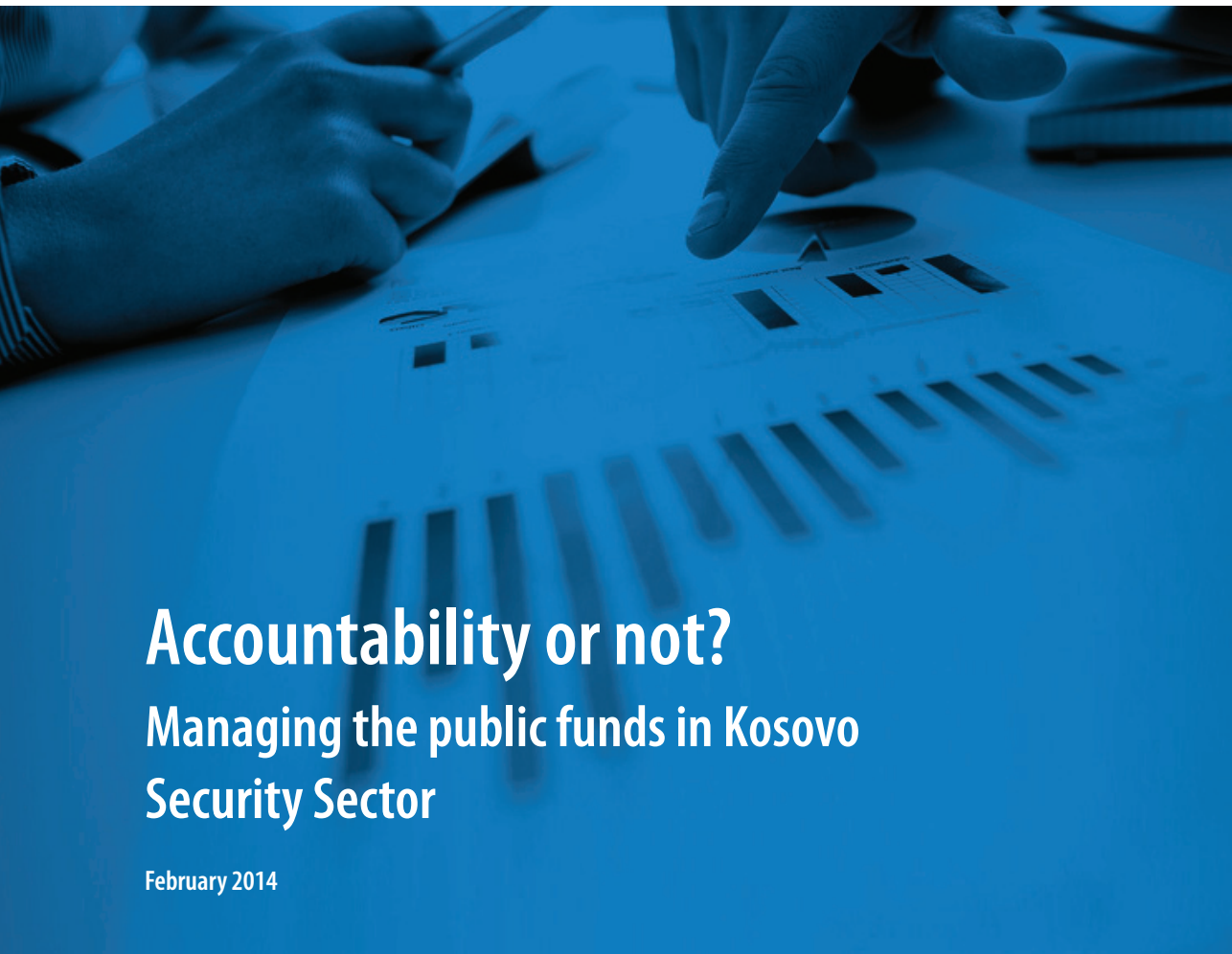




Kosovar Center for Security Studies



Accountability or not?

Managing the public funds in Kosovo Security Sector

February 2014



This projects was supported by
Kosovo Foundation for Open Society (KFOS)



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This is a translated version. The original version of the report is in Albanian language.

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LIST OF ACRONYMS

- AC – Audit Committees
- ACA – Anti-Corruption Agency
- CHU – Central Harmonization Unit
- CPA – Central Procurement Agency
- CSO – Civil Society Organizations
- EULEX - European Union Rule of Law Mission in Kosovo
- FOC – Full Operational Capabilities
- IAU – Internal Audit Unit
- IKSF - Inspectorate of Kosovo Security Force
- KA – Kosovo Assembly
- KCPS – Kosovo Center for Public Security
- KCSS – Kosovar Center for Security Studies
- KFOR – Kosovo Forces
- KIA - Kosovo Intelligence Agency
- KP – Kosovo Police
- KPI – Kosovo Police Inspectorate
- KSB - Kosovo Security Barometer
- KSF – Kosovo Security Force
- LCS – Law on Civil Servants
- LFC – Land Force Command
- LPP – Law on Public Procurement
- MF – Ministry of Finance
- MIA – Ministry of Internal Affairs
- MKSF - Ministry of Kosovo Security Force
- NAT – NATO Advisory Team
- OAG – Office of the Auditor General
- PFM – Public Finance Management
- PPRB – Public Procurement Review Body
- PPRC – Public Procurement Regulatory Commission
- PSD – Professional Standards Directorate
- RRB – Rapid Reaction Brigade
- SDM – Self-Determination Movement
- SSSR – Strategic Security Sector Review
- TDC – Training and Doctrine Command

INTRODUCTION

In every country, internal and external financial control of security institutions aims to ensure that public funds are spent in a proper, transparent and effective way. Furthermore, proper and efficient management ensures proper use of public funds by state institutions in line with acceptable standards and principles as provided by the relevant legislation.

During 2010-2012, Kosovo's institutions made partial progress in exercising oversight and control of public finance. The establishment of internal control mechanisms played a crucial role in this effort while its internal capacities became partially consolidated as a result of new employed staff officials. An extensive contribution has also been provided by the oversight mechanisms in scrutinising the respective institutions. These mechanisms are: parliamentary committees of the Kosovo Assembly (which plays crucial role in the approval and supervision of the budget); Office of the Auditor General (OAG); Public Procurement Body (PPB), and Anti-Corruption Agency (ACA). However, findings indicate that security institutions continue to have non-functional internal control mechanisms, as well as inadequate management of public finance. A similar situation is also observed in the performance of several security institutions, which resulted in decreasing trend of citizens' trust towards them. This mainly stands due to a large number of cases reflecting mismanagement, for which people are already aware of, such as : stolen of evidence rooms at Kosovo Police facilities (Prishtina 2009; Peja 2013); the corruption affair in the Ministry of Internal Affairs implying the Austrian company on the printing of Kosovo biometric passports, and many other similar cases.

It is worth mentioning that besides the negative impact of mismanagement and misuse of public finance have, this also results in the negative impact on the integration process in which Kosovo aspires to. Seemingly, as the enhancement and control improvement of public finance management is one of the preconditions for EU integration. Both European Union (EU) and NATO require accountability and transparency in the management of public funds and maintain strict rules in achieving the set principles and progress in the visa liberalization process, signing of the Stabilization and Association Agreement, building the Kosovar defence sector, or entering into contractual relationship with NATO.

Therefore, this study aims to evaluate and provide relevant recommendations related to the performance of security institutions from a financial management perspective. The study aims to achieve this by measuring the efficiency of internal control mechanisms in relation to the budget allocations dedicated to those institutions. Specifically, the findings of this study will be used as an advocacy instrument in improving the institutional performance of the security sector.

EXECUTIVE SUMMARY

This study aims to analyze financial accountability of Kosovo security sector and advocate for its continuous enhancement. It is focused mainly on the current state of affairs and the trends in this sector. Therefore, the period of 2010-2013 serves as reference point for chronological perspective of this study. Whereas, the scope of this study is restricted to financial management, procurement and auditing of the following institutions: Ministry of Internal Affairs, Kosovo Police, Kosovo Ministry of Kosovo Security Force and Kosovo Security Force. Due to the institutional modalities and the lack of transparency as provided by the law, the research team has intentionally excluded from this study the Kosovo Intelligence Agency, even though it considers that the absence of financial transparency of this institution is in contradiction with the principles of accountability of public funds.

The analysis reveals that general legal framework on financial management is also applicable to the security sector. Regardless of the existence of such legal framework, several weaknesses, may be detrimental to public funds as result of loopholes. One of the key dimensions in financial control is internal auditing, which is considered to be in its infancy. Audit units of the security institutions employs very small number of staff compared to the number of staff and volume of work in the financial sector. Therefore, the number of audits remains relatively small targeting only some of the most important areas.

One of the main weaknesses of these institutions is the lack of solid written plans. There is also lack of efficiency in executing the expenses as defined in the agenda. This makes the supervision of expenses and financial management in security sector more problematic. Following the same lines, public procurement management is at a concerning stage. Identified problems are mainly related to the evaluation process, lack of clarity of specifications during the application process, as well as many other shortcomings in the supervision of public procurement in the security sector. On the other hand, out of all complaints taken by the Public Procurement Review Body, it 50% of complaints filed by various economic operators have resulted to be grounded on evidence by returning the tendering process to either re-evaluation or re-tendering.

METHODOLOGY

The findings and assessment conducted for the purpose of this report are based on various data collection methods. The study mainly includes qualitative methods of data collection such as: analysis of primary and secondary legislation regulating the public finance in Kosovo; internal reports published by relevant institutions (which reflects their institutional management); publicly available reports of the independent oversight agencies (Office of the Audit General; Anti-Corruption Agency, and Procurement Review Body); the reports of parliamentary committees (namely the security, budget and financial oversight committees); as well as relevant available reports and analysis of local and international organizations.

Furthermore, to support the findings in this report, the analysis considered also the transcripts of the meetings and activities of the security institutions where KCSS exercise frequent monitoring. The data collection heavily relied on the 10 semi-structural interviews with key stakeholders in this field while also 5 focus groups with senior officials of relevant institutions have been organised solely for the purpose of the research. In addition to qualitative methods, the research team also analyzed various quantitative data, such as statistics of the Ministry of Internal Affairs as well as citizen's perceptions provided at the KCSS programme of the Kosovo Security Barometer.¹

¹ Security Barometer is designed and implemented by KCSS as an innovative instrument published twice a year, which aims to highlight public opinion about security and justice issues, including security challenges which faces Kosovo.

CHAPTER I

1. THE LEGAL BASIS FOR REGULATING THE FINANCIAL ACCOUNTABILITY OF THE SECURITY SECTOR IN KOSOVO

Kosovo has completed relatively its legal framework. It regulates the management of public finance while it also meets the overall criteria and principles of the EU legislation. The legal framework is mainly regulated by the primary laws, which are applicable to all sectors, including the security sector. The main laws regulating this field include the Law on Public Financial Management; Law on Internal Audit, as well as the Law on Public Procurement. Those will be discussed in the following section.

Law on Public Financial Management was approved in 2003, and amended later several times, once in 2008, later in 2012 and lastly in 2013. This law provides sufficient space in creating an effective and efficient control over public finance, as well as defines in details the procedures of submitting budget proposals and reporting.² The law also regulates the mandate of institutional mechanisms for public finance control and oversight.³ In addition, the law requires every budget organization to have one procurement officer in charge, one main financial officer, and one assigned supervisor, who will oversee all operations, especially those related to capital investments; by establishing a solid legal basis related to financial management by public institutions.⁴

The area of public procurement is regulated by the **Law on Public Procurement (LPP)**, which was finalized in 2010⁵ Firstly, the law was extensively criticized by both procurement departments as well as external oversight institutions, becoming one of the main obstacles to the well-functioning of the public procurement. The main deficiency of this law was the provision favoring the lowest economic offer with the lowest price. These criteria usually have made it impossible the selection of the most responsive economic operator. Therefore, due to improper evaluation of offers, it often resulted in delays to complete the assigned work by the beneficiary economic operators. When considering the security institutions, the law on procurement allows legal gaps, which increases the possibility for misuse. Specifically, the law enables avoidance of regular procurement procedures when dealing with specific contracts, which require special security measures, as well as in cases where the Government of Kosovo, by a special decision, classifies the contract as "Secret".⁶ However, by regulating

² The Law on Public Financial Management, Article 6

³ Ibid, Article 12

⁴ Ibid, Articles 11, 12, 13, 14

⁵ Law on Public Procurement in the Republic of Kosovo, Assembly of Kosovo, 15.10.2010

⁶ Ibid: Article 3

this dimension with a single provision in the law creates loopholes for potential misuse. The security and defence sectors should be regulated with a separate chapter albeit in the general law on public procurement.

In order to avoid existing weaknesses, the Law is subject to frequent changes and supplements. It was first revised in 2011, and then later in 2013. The aim of these changes was mainly to improve the procurement procedures and aligning it better with international procurement standards, specifically with the Directives 2004/172 and 2004/183 of the EU Public Procurement.⁷ So far, changes aimed at regulating the evaluation process of providers, which proved to imply a considerable progress. In meantime, there were no substantial changes regarding the regulation of procurement processes when dealing with procurement of important contracts (respectively on the expand of “article 3” in a separate chapter of the Law).

On the other hand, **the Law on Internal Audit** approved in 2009 represents sufficient legal basis related to regulating the internal audit. This law regulates the responsibilities and the mandate of the internal audit, as well as ensures full independence to internal auditors’ exercising their mandate.⁸ This Law aims to establish a more efficient controlling authorities in scrutinising the public financial expenses, as well as making all public spending subject to systematic internal auditing. The Law also recommends the establishment of the Audit Committees which needs to be introduced in every public organization according to the procedures and criteria as provided by the law. The Audit Committee is an independent advisory body of the senior management of the public sector institution mandated to support the internal auditors.⁹

⁷ The law on Public Procurement was revised, which got the approval of the government, and further forward to the Assembly of Kosovo for its further review.

⁸ The Law on Internal Audit – article 4

⁹ Ibid: Article 7

CHAPTER 2

2. THE CURRENT SITUATION AND MEASUREMENT OF THE IMPLEMENTATION LEVEL OF FINANCIAL ACCOUNTABILITY IN KOSOVO

The purpose of this chapter is to elaborate the current state of affairs of accountability in Kosovo based on three key indicators. These indicators will be analyzed in separate sections as following: 1) the level of management and efficiency of execution of budget expenses; 2) the performance of public procurement, and 3) the performance of internal audit and inspection.

2.1. Measuring the level of management and efficiency of execution of budget expenses by security institutions

Over the last three years, the level of budget execution by security institutions was at a satisfactory level. As a result, the **Ministry of Internal Affairs (MIA)**¹⁰ (with the exception of 2012 when the budget was spent only at the level of 85%) it spent more than 90% of the planned budget in 2010-2013.¹¹ However, the concern stands at the level of budget spent within the last three months of a fiscal year. Such concern is especially evident with respect to capital expenditures. Seemingly, even in 2013, MIA has not managed to spend its budget in a more consistent way, and in line with their procurement plan for any year. A typical example is the fact that in the last three years, almost about 50% of their mandatory capital expenses were executed during the month of December.¹² Such trend allows for avoidance and lack of respecting procedures in the execution of obligations, as well as it makes it more difficult for internal audit to exercise efficiently their mandate in controlling public expenses. For similar reasons, this ministry failed to execute a significant number of payments within a fiscal year, having to carry over the same obligations in the following year. The year of 2011 is a concrete example when MIA had 3.4 million Euros of carried over debt from the previous year; while in 2012 they were about 2.4 million. As a result of these problems, MIA was quite often criticised for not being able to draft proper financial plans.¹³ In meantime, the numerous scandals this ministry has been faced with over the last three years raise the suspicions that those were intentionally done, making it harder to control the cash flow spent as well as creating gaps that foster the possibility of appropriation of certain funds.

¹⁰ Under which the Kosovo Police operates

¹¹ OAG report for MIA and KP for years 2010, 2011 and 2012

¹² Ibid:

¹³ Data collected through focus group held on January 21, 2014

In conclusion, it should be highlighted that due to the fact that the Government of Kosovo allocates only one budget for both MIA and KP, it eventually impacts the financial autonomy of these two institutions, the supervision of public procurement procedures, as well as the auditing of their expenses.

TABLE 1: A detailed overview related to the efficiency of execution of budget expenses by MIA (including Kosovo Police as well) during the last three years:				
MIA – an overview over the years	Final budget for year	Budget spent	Debts	Percentage of the budget spent during the last 3 months of the year
2010	81.240.159 €	78.951.371 € or 96 % of final budget	X	67 % (capital investments)
2011	92,759,788 €	78,589,384 or 85% of final budget	3,413,749€ (carried over in the budget of year 2012)	52 %
2012	95,323,043 €	89,213,798 € or 85% of final budget	2,473,281€ (carried over in the budget of year 2013)	50 % (capital investments)
Budget spent by MIA and KP	Final budget for year 2	Budget spent	Debts	Percentage of the budget spent during the 3 last months of the year

A similar situation is present at the Ministry of Kosovo Security Force (MKSF). Over the last three years, the level of budget expenses at this ministry was at satisfactory level. With an exception of year 2013 when the budget spent was at the level of 85%, the spending in all other years was above 90% of the allocated budget.¹⁴ However, there is also a discrepancy between drafted plans and the time concentration of budget spending. Consequently, in the last three years, MKSF spent about 50% of its budget during the last three months of a fiscal year. At the same time, the remaining budget carried over from year to year consisted a significant amount of capital expenditures. 2014 can be taken as an example, where the debt inherited from the previous year is 450 thousand Euros.¹⁵ Since payment of obligations carried over from a previous year is paid by the budget of the current year, such a phenomenon increases the institutional burden of this ministry and has significant implications for the year's budget planning. Therefore, concentrated expenses/spending of this ministry within a short period of time as well as delays in their execution will directly affect the efficiency and effective internal control of expenses.

¹⁴ The interview with the Secretary of MKSF Mr. Shkelzen Sylja on January 15, 2014

¹⁵ The interview with the Secretary of MKSF Mr. Shkelzen Sylja on January 15, 2014

TABLE 2: A detailed overview related to the efficiency of execution of budget expenses by MKSF (including Kosovo Security Force) during the last three years: ¹⁶				
MKSF – an overview over the years:	Final budget for the year	Budget spent	Debts owned to the economic operators	Percentage of budget spent during the last 3 months of the year
2010	29.384.264 €	27.653.592 € or 94% of the budget	139,042 € (carried over in the budget of the year 2011)	56%
2011	33.674.299 €	31.239.208 € or 93 % of the budget	237 485 € (carried over in the budget of the year 2012)	46 %
2012	34.311.877 €	33.008.268 € or 96% of the budget	238.416 € (carried over in the budget of the year 2013)	47 %
2013	36.961.084€	32.345.714 € or 86.7 % of the budget	440.481 € carried over in the budget of the year 2014)	Almost 45%

2.2. The Performance of Public Procurement in The Kosovo Security Sector

Public procurement in Kosovo remains the main form of spending the budget through which more than 50% of state budget is spent.¹⁷ Therefore, this sector may be the main source of potential misuse of public funds. The issue becomes even more complicated due to the fact that combating and preventing misuse of public procurement is a difficult process as many factors are involved in the procedures.¹⁸ The main concern relies in the deprivation of free competition in public procurement processes due to the lack of 'information' in an appropriate manner of public procurement officers related to certain companies that apply for various tenders. The security institutions are also subjected to the issue of tendering the same companies for several times. This may lead to targeting people who may be involved in conflict of interest with certain private businesses. In addition, there are many cases when the same persons (owners) apply for the same tender with 3 or 4 companies with different names, only changing the price values.¹⁹ Therefore, combating and preventing misuse in the field of public procurement requires a cross-institutional cooperation, a fundamental quality that our institutions have not achieved yet.²⁰

There are 166 authorities that exercise public procurement in Kosovo, where 5 out of them are security-related institutions: MIA, Kosovo Police (KP), MKSF, Kosovo Security Council and Kosovo Intel-

¹⁶ Ibid:

¹⁷ Kosovo Democratic Institute report "Public Procurement in the Ministry of Internal Affairs", Prishtina, January 2014

¹⁸ Ibid;

¹⁹ http://www.kdi-kosova.org/publications/RAporti%20MPB-se_KDI.pdf

²⁰ An interview with a senior official of MIA, October 2013

ligence Agency.²¹ This study will elaborate the situation of procurement only in the following institutions: a) MIA (under which Kosovo Police procurement will be elaborated as well); b) MKSF (where Kosovo Security Force is included as well); and c) Public Procurement Review Body (PPRB) will be elaborated separately in relation to review of complaints raised by security institutions and different economic operators.²²

A. Public Procurement in MIA and KP

Within MIA, the department for procurement is responsible for maintaining and overseeing the process of procurement in this ministry. However, the public procurement performance in this ministry still remains extremely challenging. This ministry has been a target of continuous cases of irregular modalities and corruptive affairs. Specifically, the scandal with biometric passports that took place in 2012 included the officials of this Ministry who are accused of arrogating around 1.4 million Euros of Kosovar taxpayers. This case is still under investigation of the Kosovo justice system. Following the same lines, the case of the construction of the Civil Registration Agency building targets the winner of the tender who as an economic operator offered ridiculous prices that were not compatible with the market prices.²³ More concretely, the economic operator offered the doors and windows with a price of only 5 Euros, while the average price in the market is between 1,500 – 2000 Euros. On the other hand, the same economic operator offered astronomical prices for 1 m³ of beton in the amount of 999 Euros, while the market price for this product was only 150 Euros.²⁴ Despite the awkward offer of the economic operator, the evaluation committee surprisingly declared it the winner of the tender without providing any further clarification.

Other significant irregularities in the implementation of the law on public procurement were also discovered by the working group for financial oversight of the security institutions. This working group was established by the Parliamentary Committee on Internal Affairs, Security and Supervision of KSF. By the end of 2012, this committee had invited the Minister of MIA for a hearing on the management of procurement and the above-mentioned scandals that took place in this ministry. However, the minister did not respond to their invitation justifying that the committee does not have the mandate to inspect public finance in the MIA and KP.²⁵ The report of this committee notes that there were 10 contracts, taken as a sample for inspection, with clear deficiencies in the following public procurement procedures, including violation of the law on public financial management.

²¹ KIA does not undergo public procurement procedures due to its specificities.

²² The reason of leaving out Kosovo Security Council is due to its small budget and relevance this advisory mechanism has. As elaborated in the executive summary, Kosovo Intelligence Agency was not included due to the specificities of this institution, which prevent access to information related to procurement activities of this institution.

²³ For more, see: <http://indeksonline.net/?FaqeID=2&LajmID=35952>

²⁴ OAG reports on MIA 2012

²⁵ The Minister of MIA did not attend this public hearing on the basis that the Committee was not competent to monitor public finance of this ministry. His argument went that the Oversight Committee on Public Finance was the one responsible.

The reports of the Auditor General also assess that MIA has deficiencies in all public procurement procedures and lacks proper implementation of the law on public procurement. In many cases, there was conflict of interest involved in public procurement procedures, which resulted in the investigation of the several former officials of MIA or legal actions against them in relation to procurement issues.²⁶

Meanwhile, Kosovo Police, as one of the biggest spender of public funds through public procurement, is also identified with various problems in relation to procurement of public finance. Besides those issues mentioned under the section on management of public finance, spending there were high concentration of expenses noticed within a short period of time at the end of the fiscal year. This impacts negatively the monitoring of the procurement process. The institution faces also other problems which “facilitate” the potential misuse of public funds in KP. Specifically, the Auditor General highlighted numerous signed contracts under KP, where the amount was calculated based on line items rather than in total. Furthermore, there were numerous irregularities in the process of splitting tenders, in preparing technical specifications of offers such as referring to a specific product or favoring a specific product, as well as fulfilling its financial obligations even before starting the actual contract implementation.²⁷ Therefore, considering all of these indicators, it has to be concluded that the KP experiences many deficiencies in the management of public procurement.

B. Public Procurement in MKSF

The Ministry of Kosovo Security Force (MKSF) has made partial progress in managing the public procurement during the years of 2010-2013. The procurement department under MKSF consists of 6 officials (5 civilians and 1 military representative).²⁸ Similar to MIA, this ministry is subject to many challenges in monitoring the implementation of contracts and evaluation of the offers.

The continuous challenges in this ministry are mainly related to the procurement of single-sourced contracts under the negotiation procedures. Consequently, in 2012, KSF had signed six negotiated contracts, using article 3 of LPP that regulates this area. These contracts contained key equipment for KSF, including: weapons and ammunition, military uniforms, contract for optical fibers, contracts for vehicles for special needs (tactical vehicles), as well as contracts on digitalisation of KSF environment. The committee for the evaluation of those contracts consisted of MKSF procurement officials, KSF experts of the field, and representatives of the NATO Advisory Team in Kosovo.²⁹ However, in 2013, as the Government of Kosovo rejected this procedure, MKSF did not procure any contracts using the existing negotiation procedures. As a result, MKSF applied the negotiated procedure of public procurement without publishing the call for tender. Another significant problem is also the non-implementation of contract according to commitments due to the small number of contract managers and improper monitoring of the implementation of various projects of MKSF. A concrete example is the suspicion on fraud or involvement in the conflict of interest of a local company,

²⁶ Discussions during the parliamentary hearing of the Minister of Internal Affairs, Mr. Bajram Rexhepi before the Assembly of Kosovo - 2012

²⁷ Audit of Audit: Procurement Management in Kosovo Police in the year of 2012, Office of the Auditor General, Prishtina, May 2013

²⁸ Interview with the Secretary of MKSF Mr. Shkelzen Sylja on January 15, 2012

²⁹ Ibid:

which was contracted to supply KSF with food and beverages. Under the said contract, the company planned to offer original drinks in packages of no larger than 0.5 l whereas the company has been found in supplying the drinks on 2-liter packages. These drinks were at low quality. According to the contract, MKSF paid a much higher price already committed on the contract, while the company supplied drinks that were up to 30% cheaper in the market. Yet, along the lack of measures in identifying the cause, the MKSF also executed all payments as envisaged in the contract without verifying the specifications of goods. This case resulted in misuse of a large amount of public funds.³⁰ Given the situation, since 2009, the Auditor General had issued a number of recommendations for the same company on the track of irregularities with previous contracts. Meanwhile, a great challenge still remains the fact that MKSF is reluctant to forward all contracts above 1 million Euros for prior review to the Committee for Internal Affairs, Security and Supervision of KSF, although such a procedure is provided explicitly in the law.

Lastly, it is worth mentioning that the LPP does not prohibit Kosovo institutions to apply joint procurement procedures for common services and equipments they need. For a more efficient management of public procurement and at a lower cost, security institutions should start drafting policies for joint public procurement procedures considering the specificities of both institutions. This can be easily regulated through an agreement between the two institutions. Both Kosovo Security Force and Kosovo Police need weapons, ammunitions, special operational and tactical vehicles, which they can acquire at lower cost using special and common procedures of public procurement. Application of “*Joint or Smart Procurement*” procedures will enable Kosovo Police and Kosovo Security Force to standardize their weapons, ammunition and other tactical-operational equipment for their needs. Seemingly, this would apply only for the procurement of specific equipment fulfilling the needs of both institutions.

C. Addressing Complaints by the Procurement Review Body

By mid of 2013, the Public Procurement Review Body (PPRB) received a considerable number of complaints from various economic operators related to their claims on the misuse of procurement procedures by security institutions. However, the PPRB has not managed to review any of those complaints dealing with potential misuse of public procurement procedures by contracting authorities due to expiration of the mandate of the members of the PPRB board. Currently, as the Government of Kosovo has not filled up all the position of the PPRB board, the public procurement sector is functioning without any oversight body. The selection of PPRB board is fundamentally important considering that Kosovo spends more than 700 mil of its budget through public procurement with 20% of it reviewed by PPRB. Being a non-operational and rather not so independent institution, PPRB has negatively affected the budget signing unfavorable contracts with harmful economic operators.³¹

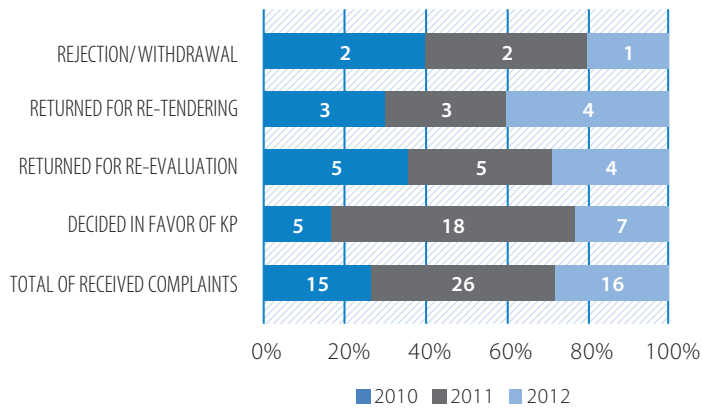
³⁰ OAG Report on MKSF 2012

³¹ Some of the main of managers of PPRB occupied key positions in the coalition in power; consequently, there may be suspicions raised for the independence of this very important institution.

Despite these difficulties and suspicions that exist regarding the performance of PPRB, it is worth mentioning that this body has reviewed a certain number of complaints related to procurement in the security sector over the last few years. Specifically, this institution provides a considerable number of complaints that were solved under its supervision targeting institutions such as: MIA, KP and MKSF. Following is a brief overview of the number of cases PPRB dealt with in these three institutions.

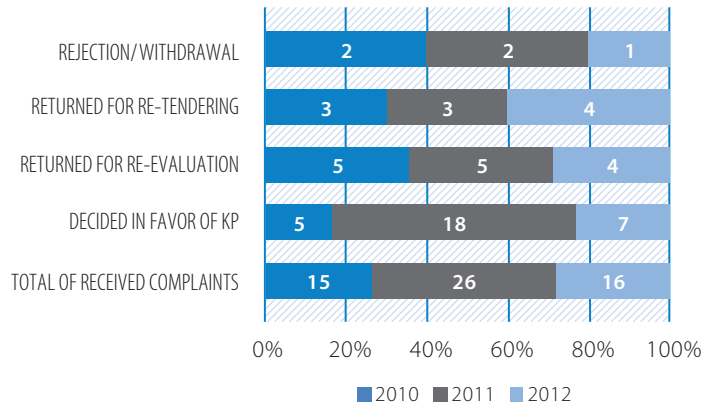
Thus, in 2010, PPRB received 13 complaints filed against MIA. From the total, 7 complaints were decided in favor of MIA, 3 others were returned to be re-tendered, for the other 3 cases, the evaluation procedures were repeated from the beginning; while 2 cases were withdrawn by economic operators themselves. As the graph below shows, there were a similar number of complaints filed both in 2010 and 2011.

An overview of complaints filed by economic operators against MIA over the period of 2010-2012



Compared to other security institutions, the PPRB dealt mostly with Kosovo Police during the last three years. The number of complaints against KP had increased especially in 2011, where PPRB received 26 complaints by economic operators – 10 more than in the previous year. While in 2012, the economic operator had filed 16 complaints against KP. Statistics across the years of 2010-2013 show that few complaints were decided in favor of economic operators. Therefore, of a great concern is the fact that PPRB had decided to return a large number of complaints in the reevaluation process, cancel or re-tender them. The following graph represents the decisions taken by PPRB related to the review of complaints filed by economic operators against KP.

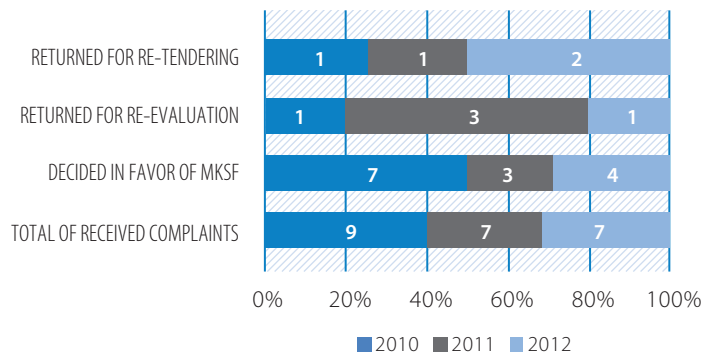
An overview of complaints filed by economic operators against KP over the period of 2010-2012



Meanwhile, during September 2013, there were six complaints filed against this ministry. PPRB had decided in favor of MIA into 2 cases, and in 2 others in favor of economic operators by returning them in the reevaluation process of the tender; while the last 2 complaints remain unsolved due to the delays in the consolidation of the board of PPRB (as of January 2014).

On the other hand, the number of complaints filed against MKSF during the last three years was smaller compared to the other two above-mentioned institutions. Seemingly, there were only 9 complaints filed against this ministry during 2010; while there were only 7 complaints in 2011 and 2012. It is worth mentioning that the largest number of complaints filed by economic operators was decided in favor of MKSF (See the table below). In meantime, according to official sources, the year of 2013 was characterized with no complaint filed by economic operators against MKSF.

MKSF: An overview of complaints filed by economic operators over the period of 2010-2012



2.3. THE PERFORMANCE OF THE INTERNAL AUDIT AND INSPECTION CONTROL IN THE SECURITY SECTOR

Internal audit plays a significant role in the overall performance of the security institutions in supporting their efficient internal control, enhancing their performance and overall operations, as well as rationalizing the expenses of public finances and institutional governance in general. This type of auditing is decentralized in Kosovo, and consists of many structures: Internal Audit Unit, Internal Auditors, Audit Committee, and the Central Audit Unit (CAU), which functions within the Ministry of Finance. In the following separate sub-sections, the study elaborates in details the state of Internal Audit within MIA, KP and MKSF.

A. Internal audit within MIA

Internal audit within MIA is conducted through its Internal Audit Unit (further referring as 'Unit'). This unit faces many problems and challenges, especially due to the small number of staff consisting of the director and 3 auditing officials. Specifically, considering the scope of work that this unit covers, the small number of staff remains the greatest challenge of its performance. This also results in limited number of solid audits conducted by this unit. The problem triggers even more problems when considering the complexity of the MIA institution, as a body made of huge number of departments and agencies.

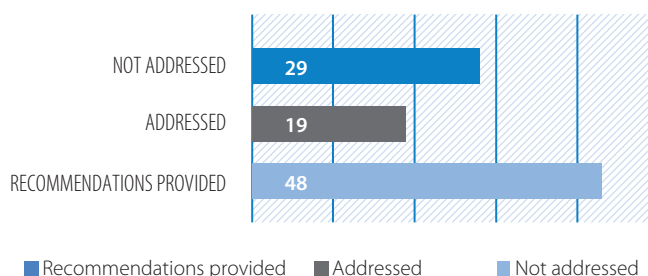
As a result, the Internal Audit Unit had conducted in total 8 regular audits in 2012, while only 6 such audits in 2013.³² This small number of audits covered mainly more sensitive and important sectors by explicitly avoiding other sectors. As such, there is an evident discrepancy between the large amount of funds spent by this ministry and the small number of regular audits conducted within this institution. Furthermore, findings indicate that ex-ante control in this ministry is minimal, almost non-existent.³³

Another highly concerning issue is also the low level of implementation of relevant recommendations issued by the Unit on audited departments, sections or agencies. The lack of implementation of recommendations highlights the repetition of the same internal control problems within MIA and the absence of sustainable mechanisms, which would guarantee fair and transparent spending of public funds within this ministry.

³² Interview with Mr. Driton Gashi, Secretary General of MIA, date September 15, 2013

³³ Focus Group – January 21, 2014

MIA: The implementation Level of recommendations in 2012



In addition, the small number of staff employees in this unit prolongs the monitoring of the implementation of such recommendations. Therefore, increasing the number of internal audit staff and increasing the number of internal audits conducted by this unit is a fundamental step towards prevention of misuse of the budget that might take place in this institution.

B. Internal audit within Kosovo Police

Internal audit within Kosovo Police is separate from the one in MIA. KP internal audit is performed by the Internal Audit Unit of the Kosovo Police, which consists of 4 officials and the director. The internal auditor is under the supervision of the minister and reports to him/her directly. As such, internal audit within Kosovo Police stands at a more satisfactory level than the one in MIA; however, increasing the number of internal auditors would improve and increase the number of internal audits within KP. This is mainly because the number of regular audits within KP is relatively small compared to the budget and its geographic distribution.

As a result, there were 16 internal audits conducted within KP in 2011, including audited projects implemented in 2010 as well. This process decreased the quality of the audits in this institution, as the audit unit used to conduct more frequent and detailed audits on the budgetary expenditures. As such, the number of recommendations considered during this year were relatively low. There were 188 recommendations provided in total, from which KP addressed only 65, 69 were partly addressed, while the others recommendations were not addressed or considered at all.³⁴

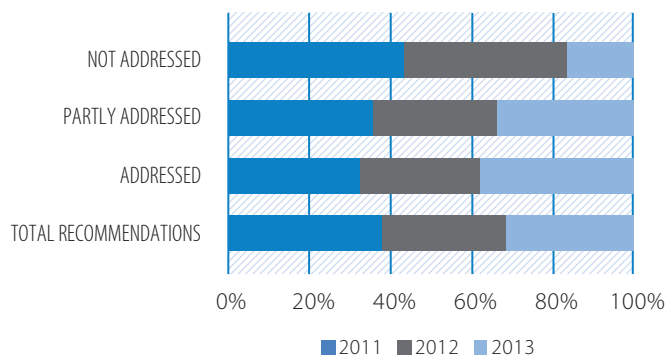
The situation improved slightly in 2012, where the unit managed to conduct a total of 14 audits – two more than it had initially planned.³⁵ There were 149 recommendations addressed to the KP management that resulted from this auditing activity. The recommendations mainly covered public procurement management, planning, asset management and control, and overall management of Kosovo Police fleet. However, the number of recommendations addressed this year is of concern as well. Out of the total recommendations provided, only 59 were fully implemented, 61 partly and

³⁴ Kosovo Police annual report

³⁵ General Auditor report on MIA and KP 2012

29 were not addressed or considered at all.³⁶ Specifically, some recommendations related to Kosovo Police fleet were not considered for many years by KP due to various malfunctions. However, in 2013, internal audit within KP conducted a number of audits on procurement activities, resulting in 152 recommendations for the management of KP that were hidden from public. Out of the total number of recommendations, 79 were fully implemented, while 61 recommendations are in the process of implementation. In comparison to 2012, KP has shown a slight progress in fully addressing the recommendations of the internal audit. However, the small number of staff working for this unit continuous to be a great handicap in measuring the implementation of respective recommendations. The graph below shows the level of implementation of internal audit recommendations by the KP during the last three years:

KP: The implementation level of recommendations over the period of 2011-2013



C. Internal Audit within MKSF

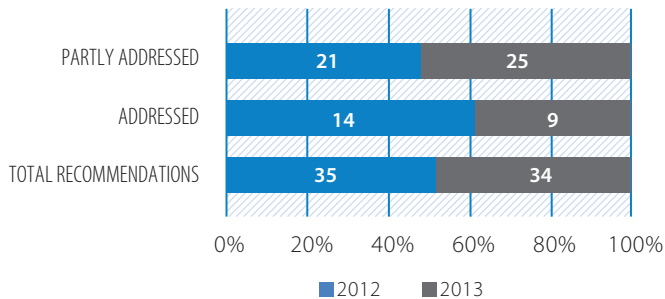
MKSF has an integrated internal audit unit consisted of civilian and uniformed staff. According to the official sources, although with a small number of staff, the Internal Audit Unit has the necessary capacities to perform its tasks well. Specifically, this unit consists of only the director and two audit staff. The position of the audit head is A6 equivalent to the position of brigade general within MKSF, which give the credibility to the director of the internal audit. This unit reports directly to the minister and secretary of MKSF.

The unit operates according to its strategic plan and annual audit plan, which are drafted based on the credibility and the importance of audited sections. Similar to other units, this unit is also open to properly addressing the recommendations provided by relevant institutions. Consequently, there were 35 recommendations provided by the internal audit of MKSF in 2012; out of which 14 of them were fully implemented (or 40%), while 21 were not addressed at all (or 60%). Indeed, the level of implementation of recommendations provided by the internal audit was not at satisfactory level. This has implications in the overall progress of MKSF in efficient management of expenses and the repetition of the same problems in managing of public funds inherited from one year to another.

³⁶ Report of the Director of Kosovo Police in front of the Parliamentary Committee on Internal Affairs and Security- January 18, 2013

The same attitude characterized the year of 2013, where the recommendations of internal audit experienced highly low progress. Out of 35 recommendations in total, only 9 of them were fully implemented (or 26%), while 25 of them (or 74%) were in the process of implementation or were not considered at. As such, there is an evident lack of progress in addressing and implementing recommendations compared to the previous year

The implementation level of the internal audit recommendations within MKSF in 2011-2013



Recommendations implemented at such lower level conclude that findings of the internal auditor are not seriously considered from the relevant officials. Regardless of this, the internal audit unit within MKSF is the only audit unit within the entire public administration of Kosovo which openly expresses its concerns about the risks related to misuse and corruption in the public procurement procedures in this ministry.³⁷

Besides the lack of implementation of internal audit recommendations and the insufficient number of staff, MKSF has not conducted any *ex-ante* audits so far, the auditing of any projects and other budgetary activities before or during their implementation. Improper implementation of recommendations and inability to conduct *ex-ante* audits of various projects lead to mismanagement and misuse in different areas, as the case for food and beverage supply mentioned in the procurement section.

Therefore, that is fundamentally important that this ministry increases the vigilance of its respective officials related to the implementation of recommendations of the internal audit, and increase the number of staff working in the Internal Audit Unit. Increasing the number of staff will enable the unit to conduct its planned audits and sporadic audits, which will strengthen the control of budget expenses within this ministry.

³⁷ Interview with a senior official within MKSF, September 2013

Implementation of recommendations provided by Office of the Auditor General within security institutions

Besides implementing the recommendations provided by Internal Audit Units, security institutions are also obliged to implement the opinions and recommendations provided by the Office of the Auditor General (OAG). OAG is an independent state institution, established by the Assembly of Kosovo to supervise public finances, conducts performance and financial statement auditing, and reports directly to the Assembly's Oversight Committee on Public Finance. This institution, among others, conducts regular annual audits in the MIA (including KP), and MKSF (including Kosovo Security Force).

The audit reports aim to measure the institutional progress related to quality enhancement of internal financial management and control. There is an increased level of cooperation between the OAG and security institutions in Kosovo during the last few years. Currently, the Auditor General is regarded as a mechanism that helps security institutions to increase their performance.³⁸ However, there is still reluctance on the part of relevant mechanisms of the security institutions to implement the recommendations provided by the Auditor.

The implementation level of the OAG recommendations by MIA and KP

The OAG reports highlighted several irregularities and avoidance of its recommendations by MIA and KP.

As such, in the last three years, the OAG stand towards the financial activities within MIA has drastically changed from year to year. In 2010, the OAG presented a critical perspective (**ISSAI400**)³⁹ towards the financial statements of MIA and KP due to the lack of clarity and consistency. In 2011, as MIA performed a limited progress in managing of public funds with more accurate and real financial statements, OAG provided an unqualified opinion (**SNISA 400**) on MIA-KP performance. Similarly, in 2012, OAG continued to present an unqualified opinion (**SNISA 400**) on the issue related to the lack of information on MIA-KP assets. Specifically, findings were mainly related to irregularities in public procurement, weak internal management, and improper management of assets.⁴⁰ Regardless of the recommendations provided, the reaction of these institutions were missing.

The following year's reports showed that these two institutions have completely neglected the OAG recommendations and failed to take any concrete action in improving their current situation. The Auditor General provided 8 recommendations on MIA and KP in 2010, from which only one recommendation was implemented, 4 were in the process of being implemented, and 3 were not implemented at all. In 2011, the OAG provided 10 recommendations, out of which 4 were fully implemented, and the rest were in the process of implementation or not implemented at all. In 2012, the OAG provided 10 recommendations, from which 2 were fully implemented, and 8 were in

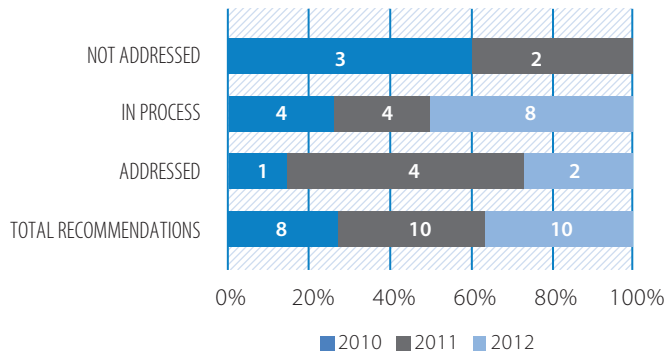
³⁸ The interview with Artan Venharin Deputy Auditor General - August 2013

³⁹ OAG report on MIA for 2010

⁴⁰ Ibid:

the process of implementation. This clearly shows the low level of implementation of the OAG recommendations and the continuous negligence of MIA and KP over the last three years. Seemingly, these institutions lack a fundamental base for a consolidated practice for dealing with problems and challenges in the management of public funds.

Implementation trends of the OAG recommendations by MIA and KP

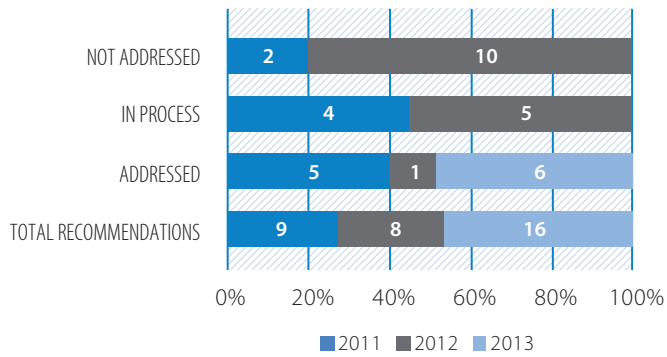


The implementation level of the OAG recommendations by MKSF

According to the OAG reports, MKSF had a more positive performance over the last three years. As a result, MFSK was granted with an unqualified opinion and provided 9 recommendations on MSFK financial statements. Out of the total number of recommendations, 5 were fully implemented, and 4 were under the implementation process or not addressed at all.⁴¹ In its published annual report for 2012, the OAG provided 8 recommendations for MKSF; from which one was fully implemented, and the others were being implemented or not addressed at all. The year 2013 found MSFK with 16 recommendations in total from OAG, out of which, 6 were fully implemented, while the rest were not addressed at all.

⁴¹ The OAG report for MKSF for 2011

Implementation trends of the OAG recommendations by MKSF for the period of 2011-2013



Nevertheless, regardless of the OAG consistency on providing accurate recommendations, MKSF showed low level of interest and implementation. Even over this period, OAG continuous to provide useful recommendations, which do not reach the interest of MKSF officials.

Recommendations

- To precisely plan the way payments are made in order to avoid large amount of payments in the end year. Also, avoiding the large ammount of deffered debts in order to ensure a proper monitoring of the security institutions;
- Security institutions should establish cross-institutional working groups in order to identify areas for joint procurement procedures to procure special equipment (such as: weapons, ammunition and other operational-tactical equipment for the forces);
- Kosovo Police should gradually start to standardize its equipment and fleet, which would make easier for the institution to manage and maintain its equipment and fleet.
- The number of officials working in Internal Audit Units should increase urgently in order to increase the number of regular audits and that ex-ante.
- Security institutions should ensure that recommendations provided by the internal audit units and from OAG are considered precisely in order to prevent repetition of the same problems in the coming years.
- Security institutions should make their internal audit reports public in their official websites in line with the Law on Access to Official Documents and the Law on Classification of Information and Security Clearances.
- Internal audit units should increase their performance in order to identify and investigate cases regarding misuse of public procurement.
- The Assembly of Kosovo should plan revision of the Law on Public Procurement in the future, which should also have a specific provision that regulate the security and defense sector – a standard Kosovo should meet in its integration process in NATO.
- The Committee for Internal Affairs, Security and Oversight of KSF should give approval for all contracts over 1 million Euros prior to their signing and start of implementation.
- Even though the budget for Kosovo Police is allocated under the budget of MIA, the Auditor General should provide a report on KP financial statements separate from those of MIA. Reports on KP financial statements should be drafted separately from those of MIA.

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