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MONITORING AND ASSESSING REPORT

MONITORING AND ASSESSING THE INTEGRITY AND
INTERNAL GOVERNANCE IN THE MINISTRY OF KOSOVO
SECURITY FORCE AND THE KOSOVO POLICE



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INTRODUCTORY REMARKS

Trust, internal governance, and integrity are the main principles that guarantee credible and sustainable functioning of security institutions in Kosovo. The current monitoring and assessing report on integrity of security institutions in Kosovo is published for the first time in Kosovo. The publication of this report is part of the special KCSS program titled: **“Monitoring and Assessing of Integrity of Kosovo Security Institutions”**. This program, KCSS aims to systematically monitor, report and advocate issues related to integrity of security institutions and provides support in building their capacities to achieve the necessary standards in this area.

This report presents the current state of integrity in the Kosovo Police and the Kosovo Security Force, based on findings of the KCSS research team. Its purpose is to assess whether there has been progress in establishing integrity in these institutions and to draw specific recommendations focusing on the following areas: Public Procurement, Human Resource Management, Internal Audit, Trust and Integrity, Democratic and Parliamentary Oversight, Transparency, and independence in decision making.

Results of the Kosovo Security Barometer for five consecutive years have listed the Kosovo Police and the Kosovo Security Force as the most trusted institutions by Kosovar citizens. However, there is still much to be done in terms of these institutions achieving excellence.

Despite the fact that the legal framework ensuring the integrity of security institutions is solid and continues to improve, findings indicate that further administrative capacity and mechanisms to ensure the sound implementation of this framework and the sound functioning of institutional integrity. Being the latter sector still below the desired standard and therefore affecting the performance of these institutions, risking a decline in citizens' trust for the Kosovo Police and the Ministry of Kosovo Security Force, which is currently at its peak.

This monitoring report would not be possible without the invaluable help of KCSS partners. We take this opportunity to express our special thanks to all those involved in the production of this report, in providing written information as well as their readiness to speak about various meetings that were held, interviews and focus groups, thus helping in drawing conclusions and recommendations of this report. We also extend

our gratitude to experts in the field of Transparency International - Defense and Security Program in London for supporting during the development of the research methodology, and Mr. Visar Sutaj, researcher at the Kosovo Democratic Institute (KDI) for his support. Finally, extended the thanks to the KCSS research team for their work towards finalizing this report.

Lastly, special thanks goes to the project for Democratic Society Promotion (DSP) which is funded by the Swiss Cooperation Office in Kosovo (SCO-K) and managed by the Kosovo Foundation for Open Society (KCSF), as this report would not have been possible without their financial support.

KCSS is grateful to all

KCSS team

CONTENTS

INTRODUCTORY REMARKS.....	5
CONTENTS.....	7
LIST OF ABBREVIATIONS.....	9
EXECUTIVE SUMMARY.....	12
Human Resource Management:.....	12
Internal check.....	13
Police independence in decision-making:	13
Transparency:.....	14
Public procurement:.....	14
Democratic and parliamentary oversight of police:	14
1. INTRODUCTION.....	15
1.1. Methodology	16
2. HUMAN RESOURCE MANAGEMENT.....	16
2.1. Legal framework	16
2.2. Practice	17
2.2.1. Budget	18
2.2.2. Staffing and training of policemen	18
2.2.3. Retirement of police officers.....	20
2.2.4. Promotion.....	21
2.2.5. Health and life insurance	23
3. INTERNAL CONTROL.....	24
3.1. Documents for promoting integrity and combating corruption in KP.....	24
3.2. Internal control in Police	25
3.3. KPI's role in overseeing the Police.....	27
4. POLICE INDEPENDENCE IN DECISION-MAKING.....	32
4.1. The suspension of police officers in Prizren	32
4.2. The police operation, 28 November 2015	34
5. TRANSPARENCY	37
5.1. Legal framework	37
5.2. Practice	37
6. PUBLIC PROCUREMENT.....	40

7. DEMOCRATIC AND PARLIAMENTARY OVERSIGHT OF POLICE	42
7.1. Parliamentary oversight	42
7.2. Police supervision from other institutions	44
7.2.1. Kosovo Police Inspectorate	44
7.2.2. Ombudsperson Institution.....	46
7.2.3. Anti-Corruption Agency.....	47
7.2.4. Office of the Auditor General	47
RECOMMENDATIONS.....	49
EXECUTIVE SUMMARY	54
Financial Management	54
Public procurement	54
Internal check.....	55
Human Resource Management	55
Integrity and trust.....	55
1. INTRODUCTION	56
2. PUBLIC PROCUREMENT.....	57
2.1. Legal framework	57
2.2. Administrative capacity	57
2.3. Implementation	58
3. HUMAN RESOURCE MANAGEMENT.....	61
3.1. Legal framework	61
3.2. Administrative capacities.....	62
3.3. Implementation	62
4. INTERNAL AUDIT IN MKSF	68
4.1. Legal framework	68
4.2. Administrative capacities.....	69
4.3. Implementation	70
5. INTEGRITY AND TRUST IN MKSF	71
5.1. Public trust in KSF	72
6. DEMOCRATIC AND PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR IN KOSOVO	74
6.1. Legislation	74
6.2. Administrative capacities	74
6.3. Implementation	75
6.4. Transparency in KSF	78
6.5. MKSF independence in decision-making	80
7. CONCLUSION	81
8. RECOMMENDATIONS	82

LIST OF ABBREVIATIONS

AI	Amnesty International
KIA	Kosovo Intelligence Agency
ACA	Anti-Corruption Agency
CPA	Central Procurement Agency
KS ^B	Kosovo Security Barometer
HRD	Human Resources Department
RPD	Regional Police Department
DPS	Directorate of Professional Standards
FIT	Special Intervention Unit of the Kosovo Police
KS ^F	Kosovo Security Force
OI	Ombudsperson Institution
KSFI	Kosovo Security Force Inspectorate
KPI	Kosovo Police Inspectorate
KFOR	Kosovo Force
LFC	Land Force Command
AoK	Assembly of Kosovo
CIASSKSF	Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force
FOC	Full Operational Capabilities
PPRC	Public Procurement Regulatory Committee
TRADOC	Training and Doctrine Command
LPC	Law on Public Procurement
LCS	Law on Civil Servants
MKSF	Ministry of Kosovo Security Force
MIA	Ministry of Internal Affairs
IAU	Internal Audit Unit
PPRB	Public Procurement Review Body
KP	Kosovo Police
KCSS	Kosovar Centre for Security Studies
USC	University Study Centre
OAG	Office of the Auditor General
IPRO	Information and Public Relations Office

INTEGRITY OF THE KOSOVO POLICE

Author: Plator Avdiu

EXECUTIVE SUMMARY

The purpose of this report is to monitor and assess the performance of the Kosovo Police by measuring the integrity of police officers and supervision mechanisms. The data presented was collected through activities of monitoring and advocacy, various interviews, examination of legal documents and reports, as well as other available resources. This research aims to identify the challenges in the field of police integrity as well as to advocate for continuous improvement, democratization, and professionalism of the Kosovo Police.

This report contains a total of six sections associated exclusively with police integrity, such as transparency, human resource management, internal control, independence of the police decision making, democratic and parliamentary oversight, and public procurement. Findings point to the need of addressing the challenges faced by each of these sections within the Kosovo Police aiming to reform it.

Main research findings related to the integrity of the Kosovo Police for each section listed below:

Human Resource Management:

- ⇒ Human resources management development and reforms are challenging due to the reduction of nearly 4 percent of the Police budget from 2015 to 2016.
- ⇒ Major challenge for the Police is the implementation of legal norms regarding gender equality. Since 2015, when the Law on Gender Equality was adopted, in one way or another, equal gender representation in public institutions has become mandatory.
- ⇒ More than 4,000 Kosovo policemen are over 40 years of age, 2,091 of them are over 46, while about 1,000 are over the age of 55. This shows that the KP staff has aged and calls for reforms of this institution in terms of human resources.
- ⇒ Absence of a law that regulates the retirement of policemen, and the lack of health and life insurance, constitutes one of the biggest challenges in reforming the Kosovo Police. Kosovo Police Inspectorate has found irregularities in the promotion process of police officers in 2015 as a result of the establishment of committees for promotions without taking into account the legal procedures.

Internal check

- ⇒ The Police has no plans for the development of institutional integrity which would serve as a guide to preventing corruption within the institution.
- ⇒ Anti-Corruption Strategy 2013-2017 recommends strengthening Police disciplinary mechanisms and internal controls to reduce police corruption.
- ⇒ Internal control mechanisms of the Kosovo Police have handled 948 different cases in 2015, involving police officers on suspicion of various offenses.
- ⇒ Directorate of Professional Standards within the Police lacks transparency as it reveals cases of internal investigations for disciplinary violations of police personnel.
- ⇒ In 2015 the Police Inspectorate received 1,237 complaints from citizens against the Police, where 173 of them include elements of criminal offense. 161 of those cases were sent to the Prosecutor's Office for further investigation.
- ⇒ Police Inspectorate investigated 220 Police employees in 2015. It made 23 arrests, 39 recommendations for suspending police personnel, and 11 recommendations for transfers.

Police independence in decision-making:

- ⇒ Suspension of two officers in Prizren in July 2015 has proven that political interference takes place within the Police, exerted by senior political officials, even ministers of the executive branch. Police officers are still not autonomous in performing their professional duties.
- ⇒ National and international mechanisms for human rights have raised concerns about the Police stepping over their authority during the protest of 28 November 2015. The Ombudsperson has asked the Prosecutor's Office to conduct criminal investigations into allegations of disproportionate use of force.

Transparency:

- ⇒ Despite a solid degree of transparency in the Kosovo Police, there is a tendency within the institution to bureaucratize public access to unclassified information.
- ⇒ In 2015, the Kosovo Police had replied to 3,500 various requests for information from the media, non-governmental organizations, and individuals.
- ⇒ The website of the Kosovo Police needs to be significantly improved in terms of providing information in the field of public procurement and internal control.

Public procurement:

- ⇒ The amendments made in 2016 to the Law on Public Procurement further specify on Article 3 the tendering for specific purchases in the field of defense and security. However, this article still does not regulate in detailed the bidding for such cases, therefore there is a need to draft a regulation derived of this article.

Democratic and parliamentary oversight of police:

- ⇒ The Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force in 2015 oversaw only the Law on Police.
- ⇒ The Interior Minister has twice reported before the Committee, the Director General of Police three times, while former Chief Executive Officer of KPI has reported only once.
- ⇒ Financial dependency of the Police Inspectorate from the Government has raised concerns about the (un)bias of the Inspectorate when investigating violations or possible police abuses. Indeed, there are claims that the Police Inspectorate has been stripped of powers during criminal investigations in favor of police officers. This institution, in turn, has initiated the regionalization since 2015.
- ⇒ The number of police officers who have declared their property to the Anti-Corruption Agency in 2015 was only 57 of nearly 9 thousand members of the organization. ACA has not recorded any irregularities in the process and filed no criminal charges against police officers.

1. INTRODUCTION

Development of Police integrity is a new concept not only in Kosovo, but also for the Police Departments of the region and worldwide. The purpose of strengthening police integrity is to fight irregularities within the Police and is not limited to the current approach of combating corruption but also intends to address issues such as nepotism, lack of accountability, exceeding of authority, and other informal phenomena through strengthening mechanisms within the police. The concept of integrity aims to achieve this through the creation of closer ties between police values and the legal, ethical, and cultural values of the society. Moreover, it is the responsibility of the Police to gain citizens' trust by strengthening its integrity.

Kosovo Police continues to be among the most trusted force in the region. However, increasing trust in the Police does not always show the real situation in the institution. With the aim of identifying the challenges in the Kosovo Police, this report examines the functioning of the internal governance of the Police through these indicators: *human resource management; internal control; Police independence in decision-making; transparency; public procurement; and parliamentary and democratic oversight of the police.*

Human resource management is important for the police in order to professionalize their personnel and their career development accordingly to their performance. This of course should be done in line with integrity policies. Internal control within the Kosovo Police means strengthening internal police mechanisms to combat corruption and other negative phenomena within their ranks. Accountability and responsibility of police personnel should be supervised by the Police internal control mechanisms. *Police independence in decision-making* should ensure institutional autonomy and avoid external interference, including political influence in the work of the Kosovo Police. *Police Transparency* is important to keep the public informed about the work carried by the Police and to ensure openness to public scrutiny, which is a key aspect of integrity. *Public procurement* must ensure the budget is spent according to legal procedures and requirements of the Police. In this regard, attention should be paid to combating possible misuse of funds and procurement initiatives. *Democratic and parliamentary oversight of the police* should contribute to the professionalism of the Kosovo Police by keeping it responsible and accountable.

This report also contains a set of recommendations for each indicator that is closely related to the internal governance of the Police. Findings of this research are intended to serve as an instrument for advocacy in improving organizational performance, building internal governance, and strengthening integrity in the Kosovo Police.

1.1. Methodology

Qualitative research methods were used for the preparation of this report. Qualitative data include analysis of various documents of legal character, strategies of respective institutions for the operation of the Kosovo Police, the annual reports of the Kosovo Police and the Kosovo Police Inspectorate, as well as reports of local and international organizations and other resources from Kosovar public institutions.

Additional data was collected from interviews with representatives of institutions that oversee Kosovo Police and with security sector experts in Kosovo. In addition, data collection for this research was made possible by contributions collected from focus groups with senior officers of the Kosovo Police. Also the advocacy activities of the Kosovo Centre for Security Studies have been an important source for the compilation of data for this report. Conferences, meetings, and activities of the Kosovo Centre for Security Studies in the field of security sector during 2015 and the first half of 2016 have served as a good opportunity to collect data for this research. Finally, resources have been exhausted using the archives of Kosovo media outlets regarding the information reported on the Kosovo Police, which present data on Police integrity.

2. HUMAN RESOURCE MANAGEMENT

2.1. Legal framework

Human resources in the Police in general are regulated by the Law no. 04/L-076 on the Police, adopted by the Assembly of Kosovo in 2012. Regarding employment of police personnel, KP, under the current legal framework has this composition: a) police officers who take oath and have authority to exert and perform police powers; b) civilian staff performing administrative and support services, with no authority to exercise police powers; and c) cadets.¹ However, based on available data, a more detailed definition of the above categories is still necessary. The promotion process within the KP is also superficially regulated. Civilian staff of the KP belongs of the civil service of Kosovo, while police officers do not fall within this category.² The Law on Police, the Law on Civil Service of the Republic of Kosovo, and Labor Law do not prescribe the work relationship of police officers.

1 Article 44, Law No. 04/L-076 on Police.

2 See Article 3 of the Law no. 03/L-149 on the Civil Service of the Republic of Kosovo;

Given that the KP is an institution with a hierarchy and complex structure organization with nearly 9,000 employees (police officers and civilian staff combined), many issues relating to the management of human resources are regulated through bylaws and Police strategic documents. However, unlike other public institutions, the KP does not publish its bylaws regulating various issues of interest to the institution. According to the Police, they are not published because they are mainly documents that regulate internal issues of the KP. All those who want access to these documents, must submit an official request with the Police, as envisaged by the Law on Access to Public Documents.³

According to the KP Development Plan 2016-2020, this institution will invest in the professionalism and upgrading of human resources. It says that priority will be assigned to advancing performance of duties by implementing the best standards for police personnel through personnel management system, ongoing training, and health care.⁴ In the field of human resources professionalism, the Police has set itself some objectives such as career development of KP employees in accordance to performance; upgrade KP personnel management system; health care for all employees; and improve the quality of training programs.⁵

2.2. Practice

As it is well known, KP human resources have been set up, assisted, and consolidated by the international community in Kosovo (United Nations Mission in Kosovo - UNMIK) which has had a decision-making role in this institution since its foundation (1999) until the declaration of independence (2008). Development of human resource capacity has continued even after taking over authority by Kosovars. It comes to no surprise that the KP is in constant process of internal reforms aiming at institutional excellence.

Human Resources Department (HRD) within the KP has a duty to implement policies related to personnel and the various trainings employees are required to go through. HRD should ensure that recruitment of personnel for the KP is done according to professional qualifications and merits in terms of fair competition and transparency. On this regard, HRD's work rests on providing an efficient management system and career development to all police personnel. Also, the department must ensure non-discriminatory policies are followed which include equal gender representation and reflection of the multiethnic makeup of Kosovo.⁶

3 Interview with a senior KP officer, December 18, 2015.

4 Kosovo Police. *Strategic Development Plan 2016-2020*, p. 13. Accessed on April 16, 2016, at: <<http://goo.gl/U8iwG>>

5 Ibid.

6 For more details about the work of this department of the Police see: <<http://goo.gl/sZIGmN>>. Accessed on April 16, 2016.

However, the Police has provided incomplete and superficial data in terms of job description of police personnel, recruitment, performance evaluation, and other issues related to KP human resources.

2.2.1. Budget

Kosovo Police budget for 2015 was 89,470,530 Euros which, according to Police, was spent up to 99.60 percent of the total amount.⁷ Of the 2015 budget, about 72 percent is used for salaries and wages, nearly 16 percent for Goods and Services and nearly 8 percent for Capital Expenditures. Meanwhile, the rest is spent on utilities (over 1 percent), subsidies (about 2 percent), and income subsidies were less than 1 percent..⁸

On the other hand, the 2016 Police budget is 86,128,721 Euros⁹ or about 4 percent less compared to 2015. This has been criticized on the grounds that the Police budget should not be reduced as it is in constant process of internal reforms and it needs building and strengthening of technical, professional and human capacities.¹⁰ Reducing the 2016 KP budget will hamper the goals of the Police, such as supplying of uniforms for KP members, retirement process of police officers, recruitment of new staff, functioning of the Protection Witnesses Directorate, and other issues.¹¹

2.2.2. Staffing and training of policemen

KP currently has a total of 8,951 employees, including 7,862 uniformed officers and 1,089 of civilian staff. In this way, Police ranks among the institutions with the highest number of public sector employees in the country. However, no data is available on the monthly salaries of police officers.

7 Ibid, p 17

8 Ibid.

9 See the Law No. 05/L-071 on the 2016 Budget of the Republic of Kosovo.

10 KohaVision (KTV), Puls show, "Who is jeopardizing security?", March 21, 2016. Accessed on April 27, 2016, at: <<https://goo.gl/rfxWE0>>

11 Minutes of the meeting of the Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force, November 20, 2015, p. 4. Accessed on 26 April 2016, at: <<http://goo.gl/aQYxII>>

Table 1 - The total number of uniformed officers and civilian staff in KP¹²

Staff	Number
Uniformed officers	7,862
Civilian staff	1,089
Total	8,951

A major challenge for the KP, but also for other public institutions in the country, is the application of legal norms regarding gender equality. Since 2015 when the Law no. 05/L-020 on Gender Equality was adopted, in one way or another, it has become mandatory equal representation of both sexes in public institutions. The law explicitly states that "*equitable gender representation in all legislative, executive and judicial and other public institutions is reached when a representation minimum of fifty percent (50%) of both sexes is reached, including their governing bodies and decision-making*".¹³ Such special measure will be challenging to implement knowing there are huge discrepancies in terms of gender representation, especially in the security sector in Kosovo. In this case, just over 13 percent of all employees in KP are females, namely about 86 percent are males, which makes it difficult to meet this standard. The law in question has been criticized by the Ombudsman Institution (OI), expressing the view that this provision should provide for a transitional period of up to five years to achieve the balance of gender representation in public institutions, including the KP. Moreover, OI also expressed skepticism as to whether this provision could be implemented because employees are already employed at the respective institutions.¹⁴

Table 2 - Gender representation in KP¹⁵

Staff by gender	Percentage
Male	86.04%
Female	13.96%
Total	100%

According to KP statistics, Kosovo ethnic minorities are well represented at a satisfactory level in the Police. About 83 percent of the staff are from the majority Albanian

12 Kosovo Police - Directorate of Strategic Planning and Legal Affairs. *The annual work report of the Kosovo Police 2015*, p. 6. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

13 Article 6, Law No. 05/L-020 on Gender Equality.

14 Interview, Hilmi Jashari, Ombudsperson, 25 March 2016.

15 Kosovo Police - Directorate of Strategic Planning and Legal Affairs. *The annual work report of the Kosovo Police 2015*, p. 6. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

population, while about 16 percent come from minorities, including Serbs, Bosnians, Turks, Gorani, Roma, Ashkali, Egyptian, and other minorities. However, there is no available data on the distribution of these individual minorities within the scope of minority groups.

Table 3 - Ethnic representation in KP¹⁶

Staff by ethnicity	Number
Albanians	7,501
Minorities	1,450
Total	8,951

Regarding training of police officers in 2015, KP has organized 205 training courses, lectures, and workshops for 4,970 police members, while 2,354 policemen have completed recertification at the Kosovo Academy for Public Safety. 2,281 police officers have participated in trainings and seminars organized within the country by different parties, while 510 policemen have attended training abroad.¹⁷ However information and detailed data about the KP training abroad was not provided.

2.2.3. Retirement of police officers

A major challenge for Police personnel is the age distribution, making the KP among the institutions with the oldest staff, where the average age is 43.¹⁸ More than 4,000 Kosovo policemen are over 40 years of age, 2,091 of them are over 46, while about 1,000 are over the age of 55.¹⁹ In consequence, there is a need to reform the institution and recruit of new staff. To handle this issue, *Law on pension for police officers of Kosovo Police and Kosovo Police Inspectorate investigators* is a law in drafting phase involving MIA, the KP, and Union of KP.

16 Ibid.

17 Ibid, p 17.

18 Minutes of the meeting of the Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force, 22 November 2015, p. 3. Accessed on 26 April 2016, at: <<http://goo.gl/XmigBY>>

19 See: <<http://goo.gl/EQMyUV>>. Accessed on 26 April 2016.

The draft law stipulates that officers and employees of KPI with police authorizations are eligible for regular retirement when they reach the age of 55.²⁰ Police officers who retire at the age of 55 will receive 60 percent of their gross income.²¹

However, this draft has yet to be approved by the Government preventing it from being considered and later approved by the Parliament. In addition, legislators tasked with parliamentary oversight of the internal affairs in Kosovo, namely MIA and KP, have recommended to the executive to allocate budgetary resources for the implementation of the draft, after it enters into force, for improving the age distribution of police officers.²² According to the information provided by the KP Union, early retirement of police officers would cost Kosovo and additional 70 million Euros to its budget.²³

It is expected that around 1,000 police officers retire and the same number recruited after the legislation on the retirement of police officers enters into force. Regarding the employment of Police members, the KP would need to devote greater attention to ensuring a fair and transparent process in the selection of candidates for police officers in order to avoid nepotism or conflict of interests. Human resources face a great challenge when having to replace so many staff members at once.

2.2.4. Promotion

Regarding promotion process in the Police, the Police Directorate of Human Resources assesses the cases due for promotion and submits the request for approval to the Director General of the KP.²⁴ During 2015, a total of 65 police officers were promoted, 27 of them were promoted to Lieutenants and 38 KP members to Sergeant Rank.²⁵ While, in 2016 (until April) a total of 199 police officers were promoted to Sergeant Rank as first-level supervisor.²⁶ Nevertheless, there is no further information or explanations related to prospective promotions in strategic levels.

²⁰ Article 6, Draft Law on Pensions for Police Officers of Kosovo Police and Kosovo Police Inspectorate employees with police authorizations.

²¹ Statement of Deputy Head of Kosovo Police Union, Shaban Tasholli, in Kontakt Intervista show of Tribuna Channel, May 17, 2016, at: <<https://goo.gl/vThMe3>>. Accessed on 21 May 2016.

²² Minutes of the meeting of the Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force, 22 December 2015, p. 3. Accessed on 26 April 2016, at: <<http://goo.gl/XmigBY>>

²³ Statement of Deputy Head of Kosovo Police Union, Shaban Tasholli, in Kontakt Intervista show of Tribuna Channel, May 17, 2016, at: <<https://goo.gl/vThMe3>>. Accessed on 21 May 2016.

²⁴ Contributions collected from focus group organized by KCSS with senior officers of the Kosovo Police on October 7, 2015.

²⁵ Kosovo Police - Directorate of Strategic Planning and Legal Affairs. *The annual work report of the Kosovo Police 2015*, p. 17. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

²⁶ See KP releases on promotion of Police members during March and April 2016: <<http://goo.gl/H9d4VI>> and <<http://goo.gl/KFL06K>>. Accessed on 27 April 2016.

Earlier, this process was supervised by UNMIK and EULEX missions, but with little to no supervision from local institutions. Since the Law on Police in 2015 was implemented, the Parliament Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force has recommended the reform of the Police promotion process. Moreover, according to parliamentary oversight performed by this Committee, with the exception of two ranks (junior policeman and policeman), promotion in other ranks is not limited in time and is done based on the needs of the structure of the Police for the concerned Rank. Also, the same Parliamentary Committee has demanded using additional criterion for promotion, namely education level completed among others.²⁷

In 2015, the KPI performed an extraordinary inspection for promotion in KP and found some irregularities regarding how Police HRD had managed the process of competitions for promotion during 2012-2013. The KPI inspection states that during promotion, the KP had established a committee ignoring legal procedures and appointed police officers from HRD as committee members, which are not eligible to be members or take part in these committees. This inspection goes on to show that a large number of received applications for promotion were incomplete with several fields left blank. In addition to these deficiencies, it was also noted that in some cases calculations of total evaluation scores were hyped or reduced, causing discrepancy between the evaluation scores given and the original criteria established.²⁸

Regarding these issues concerning the promotion process, KPI recommended the KP HRD to follow all legal procedures governing the promotion of Police members. Another recommendation was that the Police should be cautious when receiving applications to make sure that they are properly completed by Police members who have expressed interest in the available ranks.²⁹ The KP did not provide data on whether these recommendations were followed by KPI.

There are suspicions that career development through promotion process is not the same when it comes to Police members who belong to minority communities in Kosovo. On this regard, the KP has been criticized for not strictly applying promotion criteria to minorities in the same way it applies the majority population. Furthermore, there are indications that minority Police members are favored in passing the test and get promoted faster, failing to meet the criteria for certain Ranks because of the existence of a quota system for promotion of ethnic minorities.³⁰ Regardless of ethnicity,

27 Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). *Report with recommendations for monitoring the implementation of the Law no. 04/L-076 on Police*, p. 2.

28 Kosovo Police Inspectorate - Department of Inspections. (2015). *Inspection Report No: 7/2015 - Inspection of the promotion process in Kosovo Police*, p. 26. Accessed on 27 April 2016, at: <<http://goo.gl/ondHb1>>

29 Ibid, p 27.

30 Interview, Kreshnik Gashi, Editor in BIRN (Balkan Investigative Reporting Network), April 3, 2016.

all police officers must undergo all promotion criteria and procedures uniformly and equally.

2.2.5. Health and life insurance

The Kosovo Police officers face the lack of health insurance. This issue is not regulated by the Government, while the current legislation provides social insurance for police officers the government has failed to add this expense on the national budget. Health insurance for all police officers is expected to kick in on January 2017. For this issue, the Police union met with the Ministry of Health to find forms of health insurance for employees of the sector.³¹ However, no details are known about types of health insurance will be made available.

KP Union has raised the issue of health insurance for Police officers asking the Government to allocate budget to make universal health insurance available for policemen. This is because many policemen were injured while performing their duties and suffered from various diseases.³² However, Police Union should be more vocal and more active to pressure the Government in order to achieve the essential universal health insurance and to better the working conditions for police officers.

Besides the lack of health insurance, Kosovo Police members also do not have life insurance. This type of insurance is required for each police officer due to serious injuries and injuries they are exposed while on duty. In absence of life insurance, police officers who suffer injuries do not receive any compensation for injuries, with the exception of medical aid and medical treatment.³³

31 Statement of Deputy Head of Kosovo Police Union, Shaban Tasholli, in Kontakt Intervista show of Tribuna Channel, May 17, 2016, at: <<https://goo.gl/vThMe3>>. Accessed on 21 May 2016.

32 Rexhepi, K. (6 February 2016). Police Union demands Health Insurance. *Kallxo.com*. Accessed on 28 April 2016, at: <<http://goo.gl/EuXjur>>

33 Interview, Kreshnik Gashi, Editor in BIRN (Balkan Investigative Reporting Network), April 3, 2016.

3. INTERNAL CONTROL

3.1. Documents for promoting integrity and combating corruption in KP

Enhancing institutional integrity is manifested by combating corruption and strengthening internal mechanisms against corruption and other negative phenomena. Thus, in this regard the KP capacities for good governance within the police institution will be examined.

Regarding police integrity, the Kosovo Police drafted the Code of Ethics at the time it was recognized as the Kosovo Police Service during UNMIK times. It states that the duties of police officers are not only formal issues stemming from the Constitution, the law and bylaws, but include a broader understanding of rights. This means that police officers should be well aware of moral and ethical values which define the role of police in society.³⁴ Police personnel should be able to demonstrate sound judgment, maturity, impartiality, honesty, neutrality, accountability, fairness, and communications skills.³⁵

Regarding prevention of corruption, KP's Code of Ethics states that a police officer should be decisive and immune to any form of bribery. According to this document, at all levels of the organization, effective measures for preventing and combating corruption in the KP were provided.³⁶

However, to consolidate the internal governance and prevent corruption in the Police, the latter has yet to plan for the development of institutional integrity (or Integrity Plan). This plan should serve as a guide for the KP to prevent possible abuses of the police and various affairs of corruption and bribery. Also, special attention should be paid to better management and adequate budgeting, especially when it comes to police activities in the field of public procurement. The integrity plan will also need to lay emphasis on prevention of abuse of official position by police personnel while performing official duties. The Integrity Plan should include an action plan that would foresee Police objectives for the period of five years to develop integrity and credibility of law enforcement. While the internal control mechanisms of Police duties should be responsible for its implementation with a clearly defined timeline.

34 Article 4, Code of Ethics of Kosovo Police.

35 Ibid, Article 15.

36 Ibid, Article 23 and Article 25.

Absence of the integrity plan is noted in the Anti-Corruption Strategy 2013-2017. This document states that these strategies are intended to ensure that all public employees abide by the rules of ethics and integrity in order to reduce the risk of corruption to a minimum³⁷ within the Police. To fight corruption and to build trust, this strategy calls for strengthening internal control and disciplinary mechanisms within the KP.³⁸ Furthermore, the KP has been asked to organize trainings about managing and investigating corruption, as well as to perform effective internal control in order to reduce diminish corruption.³⁹ However, it is still unclear to what extent the KP has achieved the objectives of this strategy and those of the Action Plan for combating police corruption. The KP did not provide data on the results of the internal control mechanisms applied against police corruption.

Meanwhile, with the support of the European Union, the KP is expected to launch a pilot project of police integrity to prevent corruption through an early warning system. This system requires the Police to have special officers dealing only with corruption cases that may occur within the institution. Also, senior police management, including its General Directorate, will be advised to take timely preventive measures to combat corruption and strengthen integrity in the KP.⁴⁰

Despite citizens share a generally positive perception on the KP, they have expressed their doubts and fears to cooperate with them when reporting a case to the police. More than half of respondents fear the KP may reveal their identity.⁴¹ This means the KP should work harder to maintain confidentiality and protect personal data of citizens in order to encourage them to report cases to KP.⁴²

3.2. Internal control in Police

Kosovo Police has its own internal control mechanisms through which it supervises, controls, and investigates actions of its officers while in official duty. These mechanisms have the right to investigate all cases of serious and minor disciplinary violations up to the Rank of Police Colonel, however neglecting higher ranked officials and

³⁷ Anti-Corruption Agency. (November, 2012). *Anti-Corruption Strategy 2013-2017*. Pristina: Anti-Corruption Agency, p. 22. Accessed on 6 May 2016 at: <<http://goo.gl/MxxdS9>>

³⁸ Ibid, p. 27.

³⁹ Anti-Corruption Agency. (November, 2012). *Action Plan for the implementation of the Anti-Corruption Strategy 2013-2017*. Pristina: Anti-Corruption Agency, p. 28-29. Accessed on 6 May 2016 at: <<http://goo.gl/MxxdS9>>

⁴⁰ Contributions collected from the public hearing of the Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force on overseeing the implementation of the Law on Police on December 15, 2015.

⁴¹ Ibid, p 24.

⁴² Interview with a senior Anti-Corruption Agency officer, 15 February 2015.

executive staff.⁴³ Initiation of disciplinary cases within the KP against police personnel may be done in three ways: (i) through an internal initiation by the supervisors, (ii) through complaints of citizens and (iii) ex officio. In addition, police mechanisms of internal control are responsible for reviewing and imposing disciplinary measures for cases of indiscipline investigated within the framework of the KP.⁴⁴

During 2015, 948 cases were handled involving KP police officers suspected for various violations. According to Police records, investigation shows that in 56 percent of these cases the allegations were not justified. In about 3 percent of the total number of cases, employment termination measure was imposed, in 0.1 percent of cases demotion was the solution, and in about 25 percent of the cases salary reduction was used. In about 9 percent of the cases a written warning was imposed, while in over 1 percent of the cases a verbal warning was the solution, and in 4 percent of the investigated persons they were found innocent.⁴⁵ Despite these statistics, the KP has not clearly specified for which criminal offenses were police officers investigated in 2015.

As part of internal police control in 2015, Police Audit Office conducted 13 regular audits and 1 extraordinary one. They covered the scope of laws and regulations related to procurement, finance and asset management at the KP, but also the implementation of administrative procedures for KP staff. 89 recommendations came out of the regular audits and 3 recommendations from the extraordinary ones.⁴⁶ However, the KP did not provide records on how many of these recommendations have already been addressed nor provided details of the actions taken to follow through with the recommendations.

The police has also performed inspections of personnel through the Inspection Unit within the KP. During 2015, 314 regular inspections and 121 extraordinary inspections were performed. These inspections were aimed at maintaining discipline within the ranks, and a total of 906 recommendations were issued.⁴⁷ As with the previous cases, there is no record on how many of these recommendations have been fulfilled and which areas were covered by regular and extraordinary inspections.

Despite these statistics, the work of the internal Police control mechanisms, especially the Directorate of Professional Standards (DPS) has been criticized for its lack of transparency. DPS, which functions as part of Deputy General Director of the KP for Operations, does reveal cases of internal investigations for disciplinary violations of police

43 The written responses of KP were sent in electronic form to KCSS on April 29, 2016.

44 Ibid.

45 Kosovo Police - Directorate of Strategic Planning and Legal Affairs. *The annual work report of the Kosovo Police 2015*, p. 17. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

46 Ibid.

47 Ibid.

personnel. Therefore the process of assessing Police internal control becomes even more ambiguous when the violations of investigated individuals remain secret.⁴⁸

3.3. KPI's role in overseeing the Police

Although the Kosovo Police Inspectorate (KPI) is a mechanism that operates under the authority of the Ministry of Interior, its structure is separate from the KP and it operates independently. Its main tasks are overseeing the activities of the Police in democratization and evaluating its professionalism.

In carrying out its activities, KPI has the right to investigate crimes committed by police officers regardless of Rank or position. This means that KPI holds reserved authority for investigation all police personnel in cases where there is the likelihood of a criminal offense. In their investigation, KPI has the responsibility for investigating disciplinary incidents of high profile. Also, it carries out disciplinary investigations of police officers from the highest Rank and level, i.e. management and senior executive level of the Police.⁴⁹ However, what distinguishes the work of this institution is that every citizen may bring a claim to the KPI against KP members if the latter is suspected to have violated the rules and procedures. Despite its police overseeing activities, KPI has often been criticized for providing incomplete information to both the media and civil societies demonstrating its lack of transparency.

During 2015, KPI received 1,237 complaints from citizens, 173 of which after the examination by the KPI Investigations Department have proven to have elements of criminal offenses. Of these cases that presented elements of criminal offense, 161 were sent by KPI for investigation to the Prosecutor's Office with criminal report or a special report, while 12 other complaints are still under investigation and transferred to 2016.⁵⁰ The Prosecutor's Office has filed indictments related to 24 criminal cases and forwarded them to competent courts. 7 cases were dismissed by the Prosecutor's Office in absence of evidence while 77 other criminal reports are still under investigation by the former.

Compared to the Police in 2015, KPI made 23 arrests, filed 39 recommendations for suspension of police personnel, and 11 recommendations for transfers.⁵¹ One of the KPI recommendations for suspension was for the Regional KP Director of Prizren in September of 2015. KPI recommended to the KP his suspension after undertaking

⁴⁸ Interview, Kreshnik Gashi, Editor in BIRN (Balkan Investigative Reporting Network), April 3, 2016.

⁴⁹ Article 17, Law No. 03/L-231 on Kosovo Police Inspectorate.

⁵⁰ Kosovo Police Inspectorate. *Annual Report 2015*, p. 23-24. Accessed on 5 May 2016 at: <<http://goo.gl/W00DTr>>

⁵¹ Ibid, p 25.

some preliminary investigative actions and having received information of complaints from citizens.⁵² Although suspended and investigated by KPI, he was reinstated at work and transferred to the Regional Police Directorate (RPD) in Gjakova as Chief of Operations⁵³ and later returned to Prizren as Regional KP Director.⁵⁴ KPI investigation results against him remain unknown.

In 2015, KPI investigated a total of 220 KP employees, including police officers and civilian police staff. This trend of investigated KP employees by KPI is declining compared to previous years. In 2012, 361 employees were investigated while 328 were the cases in 2013 and 305 in 2014.

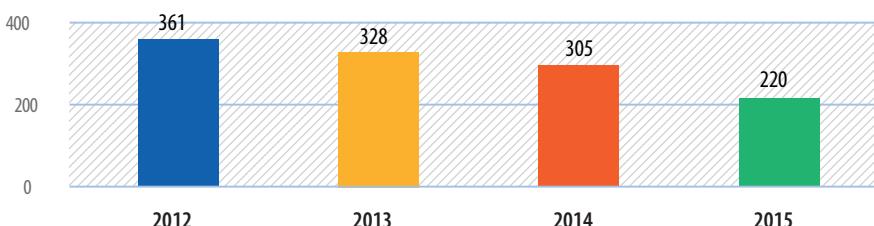


Figure 1 - Number of Police employees investigated by KPI during 2012-2015⁵⁵

Meanwhile, KP officers subject to criminal investigations by KPI in 2015 include police officers of various Ranks and civilian personnel. Consequently, 43 promoted officers (2 colonels, 1 lieutenant colonel, 2 majors, 3 captains, 9 lieutenants and 26 sergeants), 159 police officers, and 18 civilian employees were investigated.⁵⁶ However, KPI has failed to provide records of suspicious activities or alleged offenses from these KP employees investigated in 2015.

Regarding cases investigated by KPI with elements of criminal offense and elements of disciplinary violations, the KP has imposed various disciplinary measures against police personnel. For those cases with elements of criminal offense, 30 disciplinary measures were imposed, while regarding complaints about disciplinary violations, 577 disciplinary measures were imposed by the KP against its employees.

52 See KPI's recommendation to suspend the Regional KP Director of Prizren, Nexhmi Krasniqi at: <<http://goo.gl/axHfza>>. Accessed on 5 May 2016.

53 Shih <<http://goo.gl/6DMt36>>. Accessed on 5 May 2016.

54 Shih <<http://goo.gl/HqeQEa>>. Accessed on 5 May 2016.

55 Kosovo Police Inspectorate. *Annual Report 2015*, p. 20. Accessed on 5 May 2016 at: <<http://goo.gl/W00DTr>>

56 Ibid, p 28.

Table 5 - Disciplinary measures imposed by the KP in 2015⁵⁷

Disciplinary measures	Criminal offences	Disciplinary violations	Total
Verbal warning	1	182	183
Written warning	4	119	123
Reduction of 5% to 20% of gross monthly salary for up to 2 months	0	245	258
Reduction of 21% to 30% of gross monthly salary from 2 up to 6 months	13		
Demotion	0	1	1
Demotion in position	0	0	0
Termination of employment	12	30	42
Total	30	577	607

Kosovo courts in 2015 issued 4 decisions after investigations performed by KPI. Three of these decisions include a fine in the amount of 2,000 Euros, 400 Euros, and 300 Euros. The other decision involved suspension and imprisonment. However, KPI did not specify names and ranks of the KP officers involved in the court rulings. One of the decisions was taken by the Basic Court in Pristina and three other decisions by the Basic Court in Mitrovica.⁵⁸

Cases investigated by KPI include endangering public traffic, cases of abuse of official position or authority, bodily injury, cases of ill-treatment during official duty cases, cases of bribery and threats.

Table 6 - Most frequent investigated cases by KPI in 2015⁵⁹

Cases investigated	Number of cases
Endangering public traffic	45 cases
Abuse of official power and authority	39 cases
Light bodily injury	27 cases
Maltreatment during official duty	12 cases
Venality	11 cases
Total	134 cases

57 Ibid, p 26.

58 Ibid.

59 Ibid.

In 2015, KPI investigated a total of 62 criminal offenses with elements of corruption and other offenses against officials in duty, with the distribution shown in the following table. But it is not known whether these cases have been investigated on the basis of filed complaints to KPI or were initiated by KPI.

Table 7 - Criminal offenses with elements of corruption and against officials in duty investigated by KPI in 2015⁶⁰

Offenses investigated for corruption and other offenses	Number of criminal offenses
Abuse of official power and authority	39 criminal offenses
Counterfeiting official document	4 criminal offenses
Accepting bribes	11 criminal offenses
Exerting influence	1 criminal offenses
Disclosure of official secrets	2 criminal offenses
Giving bribes	1 criminal offense
Misappropriation in office	2 criminal offenses
Deception	2 criminal offenses
Conflict of interest	0 criminal offenses
Total	62 criminal offenses

As part of supervision activities of the KP, KPI performs regular and extraordinary inspections. Unlike the KP that performs basic-level inspections, inspections of KPI stretch on a higher level, such as police buildings; accompanying infrastructure and assets; budget management, finance, logistics and procurement; management of vehicle fleets and police equipment; human resource management; as well as other issues.⁶¹ During 2015, KPI performed 8 Police inspections; 5 regular inspections and 3 extraordinary inspections. Of these inspections carried out by the KPI Inspection Department, 54 recommendations were given to the KP, showing risk indicators of possible legal violations and mismanagement by the KP itself.⁶² KPI inspection reports for 2015 dealt with Police performance in managing crowds during protests, vehicle fleet management and logistics, promotion process of police officers, and others.⁶³

Besides inspections and criminal and disciplinary investigations KPI is also entitled to investigate the integrity of KP employees, after authorization by the prosecutor. This is due to the preservation of ethics and integrity to increase efforts to combat corrup-

60 Ibid, p 27.

61 For more, see Article 25, Law no. 03/L-231 on Kosovo Police Inspectorate.

62 Kosovo Police Inspectorate. *Annual Report 2015*, p. 34. Accessed on 5 May 2016 at: <<http://goo.gl/W00DTr>>

63 For more information, see KPI inspection reports: <<http://goo.gl/6cLKRi>>. Accessed on 6 May 2016.

tion and increase trust in police institution.⁶⁴ Proactive Investigation Division and the Integrity Test which operates under the Department of Special Investigations of KPI organizes integrity tests for police officers. According to KPI, the Criminal Procedure Code does not provide for criminal investigation of integrity for police officers, which has prevented the development of these integrity tests.⁶⁵

However, KPI senior officers have admitted that they have done tests to investigate the integrity of several police officers. Some of them have successfully passed them, but there is a case of a police officer who failed this test.⁶⁶ In circumstances where KPI officers did not pass the integrity test, KPI has used special techniques and investigative methods after authorization by the prosecutor. These techniques and special investigative methods include monitoring and surveillance measures.⁶⁷ Nevertheless, KPI has often been unable to investigate the integrity of police officers because of not receiving the necessary authorization coming from the prosecutor.⁶⁸

To add to the debate, it is not exactly known how many tests of integrity have been conducted by KPI, nor have the conclusions of these tests been published. The annual reports of KPI for 2014 and 2015 do not mention anything about the integrity test. Meanwhile, there seems to be a tendency on the part of KPI to keep secrecy around these integrity tests instead of making them available for the public eyes.⁶⁹

64 Article 20, Law No. 03/L-231 on Kosovo Police Inspectorate.

65 Transcript of the public hearing of the Committee on Internal Affairs, Security and Oversight of KSF, December 15, 2015, p. 20. Accessed on 9 May 2016 at: <<http://goo.gl/qqXmB8>>

66 During the public hearing of the Parliamentary Committee on Internal Affairs, Security and Oversight of the Security Force of Kosovo on monitoring the implementation of the Law on Police on December 15, 2015, the director of the Department of Special Investigations in the KPI, Valbona Osmani, reported on testing the integrity performed by the respective Division of KPI to some officers.

67 Transcript of the public hearing of the Committee on Internal Affairs, Security and Oversight of KSF, December 15, 2015, p. 20. Accessed on 9 May 2016 at: <<http://goo.gl/qqXmB8>>

68 Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). *Report with recommendations for monitoring the implementation of the Law no. 04/L-076 on Police*, p. 10-11.

69 Contributions collected from the public hearing of the Parliamentary Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force on overseeing the implementation of the Law on Police on December 15, 2015.

4. POLICE INDEPENDENCE IN DECISION-MAKING

Under the current legislation, the Kosovo Police is an institution that exercises its activity within the scope of the MIA.⁷⁰ It operates under the authority of the Minister of Interior and is directly accountable to the Minister regarding the administration and management of the Police. However, the authority of the Minister "shall not include the operational management of the Police"⁷¹ but under the Constitution of Kosovo, the Prime Minister shall appoint the General Director of the KP.⁷² The selections of the General Director of the KP happens without any public announcement and according to previous practices, it is mainly selected from the ranks of police officers who have been deputy General Director of the KP. The Director General of Police and Deputy Directors are appointed for a term of five years with the possibility of unlimited extensions if agreed by the Prime Minister.⁷³

The appointment of the Director General and his/her deputies by the Government shows the reliance of the KP on the Government. In this way, the Government exercises executive control and influence in the selection of KP senior officials. Along with this, KP also depends on funding from the Government given that the latter allocates the Police budget. When it comes to KP budget, Police General Director prepares and sends it to the Minister for consideration.⁷⁴ On the other hand, the Director General of the KP has the right to appoint directors of KP Departments, regional police directors, and commanders of police stations.⁷⁵

The possibility of political influence on the police decision-making is illustrated by the following examined cases. The following findings are examples of the external influence exerted in the work and autonomy of the KP.

4.1. The suspension of police officers in Prizren

A Case where it is believed direct political interference was exerted on the work of the KP is when two police officers in the region of Prizren gave a ticket for illegal parking to the driver of a Minister of the Government of Kosovo.⁷⁶ Claiming the policemen

70 Article 4, Law No. 04/L-076 on Police.

71 Ibid, Article 5.

72 Article 128 of the Constitution of the Republic of Kosovo (with amendments I-XXIV).

73 Article 37, Law No. 04/L-076 on Police.

74 Ibid, Article 51.

75 Ibid, Article 37, article 40 and article 41.

76 It is about the minister without portfolio of the Government of Kosovo, Rasim Demiri. The incident happened in Prizren in July 2015 when police officers during their official duties wrote a ticket to the driver.

had misbehaved during the incident, the Minister complained to the head of RPD in Prizren.⁷⁷ At the same time; aside the complaint a senior political executive officer exercised his political influence for the suspension of the policemen.⁷⁸ By decision of the director of RPD in Prizren, the two policemen were temporarily suspended from the exercise of their duties 48 hours. The decision stated that the policemen committed “serious disciplinary violations” and the suspension was extended to 3 months.

The case was investigated by KPI, which concluded the two policemen had not violated the law and their actions had no elements of criminal offense.⁷⁹ To remove ambiguities, the Police performed an internal disciplinary investigation and dropped the minister’s claims that the policemen had violated the protocol. The Internal Disciplinary Committee of KP concluded that there was no argument to support the allegations that the two police officers had “shown misconduct” during the events.⁸⁰ After the completion of criminal investigations by KPI and the disciplinary investigation by the KP, it was decided to reinstate the policemen.⁸¹ Even after the policemen were reinstated and the details of the case were published, the Minister who had presented the allegations continued to exert his influence over the KP; going as far as to show his disappointment with the publication of the “incident”.⁸²

This case shows that police officers do not enjoy the autonomy to freely carry out their own duties and how politics interfere with their daily work.⁸³ Nonetheless, suggestions exist for police officers to carry cameras during official duty to monitor any irregularities and for the KP and KPI to monitor them.⁸⁴ This will lead to increasing accountability and impeded the repeat of cases like the previously presented one where political figures can use their influence to get away with offenses.

Although police officers returned to work after proving they were not at fault, it is a disturbing fact that politicians, because of the political authority, use and abuse of their position to influence the internal affairs of the KP. This shows that certain elements in the Police succumb to political pressure or even voluntarily serve narrow political interests outside their mandate. The KP must act in the same way with all those who

⁷⁷ Nikolla, A. (12 February 2016). Ticket to Minister, policemen suspended (VIDEO). *Zëri*. Accessed on 7 May 2016 at: <<http://goo.gl/xkl2he>>

⁷⁸ Ibid.

⁷⁹ KIPRED. (March 2016). *Observer of the Kosovo Security Sector - Volume I, no. 3*. Prishtina: KIPRED, p. 9. Accessed on 3 May 2016 at: <<http://goo.gl/CbsGAX>>

⁸⁰ Nikolla, A. (12 February 2016). Ticket to Minister, policemen suspended (VIDEO). *Zëri*. Accessed on 7 May 2016 at: <<http://goo.gl/xkl2he>>

⁸¹ Ibid.

⁸² Nikolla, A. (7 April 2016). Minister without portfolio does not give up, he phones policemen who gave him a ticket. *Zëri*, f. 5.

⁸³ Interview with a senior Anti-Corruption Agency officer, 15 February 2015.

⁸⁴ Interview, Petrit Zogaj, Executive Director of the FOL Movement, February 18, 2016.

violate the law, and police officers should not feel intimidated or threatened when reporting violations of high ranked officials.

4.2. The police operation, 28 November 2015

On 28 November 2015 Kosovo opposition parties⁸⁵ staged a protest in Pristina in order to challenge the two agreements the Government had negotiated with Serbia and Montenegro.⁸⁶ The Agreement on Association of Serb Municipalities in Kosovo and the border demarcation between Kosovo and Montenegro were in the midst of the protests. However, the situation worsened when Albin Kurti, opposition MP and wanted by the police for an arrest warrant issued by the court against him, appeared within the crowd.⁸⁷ The KP arrested him in the offices of Vetevendosje Movement after the protest.

There are claims against the professionalism of the Police while assessing and carrying on with the arrest operation. The Police while dealing with the arrest, used its elite unit, the Specialized Intervention Team (FIT), which intervened inside the premises of the party raising criticism for using excessive force and stepping over their jurisdiction. The KP failed to address the possibility of using another kind of police unit and instead resorted to the FIT. During this operation 97 activists were arrested from the building of this party in Vetevendosje.⁸⁸ This was the first time security forces had entered and intervened within the premises of a political opposition party in Kosovo since the war ended in 1999.

Local and international organizations have sustained the claims of excessive use of force, physical violence, and overstepping Police jurisdiction being present during the operation. OI after supervising the police operation came to the conclusion that violations of human rights were indeed present. This institution has sent a formal request to the State Prosecutor to initiate an objective investigation of the KP's intervention at the headquarters of the Vetevendosje Movement. According to OI there is sufficient evidence for the Prosecutor's Office to conduct a criminal investigation in case of violation of the Criminal Code and Criminal Procedure Code during the KP operation of 28 November 2015.⁸⁹ However, this case is at the Prosecutor's Office and the results of the Ombudsman's petition are still unknown.

85 Vetevendosje Movement, Alliance for the Future of Kosovo and Nisma for Kosovo.

86 For more information, see the material: <<https://goo.gl/gr1P0r>>. Accessed on 8 May 2016.

87 See the release of the State Prosecutor for investigations of Serious Crimes Department of the Basic Prosecutor's Office in Pristina against MP Kurti: <<http://goo.gl/BhygUi>>. Accessed on 8 May 2016.

88 See press release of KP on the events of November 28, 2015, at: <<http://goo.gl/tZKUxu>>. Accessed on 8 May 2016.

89 Interview, Hilmi Jashari, Ombudsperson, 25 March 2016.

International human rights organizations such Amnesty International (AI), were more vocal with criticism. AI has expressed concerns that members of the KP Specialized Unit used excessive force during the operation. AI sent a letter⁹⁰ to the Minister of Internal Affairs of Kosovo, stating that it the KP choosing of the time and place to carry out the arrest was incomprehensible when there were other opportunities and circumstances to enforce the law.⁹¹ Furthermore, it notes that “totally inappropriate and excessive” police force, geared up with automatic rifles, were engaged during the person’s arrest.⁹² Moreover, this organization voiced its concerns for the operation being more a punishment to the political party as to a simple arrest for the manner in which it was carried.⁹³

On its assessment of the KP actions, Amnesty International concluded the use of force by the police was not in accordance with international law, law enforcement standards, and human rights. Consequently, it considered that there is enough reliable evidence to initiate a criminal investigation against those responsible for the operation, including police commanders.⁹⁴ In addition it also suggested to both MIA and the KP, to review operational procedures and practices on use of force and firearms by law enforcement officers to ensure they comply with international law standards on human rights and law enforcement.⁹⁵

Police actions should be further investigated by KPI to find out whether there was excessive use of force and overstepping of authority by the KP. KCSS requested an interview with senior KPI officers, but they refused. However, the 2015 KPI annual report or its website do not mention whether this institution investigated the Police for the events of the 28 November 2015.

Meanwhile, MIA rejected all allegations that the KP was not acting accordingly during the police action mentioned above. Heads of the Ministry rejected any political drive during the operation as they were not aware of it taking place and because it was dictated by the police and the Interior Ministry. According to MIA, all decisions were taken by the KP, starting from the Director General down to all lower echelons of the police structure.⁹⁶

90 Amnesty International, “*Excessive and abusive use of force by police*”. Ref: TG EUR 70/2016.004. Letter to the Minister of Internal Affairs, Skender Hyseni, dated February 29, 2016.

91 Ibid, p 1.

92 Ibid, p 2.

93 Ibid.

94 Ibid, p 3.

95 Ibid, p 4.

96 Statement of the Minister of Internal Affairs, Skender Hyseni, in Rubicon program KTV, March 22, 2016, at: Accessed on 9 May 2016.

The KP stated they only performed their legal obligations pertaining to the enforcement of the arrest warrants issued by the judiciary. The police argued that “in no way we allow use of excessive force” by its members and that these are trained to use the minimum necessary force to break the resistance. As for the police action, the KP stressed that given the situation and the rapidly developing circumstances of, they were obliged to use what they considered to be proportionate and necessary force in response to violence against police.⁹⁷ However, both the internal mechanisms of the KP (the Committee to examine use of force) and DSP have examined the operation but nothing is known about the findings or the assessment, the same to the KP internal evaluation.

However, it is concerning that the KP has not provided clarification on the involvement of such a large number of police officers in this operation and the involvement of Specialized Intervention Unit, which usually handles extreme situations, complicates the situation further. Consequently, additional recommendations have been made to the KP to avoid the use of KIP and instead use other police units which are less prone to be qualified as disproportionate.⁹⁸ Even senior KP officers expressed discontent with the operation on the grounds of KP top level officers not having properly assessed the situation.⁹⁹

On the other hand, estimates made by the Police over one of the biggest protests in Prishtina staged on 9 January 2016 could be considered another example on how politicians exert their influence over the KP. Police reports show estimates of 8,000 participants¹⁰⁰ far from the more realistic reports from other sources of 20,000 participants.¹⁰¹ This statement may have been motivated by political directives or intended to purposely reduce the potential of protest.

This, on one hand, means the police must strengthen its assessment and managing capacities on situations like protests. On the other hand, it proves the importance for the Police to stay away from political influence even when it comes to estimates of the number of protesters organized by opposition parties.

97 For more information, see: Accessed on 8 May 2016.

98 Interview, Kreshnik Gashi, Editor in BIRN (Balkan Investigative Reporting Network), April 3, 2016.

99 Interview with a senior KP officer, December 18, 2015.

100 Statement by the KP spokesperson, Baki Kelani, during KP press conference, January 9, 2016, at: Accessed on 9 May 2016.

101 Klan Kosova, “Game with the number of protesters, continues”, January 10, 2016, at: Accessed on 9 May 2016.

5. TRANSPARENCY

5.1. Legal framework

Transparency is one of the guiding principles of the Kosovo Police and it requires under the Law on Police to ensure the institution is open to the scrutiny of the public and to provide them with information what their actions are.¹⁰² Such a legal definition is quite general however, it is further reinforced by the strategic documents of the Ministry of Internal Affairs (MIA). These documents note that operational issues and police activities that are of public interest are covered by the KP Information and Public Relations Office (IPRO), which aims to provide the public with comprehensive and timely information through the media.¹⁰³ According to the documents that define the relationship of the police with the public, the media has access to official information as per request or through press releases, Internet and social networks, as well as press conferences.

Nonetheless, there are limitations when it comes to police information related to national security, public order, and the reputation of others,¹⁰⁴ with this content often kept confidential. Based on the Law on Classified Information and Security Clearance, information related to public safety is classified by both the Classification Authority and then the KP.¹⁰⁵ Although the law gives autonomy to the Classification Authority, it is still difficult to know to what extent the classification criteria is properly applied or misused by the authorities.

The legislation in place obliges public institutions of Kosovo, including the KP, to guarantee access to public documents to which access is requested by anyone. Only documents of national security, defense, international relations, public security of the country, etc shall not be made accessible to the public.¹⁰⁶

5.2. Practice

The KP communicates the public through the Police Information Office (IPRO) in national and regional levels. IPRO is organized centrally within the General Directorate

¹⁰² Article 2, Law No. 04/L-076 on Police.

¹⁰³ Ministry of Internal Affairs. (2014). *Communication Strategy and Action Plan of the Ministry of Internal Affairs from 2014 to 2016*. Prishtina: Ministry of Internal Affairs, p. 4-10. Accessed on 13 April 2016, at:

¹⁰⁴ Ibid, p 11.

¹⁰⁵ Article 4 and article 7, Law no. 03/L-178 on the classification of information and security clearances.

¹⁰⁶ Article 12, Law No. 03/L-215 on access to public documents.

of Kosovo Police and the Regional Police Directorates (RPDs) in Prishtina, Mitrovica-South, Mitrovica-North, Peja, Gjilan, Prizren, Ferizaj and Gjakova. IPRO's primary role is to organize, manage, and coordinate all activities related to cooperation between the Police and the media.¹⁰⁷

The KP is considered among the institutions that enjoy a better degree of transparency and communication in relation to public institutions, public opinion, media, non-governmental organizations, and other stakeholders seeking information from KP. However, it seems that there is a tendency within the institution to *bureaucratize* public access to information and to *centralize* IPRO¹⁰⁸ in terms of providing information to those who lodge a request for information only. Indeed, the KP is often criticized for providing unspecific and broad information and not detailed facts and figures. Furthermore, criticism comes from not responding promptly to official requests made to access information and non-confidential documents, especially public procurement contracts.¹⁰⁹ These shortcomings in transparency impede a proper assessment of matters related to this institution because the information received from the police is thought to be biased and manipulated

On the other hand, there is no proper presence of KP senior management in front of the media. A greater presence of KP management would be in the interest of the institution to promote their transparency and good governance. It is estimated that the KP should create the opportunity for police officers at different levels to express their opinion on certain issues within the organization to the public or the media within the legal constraints and internal regulations of thereof.¹¹⁰

This institution publishes an annual report summarizing the work they did for the previous 12 months. The 2015 report, which contains no more than 28 pages, presents very general information. However, when compared to previous reports it represents a considerable improvement in terms of data. It provides more detailed statistical data related to human resources, public safety, police operations in combating organized crime and violent extremism, police investigations for various criminal offenses, as well as numbers of cases under investigation for internal violations while in official duty. Despite this, the 2015 annual report remains broad and unspecific about internal control mechanisms of the KP and the role of the Police during the 2015 riots, when the KP was seriously challenged while maintaining public order and security.

107 Contributions collected from focus group organized by KCSS with senior officers of the Kosovo Police on October 7, 2015.

108 Interview, Rifat Marmullaku, former senior officer of the Kosovo Police, July 3, 2015.

109 Interview, Kreshnik Gashi, Editor in BIRN (Balkan Investigative Reporting Network), April 3, 2016.

110 Ibid.

One of the elements which contribute to transparency is the KP website where police activities are published, however in a very general fashion.¹¹¹ Vacancies and employment opportunities in the Police are uploaded there as well as all the relevant information necessary for the application process. Guidelines for applicants, employment application for police personnel, list of candidates who pass and fail the written test, interviews, and the list of candidates admitted and those not considered for the positions are also published. As with job vacancies announcements on the website, promotion advertisements are also published on the website for various ranks. The list of candidates who have been promoted to different police ranks and the results of the KP selection process during promotion may also be found on the website.¹¹²

Furthermore, there is the publication of daily press releases to inform of the daily agenda of the KP and is distributed through all media outlets. During 2015, the KP issued a total of 640 press releases (averaging around 2 press releases per day). 126 of them were published by the central Police level while regional police departments have issued a total of 514 press releases. However, the KP has not provided data and explanations on the number of press releases issued by each of the eight RPDs separately and which regional directorate has been more or less affected by informing public about their work.

Table4 - Number of KP press releases in 2015¹¹³

Press releases published by the central KP level	126
Press releases published by the regional KP directorates	514
Total	640

In addition, the Police publishes online general 24 hour statistics on issues dealing mainly with public safety such as fatal accidents, accidents with injuries, accidents without injuries, traffic tickets, persons arrested and in custody. These statistics are published and updated daily by the KP representing a strong back up for the published press releases. According to the KP, they successfully responded to 3,500 requests from information coming from the media, non-governmental organizations, and individuals¹¹⁴. Unfortunately, the objectivity of this information is hampered by the absence of data on the total number of requests for access to public documents received and the ratio between requests and positive responses.

¹¹¹ See KP website: <www.kosovopolice.com>. Accessed on 14 April 2016.

¹¹² For more information, see: <<http://goo.gl/U8iwG>> . Accessed on 15 April 2016.

¹¹³ Kosovo Police - Directorate of Strategic Planning and Legal Affairs. *The annual work report of the Kosovo Police 2015*, p. 18. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

¹¹⁴ Ibid.

Regarding activities in the field of public procurement, the KP does not publish this on its website evaluations and applications of funds. The KP also does not publish decisions regarding public procurement procedures however, information about contracting parties may be found in relevant publications from the institution's country. In addition, neither the activities of the Office of Internal Audit, the Directorate of Professional Standards, nor the KP Inspection Unit are made public on the Police website and the 2015 KP annual report only vaguely mentions them.¹¹⁵

6. PUBLIC PROCUREMENT

The public procurement sector in Kosovo is regulated by the Law on Public Procurement which has undergone successive changes. This law was repeatedly criticized for not adjusting to the current circumstances and for not assisting to the smooth functioning of public procurement activities.

The new amendments to the Law on Public Procurement of 2016 allows for the regulation of the timing on the application of this law to contracts in the fields of defense and security. Given the sensitivity of these sectors, in some cases for certain types of contracts special applications of public procurement procedures are required. In this way, the law does not apply to the supply of various equipment, as well as to the procurement of sensitive services. The law does not apply either to the supply military equipment.¹¹⁶

A regulation must be approved by the Government of Kosovo on procurements related to defense and security. Moreover, the amended law and regulations do not apply when the disclosure of these contracts could eventually undermine the security interests of the country¹¹⁷. In these situations, specific rules on public procurement must be followed. These amendments to the Law on Public Procurement have been made as a result of the requirements of the European Union to harmonize Kosovar laws with the EU legislation, namely Directive no. 2009/81/EC¹¹⁸ on procurement contracts on the field of defense and security.

The KP public procurement system is separated from the Ministry of Internal Affairs and serves as an independent department within the KP. KP Public Procurement Department reports directly to the KP Director General regarding all procedures related to this field. The public procurement system remains one of the greatest flaws in the

¹¹⁵ Kosovo Police - Directorate of Strategic Planning and Legal Affairs. The annual work report of the Kosovo Police 2015, p. 17. Accessed on 14 April 2016, at: <<http://goo.gl/H2HvXk>>

¹¹⁶ Article 3, Law No. 05/-068 amending the Law no. 04/L-042 on Public Procurement of the Republic of Kosovo, as Amended by the Law no. 04/L-237.

¹¹⁷ Ibid.

¹¹⁸ See: <<https://goo.gl/UsM0V1>>. Accessed on 13 May 2016.

KP system as it is closely associated to the misuse of public funds and involvement of public officials in corruption.¹¹⁹

Regarding the allegations and investigations of corruption in public procurement within the KP, in 2015 the Basic Court in Pristina dismissed the indictment against some KP officers, including the former head of the KP Public Procurement Department. The accused for the scandal of weapon tendering were released without charges. The verdict was made on the grounds that the prosecution had not complied with the legal time frame for these investigation. Related to this case, in 2011, EULEX Police raided the MIA and the KP premises claiming abuses during the import of weapons and ammunition for the KP. According to EULEX, the damage caused to the Kosovar budget was considerable.¹²⁰ However, in 2016 the charges against the police officers regarding the tendering of weapons were updated since EULEX filed accusations after a Supreme Court ruling in December which had assessed the legality of the Basic Court in Pristina for dismissing the charges. A trial for this case is expected to start at the Basic Court in Pristina however there is no date set up yet.¹²¹ Since 2015, three Police tenders have been investigated by the KPI for supplying uniforms for the KP, providing materials in the construction of K9 premises, and the building shooting range. There is no information from KPI on the status of these investigations and if any irregularities were found in these public procurement activities of such tenders.

The KCSS requested access to the public procurement budget from the KP in 2015 as well as the professional capabilities of this sector, the contracts from the contracting authorities, and any additional information regarding possible secret contracts from the KP. However, the response has so far (April 2016) been negative.

119 Perteshi, Skender. (2014). Accountability or not? Management of public funds in Kosovo Security Sector. Prishtina: Kosovar Centre for Security Studies. Accessed on 13 May 2016 at: <<http://goo.gl/zxJJCq>>

120 Kreshnik Gashi. (4 June 2015). The accused for Police Weapons affair, not guilty. Kallxo.com. Accessed on 13 May 2016 at: <<http://goo.gl/NwFGwg>>

121 See: <<http://goo.gl/1Uh9BR>>. Accessed on 24 May 2016.

7. DEMOCRATIC AND PARLIAMENTARY OVERSIGHT OF POLICE

7.1. Parliamentary oversight

The oversight of the security sector policies in Kosovo, including the Police, is made by the Parliament as stipulated by the Constitution of Kosovo.¹²² The supreme law of the land in Kosovo provides that “*the Assembly of Kosovo shall oversee the budget and policies of the security institutions*”¹²³

The Police oversight by the Parliament is done through several Parliamentary mechanisms. The first instance is the interpellation process when a group of MPs submit a request for deliberation about a matter related to the Police in a Parliamentary session.¹²⁴ The Interpellation is addressed to the Minister of Internal Affairs regarding matters related to the Police, as the KP operates under the authority of the head of MIA. The subsequent questioning from MPs is another form for the Parliament to oversight the actions of the KP.

Parliamentary supervision over the KP is exercised in particular by the Committee on Internal Affairs, Security, and Supervision of the Kosovo Security Force (CIASSKF). The CIASSKF shall oversee the financial management and expenditures of the KP and in cooperation with KPI oversee issues dealing with disciplinary measures against KP members.¹²⁵ This Parliamentary Committee also oversees the implementation of laws with special focus on the Law on Police and complementary legislations related to the work of the KP. From a legislative point of view, this Committee is in charge of supervising the implementation of laws within the MIA, the KP, and the KPI who are then required to report at least once a year about these implementations.¹²⁶ Besides these issues, the CIASSKF is required to maintain close ties with the MIA from which they are authorized to gain access to specific data including direct reports from the Minister of Internal Affairs and from the heads of Police and KPI.¹²⁷

During 2015, out of 25 regular meetings scheduled by the Committee, the Minister of Internal Affairs reported twice, the General Director of KP three times, and the former

122 Article 65 of the Constitution of the Republic of Kosovo (with amendments I-XXIV).

123 Ibid, Article 125.

124 Article 44, Rules of the Assembly of Kosovo, April 29, 2010. Accessed on 9 May 2016 at: <<http://goo.gl/rQnaaA>>

125 Ibid, p 51.

126 Ibid, Article 73.

127 Ibid, p 51.

Chief Executive Officer of KPI reported only once.¹²⁸ None of the CIASSKSF report in 2015 made any references to the KP and the MIA and their 2014 annual report. During this period (January–December 2015), the Committee members have held three public hearings, two of which were on overseeing the implementation of the Law on the KP and one related to the same issue within MIA.¹²⁹

CIASSKSF 2015 monitoring of the Law on Police resulted on a report with recommendations which include the need to continuously enhance the capacity and cooperation of the security sector while carrying out their legal authorizations.

Regarding good governance and integrity of police officers, the CIASSKSF suggested to lawfully implement obligations and police authorizations abiding by the Constitution, laws, bylaws, operating standards, the Code of Ethics of the KP, and international standards for law enforcement. Moreover, KP members should be included in certified education and training programs to get familiar with police authorizations and the protection of rights and freedoms under the principles of legality, correctness, and proportionality.¹³⁰ The Parliamentary committee has recommended that the integrity test applies to police officers according to the model of the European Union. While legislators have exhorted the KP to steadily increase the number of females in all police structures.¹³¹

The report of the Committee goes on to ask the Police to enhance further its work in the functioning and standardization of forms in sectors such as intelligence-led policing, community policing, patrolling, and maintaining public order and safety.¹³² In the field of rule of law, the Committee has suggested strengthening the relations between the KP, the Prosecutor's Office, and the Courts of Kosovo. It was recommended the establishment of the Judicial Police in order to increase efficiency in the conduct of investigation of criminal offenses and to ensure independence in criminal investigations.¹³³

Despite these activities, the work and dynamics of the Parliamentary Committee has been victim of the political crisis in the country from mid-2014 to the first four months

¹²⁸ Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). Work Report 2015, p. 5.

¹²⁹ Ibid.

¹³⁰ Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). Report with recommendations for monitoring the implementation of the Law no. 04/L-076 on Police, p. 1.

¹³¹ Ibid, p 2.

¹³² Ibid.

¹³³ For more details concerning the supervision and implementation of the Law on Police by the parliamentary committee, see: Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). Report with recommendations for monitoring the implementation of the Law no. 04/L-076 on Police.

of 2016. As a result, committee members from the opposition did not take part in most of the Committee meetings particularly during 2015 and the first half of 2016. Opposition MPs boycotted proceedings of the Committee and the Parliament because of the opposition to the Agreement on Association of Serb Municipalities in Kosovo and the border demarcation between Kosovo and Montenegro. Additionally, meetings of the CIASSKSF have repeatedly been cancelled and the efficiency of this Committee greatly affected, having a negative impact on the overseeingg of the security sector.¹³⁴

The Parliamentary oversight, with particular emphasis CIASSKSF, is faced with the lack of professional capacity due to the small number of administrative staff.¹³⁵ As shown by the activities of the Committee for 2015, parliamentary oversight of security institutions is still shallow and supervision by the Parliament is feeble.¹³⁶ It is therefore encourage that the Parliament uses its budget to invest in professional resources for this Committee allowing the engagement of experts in both the security and internal affairs fields. So far the CIASSKSF has been supported mainly by international organizations, however now it now seems to be an urgency to build an internal professional capacity that would allow for a genuine parliamentary oversight of the security sector through.¹³⁷

7.2. Police supervision from other institutions

7.2.1. Kosovo Police Inspectorate

The role, operations, and activities of the Kosovo Police Inspectorate (KPI) when overseeing the KP in 2015 have been addressed in previous sections of this report (see section “Internal Control” and the section “Police independence in decision-making”). This institution, as previously analyzed, is mandated to perform criminal investigations, disciplinary investigations, and integrity investigation against police officers, as well as regular and extraordinary inspections in the KP.

In 2015, KPI launched the regionalization project opening three regional offices in Gjilan, Prizren, and Mitrovica North. This was seen as a good opportunity to increase cooperation between KPI and citizens in various regions of Kosovo. Regional KPI offices should serve to prevent criminal and disciplinary violations of policemen, but

134 Kosovar Centre for Security Studies. Annual Report 2015 – Assembly of Kosovo (Period covered: January-December 2015), fq. 5.

135 Ibid, p 11.

136 Contributions collected from KCSS conference: “Assessment of the Kosovo Police Integrity”, November 26, 2015, Prishtina.

137 Ibid.

also to increase the integrity of the latter.¹³⁸ Since May 2016, KPI has been led by new Chief Executive Hilmi Mehmeti, who was announced as the best fit for this position by the MIA.¹³⁹

Within the KPI supervision party, CIASSKSF monitors the implementation of the Law on KPI. In 2013, the parliamentary committee came up with a report on the monitoring of this Law, where it found some irregularities in the functioning of the KPI mentioning that the Law on KPI was only partially implemented. Moreover, it notes the KPI violated the law when recruiting staff without the adequate training and knowledge.¹⁴⁰ Irregularities were observed in budget management when the KPI awarded its staff with two extra wages in the calendar year with no legal basis.¹⁴¹ Whereas, in relation to the Police, CIASSKSF criticized the KPI regarding criminal investigations against police officers the public display of unprofessionalism within the ranks of the KPI during the arrest of Police members suspected of criminal offenses on several occasions. However, CIASSKSF has not indicated the cases where the KPI was shown unprofessionalism.¹⁴² During monitoring of KPI, the Parliamentary Committee found there was application of double standards by the KPI when giving recommendations for suspension of police officers.¹⁴³ The Parliamentary Committee published some recommendations to prevent such irregularities, but it is not known whether these findings were taken into consideration by the KPI.¹⁴⁴

On the other hand, knowing the KPI budget is allocated by MIA and is financially dependent on the Government, there are concerns about the impartiality of the KPI in investigating possible violations or abuses occurring within the KP. The fact that the KPI and the KP function under the umbrella of the MIA has instigated the opinion that criminal investigations against officers are not unbiased and fully independent.¹⁴⁵ Moreover, the Ombudsperson has requested the KPI is stripped off criminal investigation powers against police officers on the grounds that when it comes to allegations of criminal offenses, even against members of the KP, the matter must be referred directly

138 Kosovo Police Inspectorate. Annual Report 2015, p. 40. Accessed on 5 May 2016 at: <<http://goo.gl/W00DTr>>

139 See: <<http://goo.gl/nuxlHa>>. Accessed on 9 May 2016.

140 Committee on Internal Affairs, Security and Supervision of the KSF. (June 2013). Report: Overseeing the implementation of the Law no. 03/L-231 on KPI, p. 9.

141 Ibid.

142 Ibid.

143 Ibid.

144 For more details on the recommendations of the parliamentary committee for KPI addressed to MPs, see: Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (19 June 2013). Report with recommendations for monitoring the implementation of the Law on Kosovo Police Inspectorate.

145 Transcript of the public hearing of the Committee on Internal Affairs, Security and Oversight of KSF, December 15, 2015, p. 17-18. Accessed on 9 May 2016 at: <<http://goo.gl/qqXmB8>>

to justice authorities.¹⁴⁶ The KPI should consolidate and strengthen its internal mechanisms to develop professional ethics within their ranks on a regular basis.¹⁴⁷ As an institution whose primary task is the supervision of the KP, the KPI should focus on the implementation of medium-term policies to strengthen ethics and integrity of police personnel, especially in developing measures against police corruption.

7.2.2. Ombudsperson Institution

Another important institution for supervision of the KP when it comes to respecting rights and freedoms is the Ombudsperson Institution (OI). In 2015, cooperation between OI and the KP expanded through joint meetings about human rights between leaders of both institutions. Regular communication and contact between the Police and the OI is required to guarantee the timely access of the latter to data from the former.¹⁴⁸

Regarding supervision of the KP in terms of rights and freedoms, OI considers the complaint mechanism as the most problematic issue. The Ombudsperson has not received complaints from the Police for violations of employees' rights but it is widely believed it is due to discrimination of the personnel in the workplace. According to OI, police personnel, as well as public sector employees, are afraid to complain because they may be the victims of retaliation and discrimination, and even dismissal from their position by superiors if they complain about their rights being violated.¹⁴⁹

OI supervises the work of the police on the occasion of public gatherings and protests. With the exception of the protest of 28 November 2015, where OI concluded there were serious violations of human rights by the police,¹⁵⁰ during other protests it has been assessed that the KP has been much more cautious and prudent. The Ombudsperson has not brought up allegations of police misconduct or abuse of power by the police against civilians in no other protest or incident.¹⁵¹

After amendments were made to the legislation of the Ombudsperson, the institution now also acts as the National Mechanism for Prevention of Torture and Other Cruel,

146 Interview, Hilmi Jashari, Ombudsperson, 25 March 2016.

147 Contributions collected from KCSS conference: "Assessment of the Kosovo Police Integrity", November 26, 2015, Prishtina.

148 Interview, Hilmi Jashari, Ombudsperson, 25 March 2016.

149 Ibid.

150 For more considerations of the Ombudsperson in connection with the intervention of the police in protest of 28 November 2015, see the section of this report titled: "Independence and decision-making in the Police"

151 Interview, Hilmi Jashari, Ombudsperson, 25 March 2016.

Inhuman, and Degrading Treatment or Punishment.¹⁵² OI has the right to conduct regular inspections in all detention centers, however they also intend to conduct inspections to police stations as well to guarantee people individuals are not deprived of the most elemental rights.¹⁵³

7.2.3. Anti-Corruption Agency

The Police cooperates with the Anti-Corruption Agency (ACA) on issues related to the declaration, origin, and control of assets and gifts to senior KP officers. Senior police officers are obliged to declare their assets to the ACA since 2008. In 2015, 57 KP officers declared their assets to ACA,¹⁵⁴ including the Director General of the KP, the two Deputy Directors, heads of departments, directors of departments, and directors of Police RPD to mention some.¹⁵⁵ Nonetheless, ACA has not recorded any irregularities in the process, thus filed no criminal charges against police officers.¹⁵⁶ Despite the declaration of assets, uncertainty about this information remains as a result of ACA not having the legal mandate to require a full disclosure of the origin of these assets from police officers.¹⁵⁷

There is no reference on the ACA 2015 annual report on any cases of conflict of interest within the KP. However, this issue seems to remain as one of the most challenging topics for the KP. During a risk assessment on corruption, KP identified the conflict of interests as a high risk for its senior officers. In response, the ACA suggested the KP to strengthen the integrity and issue an internal regulation on the prevention of conflict of interests within the Police.¹⁵⁸

7.2.4. Office of the Auditor General

The democratic oversight of public institutions on the field of economic and financial control is exercised by the Office of the Auditor General (OAG). OAG conducts annual audits of the financial statements of public institutions but it does not draft a separate

¹⁵² Article 17, Law No. 05/L-019 on Ombudsperson.

¹⁵³ Transcript of the public hearing of the Committee on Internal Affairs, Security and Oversight of KSF, December 15, 2015, p. 17. Accessed on 9 May 2016 at: <<http://goo.gl/qqXmB8>>

¹⁵⁴ The written responses of KP were sent in electronic form to KCSS on April 29, 2016.

¹⁵⁵ See the list of Anti-Corruption Agency of senior public officers for 2016. Accessed on 12 May 2016 at: <<http://goo.gl/Aj4nzG>>

¹⁵⁶ Interview with a senior Anti-Corruption Agency officer, 15 February 2015.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

audit report on Police, it includes it within the general annual report for the financial management of MIA.

In its 2014 report, OAG has estimated the KP has significantly tightened controls in the process of execution of payments and the penalties applied by contract delays caused by economic operators.¹⁵⁹ Meanwhile, OAG has consistently recommended strengthening controls of the KP fleet as it is not at a satisfactory level. Many police vehicles are waiting for service since 2009 and others have not been serviced due to lack of spare parts.¹⁶⁰ Considering the limited lifespan of these vehicles, the lack of service becomes a major concern and it has been brought up in several occasions by the OAG¹⁶¹ They insisted the Minister of Interior to review the reasons why previous recommendations to strengthen controls in the units were ignored. Other observations are related to improper maintenance of personnel files in the KP which were partially addressed by the Police.¹⁶²

CIASSKSF has suggested the KP to take necessary measures to implement the recommendations of the OAG regarding the annual financial statements and other budget expenditures.¹⁶³ The Parliamentary Committee has noticed that the Police only partially implemented the OAG recommendations regarding budgetary expenditures¹⁶⁴ and no information is available on other fields.

159 Office of the Auditor General. (June 2015). The audit report on the financial statements of the Ministry of Internal Affairs for the year ending on December 31, 2014, p. 15. Accessed on 12 May 2016 at: <<http://goo.gl/6XEVRp>>

160 Ibid, p 22.

161 Ibid, p 22.

162 Ibid, p 30.

163 Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force. (December 2015). Report with recommendations for monitoring the implementation of the Law no. 04/L-076 on Police, p. 1.

164 Ibid, p 21.

RECOMMENDATIONS

Human Resource Management:

- The Government of Kosovo should quickly adopt the law concerning early retirement of police officers and allocate budgetary resources to the Police on this issue to improve the age quota of police officers. The Police is encouraged to greater attention to ensuring a fair and transparent process of selecting candidates for police officers avoiding any possibility of nepotism or conflict of interest.
- The Police should take into consideration the recommendations of the Police Inspectorate for the promotion of police officers. Promotions should respect legal procedures and be conducted on the basis of merit. Additionally, Police management should address any relevant recommendations by the Parliamentary Committee especially the time limitation on rank promotion.
- The Government must urgently regulate health insurance for police officers. Life insurance must be provided to police officers in the course of their work because they do not receive any compensation or remuneration for injuries and wounds suffered during official duty.

Internal control:

- The Kosovo Police should prepare the plan of integrity with the primary aim of preventing and reducing corruption inside the institution. Its implementation requires an action plan providing concrete measures to strengthen Police integrity, especially on this issue: better management of the Police budget, better management of expenses in public procurement, as well as combating and preventing police corruption.
- Strengthen the professional capacity of the Police's internal control mechanisms to combat corruption. Police officers should be trained in anti-corruption strategies.
- Kosovo Police Inspectorate should develop the concept of professional ethics for the Police to investigate the integrity of the police personnel. In this regard, the KPI should perform its legal function of conducting integrity tests within police officers aimed at professionalizing and democratization the law enforcement sector. The KPI should be more transparent when it comes to the integrity of police investigations.

Police independence in decision-making:

- High-profile politicians, including but not limited to ministers of the Government of Kosovo, must not interfere with the work of the Police. Police inde-

pendence must be guaranteed and policemen should not be afraid to deal with politicians when the latter violates the law. Any kind of external interference in the internal affairs of the Police should be avoided by the management and top officials of the KP.

- The KP should feel motivated to work closely with government officials, especially party officials, because of their public responsibilities. This cooperation would give a clear sign of the proper functioning of the KP and by extrapolation the Government of Kosovo when it comes to the application of the rule of law in a fair and equal manner.
- The Kosovo Police should take into account the recommendations of national and international mechanisms regarding the Police intervention in the protest of 28 November 2015. The Kosovo Police Inspectorate until now (May 2016) should have been able to put together a report on the performance of the Police during this event. It is highly encouraged for the Police Inspectorate to investigate this matter as soon as possible. Justice authorities should also conduct an independent investigation, upon request of the Ombudsper-son, to address whether the Police violated human rights and overstepped its authority on this incident.

Transparency:

- The Kosovo Police communication with the public should be improved. The KP must provide more detailed information about its activities. In addition, they must build the capacity of the Police Information and Public Relations Office to respond to requests for information in a timely manner.
- The Police annual report should be made more thorough and include all activities of police departments, Regional Police Directorates. and internal mechanisms.
- The Police website must be upgraded and updated to comprise more information about the Police work. It should be easily accessible and user-friendly.

Public procurement:

- New amendments to the Law on Public Procurement should improve the financial transparency of security institutions, including the Kosovo Police. It should also improve the management of public procurement activities of the KP, knowing that in the past the police officers were suspected of abuse in procurement procedures.
- The Police should provide more information on the concluded contracts with economic operators regarding public procurement activities for the Police.

Democratic and parliamentary oversight of police:

- The Assembly of Kosovo should be more active and play a greater role on the democratic oversight of the Kosovo Police. The Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force should invest in professional resources by engaging experts in order to be able to conduct genuine parliamentary oversight of the security sector, especially the Police. However, under current circumstances the Commission does not have the capacity to oversee the financial costs of the KP and the enforcement of the Police legislation. Nonetheless, the Police should take more seriously the recommendations of the Committee regarding the implementation of the Law on Police.
- The KP should encourage police officers and civilian staff who are victims of violations of human rights in the workplace to lodge appeals to the Ombudsman Institution. Employees lodging appeals for violation of human rights, should not be subject to discrimination, victimization, or retaliation by their superiors.
- The Kosovo Police should address the recommendations of the Auditor General on the costs and financial control as stated in their annual audit reports.

INTEGRITY OF KOSOVO SECURITY FORCE

Author: Skender Perteshi

EXECUTIVE SUMMARY

Financial Management

- ⇒ During the past three years, budget spending in the Ministry of the Kosovo Security Force (MKSF) has been satisfactory. 95 percent of the budget allocated by the Government was spent;
- ⇒ Remaining challenge is the largest budgetary spending in the last 3 months of the year (70%);
- ⇒ MKSF set the 2016 budget at EUR 45 million, a 9 percent increase from the previous year (41 million Euros). This addition was done to modernize and meet the standards required for the transformation of the Kosovo Security Force into Kosovo Armed Forces.

Public procurement

- ⇒ The public procurement process continues to be a challenge for the Ministry of Kosovo Security Force due to weaknesses in the design of the requesting units in tender dossiers, and design of technical specifications;
- ⇒ Ministry of Kosovo Security Force has done almost no market research for the products, equipment, and services they have contracted through public procurement procedures, which could potentially lead to signing contracts with economic operators who bid higher prices than local market prices;
- ⇒ The current staff of the public procurement department in the Ministry of Kosovo Security Force has followed appropriate training of public procurement, however increased competence in defense procurement, construction engineering, and information technology is needed;
- ⇒ Article 3 of the Law on Public Procurement refers to exemptions for national security reasons. However, the absence of a unified and coherent regulation about these exemptions paves the way for integrity concerns;
- ⇒ During 2015, various economic operators have filed 6 complaints to the Procurement Review Body. 2 of these complaints were resolved in favor of the economic operators by the Procurement Review Body, and both complaints were public procurement activities of large value;

Internal check

- ⇒ Internal Audit Unit (IAU) of the Ministry of Kosovo Security Force has carried out the necessary professional training for audit and inspection of this institution. This unit is staffed only with 3 officers, a very small number compared to the number of inspections and supervisions this unit should perform;
- ⇒ During 2015, IAU conducted 9 inspections;
- ⇒ Of 33 recommendations made by the Internal Audit Unit for 2014, the Ministry of the Kosovo Security Force has addressed only 11;

Human Resource Management

- ⇒ Job descriptions were compiled in the early stage of establishment of the KSF;
- ⇒ Application of the principle of merit in all levels of promotion is required;
- ⇒ MKSF faces shortage of professional educated and trained staff in performing non-military duties, especially in the preparation of work plans, analyses and assessments of training needs for Security Force of Kosovo, and overall management of institution;
- ⇒ Lack of knowledge of foreign languages, especially English, is very problematic for this institution. This adversely affects bilateral partnerships and the establishment of interoperability, especially in the context of integration to the North Atlantic Treaty Organization (NATO).

Integrity and trust

- ⇒ MKSF is not part of the national strategy against corruption (2013-2017), and the ministry, has no obligation to implement this document. MKSF has recently been invited to intergovernmental meetings and ratified only a few obligations from the Action Plan;
- ⇒ 36 officers underwent the assets declaration process (source and verification). No information concerning the verification of declared assets has been made available to the public;
- ⇒ MKSF is in the process of drafting the plan of integrity, becoming the first governmental institution to develop such initiative;
- ⇒ Parliamentary oversight of the KSF is deficient.

1. INTRODUCTION

Trust, internal governance, and integrity are the main principles that guarantee a credible and sustainable functioning of the security institutions in Kosovo. The legal aspect which regulates the area of integrity and good governance in the Ministry of Kosovo Security Force (MKSF) was adopted, and is generally in line with European principles and standards. However, the adoption of legislation, their implementation in areas such as human resource management, public procurement, and control and supervision of public funds expenditure still remain challenges for the Ministry of the Kosovo Security Force (MKSF).

MKSF is still facing shortage of human resources in key management areas such as: public procurement, human resource management, oversight, and expenditure of public funds, as well as auditing. This research report evaluates and monitors the level of transparency and integrity in the institution, internal governance, and the cooperation of KSF with other institutions. Findings show that MKSF has challenges in terms of human resource management, especially in the areas of job description and promotion of officers and members of MKSF/FSK. Public procurement also faces great challenges, especially due to many flaws in the design of technical specifications for tendered dossiers and supervising the implementation of contracts concluded with economic operators.

This publication lists relevant recommendations regarding internal governance and integrity in MKSF. These recommendation are intended to serve as an instrument for advocacy in improving organizational performance in the security sector, building internal governance, and strengthening integrity in these kind of institution. Qualitative and quantitative research methods were used for the preparation of this report. MKSF representatives, representatives of Independent State Agencies, and other relevant partners were interviewed on these issue of integrity and good governance in the security sector in Kosovo. Also official reports of the MKSF and independent state agencies that address internal governance and integrity for MKSF were analyzed. For the completion of this monitoring report, Kosovar Centre for Security Studies (KCSS) has also used quantitative data of the Kosovo Security Barometer (KSB). The data presented in this report covers the monitoring period of 2015 until March 2016.

2. PUBLIC PROCUREMENT

2.1. Legal framework

Frequent amendments of the Law on Public Procurement (LPP) has increased the need to adapt the national legislation to allow the implementation of this law. These changes came not only as domestic requirement to reform public procurement system in Kosovo, but also as a need to harmonize with the directives of the European Union (EU) public procurement which are permanently updated. Recurrent amendments of LPP bring numerous challenges for MKSF staff in charge of public procurement procedures because of the need to undergo frequent trainings to adapt to the changes of the law. MKSF is also subject to LPP despite specifics of this ministry.¹⁶⁵

Article 3 of the LPP law provides that the contracting authority is not required to follow any special procurement procedures, or supervise the provisions of this law on the degree of transparency when compliance with such procedures would jeopardize the interests of national security during the execution of procurement activities.

However, completion of these procedures for law enforcement agencies like the MKSF may only be achieved if the approved regulations abide by Article 3 of the LPP. In addition, these regulations detailing the procedures must be in accordance with the Defense Procurement Directive EU 2009/81.

2.2. Administrative capacity

The Public Procurement Department which operates under the MKSF composed of uniformed and civilian personnel is responsible to the Secretary and Minister of KSF for all public procurement activities. Currently, this department employs 5 officers who are responsible for monitoring and assessing of contracts and bids for all public procurement activities of MKSF. The department compiles the annual procurement plan for the needs of MKSF which must be submitted to the Central Procurement Agency 60 days prior to the beginning of each financial year, for approval.¹⁶⁶

Through public procurement procedures in 2015, MKSF spent over 18 million Euros, supervised by the procurement department of the MKSF. Due to the large number of contracts and procurement activities performed by the MKSF, it is generally believed that 5 officers are not enough to adequately and efficiently supervise all these activities.

¹⁶⁵ Assembly of Kosovo. Public Procurement Law 2016, Article 3

¹⁶⁶ Ibid:

Besides the inadequate number of staff, the public procurement department of MKSF has shown stagnation in terms of capacity for evaluation of the bids coming from economic operators, and especially those for special security and defense equipment required by the KSF. Furthermore, monitoring results indicate that no research of current market prices has been done as MKSF lacks a market research unit.

Besides human and professional constraints the public procurement department faces, there is also the challenge when requesting units from. The requested units are responsible for planning and designing of all requests for capital investments, goods and services, and other activities which are related to public procurement in this institution.

2.3. Implementation

All announcements for opening of public procurement procedures are published on the website of the Central Procurement Agency (CPA) and MKSF. Apart from drafting the annual procurement plan, MKSF also designs an annual cash flow report which should be in sync with the annual public procurement to ensure better overseeing of expenditure of public funds, as well as quality services from economic operators.¹⁶⁷ In the past three years, MKSF carried out most of the payments (60 %) towards the end of the calendar year, especially in December. This way of making payments is not in accordance with the MKSF annual plan of spending public money. The haste to perform multiple payments in the last month to prevent the loss of budget surpluses make control and financial oversight of the expenditure of public funds more challenging towards the end of the year.

During 2015, the MKSF department of public procurement has conducted a total of 154 public procurement activities of small, medium, and large scales. Out of this 154 procurement activities, MKSF has signed 119 contracts with economic operators for capital investments, goods, and services. In about 26 other cases, the public procurement procedure was terminated by MKSF to improve tender dossiers and technical specifications.¹⁶⁸

Implementation and monitoring of concluded contracts with economic operators represents another problem for MKSF. A very small number of managers are charged with the supervision and implementation of the 119 contracts concluded between MKSF and various economic operators in 2015. In most cases, one manager is in charge of

¹⁶⁷ Auditor General Report on the Ministry of the Kosovo Security Force for 2014 <http://oag-rks.org/repository/docs/RaportiAuditimit_MFSK_2014_Shqip_946941.pdf>

¹⁶⁸ Interview with the Director of Public Procurement Department of the Ministry of the Kosovo Security Force, Afrim Maxhuni, 18 March 2016, Ministry of Kosovo Security Force

overseeing the implementation of more than 2 or 3 different contracts, at the same time.

MKSF lacks market research regarding the prices offered by the economic operators for military and defense products and equipment. Kosovo has no defense industry, therefore MKSF imports from economic operators operating abroad, especially when it comes to special equipment for MKSF. The lack of information on market prices is being exploited by various economic operators who bid higher prices for providing services and goods needed by KSF and MKSF.¹⁶⁹

In public procurement procedures, MKSF usually turns to the lowest price as the main selection criterion, which is permitted based on the LPP. This practice is challenged by public procurement procedures for signing contracts for the supply of food and drinks of MKSF, when the most economically advantageous criterion was not applied. In October 2015, MKSF announced the tender for the supply of food and drinks for all MKSF quarters would be "BENI DONA" company, which bid 800,000Euros higher than the second cheapest operator. However, feeling discriminated against by the MKSF evaluation panel, "Florenti dhe Korabi" company lodged a complaint to the Procurement Review Body (PRB). PRB assessed the complaint of this company and canceled the procurement process for this tendering, returning it to re-tendering status. MKSF suspended the public procurement procedures based on the decision of PRB, which instigated a complaint by "BENI DONA" company against the decision of MKSF.¹⁷⁰ PRB accepted the "BENI DONA" complaint, but because of the lack of PRB board, no final decision has been rendered yet.¹⁷¹

During 2015, economic operators have filed 6 complaints to PRB because they felt their businesses were jeopardized by the evaluation and selection process in public procurement procedures in the MKSF. PRB has adjudicated 2 complaints in favor of the economic operators. One complaint was related to the supply of fuel and oil for MKSF, where PRB assessed that the contracting authority, had violated the LPP and recommended re-evaluation of the procurement assessment. The other complaint was related to the supply of food and drinks for MKSF and previously addressed. Both

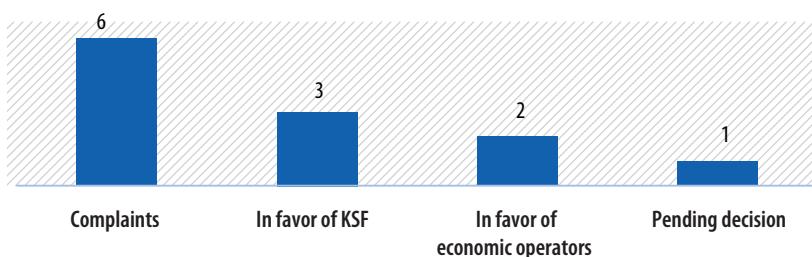
169 Interview with a senior officer of the Ministry of the Kosovo Security Force, 17 March 2016

170 For more information, see the PRB decision: https://oshp.rks-gov.net/repository/docs/vendimet/2015/511-15_vendim_mfsk_4_1.PDF

171 For more information, see the PRB decision: https://oshp.rks-gov.net/repository/docs/vendimet/2015/511-15_vendim_mfsk_4_1.PDF

complaints dealt to public procurement activities of great value.¹⁷² Regarding three other complaints, PRB decided in favor of the contracting authority, and dismissed the complaints of economic operators for lacking legal base. One appeal from an economic operator is still pending due to absence of the PRB board.

Figure 1. The number of decisions of the Procurement Review Body, complaints of economic operators for MKSF



Guaranteeing an efficient public procurement process requires the improvement of communication between the requesting MKSF units, logistics department, procurement department, and the internal audit. Currently there is no harmonization of activities related to public procurement procedures, overseeing the implementation of contracts, drafting technical specifications for public procurement procedures. The proper implementation of Standard Operating Procedures (SOPs) helps augmenting communication within MKSF departments, division of labor between departments in terms of strengthening the integrity and good governance in MKSF, and efficient management of public funds, including public procurement procedures.

172 Based on LPP, contracts were provided as small, medium and large value. The following shall be considered as a "Large value contract": 1.1. a supply contract or a service contract the estimated value of which is equal to or greater than, or can reasonably be expected to be equal to or greater than, 125.000 Euro; or 1.2 Works contracts the estimated value of which is equal to or greater than, or can be reasonably expected to be equal to or greater than, 500.000 Euro. 2. The following shall be considered as a "Medium value contract": 2.1. a supply contract or a service contract the estimated value of which is equal to or greater than, or can reasonably be expected to be equal to or greater than, 10,000 euro but less than 125,000 euro; or Works contracts the estimated value of which is equal to or greater than, or can be reasonably be expected to be equal to or greater than, 10,000 euro, but less than 500.000 euro. 3. The following shall be considered as a "low value contract": Any public contract the estimated value of which is equal to or greater than, or can reasonably be expected to be equal to or greater than, 1000 euro, but less than 10,000 euro. 4. The following shall be considered as a "minimal value contract": Any public contract the estimated value of which is less than, or can reasonably be expected to be less than, 1000 Euro

3. HUMAN RESOURCE MANAGEMENT

3.1. Legal framework

The legal framework which regulates human resources management and civil servants in Kosovo is in accordance with international standards, and the main principle in the process of recruitment, promotion, transfer and evaluation is merit. The Assembly of Kosovo adopted the law on civil service 03/L-149, which regulates the status of civil servants and their relationship in public administration. This law covers public administration at national and local level including: Assembly of Kosovo, the Government of Kosovo (ministries), public enterprises, and independent state agencies. MKSF officers and not uniformed personnel are subject to the Law on civil service.¹⁷³

Human resources within MKSF are regulated by the Law on Service in the KSF no. 03/L-082 and the Regulation no. 06/2013 on career development and promotion of KSF members. Law on service in the KSF applies to all KSF members, including but not limited to the composition and uniformed recruits (active and reserve).¹⁷⁴

For more efficient human resources management, performance evaluation, as well as career advancement of KSF members, the institution has developed secondary legislation regulating the internal functioning of MKSF and KSF.¹⁷⁵ MKSF has developed: a) Regulation no. 102/2011¹⁷⁶ for the resolution of complaints for MKSF members, which handles and resolves complaints of KSF officers and members; b) Regulation no. 02/2014, which regulates the procedures for the annual evaluation of the work and performance of civilian and uniformed members of the KSF; c) regulation no. 06/2013 on career development for civilian and uniformed members of the KSF; d) disciplinary code of the KSF, which aims to strengthen order and discipline within the MKSF, with a view to prevent and combat disciplinary violations of MKSF, and building integrity in the KSF; e) Regulation no. 02/2013¹⁷⁷ on KSF recruitment which regulates the process of selection and recruitment of civilian and uniformed members of the KSF; f) Regulation no. 06/2015 which defines the tasks, organization, and mandate of the KSF Inspectorate¹⁷⁸

¹⁷³ Assembly of Kosovo. Law on Civil Service <https://kk.rks-gov.net/prishtina/getattachment/Sherbime/Tema/Kodi-i-miresjelljes-per-sherbimin-civil/Ligji-per-sherbyesit-civil.pdf.aspx>

¹⁷⁴ For more information, see: <<http://www.mksf-ks.org/?page=1,76>>

¹⁷⁵ For more information, see:

¹⁷⁶ For more information, see:

¹⁷⁷ For more information, see:

¹⁷⁸ For more information, see:

; g) Regulation no. 04/2011,¹⁷⁹ for the dismissal of KSF members from service; and h) Regulation no. 04/2009 on wages for civilian and uniformed members of the MKSF and KSF.¹⁸⁰

3.2. Administrative capacities

MKSF Personnel Department is combined with civil and uniformed staff. Most of the staff who work in this department have been employed in the Kosovo Protection Corps (KPC) and have a long experience in human resources management. This department takes care of the overall management of human resources in MKSF, job description and assignment of duties for members and civilian staff of the MKSF, follows promotion, advancement and promotion of members and staff in the institution.¹⁸¹

3.3. Implementation

The Government of Kosovo has managed to establish good services and working conditions for members and officers of MKSF/KSF. MKSF structure is combined with each of MKSF department consisting of civilian and uniformed staff. MKSF/FSK has created good working conditions for members and officers, such as salaries, food, transportation, vacations, education, and other conditions, which makes the MKSF staff the most "privileged" in public administration in Kosovo. Salaries of civil servants working in MKSF distinct from civil servants of other public institutions in Kosovo, even the salaries of MKSF officers are significantly higher than of their peers in other Ministries, which makes this institution more specific terms of the remuneration. Consequently, on the civil staff of the MKSF, does not apply the Law on Salaries of Civil Servants no. 3/L 147 (LCS). MKSF applies this salary scale based on a decision of the Government of Kosovo of 2009. Justifications are based on the premise of establishing an equivalence in salaries between military and civilian staff, where the difference is 5 percent higher for military personnel although, comparatively, counterpart of a sector head in other ministries of the Government earns much less. However, MKSF has not disbursed bonuses provided by Government decision. In general, better working conditions made MKSF staff highly motivated to work, and see this institution as an opportunity for career advancement, especially the uniformed members of the Kosovo Security Force. Motivation and desire to work in MKSF is demonstrated by large number of applicants

179 For more information, see:

180 For more information, see:

181 Interview with Colonel Skender Zhitia - Director of Human Resources Department in MKSF. 18 March 2016 - Ministry of Kosovo Security Force.

who want to get employed in MKSF, where only during the last vacancy, the institution received 5885 applications forms.

Job description for officers and members of KSF/MKSF exist, but they have been compiled before this institution existed. This was done with the help of the NATO Advisory Group. While at the time of their design, JDs were satisfactory, now after gaining practical experience, a part of the job description are generic and do not correspond to some positions. In other words, there is a discrepancy between JDs and the tasks they perform in practice, especially civilian staff. Up to now, there has been no update of job descriptions, however a process launched with the assistance of the Norwegian Government aims to review and analyze jobs, especially in order to create positions for its new mandate, after the transformation of this institution into Kosovo Armed Forces (KAF)

Incomplete job descriptions in this institution have also led to poor performance appraisal of MKSF and KSF officers. Performance appraisal of these officers and members is done on a regular basis. More accurate performance appraisal is done for MKSF officers, while for the uniformed members of the KSF, appraisal is done more as a routine, rather than based on works that should be carried out by MKSF officers, because of incorrect job descriptions. Civil staff is appraised the same as the military personnel, although since 2012 there is a Regulation of the Ministry of Public Administration (MPA) 2012/19. Currently, this regulation has not been implemented because it requires training of staff on new procedures.¹⁸²

Some positions in KSF/MKSF are held by acting heads. Filling these positions is pending the adoption of the amendments to the Strategic Security Sector Review (SSSR) and transformation of this force into a military force, with new mission and mandate.¹⁸³Currently, two department directors of MKSF function as acting directors. Chief of staff of FSK, one officer working in the Minister's office, and two senior management officers in the KSF are also acting.¹⁸⁴Holding these positions with acting officers may impact the overall performance of officers, as well as the independence in decision-making.

Job of a KSF member is regarded as very attractive by Kosovo citizens, especially young people, considering very high unemployment rate. KSF during vacancy announcements received a large number of applications. In the announcements for the admis-

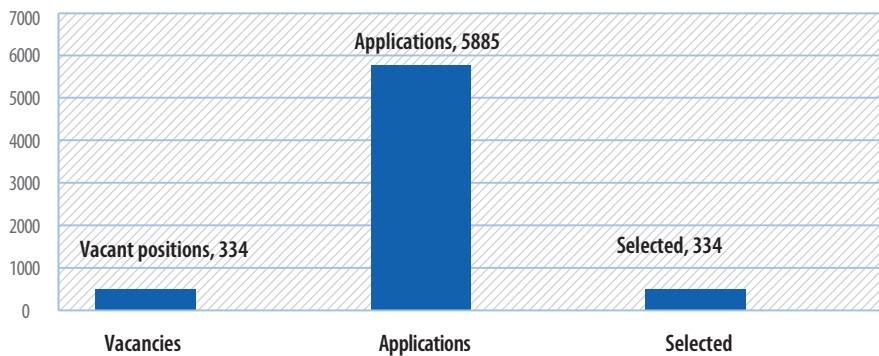
¹⁸² For more information see the Regulation on civil servants' performance appraisal: <<https://map.rks.gov.net/getattachment/d5cd6705-10c1-4b02-a6e1-3cd12c76ed67/RREGULLORE-NR-19-2012-PER-VLERESIMIN-E-REZULTATEVE.aspx>>

¹⁸³ Interview with Lieutenant Colonel Skender Zhitia - Director of personnel in MKSF. 18 March 2016 - Ministry of Kosovo Security Force

¹⁸⁴ Interview with Lieutenant Colonel Skender Zhitia - Director of personnel in MKSF on 18 March 2016 - Ministry of the Kosovo Security Force

sion of new recruits for military staff in 2014/2015, MKSF had planned recruitment of 334 new recruits¹⁸⁵. For these 334 vacancies, 5885 candidates applied. The competition was very strong, and the ratio between vacancies and job applications was one to 17-18. This is an indication that the evaluation of applications and the selection process of candidates in a fair and transparent manner has been very difficult because of the large number of applications.¹⁸⁶

Fig. 2. Number of job applications in KSF in 2014/2015



Recruitment and selection process for KSF members was criticized for not being fair and transparent process in assessing candidates for KSF members. For this process, based on the statements of at least one member of Kosovo Parliament, complaints were lodged by applicants, who had suspicions in the recruitment process, alleging that candidates were not accepted on the basis of merit and the results of the testing process and interview, but that a large number of candidates were selected on the basis of nepotism, and the regions they came from.¹⁸⁷ This question was posed to KSF Commander during his reporting to the parliamentary committee for internal affairs and security, and supervision of the KSF in March 2016.¹⁸⁸ However, compared with the

185 Interview with Lieutenant Colonel Skender Zhitia - Director of personnel in MKSF on 18 March 2016 - Ministry of the Kosovo Security Force

186 Interview with Lieutenant Colonel Skender Zhitia - Director of personnel in MKSF on 18 March 2016 - Ministry of the Kosovo Security Force

187 Anton Cuni, member of the Committee for Internal Affairs and Security and Supervision of the Kosovo Security Force, made during reporting of KSF Commander before the committee members on 9 March 2016. Assembly of Kosovo. < http://www.kuvendikosoves.org/common/docs/proc/proc_2016_03_09_11_6350_al.pdf>

188 Anton Cuni, member of the Committee for Internal Affairs and Security and Supervision of the Kosovo Security Force, made during reporting of KSF Commander before the committee members on 9 March 2016. Assembly of Kosovo. < http://www.kuvendikosoves.org/common/docs/proc/proc_2016_03_09_11_6350_al.pdf>

number of applications received, the number of complaints from unsuccessful candidates was very small. Only 5 candidates complained about the selection and recruitment procedures carried out by MKSF, which were handled by the MKSF Recruitment Office. This shows a lack of culture to appeal, not only because of short institutional tradition, but also because of disbelief that complaint could result in changes in favor of the parties.

Also, during the recruitment process, low levels of scrutiny is given to the candidates when they apply to become part of the KSF. This deficiency was the result of small number of staff who worked in the recruitment and selection process. There is also the lack of cooperation between state institutions and law enforcement institutions when exchanging of information needed to evaluate and select applicants for MKSF, affected the vetting process of applicants.

KSF members have an opportunity for career development within the institution. It is worth mentioning that cadets who are educated at the University Studies Center (USC) within the KSF, attend professional trainings delivered by renowned academies in the United States (US) and Great Britain, who show great results.¹⁸⁹

Last year, a former cadet of USC (MKSF) was declared best international cadet at the Royal Military Academy, Sandhurst, UK.¹⁹⁰ However, KSF officers are unable to exercise the experiences and skills mastered abroad after returning, due to their current status and its mandate. Delays in changing the current mission of the KSF, from an intervention force in case of civil emergencies to a military force resulted in reducing motivation of officers and USC graduates as well as generally among KSF soldiers.¹⁹¹.

Low and middle management and commanding level of FSK/MKSF is well covered with military officers, well educated, specialized, and ready to perform other defense tasks, in addition to current tasks of MKSF/KSF provided by law. These officers are mainly distinguished cadres, educated by the University Study Centre of KSF. MKSF is short of career officers at the strategic level, who would be willing to take on new tasks, to be assigned to KSF in the future.

Based on advancement and promotion plan for KSF members, the institution promoted in career a number of officers and NCOs of the KSF. In 2015, MKSF promoted 242 KSF members, including highest officer ranks NCOs. The highest number of promoted personnel in 2015 was comprised of NCOs, with 218 advancements and promotions,

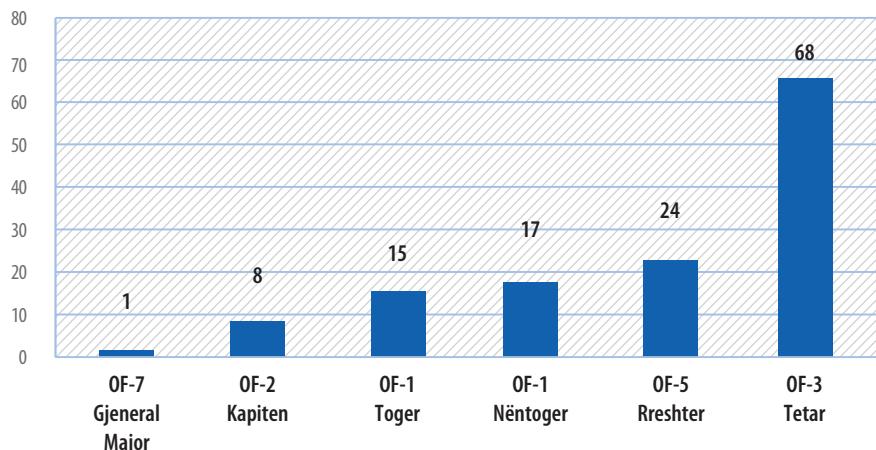
¹⁸⁹ KSF Lieutenant Ismail Hoxha, declared best international cadet at the Military Academy in London <<http://gazetablic.com/kadeti-i-fsk-se-ismail-hoxha-shpallet-me-i-miri-ne-akademine-ushtarake-ne-londer/>>

¹⁹⁰ KSF officer declared the best of international students in Sandurst Royal Military Academy in the UK.

¹⁹¹ Interview with an officer of the KSF, graduate of USC in the KSF, 16 December 2015, Pristina

while only 24 promotions in the ranks of officers were made in 2015.¹⁹² Unknown reasons for scarce promotions in senior officer level, and we do not have data about the complaints process. Promotions in military chain, set in motion many officers, and helps not only in strengthening the system of human resources management, but also in building one of the primary motivations for every career officer.

Fig. 3. The number of promotions in MKSF in 2015.



On the other hand, MKSF/KSF faces shortage of professional educated and trained staff, in top management level of the uniformed and the Ministry of KSF, in performing the non-military works, especially in the preparation of work plans, analysis and assessment of training needs for KSF, and overall management of institution; Only 55 percent of civil servants who work in MKSF completed university education. While uniformed KSF members, only 25 percent hold university degree.¹⁹³ Out of 25 percent of staff with university degree among KSF members, 80 percent of them are officers, while the rest are NCOs.¹⁹⁴ Knowledge of foreign languages, especially English language, is not satisfactory among KSF members and MKSF officers.¹⁹⁵ Affecting the bilateral partnership and establishment of interoperability, especially in the context of integration in the North Atlantic Treaty Organization (NATO). Lack of knowledge of foreign languages

¹⁹² Interview with the Director of Human Resources Department in MKSF, Skender Zhitia, 18 March 2016. Ministry for Kosovo Security Forces.

¹⁹³ Interview with the Director of Human Resources Department in MKSF, Skender Zhitia, 18 March 2016. Ministry for Kosovo Security Forces.

¹⁹⁴ Interview with the Director of Human Resources Department in MKSF, Skender Zhitia, 18 March 2016. Ministry for Kosovo Security Forces.

¹⁹⁵ Interview with the Director of Human Resources Department in MKSF, Skender Zhitia, 18 March 2016. Ministry for Kosovo Security Forces.

by professional staff at senior management level officers at KSF and MKSF slows down the integration of this institution into NATO, and makes it difficult to build and develop standards and criteria for the armed forces established by NATO.

Government of Kosovo has not managed to solve the issue of health insurance for KSF members. Besides members of the demining company, no member of the MKSF or KSF has health insurance, which makes it the only defense institution in the region with no health insurance for its members. Absence of military hospital further exacerbates this situation.

However MKSF has managed to solve the issue of retirement of its members. Compared to the Police, Law on Retirement of KFS members 2011/04-L-084 enables retirement under certain categories, receiving pensions based on scales and in accordance with the last rank members held. Implementation of this law is satisfactory.

KSF sends a large number of uniformed and civilian officers for training abroad. The selection process of candidates for training abroad is not based on merit and professional training of members and officers of MKSF/KSF. Often there are flaws in the criteria for training and specialization abroad, favoring certain officers who are closer to the current senior management of KSF.¹⁹⁶

MKSF also failed to address the issue of employees' service contracts with various officers, ignoring the competition, contrary to the law on civil servants. A number of MKSF officers still work with service contracts, officers engaged in several departments, depending on the needs of MKSF.¹⁹⁷ In the absence of needed planning of MKSF, about its staff, the institution still engages officers based on temporary contracts, ignoring the open competition for recruitment.¹⁹⁸

MKSF faced difficulty with integration of the Serb minority in the MKSF, who for political reasons, have not joined this institution. There was institutional willingness on the part of Kosovo to integrate the Serb minority, but the dominant anti-KSF discourse in Serbian political circles has significantly hampered their integration.¹⁹⁹ Also the Serb municipal leaders in northern Kosovo have been active in preventing Serbs to integrate in the KSF, having a direct impact on the integration of Serb to the KSF.²⁰⁰ Howev-

¹⁹⁶ Interview with a senior officer of the Kosovo Security Force, 18 March 2016, Ministry of Kosovo Security Force

¹⁹⁷ Interview with the Director of Human Resources Department in MKSF, Skender Zhitia, 18 March 2016. Ministry for Kosovo Security Forces.

¹⁹⁸ OAG 2014 **Error! Hyperlink reference not valid.**

¹⁹⁹ For more information, see: <**Error! Hyperlink reference not valid.**>

²⁰⁰ For more information, see: <<http://www.evropaelire.org/a/1491408.html>>

er, there is a good integration rate of members of other minorities living in Kosovo.²⁰¹ The table below shows that, with the exception of the Serb community, the rest of minorities are well represented in the KSF, even over-representation comparing this number to the total number of population, which also proves their trust to KSF. Financial aspects and sustainable employment in the KSF also has been a motivating factor for minority communities to integrate and work in MKSF/FSK.

Table 2. The number of members in the MKSF, including the minority communities

Ethnicity	Number of members	Percentage of integrated in KSF (percentage)	Percentage in total, according to the last census in 2011 (percentage)
Albanian	2,043	91.08	92.9
Serbian	42	1.87	1.5 ²⁰²
Bosnian	48	2.14	1.6
Turk	55	2.45	1.1
Ashkali	28	1.25	0.9
Roma	3	0.13	0.5
Gorani	2	0.9	0.6
Other	4	0.18	0.1

4. INTERNAL AUDIT IN MKSF

4.1. Legal framework

Two important laws related to the functioning of internal audit units are: Law on Public Financial Management and Accountability no. 03/L-048 and the Law on Internal Audit Unit no. 02/L-74.

Current Law on Public Financial Management and Accountability no. 03/L-048 has created enough space for establishing efficient control over public finances, and defines in detail the procedures for submission of budget proposals and reporting, it also de-

201 KCSS 2015 - Representation of minorities in the Kosovo security institutions. <http://www.qkss.org/repository/docs/P%C3%ABrfshirje_apo_p%C3%ABrjashtetet_n%C3%AB_Sektorin_e_Siguris%C3%ABn%C3%AB_Kosov%C3%ABn_e_Pas-pavar%C3%ABsis%C3%AB_805000.pdf>

202 Serbs in northern Kosovo have not responded to the call for census conducted in 2011. Also Serbs living in southern Kosovo have partially responded to the call for census.

fines the mandate of institutional mechanisms of supervision and control of public finances.²⁰³ However the Law on Internal Audit no. 02/L-74 has established sufficient legal basis for the regulation of internal audit in the public sector. The Law on IAU defines the responsibilities and mandate of IAU and ensures complete independence in the exercise of the mandate by the internal auditors.²⁰⁴ The purpose of this law is to establish greater and more efficient control in overseeing spending of public money. This law obliges local institutions to establish audit committees with the aim of monitoring and supervising public spending by the institutions, including MKSF²⁰⁵

4.2. Administrative capacities

Internal Audit Unit (IAU) operates within the MKSF. Within the existing structure, IAU is accountable to the MKSF Secretary which is believed by many not to be the proper accountability structure. IAU within the MKSF operates with 3 officers, internal audit director, deputy director, and a general officer. These officers are certified by central audit unit, and usually undergo the necessary training towards improving the quality of internal audit within the Ministry of KSF.²⁰⁶ Considering the considerable size of MKSF budget, as well as the complexity of the nature of its work, three officers are not enough to meet the minimum requirements of IAU in the MKSF. For over a year, for various reasons, IAU has been operating with only two officers,²⁰⁷ further hampering the work and activities of the IAU within the MKSF.²⁰⁸ This unit needs to add staff in the IAU in order to be able to increase its efficiency, the effective monitoring and supervision of the activities of MSF.²⁰⁹

With the current number of staff, the IAU faces difficulties in carrying out inspections on public procurement procedures, assessing the quality of services received from economic operators, managing of human resources, properties, and assets of MKSF, and controlling the legality of public expenditures in MKSF.

203 Assembly of Kosovo - Law on Public Finances Control and Management

204 Assembly of Kosovo - Law on Internal Audit Unit

205 Assembly of Kosovo - Law IAU

206 Interview with the MKSF Internal Auditor - March 2016

207 An MKSF IAU officer had health problems for a year

208 Interview with MKSF Internal auditor - 18 March 2016 - Ministry of the Kosovo Security Force

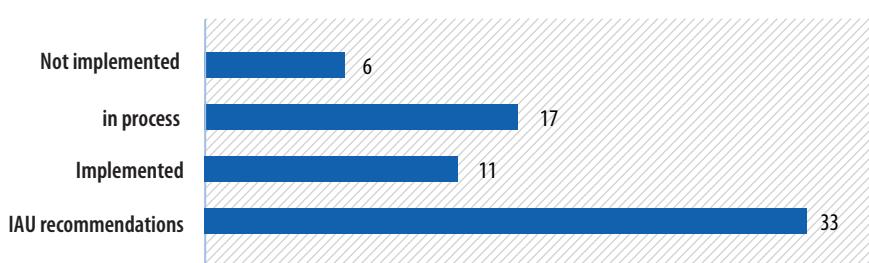
209 Interview with a senior officer of the Ministry of Kosovo Security Force, 18 March 2016, Ministry of Kosovo Security Force

4.3. Implementation

Internal Audit Unit (IAU) of the MKSF, in line with estimates and projections, compiles the annual and three year audit plan. These plans include regular audits, and ad-hoc or emergency audits. Regular annual audit plan is based on the assessment of risks that may occur in the most sensitive sectors, with major budget expenditures, such as public procurement procedures, asset management, human resources, and KSF facilities of strategic character. Based on this assessment, IAU defines the objectives and inspections to be performed in MKSF.²¹⁰

In 2015, regular and extraordinary inspections and audits were conducted in the most sensitive sectors of the MKSF. Of these, 8 were regular audits foreseen by the annual audit plan, and one ad hoc audit upon request of MKSF management. IAU in 2015 has drawn 8 inspection reports, with a total of 33 recommendations, of which 11 recommendations have been fully implemented, 17 recommendations are in the process of implementation, and 6 recommendations were not implemented. The low level of addressing the IAU recommendations by the MKSF is slowing the reform of the MKSF and improving its internal governance.

Fig. 4. The degree of addressing the IAU recommendations by the MKSF



The findings of the inspections note cases where MKSF has entered into service contracts with various officers, for specific MKSF departments, overlooking open competition. A certain number of MKSF officers are working on temporary contracts, who are recruited for specific MKSF departments, especially for specific expertise not possessed by the MKSF staff.

Internal audit reports have identified shortcomings in the department of logistics, especially lack of analysis of market prices for goods, equipment, and services needed by KSF. This is also confirmed by the purchase of buses, where two of them were purchased exorbitant sums of money far above market price. Human resources manage-

210 Law on MKSF service

ment remains among the greatest challenges of the MKSF, as observed by IAU. IAU carried out inspections and observed deficiencies regarding job descriptions for civilian and uniformed personnel. There is no proper identification and division of the available positions, all information is standardized lacking description essence and individuality.

5. INTEGRITY AND TRUST IN MKSF

MKSF has drafted the disciplinary code which aims to strengthen the integrity of members of the KSF, to prevent disciplinary violations, to define offenses which do not constitute a criminal offense, and to establish procedures for addressing and handling complaints against KSF members. The behavior of MKSF/KSF members and officers is regulated by the KSF code of conduct. Conduct of MKSF officers and members is very important to preserve the image, credibility, trust and overall integrity of the force.²¹¹

To prevent potential abuses to institutional integrity of FSK/MKSF, it is required to develop plans on institutional integrity. An integrity plan would set clear objectives of KSF to prevent potential abuse of funds, involvement of KSF/MKSF officers and members in corrupt practices, threat and risk assessment from spending funds public, especially those in the KSF public procurement system.

Currently, MKSF has no detailed basic document to work on promotion and strengthening of its integrity. There is no qualitative assessment of threats and risks that may affect KSF's integrity and credibility, and take measures to combat and prevent them. MKSF, supported by a Norwegian project, made the initial steps toward drafting documents and policies for the promotion and establishment of integrity within the KSF. KSF Integrity Plan is under preparation, which will present objectives, in terms of strengthening its integrity and credibility. A working group composed of MKSF/KSF officers and experts from the Center for Integrity of the Norwegian Ministry of Defense was established to draft the Integrity Plan, , which is expected to be finalized by the end of the first half of the year.²¹² The focus of the KSF integrity plan must be oriented towards combating and preventing corruption in the MKSF, especially in public procurement procedures in Kosovo, preventing abuse of position and official authority in MKSF, human resource management, prevention of conflict of interest, and strengthening of internal controls.

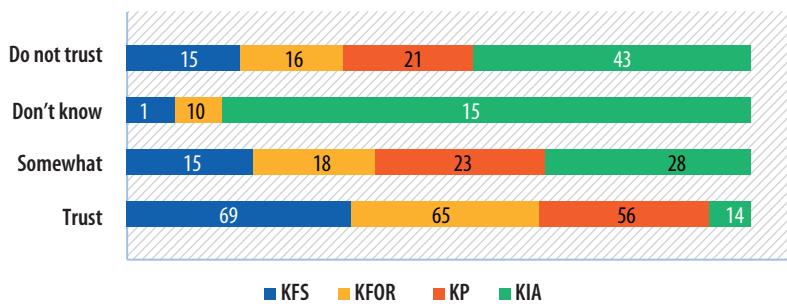
211 For more information: http://www.mksf-ks.org/repository/docs/KODI_DISPLINOR_I_FSK- Nr 01-2013.pdf

212 For more information: <http://kallxo.com/qeveria-norvegijeze-ndihmon-fsk-ne-tu-afrohet-standardeve-te-nato-s/>

5.1. Public trust in KSF

KSF enjoys high trust of citizens. Since years, KSF was ranked as the most trusted security institution in Kosovo. In the last survey presented in December 2015, within the Kosovo Security Barometer (KSB 2015), about 69 percent of respondents said they trust and are satisfied with the performance of KSF.²¹³ KSB 2015 data also show that 65 percent of respondents trust KFOR, while 56 percent trust the Kosovo Police.²¹⁴

Figure 5. Perception of Kosovo citizens regarding trust in FSK



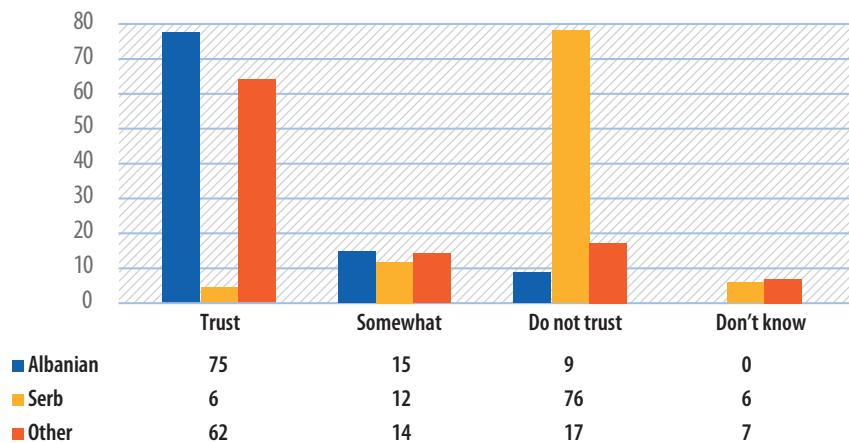
KSF enjoys great trust from even minorities in Kosovo, with the exception of the Serb population. KSF enjoys the trust of Albanian population with 75 percent respondents. Then the non-Serb minority communities (Turks, Gorani, Bosnians and RAE) with 62 percent of them trust the work of KSF. While the Serbian minority has a great reservation regarding the work of KSF, where about 76 percent of respondents from the ranks of the Serb community in Kosovo, do not trust the work of the KSF, while the rest are somewhat neutral. The process of integration of Serbs in KSF remains under the direct influence of the Serbian political stance towards Kosovo's statehood and to the institution of KSF itself, seen as a threat to Serbian security by Serbians themselves. Despite the Serbian community stance over the work and activities of KSF, this institution managed to integrate in its structures a solid number of Serbs as equal members of KSF.²¹⁵

213 Kosovo Security Barometer. KCSS 2015

214 Kosovo Security Barometer. KCSS 2015

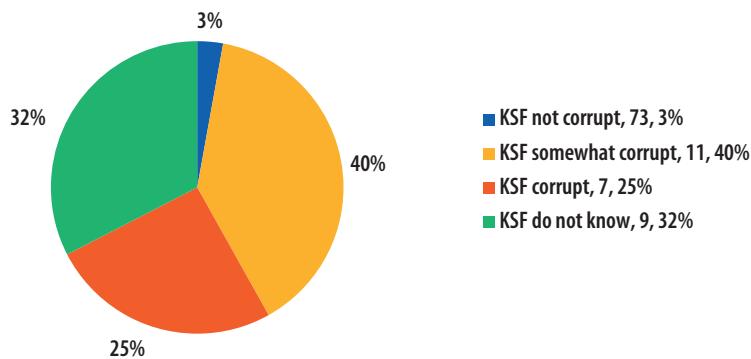
215 Kosovo Security Barometer. KCSS 2015

Fig. 6. Trust in KSF by communities



Citizens were also asked about their perceptions regarding the extent of corruption within the KSF. Out of 1,070 respondents, 73 percent assess that KSF is not corrupt, while 7 percent of respondents expressed the opinion that the KSF is corrupt, and 11 percent of them stated that to some extent there is corruption in KSF. The rest, 9 percent of respondents, did not provide an opinion regarding the spread of corruption within KSF.²¹⁶

Fig. 7. Perception of spread of corruption in KSF



216 Kosovo Security Barometer. KCSS 2015 <http://www.qkss.org/repository/docs/Barometri_Kosovar_i_Sigurise - edicioni_i_pestë_621222.pdf>

6. DEMOCRATIC AND PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR IN KOSOVO

6.1. Legislation

The Assembly of Kosovo approved laws that govern the mandate and function of independent state agencies. It approved the law no. 03/L-075, Office of the Auditor General (OAG), which is mandated to audit all financial activities of public institutions that operate in central and local level, including security institution in Kosovo. Except for OAG Law, Law on the Ombudsman (OI) has been also approved no. 05/L-019, which serves as the legal mechanism for protection, monitoring and promotion of the rights and freedoms of natural and legal persons in Kosovo, from unlawful and unequal actions of public authorities. Also the Law on the National Anti-Corruption Agency (ACA) 03L-15²¹⁷ has been adopted. This agency works only under the law on ACA, which defines the status and responsibilities of ACA in the field of preventing and combating corruption, detection and investigation of corruption cases, monitoring the implementation of a national strategy, and developing an action plan against corruption.²¹⁸

6.2. Administrative capacities

The capacity of the parliamentary committees are limited both in human and material resources. Most MPs have no experience in budgetary matters or procurement, which weakens the oversight of the expenditure of public funds by the MKSF.²¹⁹ Democratic and parliamentary oversight exercised by the parliamentary committees, with particular focus of the committee on internal affairs, security and supervision of KSF, is more superficial, and the overall function of security institutions is not being supervised.²²⁰ Parliamentary oversight and the establishment of professional capacities to administrative staff as well as to MPs, depends largely on assistance provided by international organizations. This assistance is primarily with training and conferences, with the main goal of professional development of supervisory staff, and Members of the parliamentary security committee.

Important role in the democratic supervision of KSF and the Independent State Agencies. OAG is one of the most credible and professional institutions among independent

217 Law on Ombudsperson

218 Assembly of Kosovo, Law on the Anti-Corruption Agency (ACA) 03/L-159.

219 KCSS 2014- "Accountability or Not? Management of public finance in Kosovo Security Sector".

220 Annual work plan of the Security Committee for 2015

state agencies. The staff and management of OAG possess professional capabilities and personnel to exercise oversight mandate of the KSF, especially financial oversight of this institution. Reports compiled by OAG for MKSF are very professional and identify all the challenges, which are related to the financial supervision of MKSF, as well as the overall functioning of the KSF.

Even the Ombudsperson Institution (OI) has built sufficient capacity in terms of democratic oversight of security institutions, focusing on the protection of human rights and freedoms, including KSF members.

Compared with the OAG and the Ombudsman, the work of ACA is associated with MKSF only on issues of asset declaration and origin of the KSF officers. ACA has sufficient capacity to oversee the declaration of assets of public officials, and the definition of conflict of interest cases involving public officials. ACA is having issues in activities related to preventing and combating corruption in the public sector.²²¹ Most ACA cases associated with corruption are dismissed by the state prosecutor as unfounded in the absence of evidence.²²²

6.3. Implementation

Regarding parliamentary supervision of KSF by the committee for security, with the exception of regular six-month and annual reports, no concrete initiative was noticed to oversee the activities and the overall functioning of the KSF.²²³ Committee on Internal Security and Supervision of KSF during the second half of 2015 and 2016, did not supervise any law that relates to KSF activities, challenges facing this institution, good governance and integrity within this institution.²²⁴ Some of the members of the security committee are former fighters of KLA and KPC member, and are good friends with the management of KSF and MKSF, friendship that led the Committee for Security to have a more reserved approach towards KSF in the process of parliamentary oversight and control. The political crisis in which the country was from 2015 to 2016, caused a regression in parliamentary oversight of the security sector in Kosovo. This crisis had an impact on the number of meetings organized by the Committee for security, in view of civilian oversight of security institutions. Boycott of the members of opposition parties in the meetings of the Security Committee has caused problems in effective oversight of security institutions.

KSF Commander and the Minister of KSF have reported before the committee for security on the work and activities of the KSF for 2015 and 2016. However, in addition to

²²¹ KDI 2016

²²² KDI 2016

²²³ KCSS 2015 <http://www.qkss.org/repository/docs/Llogaridh%C3%ABnie_apo_jo_116106.pdf>

²²⁴ KCSS 2014 <http://www.qkss.org/repository/docs/Llogaridh%C3%ABnie_apo_jo_116106.pdf>

formal reporting, discussion and question and answers, parliamentary oversight exercised by the committee in terms of the KSF has not delved deeper. In absence of professional capacities of members of the security committee, parliamentary oversight has been absent in the most sensitive areas of the KSF such as public procurement, supervision of law implementation by the KSF as well as oversight of spending and control of public funds.²²⁵

The following table shows that compared to 2014, in 2015 a decline in activity and the work of the security committee was noticed, mainly due to delays in the establishment of state institutions after the central elections of 2014, and the political crisis in 2015.²²⁶

Table 6. Activities of the Committee on Internal Affairs, Security and Supervision of the KSF for 2015.

Comparing statistics in activities of the Security Commission for 2014/2015	Years	
	2014	2015
Number of meetings	33	25
Meeting minutes	33	25
Initiation of the draft laws	1	0
Review of laws in the first reading	10	4
Review of laws in the second reading	3	4
Amendment and revision of laws under the auspices of the functional committee	4	4
Written reports with recommendations for draft laws	3	/
The number of established working groups	9	6
Total number of working group meetings to revise the draft laws	27	25
No of proposed amendments	83	74
Number of law supervised by the Security Committee	1	1
Discussion of the annual reports submitted by the Independent State Agencies	3	3
Decisions and recommendations issued by the Security Committee	32	(7)
Number of official visits abroad of committee members	4	4
Number of official visits within Kosovo	7	6
Public hearings organized by the Security Committee	2	15

Regarding the cooperation of the KSF and ACA, the cooperation mainly extended on declaration, origin and control of asset and gifts to senior public officials. 36 senior officers of MKSF were subjected to asset declaration process, its origin, as well as controlling declarations of senior public officials. For this process ACA had no complaints about the asset declaration, which was done in accordance with law no. 04/L-050 on declaration of assets and gifts to public officials. ACA has no major oversight role over

225 Reporting of the KSF Commander before the Security Committee. Mar, 2016

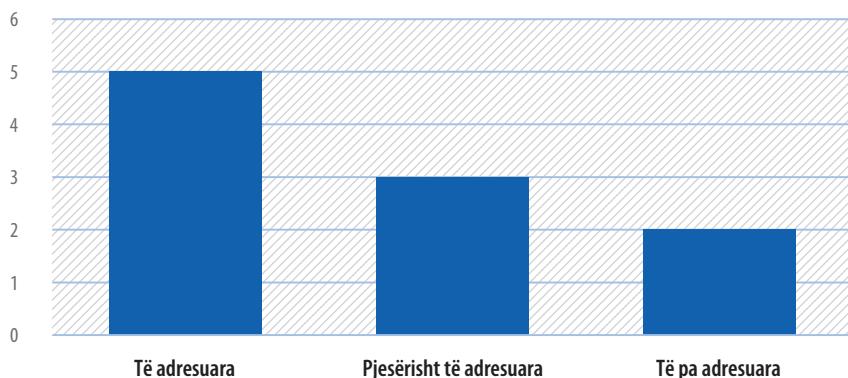
226 Annual work plan of the Security Committee for 2014 and 2015

KSF, as this institution is not part of a national strategy for preventing and combating corruption, implementation of which is supervised by ACA.

In 2015, MKSF organized official meetings with OI, to expand their cooperation in addressing human rights. In 2015, a MKSF officer who failed the security clearance process by the KIA, complained to the Ombudsperson.²²⁷ MKSF provided all information regarding this case. MKSF does not have any significant practical co-operation with OI, because of either the nature of MKSF work, or the small number of complaints OI receives from citizens against KSF/MKSF officers.²²⁸

Every year, OAG compiles reports about management and expenditure of public funds for the Kosovo Security Force, which presents MKSF challenges in this regard, and provides concrete recommendations for addressing them. MKSF, specifically MKSF IAU, have a close association with the OAG during the process of collecting data for the compilation of OAG evaluation reports on public funds spending.²²⁹ In 2014, OAG had 10 recommendations for improvement and control of spending of public funds by MKSF. Out of 10 recommendations, five have been fully addressed, while the rest were partially addressed or not addressed at all. Recommendations relating to MKSF problems with public procurement, human resource management, internal audit, and asset management and control of MKSF.²³⁰

Figure 8. Addressing OAG comments, by the MKSF management in 2015



²²⁷ Response from the Human Rights Department of the Ministry of the Kosovo Security Force, 18 March 2016

²²⁸ Response from the Human Rights Department of the Ministry of the Kosovo Security Force, 18 March 2016

²²⁹ Response from the Human Rights Department of the Ministry of the Kosovo Security Force, 18 March 2016

²³⁰ The report of the Auditor General for MKSF 2015 <http://oag-rks.org/repository/docs/RaportiAuditimit_MFSK_2014_Shqip_946941.pdf>

6.4. Transparency in KSF

Being open, transparent in explaining and presenting the actions and institutional activities to the extent permitted by law, not affecting the national security interest, make an institution credible, trustworthy, and accountable; which are the main principles of democratic armed forces. Transparency and access to public documents is guaranteed by the law. The Law on access to public documents no. 03/L-215 was approved by the Assembly of Kosovo, and obliges all public institutions to guarantee public access to information to the extent that no national security interest is affected. KSF in general was transparent institution towards its citizens, civil society, media, and other institutions.²³¹ In 2015, MKSF received 7 requests for access to public documents and all requests were approved by MKSF within the time prescribed by law.²³² A link to apply for public access to documents is found at the MKSF website.

Calls for application for members and officers of the KSF are uploaded on the MKSF website, with necessary documentation for application, and criteria to be met by candidates for given positions. Besides notice on the MKSF website, especially vacancies for KSF members, they are also published in the main national televisions and official newspapers in Kosovo. Information campaigns were also organized in all municipalities of Kosovo on the process of notification and calls for applications for KSF members.²³³

MKSF as it is prescribed by LPP, all the requirements for bidding, technical requirements and administrative procedures for public procurement, shall upload on its website, as well as Notices of the Central Procurement Agency (CPA) regarding assessment on the progress of the dossiers and applications of economic operators, and also MKSF's decisions regarding public procurement procedures are uploaded on its website, while economic operators are informed of the reasons for not signing the contract.

Despite the fact that MKSF responds to majority requests for access to public records and interviews, the information published by the MKSF is very general and incomplete. Consequently, they do not allow for objective analysis and assessment of the situation on the topics and issues associated with this institution.

231 KCSS 2012 "Monitoring and Evaluation of Security Sector in Kosovo" Prishtina <<https://www.google.com/url?sa=t&rct=j&q=&source=web&cd=1&ved=0ahUKEwj859XAq-bMAhUBniwKHX6PD0sQFggdMAA&url=http%3A%2F%2Ffqkss.org%2Fnew%2Fimages%2Fcontent%2FPDF%2FMonitorimi%2520dhe%2520vler%25C3%25ABsimi%2520i%2520qeverisjes%2520s%25C3%25AB%2520mir%25C3%25AB%2520n%25C3%25AB%2520SSK.pdf&usg=AFQjCNGUpR1vmwPQZbLCG8ESzm2auAlhtA&sig2=VKIOH9q9TpTDIWSlqHdqIQ>>

232 Response from the Public Relations Office of the KSF - 18 March 2016 - Ministry of the Kosovo Security Force

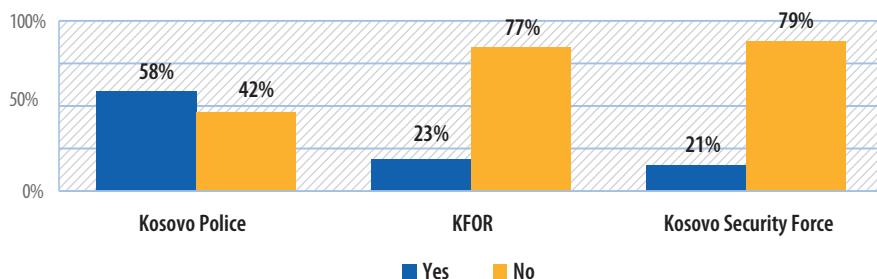
233 Response from the Public Relations Office of the Ministry of the Kosovo Security Force 18 March 2016 - Ministry of Kosovo Security Force

Internal audit reports performed by the IAU, are never made public by the MKSF. With the exception of IAU reports, which may be classified as secret under the law on classification of information. Other IAU reports shall be public by being placed on the website of MKSF and accessible to individuals interested in various research or analysis.

Despite the great trust KSF enjoys among the people of Kosovo, based on surveys conducted by KCSS, out of security institutions in Kosovo, KSF is assessed as an institution with the least contact with citizens. Citizens have very little information about the work and activities of KSF. In KSB edition published in December 2015, respondents have ranked KSF as the least contacted institution by citizens. Only 21 percent of respondents indicated that they have contacted KSF and are knowledgeable about the work which is carried out KSF, while 71 percent of respondents indicated that they had no contact with KSF. This may be due to KSF mandate that limits contact between this institution and the citizens.²³⁴

After KSF, KFOR is ranked the second institution with the least contact with the citizens of Kosovo, where 23 percent of respondents claimed to have had contact with the KFOR mission, while 77 percent said they did not have had any contact with this institution. According to the survey, with the exception of KP, contacts of people with other security institutions (KSF and KFOR) were in the form of passive observation by citizens rather than direct contact.²³⁵

Figure 9. Contact of citizens with Security Institutions in Kosovo



234 Kosovo Security Barometer. KCSS 2015 <http://www.qkss.org/repository/docs/Kosovo_Security_Barometer - Special_Edition_897293.pdf>

235 Kosovo Security Barometer. KCSS 2015 <http://www.qkss.org/repository/docs/Kosovo_Security_Barometer - Special_Edition_897293.pdf>

6.5. MKSF independence in decision-making

The Constitution of Kosovo has regulated the responsibilities, mandate and powers of KSF, and established civil and democratic controls of the KSF. Article 88 of the Constitution of Kosovo has clearly defined powers of the President of the country as the Commander In-Chief of the KSF.²³⁶ KSF is subject to civil and democratic control exercised by the President of Kosovo, Minister of KSF and the Kosovo Parliament. Based on the law no. 03/L-045 on MKSF, has regulated the responsibilities and competencies for the overall function and accountability of the KSF.

Minister of KSF is the final authority with executive role regarding the supervision, control, and operation of the Ministry and KSF. Minister of KSF approves all plans and decisions for starting recruitment of military staff of KSF, in accordance with the recommendations and needs of the institution. The recruitment process of KSF civil staff is the responsibility of the KSF Secretary who designs the hiring plan, and its implementation civil is done in consultation with the Ministry of Local Government Administration (MLGA).

Nature and the current mandate of the KSF (legally) make this force immune of political influence. This force is almost separate from the political developments in Kosovo (under the law). However, not infrequently, KSF is used by the current government for political gains. The KSF transformation process into KAF is used for electoral gains in the 2014 parliamentary elections. After the sixth anniversary of the independence of Kosovo, former Prime Minister Hashim Thaci, on February 17, 2014, announced the establishment of KAF, an announcement deemed hasty by the international factor, and done purely for electoral gains.

Since the establishment of KSF, this institution has been under the control and supervision of the international military presence in Kosovo (KFOR). Upon establishment of KSF, a civilian NATO advisory team at the level of Ministry of KSF, and a NATO military advisory team started operation with KSF to follow its development. Also until the approval of the Full Operational Capability (FOC) by NATO, KFOR had a leading role in the training and development of the KSF. Continuous supervision and control of KSF by the international military presence, especially KFOR, has made the members and officers of FSK/MKSF create a dependence on international military presence in Kosovo, and were not able to establish independence in decision-making on important issues for FSK/MKSF. Continuous dependence of the KSF/MKSF on the international military presence in Kosovo has reduced the development of local ownership of the security sector in Kosovo, and the development of local security institutions in general.²³⁷

236 Kosovo Constitution, Article 85, Competencies of the President of Kosovo.

237 Florian Qehaja- PhD Thesis- 2016

7. CONCLUSION

Ministry of Kosovo Security Force, to some extent, has built internal governance mechanisms. Internal audit departments are established; a good cooperation with the Independent State agencies and civil society has been established. The most sensitive areas such as: Public Procurement, Human Resource Management, Prevention of Corruption and the issue of integrity are among the biggest challenges for this institution. MKSF is subject to public procurement law, in the same manner like all other public authorities in Kosovo, despite the fact that MKSF has special stipulations.

Human Resource Management, this sector is also very challenging for MKSF. Delineation and job description are not completed yet, no job profiling for officers and members of KSF/MKSF, and as a result, there are flaws in the measurement and assessment of performance for members and officers KSF/MKSF. MKSF and KSF members still have no health insurance, which makes it the only military institution in the region with no health insurance.

MKSF enjoys high trust of the citizens. About 70 percent of people trust and are satisfied with the performance of KSF. Also respondents through KSB assess that the KSF is the least corrupt institution in Kosovo.

MKSF was unable to prepare documents and plans that deal with preventing and combating corruption within MKSF, and Integrity Plan is not designed, which strengthens and promotes integrity within the KSF. This document is under development. Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force has a good cooperation MKSF. In addition to regular reports, this committee has not delved deep into the supervision of the KSF. No supervision of the internal functioning of MKSF, or evaluation of integrity within this institution. Sensitive areas such as: Public Procurement, Human Resources are not treated almost at all by the Committee on Internal Affairs, Security and Supervision of the Kosovo Security Force.

8. RECOMMENDATIONS

- Plan accordingly the execution of the spending in order to avoid large number of payments concentrated in a short period at the end of the year, in order to facilitate the exercise of supervision of spending of public money in the security sector;
- Perform market research so that this Ministry has prior knowledge about market prices for services and equipment that this institution purchases through public procurement procedures;
- Strengthen the process of monitoring and overseeing the implementation of contracts concluded with private economic operators providing various services for the needs of the Kosovo Security Force;
- Security institutions should ensure that the recommendations deriving from internal audit units, and the Office of the Auditor General, are considered rigorously in order to prevent the recurrence of similar problems in subsequent years;
- Internal audit reports should be made public and uploaded on the website of the Ministry of the Kosovo Security Force. Apart from reports classified as secret by law, other Internal Audit Unit evaluation reports of the Ministry of the Kosovo Security Force should be transparent;
- Job descriptions for officers and members of the Ministry and the Kosovo Security Force should not be generalized. This institution must update job descriptions for members and officers, detailing the job descriptions and aligning them with the work performed by officers and members of the Ministry and Kosovo Security force;
- There is a mix of competencies between officers and uniformed members working in the same departments of the Ministry of the Kosovo Security Force. This ministry should provide accurate profiling and delineation of competencies for its officers and members who work in the departments of the Ministry of the Kosovo Security Force;
- Ministry of Kosovo Security Force should develop its integrity plan. Integrity Plan should be based on institutional circumstances and focus more on preventing and combating corruption for officers and members of the institution;

- Committee on Internal Affairs and Security should prioritize its parliamentary oversight of security institutions. Overseeing the implementation of laws related to the activities and functioning of the Kosovo Security Force, focusing on human resource management, promotions and advancements, as well as public procurement in the ministry.
- Ministry of Kosovo Security Force should provide long-term solution to its problems in terms of entering into service contracts with various officers of the Ministry of the Force. This ministry should make its long-term plans for human resource planning, and fill in the gaps and needs for human resources.

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