Kosovo remains one of the two countries in the region lacking relevant law on PSC.

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<sup>1</sup> Until the present time there is “Henderson” an international security company operating in Kosovo and still remained the only company permitted to carry weapons. Up to date, there are no information on the newly registered international PSCs

Based on the official data, there are around 3.750 private security guards registered at the relevant authority. Although the official data present a different figure, there is a shared perception that some companies are neither registered nor do possess any licence to exercise their activities. On the other hand, it remains unclear how publicly owned companies do cover their security needs. There are cases when security services remain unregistered and others public companies which have established their own internal security structures but have registered them accordingly.<sup>2</sup> Additionally, some of the PSCs, mainly those in northern Kosovo, operate outside the current legal framework. Reportedly, they are registered and licensed from the Serbian Government authority.<sup>3</sup> This state of uncertainty allows the estimation of more than 4.500 security guards currently employed. Nevertheless, from the security perspective, PSCs in Kosovo does contribute for a safer environment in Kosovo. Currently the number of the Kosovo Police officers is more than 8.000 therefore the proportion between the number of police and private security guards is approximately 2:1. Practice showed that the number of private security guards tends to approach the number of the public police officers.<sup>4</sup> Even in Kosovo and other countries in the region the day to day increase of private security industry leads towards the equal proportion of members (1:1) or even exceeding the number of public security officers. The market demands necessarily increase the number of private security guards and unload the financial burden of the public security institutions. To demonstrate, recently, the Kosovo Police Unit for safeguarding the public institutions was disbanded and they have been tasked to follow a basic training course at the Kosovo Centre for Public Security in order to be part of other regular police units.

The privatization of security in Kosovo excludes some other elements characterizing this industry such as private detectives which in Kosovo are inexistent. Despite some reports that such plans are part of the Ministry of Internal Affairs legislative strategy, the existing legislation does not permit the operation of such subjects. Kosovo should adopt the practice of other countries when it comes to private detectives – permission with close oversight and strict procedures. Detectives offer private investigations to contracting/concerned parties. These services are secret and very sensitive. Several

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<sup>2</sup> KCSS, *Assessment of Private Security Companies in Kosovo*,

<sup>3</sup> Kosovo Internal Security Sector Review, *Issue: Private Security Companies*, P.112,

<sup>4</sup> Ibid,

countries in the region have already introduced such practices though there are some indications of the possible abuses. In this way a particular attention should be given to the future establishment of private detectives. In addition, in Kosovo there are no Private Military Companies (PMC). In this stage, PMCs might be perceived controversially however its future role should not be underestimated. The current number of Kosovo Security Force (KSF) is considered too small in being properly operational.<sup>5</sup> In the other side, the international military presence in Kosovo is being downsized and its number will apparently decrease drastically in the near future. Indeed, the rapid development of private security industry in Kosovo consequently opens the possibility for the emergence of PMCs. Nevertheless, it is not expected PMCs or current PSCs to conduct public order tasks but their role could be valuable in safeguarding the KSF barracks and other logistical support consequently unloading the current limited capacities of this newly established institution.

### **Regulation of the private security market and the rights of employees**

The ideology of the market and the notion that privatisation is the most efficient means of delivering services has influenced the way governments operate. It is assumed that privatisation of certain segments of security is a cost-effective approach. In the aftermath of Kosovo conflict, the inadequate disarmament, presence of arms as well as protracted period for the formation of policing structures created a fertile ground for the existence of private security structures. While the current legal infrastructure defines to an extend do/donts which are mainly related to the security dimension, the policies lack the economic dimension. As with other economic transactions, private security needs a consumer and a seller. Presumably, the *invisible hand* in the private sector industry faces a number of shortcomings. From the need to ensure fair competition, to bilateral economic exchange, contracts, fiscal evasion and corporate social responsibility all require the intervention of the *invisible foot* – the implementation bodies.

Security experts and other key informants repeatedly highlights the incompatibilities that exist between the Procurement Law and Employment Law – according to the former companies with the lowest financial offers are the likely winners, which in itself push

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<sup>5</sup> It has 2.500 active and 800 reserve troops.

companies to compete under conditions which fall well below those stipulated by the Employment Law and social responsibility principles embedded within the Constitution of the Republic of Kosovo.

The up date research showed that some employees are being hired on unpaid temporary bases (up to three months) and dismissed without justification. Some of these employees asked for payment for the months they worked but they were unsuccessful in most cases.<sup>6</sup> This situation exploits the current level of poverty and unemployment at the society. In addition, some of the companies apply highly strict “discipline. One of former security guard went to such an extent considering this state of discipline which is according to him commensurate to the French *Légion étrangère*.<sup>7</sup>

The gender representation in the security mechanisms remains the concern for the region. Indeed no one should avoid the fact that gender could greatly improve operational effectiveness and shape the future development, both in the public and private security sector.<sup>8</sup> In Kosovo’s private security sector, women are underrepresented consequently challenging the overall efforts for the gender balance. This concern might not be addressed to the PSCs as there is a shared perception that the customers usually underestimate the static presence of women and they simply discourage private security providers on hiring women in this industry.

### **Organization and cooperation with the police**

According to the research conducted so far, one may be worried about the professionalism in the management level of PSCs in Kosovo. Except for those with military or other security background, there is a concern that individuals with an insufficient security background are engaged. However, this does not exclude the experience most of them gained during the time they served at different PSCs. Most obviously, management might be directed by the individuals hired based on trustworthiness but not on their experience. This could occur as a result of possible improper selection especially for the senior positions. The current legal infrastructure

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<sup>6</sup> See, KCSS, *Assessment of Private Security Companies*, 2009

<sup>7</sup> Ibid,

<sup>8</sup> Schulz Sabrina and Christina Yeung, *Private Military and Security Companies and Gender*, DCAF, OSCE/ODHIR, UN INSTRAW

does not foresee the need for relevant qualifications for the owner as well as for the senior officers of PSCs. However, the selection process should be likely considered unavoidable. The issue of possession of weapons is very controversial, sensitive and complicated. It varies from country to country however in Kosovo currently only one international company holds fire-arms. Current legislation excluded the right of local companies to apply for small weapons despite huge demands for this. This consolidated the monopoly of international companies since it was almost impossible for local companies to offer and get tenders for some services; in particular, cash transport for the commercial banks purposes. To simplify, local companies were automatically excluded from offering protection services especially for international banks.<sup>9</sup>

In the other side, PSCs might impatiently expect the new Law on PSC due to the signals of the allowance of possession weapons even by the local companies. However the prior warning for the restrictions over the handling of weapons only for two purposes might raise reactions due to their concerns on ineffectiveness for dealing with the properties of ‘strategic importance’ in lieu of weapons.<sup>10</sup> They cite the scenario of a possible “sabotage” or attack occurring where they are unable to effectively combat the threat without weapons.<sup>1112</sup>

Cooperation between private security industry and PSCs is likely to be considered as crucial. In the case of Kosovo, there is still no mechanism which could legally bind the cooperation though the situation in the ground might show the other picture. For this purpose, the owner of a PSC in Kosovo noted that “his security guards are allowed to cooperate with the police at any case but they are not obliged”.<sup>13</sup> Indeed the cooperation increases effectively the performance of both – private and public security mechanisms.

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<sup>9</sup> Perhaps there might be a sense of lack of trustworthiness towards the local PSCs

<sup>10</sup> Ibid,

<sup>11</sup> Based on the interviews/discussions the author had in the beginning of 2009 for the purposes of KCSS research

<sup>12</sup> It is fairly understandable that the properties of “strategic importance” should be covered by the police or other public security structures however the stakeholders repeatedly argue for the needs of delivering the physical protection of certain properties to the private security providers due to the limited number of public security providers.

<sup>13</sup> Ibid,

On the contrary, these two security actors should not perceive each other as competitors. The practice in other countries showed this to be an especially problematic area.<sup>14</sup> This may especially occur if the police or other public security members are not barred from working in PSCs. New laws on two other public security institutions in Kosovo strictly prohibit the engagement in the other sectors while they work in these institutions.<sup>15</sup> A rigorous inspection in the future has to be exercised in order to ensure that an individual is not working simultaneously for a private and public security mechanism.

### **Parliamentary oversight**

The parliamentary oversight of PSCs is very important. However close scrutiny of PSCs is often considered complicated and some of the countries simply avoided the parliamentary oversight of the PSC therefore they exclude it from the scope. In Kosovo, the Committee responsible for PSC oversight is Committee on Internal Affairs and Security. Except its oversight role of other security institutions, this committee should exercise control and ask for accountability for the activities of PSCs.

Direct oversight by the Committee of PSCs is literally considered impossible. The Committee on Internal Affairs and Security cannot bypass MoIA for exercising control over this sector. Committee might exercise indirect control.<sup>16</sup> Should any unlawful activity occur, violation of human rights or improper functioning of this sector, the Committee looks to the Ministry for explanation and responsibility<sup>17</sup> The current legal infrastructure<sup>18</sup> does not foresee the parliamentary oversight whereas the law is being drafted and a specific part should address this issue.

In any case of human rights abuse by the security guards or holders of license the role of Kosovo Ombudsman is imminent. Nevertheless minor offences do not have to be part of the parliamentary oversight considering the inspective authority of the Ministry. The committee should ask for the accountability in case of major violations and offences, suspicious funding of private security services, etc.

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<sup>14</sup> Born Hans, Caparini Marina and Cole Eden, *Regulating Private Security in Europe; Status and Prospects*, 2007, DCAF Geneva

<sup>15</sup> See *Law on the Service in Kosovo Security Force and Law on Police*,

<sup>16</sup> KCSS, Assessment of Private Security Companies in Kosovo

<sup>17</sup> Ibid,

<sup>18</sup> UNMIK Regulation

## **Conclusions**

The emergence of the private security industry in Kosovo both assures the security for individuals and properties in one side, and the normal development of open market in the other side. However the up to date increase in this sector might be shaped by ongoing postponement for drafting Law on PSC. These delays allow further the private security providers to operate without the clear legal framework. Especially one might not avoid the violation of the rights of employees in this sector in Kosovo. The monopoly caused over the weapons permission given especially to the international companies and excluding the right of local companies, seriously breached the principles of the open competition. Furthermore the post-conflict fear for 'arming' the private security providers should be replaced by the new conditions to be set for weapons permission only for specific purposes and subject to vetting and scrutiny. Finally, the growth of private security industry tends to approach the number of current public security providers. This will definitely unload the burden of Kosovo Police on providing static presence or covering the huge demands raised especially by the entrepreneurs.

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