

SECURITY

# Private Security in Practice: Case studies from Southeast Europe



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# Private Security in Practice:

Case studies from Southeast Europe

**Franziska Klopfer and Nelleke van Amstel (Eds.)**

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The Editors,

Geneva, November 2016

# TABLE OF CONTENTS

## Understanding Private Security Governance in Southeast Europe Through Case Studies

### Part 1: The Development of a Private Security Market – Perceptions and Market Conjunctures

**The Evolving Functions of Private Security in a Small Community in Albania – The Case of Vaqarr**

*Arjan Dymishi and Ola Cami*

**PSCs to the Rescue: The Role of PSCs in Deprived, Depopulated and Remote Villages in Bulgaria – The Case of the Vidin Region**

*Anton Kojouharov and Tihomir Bezlov*

**Cooperation between Private Security Companies and the Kosovo Police – Opportunities and Limitation**

*Donika Emini and Mentor Vrajolli*

**Reflections and Questions**

### Part 2: The role of PSCs in the Protection of Objects of National Security Importance

**Mission Critical, Mission Impossible – The Role of PSCs in Protecting Critical Infrastructure in Bulgaria**

*Rositsa Dzhekova and Anton Kojouharov*

**Privatising the Security of Critical Infrastructure in Serbia – The Case of Private Security at the Hydropower Plant Djerdap**

*Predrag Petrović and Marko Milošević*

**Reflections and Questions**

## **Part 3:**

### **The Challenge of Quality and Sustainability as a Result of Deficiencies in the Public Procurement Processes**

**The Impact of Public Procurement Practices on the Private Security Sector in Albania – Analysing Public Procurement in Tirana in 2015**

*Arjan Dyrmishi and Ola Cami*

**Reflections and Questions**

## **Part 4:**

### **The Challenge of Ensuring Professionalism Amongst PSC Staff**

**Conflicts of Interest – Former and Acting Police in the Business of Private Security in Serbia**

*Predrag Petrović and Marko Milošević*

**Identifying Patterns of Private Security Sector Shortcomings in Kosovo – The Albi Mall Case**

*Donika Emini and Mentor Vrajolli*

**Reflections and Questions**

## **Policy Suggestions for Improving Private Security Governance in Southeast Europe**





# UNDERSTANDING PRIVATE SECURITY GOVERNANCE IN SOUTHEAST EUROPE THROUGH CASE STUDIES

Why and how should private security be regulated? A group of researchers from Albania, Bulgaria, Kosovo, Serbia and Switzerland has been examining these questions as part of a multi-year project called the Private Security Research Collaboration Southeast Europe (“PSRC”) <sup>1</sup>. The interest of the state in interfering with the activities of private security companies is twofold: first, to ensure that basic pillars of the modern democratic state such as the protection of human rights and the democratic order are not threatened. Second, because the stability of the state and the happiness and prosperity of its citizens also depend on factors such as functioning security and economy. In order to better target its regulation of private security, it would therefore be important for the state to know how private security companies (PSCs) impact on a country’s human rights situation, the democratic order, a functioning security and (to a lesser extent) economy.

For Private Security in Practice: Case studies from Southeast Europe the PSRC researchers assembled eight case studies that explore the impact that private security has on security, human rights and the democratic order in four Southeast European countries: Albania, Bulgaria, Kosovo and Serbia. Since regulation should not only limit the negative impact but also foster the positive contribution that private security can make, the authors specifically looked at how challenges posed by PSCs could be avoided and how opportunities can be seized.

PSCs should be considered as part of the broader security sector governance framework. It is undeniable that private security plays an increasingly important role in the security sector of the four target countries. In addition, contemporary approaches to democratic security sector governance,

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1 The research team is composed of researchers from the Institute for Democracy and Mediation (IDM), the Center for the Study of Democracy (CSD), the Kosovo Centre for Security Studies (KCSS), the Belgrade Centre for Security Policy (BCSP) and the Geneva Centre for the Democratic Control of Armed Forces (DCAF). For more information on the PSRC, see <http://www.ppps.dcaf.ch/en/private-security-research-collaboration-south-east-europe-2014-2017>

The PSRC is a project supported by the Swiss National Science Foundation (SNSF). It aims to solve questions surrounding private security governance, with a particular focus on the Southeast Europe. The project explores the state of private security in four Southeast European countries – Albania, Bulgaria, Kosovo and Serbia – to compare developments and draw broader lessons about the social, economic and political factors that shape the private security sector in a country.

consider that the security sector includes all actors who contribute to the provision, management and oversight of security.

Providing security within the framework of good governance aims at enhancing state and human security. The human security imperative within good governance means that security meets the needs of all people within a society. This means firstly to ensure security in an efficient, effective and accountable manner. 'Accountable' means that decisions about security are made by the people or their representatives, and that those responsible for security delivery are overseen by and accountable to the peoples' representatives. The case studies therefore also explore what efficiency, effectiveness and accountability mean for private security providers in practice.

The case study format was selected because the detailed examination of one incident, challenge or opportunity, allows the authors the analytical depth necessary to meaningfully grasp context, causes, and impacts of private security in practice. In principle a case study speaks exclusively for its specific context, and indeed the editors and authors do not claim that a complete picture of the challenges and opportunities presented by private security in the four target countries can be deduced from the eight case studies. However, the authors selected the case studies from incidents which they viewed as representative of wider trends in their respective countries.<sup>2</sup>

Because the aim of this research is to consider both the challenges and the opportunities posed by private security, the authors specifically set out to identify cases representative of both positive and negative industry trends. This said, closer analysis often revealed that 'positive' cases masked negative consequences, and vice versa.

By exploring the reasons underpinning private security's positive or negative effect in the specific incidents studied, the case studies also highlight broader structural governance issues in each country. It is therefore possible to derive general lessons from the case studies both for the country in which the incident took place, and for private security in other countries which share similar contextual characteristics. In this vein, at the end of each part a short conclusion compares the lessons from the part's case studies and places them within a wider policy discussion. It closes with questions for policy makers; asking, on the basis of what we now know from the case studies, how we should address the private security governance challenges raised.

Broadly, the case studies cover four governance challenges: the development of the private security market, particularly in relation to the state's retreat from its monopoly on security provision (Part 1); the role of private security in the protection of critical infrastructure (Part 2); the state as a client of private security companies and the impact of public procurement processes on the private security market (Part 3); and the success and failure of different policies aimed at improving the professionalism of private security personnel (Part 4). Previous research by the PSRC team

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2 Previous research, and in particular the work which produced the PSRC project's first publication *A Force for Good?* (cited below), afforded the authors a strong understanding of the major developments in the private security sectors in their respective countries, thus enabling them to identify symptomatic cases.

demonstrated that these policy issues are important for each of the four target countries. However, it is worth noting that other pressing policy questions regarding private security exist in these countries, and the authors' choice does not indicate that the topics discussed are necessarily more pertinent or urgent than others.

The final chapter – 'Policy Suggestions for Improving Private Security Governance in South East Europe' – collates the lessons and questions raised in Parts 1 to 4 in order to present new understandings of private security governance in Southeast Europe. It was the authors' hypothesis that many problems linked to private security in the four target countries are caused by an inadequate understanding of the appropriate role for private security in the security sector. This final chapter therefore closes by using the lessons drawn from Parts 1 to 4 to develop new understandings about what the contribution of private security to a democratic security sector should look like in the region.



**PART 1:**

**THE DEVELOPMENT  
OF A PRIVATE  
SECURITY MARKET  
– PERCEPTIONS  
AND MARKET  
CONJUNCTURES**

The case studies in Part 1 consider situations where private security companies (PSCs) have partially or fully assumed responsibility for tasks previously performed by the police. They examine if and how PSCs – working alongside or indeed replacing police and other state services – can ensure public security just as or even more efficiently and effectively as the state.

The first two case studies explore the rise of private security guarding services in local municipalities in Albania and Bulgaria, respectively. In particular, the guarding of private businesses, public buildings and residential premises constitutes the majority of private security contracts in Albania and Bulgaria, a trend also observed in Kosovo and Serbia.<sup>3</sup> The case studies identify the factors driving the demand for private security services and consider whether PSCs have indeed contributed to an improvement in the security of their clients as well as to the wider community in the areas where they operate.

Both case studies highlight that PSCs increased their presence in the communities after security and order were challenged by waves of burglaries, violence and thefts. Important lessons can be drawn from these cases about the role of PSCs in ensuring the security of individuals and small businesses in rural communities in Southeast Europe which in turn can help to increase our understanding of the privatization of police services in the region.

The third case study examines the interplay between roles of public and private security providers (the Kosovo Police and PSCs) in ensuring the safety of the population in the country's capital, Prishtina. It focuses in particular on how security provision could become more effective: re-thinking existing roles, recommending a more clear division of tasks and encouraging opportunities for cooperation. This case study thereby provides an insight into the optimal possible contribution that the private sector could make to security in Kosovo.

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3 Franziska Klopfer, Nelleke Van Amstel eds. *A Force for Good? Mapping the Private Security Landscape in Southeast Europe* (Belgrade and Geneva: DCAF, 2015).



## The Evolving Functions of Private Security in a Small Community in Albania – The Case of Vaqarr

Arjan Dyrmishi and Ola Çami

### Introduction

The Albanian private security market has developed considerably in the last two and a half decades (1991 to 2016), as indicated by the increasing number of employees of the private security sector and the significant market turnover. The market has been regulated by law since Albania's early transition to a market economy (which occurred in 1993). However, limits set by the regulation of the size and operations of PSCs, and poor implementation of the relevant legislation due to corruption, politicisation and institutional weaknesses, have had a negative impact on the development and consolidation of companies as well as on the quality of their services.<sup>4</sup>

It is particularly problematic that little is known about what parameters are required to ensure that PSCs function well, and what effect they have on security. Which security needs could they respond to? To what extent do they already do this? Which structural problems prevent them from doing so? In order to facilitate a more in-depth understanding of the role and impact of PSCs on the safety and security of public and private actors, the case study of Vaqarr will seek to examine how the private security industry has contributed to improved security, which in turn has led to improved economic development and quality of life for the citizens of Vaqarr.

### Data and Methodology

The data collection for this study included both an analysis of related documents released by public institutions and interviews with key stakeholders.

Vaqarr is a rural community located 5-10 km in the southwest of Tirana. The community is composed of ten villages.<sup>5</sup> From 1991 until today, the community has changed considerably, with an increase in population, businesses, and at the same time, security concerns. This trend has been observed in most communities after the end of communism, and therefore the findings and recommendations of this case may be of relevance for other areas. It is important to note that little to no hard data exists about developing trends in this area and this analysis is primarily based on interviews.

Interviewees included business representatives, local police, PSCs operating in the area and the local population. Interviewees were asked about the factors that contributed first to the decrease

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4 Arjan Dyrmishi and Gentiola Madhi "Albania," in *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, eds. Franziska Klopfer, Nelleke Van Amstel. (Belgrade and Geneva: DCAF, 2015), 7-29.

5 INSTAT. *Population and Housing Census Report 2011*, Tirana: Adel Print, 2013 [http://www.instat.gov.al/media/195838/11\\_\\_tirane.pdf](http://www.instat.gov.al/media/195838/11__tirane.pdf). 84  
Composed of the villages: Vaqarr, Allgjatë, Arbanë, Bulticë, Damjan-Fortuz, Gropaj, Lalm, Prush, Vishaj, Sharrë.

and then to the increase of security in the region from 1991 until 2015, and more specifically, the role of the private security industry in this process.

### **Security Issues 1991-2015**

Until the end of the communist regime in Albania in 1991, the demographics in the villages that are part of the commune of Vaqarr stayed more or less the same. This situation began to change in the early nineties as a result of internal migration. People from Tirana were attracted to Vaqarr, where the rents were lower and the houses cheaper than in the capital. The population increased by 25% from 1989 to 2011<sup>6</sup> and reached 10,000 inhabitants in 2011.<sup>7</sup>

At the same time, Vaqarr became attractive for businesses because of its proximity to the capital (5-10 km), its accessibility (along the national route), and land prices that were less expensive than in the main industrial zone (along the Tirana-Durres highway).

Around 1993, theft, violence and murder increased. As the social fabric of the area changed with new inhabitants arriving from nearby regions, misunderstandings and differences of opinion between the inhabitants often led to personal clashes and conflicts. In addition, the privatisation of property and land, and the unclear legislation governing land ownership negatively affected the relationships with the old inhabitants.

### **Box 1. Law 7501 and the problem with land ownership in Albania<sup>8</sup>**

Prior to collectivisation during the communist era, land ownership in Albania was highly concentrated. When land privatisation began in the early 1990s, policymakers were concerned that returning land to the original owners would recreate feudal structures. The Law on Land (No. 7501) (1991) transferred ownership rights from collective farmlands to member families living in the rural area at the time of the distribution. Accordingly, between 1990 and 1994, agricultural land from collective farms was distributed to member families.

Land conflicts are frequent in Albania to this day and constitute about half of all cases in civil courts. At the same time, there have been incidences of social unrest and violence related to land conflicts. Conflicts are generally of two types. The first type relates to overlapping claims to a piece of land, boundary disputes or conflicts about road access. In these cases, parties generally try to resolve their disputes on a personal level (e.g. through the mediation by relatives, village elders, municipal officers and local leaders) before turning to official channels of conflict resolution. The second type of conflict involves restitution and compensation claims of former owners.

6 INSTAT GIS, accessed 05 February 2016, <http://instatgis.gov.al/#/!/prefectures/population/prefpop1> Indicating the population number 1989-2011.

7 INSTAT, *Population and Housing Census Report 2011*, 84.

8 United States Agency for International Development (USAID), *Country Profile: Property Rights and Resource Governance*. Accessed 15 February 2016. [http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID\\_Land\\_Tenure\\_Albania\\_Profile\\_0.pdf](http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Albania_Profile_0.pdf).

The 1997 crisis and the distribution of weapons to civilians added to security problems, as people resorted to weapons to resolve built-up animosities.<sup>9</sup> Businesses in the Vaqarr region and elsewhere were caught in the middle of riots and fighting between different newly-armed protesters, para-military groups and criminal gangs, and quickly became the target of theft and arson. They did not receive protection from the police force, which was experiencing a near-total breakdown.

This period marked the beginning of the private security industry in the area. Yet, for a long time, most private security services in the Vaqarr region were not provided by licenced companies but through so-called grey market practices. Businesses directly hired unlicensed and generally unqualified individuals as security guards. Many larger businesses also hired off-duty police officers as guards.<sup>10</sup> In the past, the police would often take a long time to arrive after being called. Business owners therefore hired off-duty police officers so they would use their connections to make sure that on-duty police would arrive more quickly when called, and would perhaps even patrol the area more diligently, as a favour to their colleagues.<sup>11</sup>

Since 1997, PSCs have worked alongside unlicensed 'in-house' guards to provide safety and security for the community of Vaqarr. In case of theft or similar incidents, PSCs are permitted by law to intervene and use force or weapons. Given that in-house security does not have these liberties by law, businesses would contract PSCs only to provide video surveillance and immediate intervention, allowing for the use of force and weapons if necessary by PSCs. This practice began with the new Law 75/2014 "On Private Physical Security Service"<sup>12</sup> allowing PSCs to use force or weapons.

In order to avoid tensions between the inhabitants and the security guards in the first years of their operation, until 2000-2001, PSCs deployed guards from outside the relevant villages.<sup>13</sup> As crime rates increased, the overall costs of operations for PSCs also increased due to the need for deployment of guards from other regions of Albania, the need to employ a higher number of security guards and the consumption of more fuel due to frequent patrolling.

With the gradual improvement of security, in the early years of the 2000s PSCs began to recruit inhabitants from the area to work as security guards, thereby creating a new relationship as employer. The costs of PSCs decreased, as lower wages could be negotiated with security guards recruited from the area. These local guards were in turn more motivated to participate in proactive security, which included sharing information about threats from local criminals. The costs of patrolling therefore decreased, as did the cases of rapid intervention, as the need for these declined.

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9 A political and financial crisis resulting from the collapse of several Ponzi schemes led to riots, a declaration of a state emergency and the death of 2000 people. During the crisis, after several weapon depots were looted by parts of the population from the South of Albania, the then-president allowed the opening of weapon depots to people from the North, to permit them to protect themselves.

10 BUS01, interview with author, 15 January 2016.

11 BUS02, interview with author, 20 January 2016.

12 PSC01, interview with author, 12 January 2016.

13 PSC03, interview with author, 19 November 2015.

The physical presence of PSCs in the community combined with the frequent patrolling of the PSCs' guards, especially during the night and particularly as the local police had only one patrol, has not only protected businesses from theft and vandalism but at the same time has created a sense of security for residents and inhabitants of the surrounding areas.<sup>14</sup>

Security also improved due to effective cooperation between the relevant actors. The police have a strong relationship with the community; there is significant mutual trust and a clear desire amongst inhabitants to report incidents, including suspicious vehicles and people. The contribution of the community to security has steadily increased. At the same time, the structure of the community – with small villages and entrenched family bonds where nearly everybody is connected – has positively contributed to crime prevention, increased crime reporting and the resolution of cases.

The cooperation between the PSCs and the local communities shifted from initial suspicion on the part of the local communities, to a sense of trust as the number of property crimes declined considerably.<sup>15</sup> Improved security led to more businesses being built in the area, which meant that local people gained access to employment and improved services, or indirectly benefited from those businesses in other ways. When businesses began to employ locals, the community correspondingly gained trust in the PSCs, as they saw that PSCs helped businesses to operate in the area.

Over time, employees from different PSCs built good relationships with each other, which was welcomed by the PSCs' management to the point of active encouragement.<sup>16</sup> These kinds of relations contributed to an overall positive climate felt more widely by clients and the community.<sup>17</sup> However, despite several attempts by certain PSCs to institutionalise this cooperation between them, no formal agreements were ever established.

Though it is difficult to find evidence of this shift in the local security climate, the interviews conducted for this study provide anecdotal support, and it is also possible to observe this trend in other towns of a similar size. In 2005, nearly 45% of crimes reported in Vaqarr were property related. This number has declined over the last decade: currently, just fewer than 25% of reported crimes are property-related and even fewer involve businesses.<sup>18</sup>

### **Current opportunities and challenges regarding the efficiency of PSCs**

Currently there are nearly 425 businesses operating in the Vaqarr area, with the majority of large and medium businesses based along the national route in the villages of Vaqarr and Prush.<sup>19</sup> There

14 PSC03, interview with author, 19 November 2015.

15 POL02, interview with author, 20 January 2016; BUS01 and BUS02 20, interview with author, January 2016; POP01, interview with author, 11 January 2016; POP02, interview with author, 20 January 2016.

16 PSC01, interview with author, 12 November 2015.

17 PSC02, interview with author, 22 November 2015.

18 POL01, POL02, POL03, interview with author, 20 January 2016.

19 POL01, POL02, POL03, interview with author, 20 January 2016.

are approximately ten large businesses in the area. During the day, the number of people in the area is nearly double the number of inhabitants (from 10'000 to 20'000), with 13 PSCs operating in the Vaqarr area.<sup>20</sup>

Nowadays, the area generally has low crime rates. Nearly 100 (penal) crimes were reported from 2012 to 2016.<sup>21</sup> Of these, crimes involving businesses are mostly related to personal problems of the involved businessmen. For example, they stem from murky past histories, competition, burglary, or theft of goods from shops, warehouses or factories.<sup>22</sup> As a result of the low crime rates in Vaqarr, there is less need for professional private security providers to protect businesses from theft and vandalism. Instead, businesses have switched to relying on moonlighting police officers.

There have been a number of problems with the quality of services provided by PSCs. For example, PSCs have not been as effectively coordinated as could be, to increase efficiency. Even though informal exchanges have developed, as mentioned above, PSCs' management regard each other more as competitors than as partners. This has prevented them from maximising their contribution to the security of the area.<sup>23</sup> Improved cooperation could include providing mutual assistance and dividing patrolling duties so as to cut the costs of operation; currently, multiple PSCs end up patrolling the same area at the same time. Accordingly, suggestions have been made to divide the patrolling regions so as to quicken response times in case of theft, which would also avoid turning a blind eye to any arising need for intervention on the premises of a business which is guarded by another PSC.

The local police and the PSCs have not become formal partners, but have developed an effective working relationship. Several representatives of police and PSCs have suggested better cooperation both amongst PSCs, and between PSCs and the local police, for example by dividing the streets to patrol in order to decrease costs and increase the efficiency and reaction time.<sup>24</sup> Such a plan would detail the patrolling routes of all PSCs and be shared with the police. The police would then be able to respond more quickly to calls from PSCs. This would make the work of PSCs more efficient, and also contribute to reducing crime. Several attempts were made to create such a plan, but these failed particularly because PSCs owners could not come to an agreement amongst themselves.<sup>25</sup>

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20 PSC01 15 November 2015 and POL01, interview with author, 20 January 2016.

21 POL01, POL02, POL03, interview with author, 20 January 2016.

22 POL01, POL02, POL03, interview with author, 20 January 2016; BUS01, interview with author, 15 January 2016 and BUS02, interview with author, 20 January 2016.

23 PSC01, interview with author, 12 November 2015; PSC02, interview with author, 22 November 2015

24 As suggested by POL01, POL02, POL03, interview with author, 20 January 2016 and PSC01, interview with author, 12 November 2015.

25 POL01, POL03, interview with author, 20 January 2016; PSC01, interview with author, 12 November 2016; PSC03, interview with author, 19 November 2015.

## Box 2. Example of informal cooperation among PSCs

There have been occasions where individual employees had been obliged to temporarily quit their guarding post, for example because of health or urgent family matters, and until their employing PSC is able to organise a replacement, their post is covered by employees of other PSCs. This kind of solidarity and support has gradually contributed to the development of an informal cooperation among the PSCs.

The reputation of PSCs has also suffered in the last two years. Several events involving alleged thefts by PSC personnel and guards being slow to respond have been reported throughout Albania.<sup>26</sup> In the Vaqarr region specifically, clients have complained about PSC employees who carried out their work poorly and were not reliable.

These clients stated that the quality of services was low, as their PSC guards were not sufficiently trained, bossy and disinterested. They reported that guards slept while on duty, and in some instances failed to act or intervene. Furthermore, the cost for the business for a guard is ALL 50'000 per month, while the guards receive salaries of no more than ALL 20'000 per month. Businesses consider these high prices unjustified, as PSCs will not compensate property losses in cases of failed protection, and the guards provided are poorly paid and therefore unmotivated.<sup>27</sup>

Taking into consideration the above and the fact that the community is no longer facing significant security concerns, businesses are now replacing PSCs guards with their own in-house guards, thus increasing the size of the unregulated 'grey' market in the area. In-house security consists of trusted individuals, such as friends and family members of the owner. The pay is similar to PSC pay, but the quality of the service is very different.<sup>28</sup>

The increase of this 'grey' market and the hiring of in-house security have had a direct impact on the number of PSCs hired in the region. Many of the PSCs interviewed report a decrease in their clients in the region of Vaqarr by about a third since 2014.<sup>29</sup> Such a decrease is significant for the

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- 26 Suela Gera, "Ja si u grabit Union Bank, autoret moren 4 thashe me para" [Here is how to rob Union Bank, robbers took 4 bags of money], *ORA News*, 14 February, 2014, <http://www.oranews.tv/vendi/publikohet-video-ja-e-grabitjes-se-banke-grabitesit-morren-dy-thase-me-para/>; D.B., "Grabitet banka në Durrës, një në pranga dhe një në kërkim" [Robbery of a bank in Durres, one of the robbers is arrested the others wanted], *Gazeta Shekulli*, 9 May 2015, <http://www.shekulli.com.al/p.php?id=282805>. Andi Qosja, "Filiali i nje banke grabitet me arme tek rruga e Kavajes" [Tirana-A subsidiary of a bank robbed with gun on the Street of Kavaja], *ORA News*, 20 May 2015, <http://www.oranews.tv/vendi/filiali-i-nje-banke-grabitet-me-arme-te-rruga-e-kavajes>. Lediona Braho, "Neranxi grabitet me arme" [Neranxi stolen gun], *Gazeta Shekulli*, 17 February 2015, accessed 20 12 2016, <http://www.shekulli.com.al/p.php?id=218447>. "Grabitje me arme ne aksin Tirane-Durres" [Armed robbery in Tirana-Durres axis], *ABC News*, 27 April 2015, accessed 20 12 2016, <http://www.abcnews.al/lajme/aktualitet/2/55471>
- 27 BUS01, interview with author, 15 January 2016; BUS02, POL01-POL03, interview with author, 20 January 2016.
- 28 BUS01, interview with author, 15 January 2016; BUS02, interview with author, 20 January 2016; BUS03 9, interview with author, February 2016; PSC02, interview with author, 20 January 2015.
- 29 10 PSCs' technical directors, telephone interviews with author, 22 -24 January 2016.



local private security industry, and it seems likely that the sector will suffer in the near future if it is unable to continue providing services to the Vaqarr region at the same or greater rate.

At the same time, the diversity of the private security market has remained underdeveloped.<sup>30</sup> There are a small number of large PSCs who dominate the market and have little incentive to invest, as their competition is already negligible. Due to their monopoly of the market, they are able to provide security at a low cost and dictate a low market price. The big PSCs are kept strong by public procurement practices,<sup>31</sup> while the other companies are small and do not have sufficient budgets to invest and expand their services. Due to their dominating position, the big PSCs do not take any action to change professional practices, while small PSCs are not strong enough to react. Many small companies are therefore not able to survive, being unable to match the low price offered by larger companies, and consequently lower the cost of their services by providing low-quality in order to stay competitive in the market.

Recently, the need for private protection has been growing once again. The number of police officers deployed in the area has been reduced since 2005 to one chief police officer and two investigators which patrol the area by night.<sup>32</sup> Due to lower crime rates, these police officers were re-allocated to a nearby region with higher crime rates and more security concerns. Recently however, the police have become overstretched as their numbers have remained the same despite the recent criminalisation of a number of administrative offences.

This reduction in the availability of police officers meant that extra protection was required for businesses, which (as mentioned above) was not provided by PSCs but rather by in-house contracted guards.

## Conclusion

The private security industry has played an important role in the provision of security in Albania, especially in times when crime rates were high and law enforcement was not sufficient to protect local communities.

Despite their increased role as security providers, PSCs have remained small and underdeveloped. The market in general is distorted by the dominant position of a small number of PSCs, established as a result of favouritism and inefficient public procurement procedures. At the same time, PSC clients are reporting high prices and low quality of services, slow reaction time in case of incidents and low reliability of both PSCs and guards.

These observations and recent incidents reported by the media related to PSCs' inability to deliver services, have incentivised the private sector to employ their own security guards and rely on PSCs only for video surveillance and immediate intervention. This development has caused the grey

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30 Cf. Part 3, Public Procurement of 2015 in Tirana.

31 Ibid.

32 POL01,POL02,POL03, interview with author, 20 January 2016.

market of informal security provision to increase considerably in recent years, such that PSCs are being edged out of the security market.

Having examined the above-described trends materialising in the region of Vaqarr, it is evident that PSCs emerged as a response to security needs in villages with increasing crime rates. The presence of PSCs, their ability to use force and weapons in order to intervene in incidents, and the resulting lowered crime rate increased trust for PSCs amongst local communities. This case study also points to improved economic development and quality of life amongst the inhabitants of Vaqarr. Nevertheless, several structural problems have prevented PSCs from providing efficient and effective security to their clients. For example a lack of professionalism of employees has resulted in more frequent use of in-house security and a larger, unregulated market of private security provision. Improvements to PSC operations could be made: for example PSCs could coordinate their patrols better with the police, or amongst themselves. Increasing cooperation in such a way has the potential to improve the quality of the services offered by PSCs.

### Coding of sources

Occupation of the interviewee	Coding
Police Inspector, Tirana Police Directorate	POL-01
Chief Inspector, Tirana Police Directorate	POL-02
Police Inspector, Tirana Police Directorate	POL-03
Technical Director of PSC1	PSC-01
Technical Director of PSC2	PSC-02
Technical Director of PSC3	PSC-03
Technical Director of PSC4	PSC-04
Business Manager	BUS-01
Business Manager	BUS-02
Business Manager	BUS-03
Villager	POP-01
Villager	POP-02

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United States Agency for International Development (USAID), *Country Profile: Property Rights and Resource Governance*. Accessed 15 February 2016. [http://www.usaidlandtenure.net/sites/default/files/country-profiles/fullreports/USAID\\_Land\\_Tenure\\_Albania\\_Profile\\_0.pdf](http://www.usaidlandtenure.net/sites/default/files/country-profiles/fullreports/USAID_Land_Tenure_Albania_Profile_0.pdf)

## PSCs to the Rescue: The Role of PSCs in Deprived, Depopulated and Remote Villages in Bulgaria – The Case of the Vidin Region

*Anton Kojouharov and Tihomir Bezlov*

### Introduction

The issue of high levels of both recorded and unreported conventional crimes, such as home thefts and burglaries, in villages and remote depopulated areas of Bulgaria has achieved considerable political salience following increased media coverage of the problem in recent years. Stories of poverty-ridden elderly people who suffered property loss or physical assault during burglaries caused public outcry on both regional and national levels. In this sense the role of the media proves indispensable in bringing to light events and developments occurring in areas that barely receive public attention otherwise. The problem of conventional crime in rural areas is being exacerbated by dismal or deteriorating socio-economic conditions in certain regions in Bulgaria. Continued depopulation, high levels of unemployment, lack of a permanent police presence, and social and economic marginalisation of certain ethnic groups are among the factors that sustain high levels of conventional crime in rural areas.<sup>33</sup>

The apparent crisis of rural conventional crime, highlighted by nationwide coverage and a consequent public outcry, pressured public authorities to take pro-active measures. In late 2013 the Ministry of Interior (Moi) signed a memorandum of understanding with the Association of Bulgarian Municipalities aiming to increase the level of cooperation and effectiveness in the fight against conventional crime in rural areas. The Moi announced at the beginning of 2014 that it would deploy gendarmerie patrols to the worst affected regions.<sup>34</sup> After the initial deployment and corresponding visible positive effects in the selected regions, many other municipalities approached the Moi to ask for gendarmerie resources on their territories.<sup>35</sup> This new measure received popular support, though some expressed scepticism about its long term effects and sustainability given that the measure has been used in an ad hoc way, at times in response to media reports of elderly persons severely beaten during a burglary.<sup>36</sup> The onset of the refugee crisis and unprecedented immigration pressure saw the Moi overstretched in resources, and in August of 2015 some gen-

33 Ministry of Interior (Moi). *Results from the operational implementation of the program of Moi*. (Sofia: Ministry of Interior, 2013) [www.mvr.bg](http://www.mvr.bg)

34 "Jandarmeriya shte pazi selata" [Gendarmerie to protect villages], *BNR Radio Plovdiv*, 10 February 2014, accessed 1 February 2016, <http://bnr.bg/plovdiv/post/100390602/jandarmeriya-shte-pazi-selata>

35 "Kmetove ot pernishko poiskaha zhandarmeriya v selata" [Mayors from Pernik region demand gendarmerie in the villages], *News.bg*, 5 March 2014, accessed 1 February 2016, <http://news.bg/regions/kmetove-ot-pernishko-poiskaha-zhandarmeriya-v-selata.html>

36 Samuel Dimitrov, "Sled tv reportazhi premierut prati politsiya v selata" [After TV coverage the PM sends police in the villages], *Sega*, 13 January 2016, accessed 13 January 2016, <http://www.segabg.com/article.php?id=786486>

darmerie forces were deployed to assist with efforts to guard the national border with Turkey.<sup>37</sup> In the meantime, the Ministry of Labour and Social Care announced an employment measure, in the National Program “Security”,<sup>38</sup> which aimed to provide employment to about 5,000 persons as guards in rural areas for a period of 8 months. The measure was staunchly opposed by the private security sector as inefficient, unfair, and potentially breaching the Law on Private Security.<sup>39</sup> The primary concerns expressed by the main PSC associations were the lack of clearly prescribed control and oversight of the guards employed under the measure, and their lack of professional training. The measure had been piloted before, particularly in the Vidin region, where in 2004, 400 unemployed persons were hired to guard agricultural produce.<sup>40</sup> Currently, no formal evaluation of the measures is available.

## Data and Methodology

For the purpose of the case study eight semi-structured interviews were conducted with diverse stakeholders (see List of interviewed sources at the end of the case). Onsite visits in the Vidin region were also scheduled in order to conduct the interviews and gain first-hand experience of the researched environment. A balanced mix of respondents was selected to provide a solid and well-rounded exploration of the issue. However, not all envisioned interviews were completed as some of the stakeholders, including representatives from SOVA-7, could not be reached. It should be noted that no representatives from the Roma community were interviewed.<sup>41</sup>

The initial analysis of the issue was informed by a media review. Using combinations of the keywords “village(s)”, “guards”, “private security companies” and “crime”, general searches were performed on Google search engine in Bulgarian. A media review was carried out by examining 21 articles in online Bulgarian media outlets. It must be noted that media in Bulgaria has long been accused of portraying the Roma population in a discriminatory manner.<sup>42</sup> In most of the reviewed articles Roma criminality was identified as a main reason for the spike of conventional crimes such as thefts and burglaries in the rural areas. Therefore, information presented in the analysed media pieces was processed with caution, particularly concerning allegations of the ethnicity of the per-

37 “MVR prashta jandarmeriia na granicata s Turciia” [Mol sends the gendarmerie on the Turkish border], *Dnevnik Online*, 27 August 2015, accessed 1 February 2016, [http://www.dnevnik.bg/bulgaria/2015/08/27/2598612\\_mvr\\_prashta\\_jandarmeriia\\_na\\_granicata\\_s\\_turciia/](http://www.dnevnik.bg/bulgaria/2015/08/27/2598612_mvr_prashta_jandarmeriia_na_granicata_s_turciia/)

38 “Startira programa “Sigurnost”: 5000 bezrobotni shte pazyat selata 8 mestesa” [Program “security” commences: 5000 unemployed to protect villages for 8 months], *Trud*, 24 April 2014, accessed 1 February 2016, <http://www.trud.bg/Article.asp?ArticleId=4050243>

39 “Pozitsiya na nafots odnosno natsionalna programa sigurnost” [NAFOTS position regarding the national program “security”], *Security.bg*, 29 April 2014, accessed 25 January 2016, <http://www.security.bg/novini/bulgaria/pozitsiya-na-nafots-otnosno-natsionalna-programa-sigurnost>

40 “Naznachavat 400 bezrobotni za okhraniteli na selskostopanskata produktsiya vuv Vidinsko” [400 jobless employed as guards to protect agricultural produce in the Vidin region], *Agro.bg*, 14 April 2004, accessed 1 February 2016, <http://agro.bg/news/article795.html>

41 Interviews were conducted in the town of Vidin, and the villages of Novoseltsi and Vrav.

42 See James Denton, *Political participation of the Roma in Bulgaria*. (Washington: National Democratic Institute, 2003); and Ilona Tomova. *Roma in the media*. (Sofia: Association Integro, 2014).

petrators and offenders making up the bulk of the increase in conventional crimes in rural areas. Nevertheless, the field visits largely corroborated media allegations that behind the drive for hiring PSCs to guard private and public facilities stands peaking Roma criminal activity.

## Background

With over-stretched resources at the national level and state-sponsored rural security programs that lacked sustainability, a more efficient and effective way to tackle security issues in remote areas was sought. The most prevalent resultant response to the rural crime crisis was villagers or municipal authorities hiring private security companies (PSCs). This usually involves physical presence and patrolling of PSCs, in addition to simple alarm systems which are often deemed to be insufficient security measures. This measure of hiring PSCs is usually taken following a particularly vicious wave of burglaries and robberies, where villagers have been physically assaulted. Many, if not most, media-reported cases of rural burglaries and physical assault have identified Roma persons as the main perpetrators. Media reports and data from our interviews point to the fact that many villagers consider PSCs more efficient than the police in preventing crime. This is the case since PSC guards are able to respond more quickly to a signal and often employ brute methods in dealing with suspects, who are otherwise frequently released by the police.<sup>43</sup> PSC involvement in providing security often includes an added value for the end-customer, as social services are offered alongside security ones, including first or basic medical aid, and delivery of firewood, medicines, and groceries, among others.<sup>44</sup> Finally, as many of the robberies and burglaries are allegedly committed by Roma, some PSCs, such as in the case of Sova-7 in the Vidin region, employ as patrol guards Roma persons who are familiar with the situation on the ground and have insider knowledge of Roma communities.<sup>45</sup> Table 1 indicated the PSCs present in each place or village, and the services that they provide to their clients.

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- 43 Parvoleta Tsvetkova, "Sela se otkazavat ot politsiyata, naemat chastni gardove" [Villages giving up on the police, hiring PSC instead], *Standard News*, 16 January 2014, accessed 1 February 2016, [http://www.standardnews.com/regionalni/sela\\_se\\_otkazvat\\_ot\\_politsiyata\\_naemat\\_chastni\\_gardove-221927.html](http://www.standardnews.com/regionalni/sela_se_otkazvat_ot_politsiyata_naemat_chastni_gardove-221927.html); BG-VN1, BG-VN2, BG-VN4 interview with authors, Vidin.
- 44 "Chastni okhraniteli shte pazyat startisite ot apashi" [Private guards to protect the elderly from criminals], *Blitz*, 14 April 2014, accessed 1 February 2016, <http://www.blitz.bg/article/37953>
- 45 BG-VN1, BG-VN2, BG-VN4, BG-PS1 interview with authors, Vidin.



Table 11. Villages where PSCs provide specialised services.

Private Security Companies	Place/Village/Coverage	Service
Arcus Security	Village of Malko Gradishte (Haskovo region)	Patrols
Traffic SOT	51 villages in the Stara Zagora region	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
Traffic SOT	Village of Dragomir (Plovdiv region)	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
SOVA - 7	Villages of Novoseltsi, Byala Rada, Slana Bara, Ruptsi, Akstsievo, Voinitsi, Vrav and others (Vidin region)	Patrols, some domestic assistance
Not yet identified	Village of Ravnets (Bourgas region)	Unknown
Not yet identified	Several villages in the Vratsa region	Unknown
Delta guard	Vurbitsa and four other villages (Pleven region)	Patrols
Traffic Sot	Village of Kaloyanovo (Plovdiv region)	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
VG Security	Village of Malorad (Vratsa region)	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
Delta Guard	Agricultural lands (Pleven region)	Patrols
Delta Guard	More than 30 villages (Veliko Turnovo and Pleven region)	Patrols/alarms
Arcus	Devene, Tri Kladenci (Vratsa)	Patrols
Traffic Sot	Starosel	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
Unknown	Dachin (Veliko Turnovo region)	Patrols, first aid, domestic assistance (delivery of firewood, medicines etc.)
VG Security	Dolna Kremena (Vratsa region)	Patrols

Our media analysis revealed a much wider and deeper scope of PSCs' involvement in niche markets, such as in remote and depopulated regions where police forces lack resources for regular patrolling and adequate response time. Preliminary estimates based on our media analysis indicate that hundreds of villages may be employing specialised PSC guarding services, including the packaging of security services with social services.

The villages in the Vidin region were one of the first to receive nation-wide media coverage for the "innovative" way they dealt with crime by hiring PSCs. The much-publicised involvement of PSC Sova-7 in the region, particularly in the case of the town Novoseltsi, was the main reason for selecting this case study. In addition, the Northwest of Bulgaria, including Vidin, is one of the regions within the European Union with the lowest socio-economic indicators, including unemployment, low education, and depopulation among others. As such, it presents a challenging security environment.

As of 1 June 2015, 33 PSCs have obtained specific licenses to operate in the territory of the Vidin region, and 28 companies have registered headquarters in the city. In addition, 946 PSCs have a valid nationwide license to deliver security services, which means that they may operate in the Vidin region as well.<sup>46</sup>

### The Northwest and Vidin region in numbers

The Vidin region is characterised by one of the most depressed labour markets in the country. It demonstrates some of the lowest levels of economic activity,<sup>47</sup> with over 1/3 of its population living under the regional poverty line.<sup>48</sup> There is also concern over the ageing population,<sup>49</sup> depopulation<sup>50</sup> and unemployment.<sup>51</sup>

Regional studies have identified a reverse correlation between the economic development of some regions and their social environment in terms of security and justice. The more economically developed a region is the more problems are identified regarding the functioning of the judiciary and the number of registered crimes against property and persons.<sup>52</sup> The Vidin region stands out as an outlier in this correlation: it is one the poorest regions in Bulgaria yet it also displays one of

46 Ministry of Interior (Mol). *National register of private security companies*. (Ministry of Interior, 2015) [www.mvr.bg](http://www.mvr.bg).

47 Only Silistra has a lower GDP per capita than Vidin at 5384 BGN, compared with the national average of 10 958 BGN for 2012. The average monthly wage in Vidin is twice as low as in the capital of Sofia. The region is also uniquely identified for combining the most unfavourable demographic indicators with one of the least developed labour markets. Source: Desislava Nikolova, et al. *Regional Profiles: Indicators for Development 2015*. (Sofia: Institute for Market Economy (IME), 2015). pp. 6; 16; 19.

48 Ibid, 6.

49 The region displays the worst proportionality between persons over 65 and persons 15-64, and the second lowest rating for proportionality between persons of 65 and over and persons between 0 and 14. Source: Ibid.

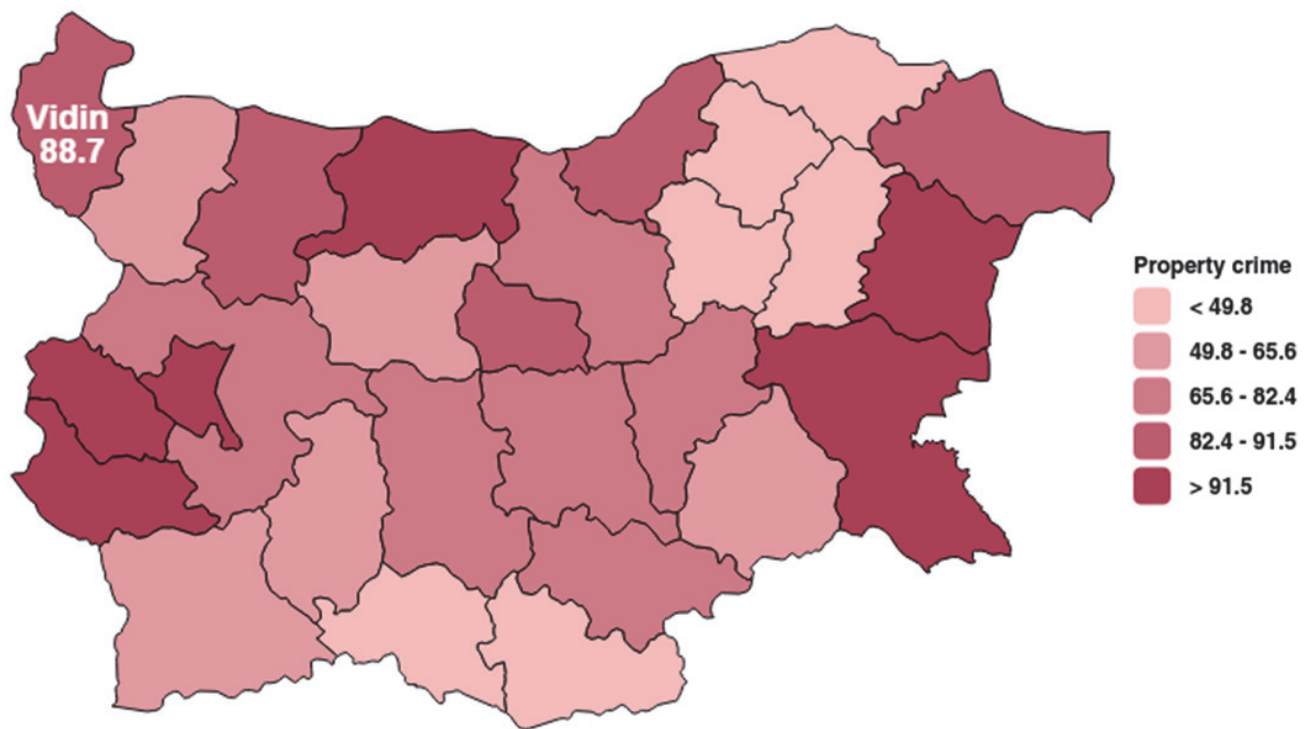
50 The region has the lowest natural population growth coefficient. It has the lowest coefficient for natural population growth at -15.2 per 1000, compared with the national average of -5.7 per 1000 for 2014. Source: Ibid.

51 The region has the second highest unemployment rate, according to data from 2014. The unemployment rate in the Vidin region is over 22%, compared to the 11.4% national average for 2014. Source: Ibid.

52 Nikolova, et al. *Regional Profiles: Indicators for Development 2015*.

the highest levels of registered property crimes per 10,000 inhabitants (see Figure 2). According to Mol data, the Vidin region also has the highest rate of registered crime per 100,000 inhabitants, reaching 1699.7 in the first half of 2013,<sup>53</sup> crimes committed are mainly thefts.

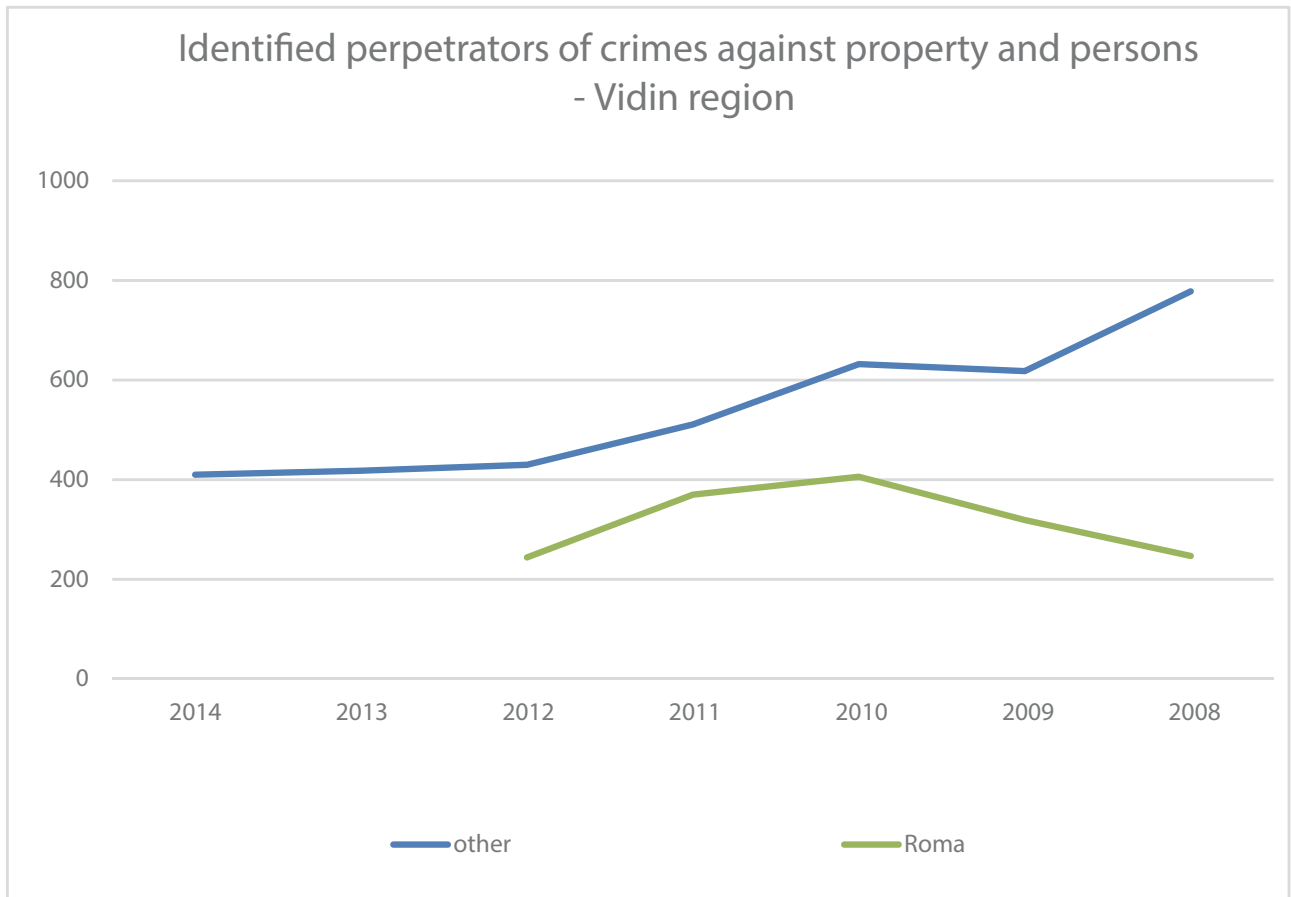
Figure 1. Registered property crime per 10,000 inhabitants by regions in 2014<sup>54</sup>



Statistics have shown that a disproportionately large number of crimes are committed by members of the Roma community in the region.

53 Ministry of Interior (Mol). Report on the Ministry activities for 2012. (Sofia: Ministry of Interior, 2013).

54 Source: Ministry of Interior

Figure 2. Identified perpetrators of crime in the Vidin Region<sup>55</sup>

Research has shown that the Roma community in Bulgaria suffer from long-term unemployment, sustained social and economic marginalisation and a generally insecure existence, all of which could be causes of their alleged involvement in crime.<sup>56</sup> In the Northwestern region, which includes the Vidin province, Roma communities have a significantly younger population than other population groups. At the same time, literacy rates among young Roma are decreasing, and many young Roma are unemployed<sup>57</sup> and uneducated with little prospect of integration or improvement of their social and economic status.<sup>58</sup>

<sup>55</sup> Ibid.

<sup>56</sup> Unemployment is a major factor driving conventional criminality among the Roma. Some argue that long-term unemployed, sustained social and economic marginalisation and the perpetually insecure existence of the Roma contributes to long-lasting psychological damage and a lack of coping mechanisms amongst Roma communities, which in turn result in anger, rage and a proclivity to aggression and violence. This manifests in rising violence, anti-social behaviour, and disrespect for the norms and rules of society. Some surveys have indicated that though they constitute only 5% of the total population of Bulgaria, Roma are responsible for 31% of conventional crime. Source: Simeonova, Korudjieva, and Petrova. *The Roma in Bulgaria*, 16.

<sup>57</sup> According to the census in 2011 only 19.3% of all Roma over 15 in the Northwestern region are employed.

<sup>58</sup> Ministry of Labour and Social Policy (MLSP). *Updated national strategy for demographic development of the population of Bulgaria (2012-2030)*. (Sofia: Ministry of Labour and Social Policy, 2011), 32.

With possible threats of crime, many citizens opt for the services of private security companies (PSCs) which promise the protection and support that citizens feel they do not receive from the police.

### **PSC patrolling in villages – the model**

The most common PSC services provided in the Vidin region are pro-active patrolling/guarding services. The patrolling service offers security for a whole village, even if not all citizens have subscribed to the service. Individual houses are included in the patrolling routes with a 10BGN monthly subscription. The model has been offered by the local PSC Sova-7.<sup>59</sup> Sources strongly indicate that the creative force behind the business model was the executive director of Sova-7, Ivanka Kamenova-Vanya, and the former mayor of Novoseltsi, Pantelej Panchev (in office 2011-2015).<sup>60</sup> Two other PSCs also offered the same model of patrolling in villages – “Alpha Shtit” and “Mars”. The companies, however, dropped the model as it was deemed economically disadvantageous – for the patrolling to be efficient, several shifts of patrols must be available at all times, which makes economic sense only after a certain threshold of subscribers have been secured. Sources indicate that Sova-7 worked pro-actively with local mayors to secure an audience for their outreach and marketing activities in the villages. Village gatherings, forums, presentations and dissemination of marketing materials were employed as business development strategies.<sup>61</sup> In most villages, due to a lack of separate facilities for office purposes, Sova-7 representation is negotiated and channelled through the local mayor, whereby in many instances monthly subscriptions are collected through the mayor’s office. This underscores the importance of cooperation and collaboration with local authorities for the model to function effectively. As these regions are poor and depopulated, the social, financial and economic infrastructure is depleted as well. Local leaders (such as mayors) are therefore very often the gatekeepers for business and politics in a certain area. This is why business development initiatives are channelled through the local influence of such leaders, and the infrastructure that is already available is used. The authors were not able to clarify whether such arrangements were based on written or legal agreements, similar to public-private partnership agreements in which the contribution of each partner and the related costs were accounted for.

Most sources indicate that after the initial campaign<sup>62</sup> and a registered boom in PSC subscriptions, the rate of new customer acquisition slowed down significantly. This may have been the case particularly after a noticeable increase in property crimes in the region in 2009-2010 and 2012-2013 (see Figure 1). One explanation for this anomaly may be that, after the initial surge in rates

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59 According to BG-VN2 and BG-PS1 the company started operating in 1992 by guarding barns along the Serbian border, which were used by smugglers to conceal and store their motorcycles. Smugglers would push their motorcycle across the Serbian border and sell the contents of its tank. This activity was performed multiple times per day, and at the end of the day the motorcycles were stored in nearby barns, guarded by Sova-7.

60 BG-VN1, BG-VN2, BG-NV1 interview with authors, Vidin and Novoseltsi.

61 BG-VN2, BG-PS1, BG-NV1, BG-NV2 interview with authors, Vidin and Novoseltsi.

62 Sources allege that increased media coverage of Sova-7 was arranged by their director Kamenova as a marketing move, BG-VN2 interview with authors, Vidin.

of new customer acquisition and a noticeable drop in the number of thefts and burglaries, the company has decreased frequency and effectiveness of patrols, therefore leaving some villagers disappointed with the service.<sup>63</sup> At the same time the less effective security service provided by the PSC has presented an opportunity for criminals to resume their activities. Furthermore, sharp increases in conventional crimes are sometimes due to criminal activities of “visiting” or “touring” gangs, although this has not been corroborated with certainty for the statistical variation in the particular region.

### Main characteristics of the model

A mixed impression of the effectiveness and ultimate results of the patrolling services is given. On the one hand crime in villages has been reduced, but on the other hand there are concerns about the model’s sustainability and long-term effectiveness, and its alleged disregard of the human rights of suspected perpetrators.

According to police, PSC representatives, and local residents, some key elements of the model include:

- **Compensation for the victims.** The value of damages (burglaries, thefts) is often small in nominal terms (a domestic animal, domestic tool, old TV/Radio set, etc.). Yet the victims, who are very often poor elderly people, may find it extremely difficult to deal with such a loss because of their typically abject financial situation. Accordingly, in many instances PSCs have provided a replacement for the stolen item in cases where it was not recovered. This is an informal policy that many PSCs implement in these regions. For example, when interviewed BG-NV1 described how she had been a victim of a theft during which a car battery was stolen from her vehicle. The guards managed to procure a replacement battery at the expense of the company as they were unable to locate and recover the stolen one. Another case involved the theft of hens from a village elder, which were replaced at the expense of Sova-7, as the stolen ones were not found. Stolen items are difficult to recover as they are immediately sold or consumed.<sup>64</sup>
- **High visibility of security measures.** The presence of patrolling guards and vehicles has a potent prevention effect. After initial deployment of patrols, criminals tend to avoid the village altogether.
- **Employing the Roma minority.** Sova-7 deploys mixed patrol units, which include Roma guards who are familiar with local criminality and the factors behind it.<sup>65</sup> This greatly increases the chances of locating stolen goods and apprehending perpetrators if necessary. It also

63 BG-VN1, BG-NV-1, BG-NV2 interviews with authors, Vidin and Novoseltsi.

64 BG-SG2 interview with authors, Novoseltsi.

65 Allegedly Sova-7 took advantage of EU-funded schemes for employment and human resource improvement. The company enrolled Roma individuals in the program and trained them as guards. This activity was repeated as many times as the company was approved for funding. BG-VN2 and BG-PS1 interview with authors, Vidin.

enhances dialogue and communication with Roma communities, as Roma guards are able to provide access to local Roma leaders.<sup>66</sup> However, concerns have been raised that the Roma staff do not always use their influence in their community in a benign manner (see below).

Although this security model has mostly been praised, concerns have also been raised. It appears that Sova-7's main drive and reason for success was their director, Ivanka Kamenova. She is described as a very pro-active person with both regional and national ties in the Mol, who has since left the company. As a result, presently Sova-7's village patrolling activities are stagnating, with little to no efforts being made into marketing and popularising the service.<sup>67</sup> After the initial boom of subscribers to the service, a period of cancellations followed after which subscriptions stabilised but never reached the levels of previous years. There are several reasons for the decrease in subscriptions:

- The Roma from Nov Pat have been migrating to Germany, particularly to the city of Koblenz.<sup>68</sup> Most of the former Roma leaders have also relocated to Germany.<sup>69</sup> As a result, the PSCs' activities geared toward preventing Roma crime have had to align with this new reality. Currently, Sova-7 does not patrol with the same frequency and intensity as in previous years.<sup>70</sup>
- Another factor contributing to the decrease of alleged Roma criminality is that a large number of thefts and burglaries appear to happen in waves in a particular village or villages. As a result, often there is nothing more to steal and raiders switch to different locations.
- According to some, police efforts have led to a decrease in crime rates particularly because police now respond more quickly to reports on petty crimes in the villages.<sup>71</sup> As patrols have a preventive effect in the immediate vicinity of a client's house, neighbours may opt not to subscribe to or renew contracts with PSCs, as they benefit from the patrols' effect without a subscription.

In addition, villagers are voicing concerns that the patrols have decreased in frequency from the nightly shifts and multiple vehicle presence of previous years.<sup>72</sup>

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66 BG-VN2, BG-NV1, BG-NV2 interview with authors, Vidin and Novoseltsi.

67 BG-VN1, BG-VN2 interview with authors, Vidin.

68 The following article describes in detail the model of travelling to Koblenz by bus. Apart from the 300 newly-arrived Roma families in Koblenz, there are some 200 in Cologne. Roma from Nov Pat have also immigrated to Italy, Spain and Greece. Source: "Polovinata romska makhala na Vidin veche e v germanskiya grad Koblents" [Half of the Roma neighbourhood of Vidin is already in the German city of Koblenz], *24Chasa*, 21 April 2015, accessed 2 February 2016, <http://www.24chasa.bg/Article.asp?ArticleId=4724919>

69 BG-VN1, BG-VN2 interview with authors, Vidin.

70 BG-NV1, BG-NV2 interview with authors, Novoseltsi.

71 BG-VN4, BG-VV1 interview with authors, Vidin and Vrav.

72 BG-NV1, BG-NV2, BG-VN3, BG-VN4 interview with authors, Vidin and Novoseltsi.



## Main challenges and shortcomings of the model

The overall crime-detering effect of Sova-7 patrol activities in the villages of the Vidin region remains unquestioned. Media analysis confirms that this is also the case in other rural areas where such security measures have been provided by PSCs. Interviews with law-enforcement, customers of the service and PSC representatives in the region, however, reveal particular concerns about the lawfulness and long-term effectiveness and sustainability of the service. Sources indicate several potential challenges and shortcomings with the Sova-7 model, similarly implemented in other rural areas by other PSCs:

- **Legal limitations and violations.** The patrol service may potentially usurp police functions. In some areas, hiring a PSC to patrol private houses is the last resort of both village authorities and inhabitants seeking a solution to the rural crime crisis. As such, there have been reports that mayors, in their ambition to tackle crime in the area, have required PSCs to stop vehicles, make arrests and search suspected persons. This is legally controversial as the law provides PSCs with very limited operative functions when it comes to suspect apprehension, while searching and stopping vehicles is not allowed by law for any PSC.<sup>73</sup>
- **Alleged use of violence and pressure.** According to BG-VN2 there is information about the alleged use of violence against suspected Roma thieves. However, no official complaints have been registered thus far. Many of the Roma employed by Sova-7 are in fact former criminals who are trained and employed as drivers and guards, sometimes also referred to as “observers”. Under the leadership of a retired police officer, who is of Roma descent and who is allegedly currently informally working for Sova-7, the PSC successfully locates and apprehends suspected Roma thieves. However, they are also said to be “punishing” suspects. This has spread fear among criminals and thefts and burglaries have decreased. Still, the methods are questionable.
- **Operational and coordination issues with police forces.** Police sources voiced opinions that communication and collaboration with PSCs patrolling in the area may be improved. Villagers often contact both PSCs and the police for reporting suspicious and criminal activities. As both deploy units to investigate, there is a potential for incidents to occur due to lack of communication and knowledge of the response tactics of the other.<sup>74</sup>
- **Training.** Police sources allege that Sova-7’s guards are not properly trained. Although many are not trained as guards at all and are instead employed officially as drivers or other types of non-guarding personnel, they do in fact perform guard functions. This, according to police, greatly reduces the quality of the security service.<sup>75</sup> In addition to lack of proper training, the guards are generally lacking in motivation because of low salaries. Guards are usually paid

73 BG-VN1, BG-VN2 interview with authors, Vidin.

74 BG-VN2, BG-VN3, BG-VN4 interview with authors, Vidin.

75 BG-VN4, BG-VN2 interview with authors, Vidin.

the minimum allowed monthly salary. Many are also employed through national and regional measures to increase employment.<sup>76</sup>

- **Accessibility.** The vast majority of the rural population in the Vidin region lives around or under the poverty line. In this respect, the patrol services offered by PSCs may not be accessible to many who are in need of such a service, despite the generally low price of around 10 BGN per month.
- **Sustainability and competitiveness.** The patrolling service makes economic sense only when there are a sizeable number of subscriptions. It requires the purchase and maintenance of vehicles, sufficient staff to man a 24 hour presence, etc. As such, presently only Sova-7 offers such services, as the market is too constricted to allow for other participants and most companies are instead providing conventional alarm and response systems. This may potentially have an adverse impact on the quality of security services.<sup>77</sup>

## Discussion and Conclusion

As stories of violent rural crime continue to plague the front pages of online and conventional media, PSCs are increasingly asserting themselves as the saviour of the Bulgarian village. Our research has shown that PSCs are increasingly re-packaging their security services to include a strong social component that allows them to cater to community needs, such as by providing domestic and medical assistance. In effect, PSCs are focusing on filling gaps previously filled by state services, such as social care and policing. The Vidin Sova-7 case study is indicative of seized opportunities, success stories as well as missed potential. The overall result of the company's activities in the villages in the region has been positive, as thefts and burglaries have significantly decreased where the PSC has a patrolling or permanent presence. Challenges remain, however, in communicating and cooperating with police, particularly with respect to effective and efficient allocation of resources and intelligence gathering. Currently it appears that police and PSCs cooperation exists on both a formal and informal level. It is not clear how potentially sensitive information gathered through PSC surveillance activities is being shared and communicated with police authorities. Furthermore, when reporting a crime or other incidents the victim often contacts both the police and the PSC, which at times results in a duplication of resource allocation, for example in such a case one unit may arrive at the crime scene, while the other may perform surveillance of the vicinity in view to identify a suspect or recover stolen property. Although a Memorandum of Understanding (MoU) was signed by PSC associations and the MoI in mid-2014 which aimed to improve cooperation, little evidence of such improvement was uncovered in our case study, pointing to possible avenues to improve cooperation and service delivery to rural communities.

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76 VN-PS1 interview with authors, Vidin.

77 VN-PS1 interview with authors, Vidin.

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Occupation of interviewee	Coding
Director of Mol Regional Directorate, Vidin	BG-VN1
Deputy Director of Mol Regional Directorate, Vidin	BG-VN2
Temporary Chief of Sector "Private Security Companies and Gun Control", Vidin Regional Directorate, Mol	BG-VN3
Officer in Regional Police Force	BG-VN4
Mayor of Novoseltsi	BG-NV1
Assistant to the Mayor of Novoseltsi	BG-NV2
General Manager of a large private security company in Vidin	BG-PS1
Deputy Mayor of Vrav	BG-VV1
Private security guards from Sova-7, stationed in Novoseltsi	BG-SG2

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Tsvetkova, Parvoleta . “ Sela se otkazavat ot politsiyata, naemat chastni gardove” [Villages giving up on the police, hiring PSC instead], *Standard News*, 16 January 2014, accessed 1 February 2016, [http://www.standartnews.com/regionalni/sela\\_se\\_otkazvat\\_ot\\_politsiyata\\_naemat\\_chastni\\_gardove-221927.html](http://www.standartnews.com/regionalni/sela_se_otkazvat_ot_politsiyata_naemat_chastni_gardove-221927.html).

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## Cooperation between Private Security Companies and the Kosovo Police – Opportunities and Limits

*Donika Emini and Mentor Vrajolli*

### Introduction and Background

Though Kosovo's private security sector emerged almost simultaneously alongside the national police, its development has not followed the same promising path. Indeed, as one of the most prominent state institutions, the police force has made remarkable strides in its development – this has not however been the case for private security companies (PSCs).

After 1999, when the private security sector first began to emerge in Kosovo, international and local institutions restrained the role of PSCs within the domestic market. From a post-conflict perspective, the international community viewed the development of PSCs as a potent force of challenge to their authority. Locals also had reservations about the private security sector, mainly due to rumours which linked many PSC owners to particular political groups or individuals. Furthermore, private security in Kosovo was a new market phenomenon, and this caused clashes with individuals who held more traditional views about roles within the security sector. As a result, for more than a decade PSCs were excluded from the majority of security sector circles within Kosovo.

As a result of this apprehension of PSCs (shared by a wide range of public stakeholders), the real development of the private security sector in Kosovo began relatively late; taking shape only after 2011 when the new legal framework on private security services was adopted by the Assembly of Kosovo.<sup>78</sup> Indeed, the development of this sector is still in its early stages. Fragments of scepticism about the role of PSCs continue to exist amongst representatives of key public institutions, including the Kosovo Police (KP). Considering that the private security sector in Kosovo has increased substantially, this mind-set is concerning. Indeed, the latest statistics generated by the Ministry of Internal Affairs suggest that the number of PSC staff in Kosovo is continually increasing, to the point that numbers are likely to soon match the numbers of the KP. According to these statistics, while the KP currently consists of 8'981 members (7'883 police officers and 1'098 civilian staff) at the national and the local level (more precisely, including the General Directorate in the capital Prishtina and eight Regional Directorates in the biggest municipalities within Kosovo),<sup>79</sup> PSC staff currently number more than 6'500 employees.<sup>80</sup> The market presence of PSCs is increasing in both rural and urban areas, and this has resulted in a further increase in the numbers of their units.

This increase prompts the need to reassess the role of private and public security actors in Kosovo. Representatives of both private and public security institutions have emphasised that the dynam-

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78 Donika Emini and Menotr Vrajolli, "Kosovo," in *A Force for Good? Mapping the Private Security Landscape in South-east Europe*, eds. Franziska Klopfer, Nelleke Van Amstel. (Belgrade and Geneva: DCAF, 2015), 61-82.

79 Official Statistics of the Kosovo Police, 2016.

80 Officials Statistics of the Ministry of Internal Affairs, 2016.

ic trend of PSC expansion is not the result of any decrease in efficiency amongst the police or other rule of law institutions in Kosovo. On the contrary, they hold that the increase in private security providers is a global phenomenon, triggered by the emergence of new market demands for private security services. Accordingly, competition with public security institutions has not driven the emergence of the private security sector in Kosovo. Rather, the need to supplement public security services has allowed the sector to develop within a new market.

The contribution of PSCs to public safety goes beyond the reporting of crimes which have occurred within their contracted areas. Various media reports (mostly written media and online sources) have indicated concrete examples of cooperation between KP and PSC representatives, within the scope of their respective legal mandates, which have had a direct positive impact on public safety in Kosovo. In addition, PSC and KP representatives have reported a pattern of cases wherein the KP was assisted by PSCs. This assistance has included reporting criminal incidents to the KP, as well as providing concrete evidence about these incidents, resulting in their resolution. Hence, PSCs can play a positive, key role in reducing crime rates in monitored areas. However, considering that cooperation between the KP and PSCs is still in its early stages of development, it is difficult to find detailed examples of success stories illustrating cooperation between the two parties.

This case study will therefore tackle the following question: what would improved collaboration between the KP and PSCs look like, within the framework of their current legal mandate? To answer this question, this study begins first by analysing cases wherein the KP used footage from CCTV cameras operated by PSCs. We consider what made these cases positive examples of collaboration, and critically assess the positive and negative impacts this collaboration could have. Second, this study continues by addressing cases where collaboration between the KP and PSCs failed, and how this negatively impacted local security. Third, we look to the future and collate the ideas of security experts (both from within the KP and PSCs) regarding how these two sets of actors could collaborate in a more efficient way. These ideas are assessed in the final part of the study by considering the parameters for collaboration set by national and international law. To conclude, we propose a way forward for policy makers, the KP, and the private security industry in Kosovo.

## **Methodology**

This study is based largely on qualitative desk research, and focuses mainly on an extensive analysis of legal and political reports and journals. Cases provided by the Kosovo Police were also key documents reviewed during the process of research and analysis. The collection of data furthermore included face-to-face interviews with key stakeholders, such as private security company owners and employees, and Kosovo Police officials. The authors conducted these interviews with relevant stakeholders to shed light on the possibility of increasing cooperation between the KP and PSCs in Kosovo. Due to the lack of information and previous research regarding this cooper-



ation, interviews and focus groups were used to extract information on the detail of this matter. Desk research, on the other hand, focused on the relevant legal framework and media reports.

### The Use of PSCs' CCTV Footage by the KP

Research results have shown that there are a large number of cases, mainly in the region of Prishtina, where the KP used footage collected by CCTV cameras operated by PSCs in order to solve crimes such as robberies (including bank robberies), car accidents (hit and run cases), violent incidents in high schools, and murder cases. For example, networks of criminals selling stolen goods in public retail areas were identified using CCTV footage that PSCs provided to police.<sup>81</sup> CCTV is therefore often considered an efficient and successful tool for fighting and reducing crime rates in specific and targeted areas.

Data provided by the Ministry of Internal Affairs of Kosovo (MoIA) shows that the number of PSCs in Kosovo licensed to provide electronic surveillance reached 30 in early 2016, representing 50 percent of PSCs in Kosovo<sup>82</sup> – a slight increase since 2012. There is no database containing a centralised record of the number and types of clientele and cameras installed by PSCs in Kosovo, nor is there information available regarding the region with the highest number of clients.<sup>83</sup> Nonetheless, according to the two largest PSCs in Kosovo providing this type of service, in Prishtina alone more than 8'000 cameras have been installed. This is much higher than the number of public cameras.<sup>84</sup>

Indeed, state and municipal authorities have installed only a limited number of cameras.<sup>85</sup> This explains why CCTV footage from PSCs has contributed so significantly to crime prevention in places

81 Police Reports and Cases covering the region of Prishtina, September 2015.

82 Ibid.

83 Data Protection Agency Official, 2016.

84 Interviews with PSC Owner B, PSC Owner C, PSC Owner D, DPSC Official, MoIA Official, 2016

85 There is no official data capturing the exact number of public cameras in the territory of Kosovo. There is, however, data on a limited number of municipal-level camera installation projects which aimed to increase the level of public safety and improve crime prevention. As such, the first town to install public cameras was the town of Gračanica (located in the centre of Kosovo), mostly inhabited by the Serbian community "Raport mbi qeverisjen në katër komunat me shumicë serbe: Graçanicë, Ranillug, Klllokot dhe Partesh" [Report on Governance in the four Serb-majority municipalities, Gračanica, Ranillug, Klllokot and Partesh] *GAP Institute*, 2012. Retrieved 6 April 2016, from [http://www.institutigap.org/documents/600\\_RAPORTIPERKOMUNATEREJA.pdf](http://www.institutigap.org/documents/600_RAPORTIPERKOMUNATEREJA.pdf). This initiative took place after a series of ethnic-based incidents that occurred in the area. The case of Gračanica set a precedent for other towns in Kosovo, such that the town of Peja (located in the western part of Kosovo) – which was one of the towns with the highest crime rate since the end of the conflict in Kosovo in 1999 – also installed public cameras. The decision of Peja (Selimaj, U "Peja Nën Vëzhgimin e Kamerave" [Peja under observation camera] *Kallxo*, 2011. Retrieved 4 June 2016, from <http://kallxo.com/gjnk/peja-nen-vezhgimin-e-kamerave/>) to install 200 cameras was followed by other towns in Kosovo such as Ferizaj ("Ferizaj përoron projektin për vëzhgimin e qytetit me kamerë" [Ferizaj inaugurates project to the city with camera surveillance] *Koha Ditore*, 4 February 2016. Retrieved June 04, 2016, from <http://koha.net/?id=9>), which installed 120 cameras, some districts in Prishtina such as Dardania, and some key, crowded locations in the capital (Focus Group with Kosovo Police Representatives, January 2016). Though the number of public cameras is slightly increasing, they do not compare to the number of cameras owned and the number of places monitored by PSCs in Kosovo. PSC CCTV cameras have wider coverage, as they are placed in private houses, small businesses and smaller neighbourhoods where public cameras are not typically present.



like Prishtina and the town of Peja.<sup>86</sup> Following an increase in the crime rate in these locations, public opinion called for municipalities to install more security cameras. However, state and municipal authorities have been slow to react, due to a lack of financial resources and concerns arising from data protection restrictions.<sup>87</sup>

PSCs therefore filled an obvious gap in security provision by introducing tools, such as cameras, which provide crucial information for KP's crime prevention and investigation activities in certain municipalities. However, there are also a number of concerns which must be considered in these cases.

According to legislation in Kosovo, the CCTV services provided by PSCs should primarily cover the private spaces of the relevant contracted area. However, due to the nature of the service, in some cases it is impossible for PSCs to provide proper CCTV coverage of the contracted area without extending the perimeter of the camera coverage beyond the contracted area. For example, CCTV monitoring of the entrances of privately secured areas inevitably covers the public entrance to the private space, which may be frequented by the public, and this may represent a privacy concern. As described above, CCTV cameras were often set up by PSCs in areas where local municipalities had been slow to install their own cameras, partly due to concerns over privacy protection. The fact that PSCs installed CCTV cameras does not mean that it was ultimately concluded that there would be no violation of the right to privacy if a camera was installed. Accordingly, police should be careful not to misuse privately-obtained camera footage from a location where police cameras were not permitted to be installed in the interest of the public's privacy.

In its Introductory Handbook on State Regulation Concerning Civilian Private Security Services, the United Nations Office on Drugs and Crime (UNODC) highlights this concern regarding the protection of privacy in the context of private security activities:

The challenge to States is in regulating the information which private security companies may legitimately collect, and in what manner and from whom it is collected, how it is stored and for how long, who has access to it, and how it may be shared and with whom.

The potential for abuse and misuse requires regulators to link regulatory frameworks and provisions on information-sharing with legislation governing personal privacy and freedom of information. Standards can be set controlling the nature of information collected and the specific instances in which collection and sharing is permitted, how it is stored and shared and for how long [...].<sup>88</sup>

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86 Interview with Kosovo Police Officer D, 2016.

87 "Prishtina pa kamera sigurie në hapësirat publike" [Prishtina without security cameras in public spaces] Koha Ditore, 3 April 2016. Retrieved 4 June 2016, from: <http://koha.net/?id=>

88 UNODC, *Introductory Handbook: State Regulation Concerning Civilian Private Security Services* (New York: UNODC, 2014). Available online at: <https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Ebook0.pdf>, 18.

Legislation in Kosovo also provides some clarity on the issue. The Law on the Protection of Personal Data permits the use of video surveillance systems by both the public and private sector in order to ensure the safety of people and the security of properties.<sup>89</sup> It also specifies clear rules for informing people when they are being monitored,<sup>90</sup> and regulates the storage of recorded material.<sup>91</sup> Separately, the Law on Private Security Services clearly limits the purposes for which PSCs may use electronic surveillance.<sup>92</sup>

While it is a positive development that the footage collected by PSCs has helped in criminal investigations, clear regulations (such as those previously mentioned) should be enforced in order to ensure the protection of citizens' right to privacy.

### The ECK Case: A Lack of Coordination and Cooperation

The example of the KP using CCTV footage collected by PSCs in their criminal investigations might give the impression that the KP and PSCs have developed a constructive and collaborative partnership. Generally however, this is not the case; some KP officials claim there have been many occasions when PSCs have obstructed the work of the KP. For example, PSC guards have prevented KP officers from arresting their clients (municipal officials).<sup>93</sup>

The "ECK-case" brought to the Supreme Court by the Kosovo Energy Cooperation (ECK), is an illustrative example of the clash of interests between PSCs and the KP.<sup>94</sup> The case of ECK is unique because a large number of PSC employees continuously worked there despite the fact that the PSC contracted by ECK changed more than three times. Around 500 security workers were transferred from one PSC to another as a result of the change of contracted company, and the newly contracted companies failed to exercise control over their new employees, resulting in many crimes and burglaries taking place which were not satisfactorily investigated. According to the KP, it is impos-

89 Law of the Republic of Kosovo on the Protection of Personal Data, Law No.03/L-172 (hereafter "Law on Personal Data Protection"), Article 62, § 1.

90 Cf. Ibid, Article 61 §2 as well as Article 62 §5.

91 Recorded material may only be stored for a maximum of 6 months (cf. Ibid, Article 62 §7).

92 Law of the Republic of Kosovo on Private Security Services, Law No.04/L-004 (hereafter "LPSS"), Article 27, §5.

93 While the KP fails to recognise PSC personnel as potential partners in preventing crime and increasing public safety, citizens perceive PSCs more positively. As the results of the Kosovo Security Barometer show, around 60 percent of respondents viewed the role of PSCs in Kosovo as positive, while a significant number of respondents (more than 70 percent) declared that they had had contact with PSC personnel. This reflects the presence of PSCs in the field: they cover almost the entire territory of Kosovo due to the fact that they offer services to banks, post offices and businesses; supervise and protect movable and immovable property; guard property and provide surveillance of public spaces; transport cash; protect persons; provide in-house security, store security, in-house detectives, and access control; control attendance at events; ensure security of shopping malls; supervise apartment blocks; and deliver CCTV monitoring (which is highly present everywhere). They are therefore closer to the public. (The Kosovo Security Barometer is a special programme by the Kosovo Centre for Security Studies (KCSS) aiming to measure citizens' perceptions towards security institutions in Kosovo, in the past three years KCSS has included PSCs in their studies/ research given the increasing role of PSCs in providing security services.)

94 "Rasti i tenderit 6-milionësh shkon në Gjykatën Kushtetuese" [Tender case 6-million goes to the Constitutional Court] *Koha Ditore*, 25 December 2015. Retrieved 4 June 2016, from <http://koha.net/?id=27>

sible to solve such cases – i.e. cases where PSC employees are suspected of being complicit in the crimes – because security employees have a vast knowledge of the relevant locations and are very well organized within their circles of illegal activities. This scenario therefore embodies the potential for failed cooperation between the KP and PSCs, while also illustrating the risks associated with a lack of management control within certain PSCs.<sup>95</sup>

### **Arguments for a Different Model of Cooperation**

The above examples demonstrate how much good will is needed on the behalf of both PSCs and the KP to ensure successful cooperation. Provided that this good will can be generated, which security issues should be tackled jointly by PSCs and the KP to guarantee high-quality cooperation and coordination? In particular, what kind of collaboration would be appropriate, lawful, and effective? To answer these questions, we interviewed a number of security specialists including representatives from the KP and PSCs in Kosovo. These experts offered several suggestions as to useful cooperation initiatives between law enforcement agencies and PSCs.

An often cited example of actual cooperation between the KP and PSCs in Kosovo is the provision of security at public events. In the past, public events were only secured by the police. Today however, most public event security is provided by PSCs because it has become evident that the relevant guarding tasks do not require highly-skilled police officers. Nevertheless, the police still work with PSCs to provide an assessment of the security situation and to provide additional support should there be a threat to public security and safety.

In a similar vein, one KP officer who was interviewed for this study believed that collaboration between the KP and PSCs is in the interest of both parties as well as for the citizens of Kosovo.<sup>96</sup> In his opinion, law enforcement institutions (the KP in the present case) could use and prepare PSC personnel to assist in emergencies, and thereby coordinate efforts to increase public safety. The influence of PSCs could also be used for this purpose, as they have a wide range of clients, from businesses and individuals, to properties, and so on. According to another KP officer, increasing the level of cooperation between these key security actors would increase public safety in Kosovo by improving the overall effectiveness of crime prevention efforts.<sup>97</sup>

Several PSC owners and two officials from the MoIA furthermore pointed out that so far, PSCs have failed to collaborate (or at most, have rarely collaborated) with law enforcement institutions in their community policing activities. Yet PSCs have more staff present in the field than the KP. There is thus a flagrant lack of coordination and little willingness to boost the partnership between the public and private security sectors.<sup>98</sup>

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95 Interview with PSC Owner and Security Expert D, March 2016.

96 Interview with KP Officer E, March 2016.

97 Interview with KP Officer F, March 2016.

98 Interviews with PSC Owner B, PSC Owner C, PSC Owner D, DPSC Official, and MoIA Official, February 2016.

The executive director of a Kosovar PSC stated that cooperation between KP and PSCs employees should be particularly easy because their professional background is often similar. It is therefore unsurprising that members of the KP and PSCs maintain close personal relations. Thus former members of the KP who are now employed by PSCs could help facilitate improved cooperation between these security actors. In our interviewee's opinion, this shared professional background presents an opportunity to enhance the success of any potential joint projects.<sup>99</sup>

Similarly on the subject of potential avenues for mutually advantageous cooperation, a PSC owner argued that the widespread presence of PSCs in the field, if used effectively by the KP, could boost the success rate of crime prevention and public safety.<sup>100</sup>

Several PSC professionals also pointed out that certain basic security tasks do not need to be carried out by highly-trained police officers, but rather could be performed by private security staff in the interest of cost-efficiency. Using the capacities of PSCs to offer this type of basic guard services would allow officers of the KP to accomplish other duties that PSCs cannot and are not legally allowed to perform.<sup>101</sup>

Finally, representatives of PSCs suggested that more information should be exchanged between the KP and PSCs. As explained in the legal analysis section, PSCs are obliged to cooperate with the KP, but in reality this rarely occurs, and cooperation in Kosovo is often limited even in the exchange of information.<sup>102</sup> For example, the current legal framework in Kosovo obliges PSCs, to some extent, to provide information to the KP in cases reported by the PSCs themselves – however in practice such exchange is dependent on the PSCs' willingness or reluctance to do so.<sup>103</sup> According to the data provided by the KP, almost one in eight incidents is reported by a PSC, and in one of seven cases a PSC member has been involved.<sup>104</sup> At times, cases reported by PSCs are not registered as such, but rather are registered as having been reported by random citizens.<sup>105</sup> PSCs should be one of the groups that the KP reaches out to when collecting information about security threats and needs, thus it is important that cases are accurately registered as being reported by a PSC so that this potential source of information can be followed up with as the case is investigated.

### **Analysis and Examination of the Legal Aspects of Cooperation between the PSCs and the KP**

The different methods of cooperation described by the representatives of the KP and PSCs above are likely to increase the effectiveness of the work of law enforcement in Kosovo, and therefore to improve overall security in the country. However, certain concerns should be considered regard-

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99 Interview with PSC Executive Director D, March 2016.

100 Interview with PSC Owner and Security Expert A, March 2016.

101 Interview with PSC Owner F, 2015.

102 Interview with PSC Executive Director G, March 2016.

103 Interview with Police Officer H, January 2016.

104 Official Statistics of the Kosovo Police, March 2016.

105 Interview with PSC Representative and Security Expert F, 2016.

ing the respective roles and mandates of PSCs and the police. Kosovar legislation clearly prescribes the duties of the KP, which include protecting life and property, offering safety for all people within Kosovo, protecting the rights and fundamental freedoms of all citizens, and maintaining public order.<sup>106</sup> Legislation also sets out the rights and obligations of PSCs; a closer look at the legal framework in Kosovo is therefore key to determining the respective mandates of police and PSCs.

In principle, current legislation regulates the private security sector the same as it does any other private sector in Kosovo, with the exception that this sector is also the subject of the Law on the Private Security Sector (LPSS). The LPSS explicitly states that PSCs can only have a defensive safeguarding role, and lack authorisation to initiate any measures which may go beyond their defensive safeguarding purpose.

However, there are other legal requirements which PSCs, just like other legal and private agencies, are obliged to comply with. Violation of provisions of the Criminal Code may lead to criminal charges, including for crimes against the administration of justice and public administration, crimes against the liberties and rights of individuals, and crimes related to weapon offenses. As such, in a complete analysis of the interaction between the private security sector, rule of law institutions, and citizens, general legislation such as the Criminal Code, which is not limited to the private security sector, should not be overlooked.

Considering the security-related authorization that PSCs have, application of the Criminal Code is especially important for two reasons: first, it defines the extent of private security actors' responsibilities in relation to the rule of law and cooperation with justice institutions; going beyond the LPSS or contractual obligations between PSCs and their clients. Second, it defines the extent to which a non-state (private security) actor can use force, with due respect to the principle of proportionality.

Kosovar legislation thus clearly sets out the roles, responsibilities, and obligations of each security actor in Kosovo. As a state body, the KP has responsibility for ensuring public security. All citizens, if they can contribute, should help in this endeavour. This is particularly pertinent for private security staff, as they are likely to have more relevant information to share than the average citizen. Furthermore, PSCs must not violate Criminal Code provisions when carrying out their work (for example by compromising the liberty or physical integrity of the citizens that they are dealing with). The police, by comparison, have powers within the course of an investigation (given to them by judicial authorities) to limit a citizen's rights, as long as this limitation can be justified within the context of their mandate to ensure public safety and the rights of all citizens. Unlike the police, private security companies do not have this mandate to ensure the rights of citizens and uphold public order and safety. They therefore do not have the corresponding privileges.

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106 Law of the Republic of Kosovo on the Police (Law No. 04/L-076), Article 10.

## Conclusion and Policy Recommendations

Cooperation between the police and private security companies is increasing in Kosovo, with evident willingness to further expand this cooperation. However, caution must be applied. Private security personnel should not assume responsibilities reserved for the police. Though there are certain tasks previously carried out by police, such as security control at airports, which may be carried out by private security guards, nevertheless private security should not be wholly responsible for ensuring public security and safety. This is due to the level of oversight attached to public forces and their democratic mandate; such a mandate and level of control are not in place when private security provides similar security services.

The above-described examples, in particular the use of PSC CCTV footage by the KP, demonstrate that police can make effective use of information collected by PSCs, but concurrently that regulation is needed to ensure that PSCs do not overstep their mandate as private agencies or infringe upon the rights of citizens (such as the right to privacy).

In cases where cooperation would be mutually advantageous, especially in the exchange of expertise regarding general security threats and needs, cooperation should be carried out formally and transparently to avoid conflicts of interests (e.g. police giving information to their former colleagues who are now private security officers) and possible illegal activities (e.g. PSCs carrying out activities for the police, which the police would otherwise be unable to do).

There is also a need to increase the general trust between the KP and PSCs. PSCs should not be treated dismissively by police officers based on prejudices about their professional abilities: police should value private security staff as witnesses, at least as much as they would with any other private citizen. On the other hand, PSC staff should be aware of their positive duties as law-abiding citizens and take care not to obstruct the work of law enforcement, and further, should endeavour to assist law enforcement operations when they are in a position to do so.

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## ***Reflections and Questions***

All three case studies in Part 1 examine the activities of PSCs that have de facto filled a security vacuum. This shift away from public security provision is not an explicit government policy, but rather was triggered when citizens – faced with insecure local conditions – hired PSCs to compensate for a reduced or insufficient state police presence.

In all three cases, the increased presence of PSCs supported crime prevention and resulted in a perceived increased local security. Particularly in the Vidin case study, citizens welcomed the arrival of PSCs amidst feelings that they had been abandoned by police and social services. The PSCs' innovative and flexible methods of operation and their ability to invest in expertise and equipment contributed to their local popularity. However, it is worthy of concern that some of this PSC success was achieved by resorting to excessive use of force (in Vidin) and by relying on PSC officers' personal connections to the police to leverage support (in the second case study on the Albanian region of Vaqarr). Nevertheless, the success of the PSCs does not appear to have been exclusively dependent on the aforementioned excessive use of force or personal police connections; though these issues call for closer regulation, they do not necessarily indicate systemic flaws in PSC security delivery.

Set against this cautiously optimistic diagnosis, the case studies also proceed to consider how the existing systems could be improved. An argument that is often voiced against the privatization of police services is that PSCs only provide services to their clients, rather than to the community as a whole (as the police do). This assumption is challenged by the PSCs examined in the Vidin and Vaqarr case studies, which provide security to the entire community within which their clients are located, rather than solely to the assets or properties of their clients.

For example, the PSC in Vidin found that by securing the entire community, they rendered it more difficult for criminals to target the property of their clients. This illustrates the many potential positive knock-on effects of private security, but also points to the limits of the market model: the priority of a commercial security provider is necessarily to fulfil its contractual obligations to its client in the most profitable way possible. Securing other assets or areas not associated with the client may fit into the cost-benefit model of the PSC (as observed in Vidin) – but also may not. It cannot therefore be assumed that the private security model will ensure security for an entire community.

Indeed, the risks of relying largely on the market to deliver security are highlighted in the two case studies from Vidin and Vaqarr, where the PSC market model did not bring about sustainable security provision. A security vacuum emerged when PSCs lost contracts and consequently had to reduce their services, and the police were unable to quickly adapt to fill this gap.

With this in mind, the Prishtina case study considers how private security can most effectively work alongside the police. In Prishtina, the state retained the responsibility to guarantee (most) local security needs, but outsourced the delivery of some of its tasks to private security providers.

Another model, also discussed in more detail in the Prishtina case, is non-contracted cooperation between police and private security whereby each works independently but cooperates with the other by, for example, exchanging information when this is in the interest of both parties (in the Prishtina case, the use of PSC CCTV footage by the Kosovo Police is discussed). Such models of cooperation between the police and PSCs can be found throughout Western Europe,<sup>107</sup> and are also becoming increasingly common in Southeast Europe.<sup>108</sup>

In a study on PSCs in Switzerland, scholar Matthias Bieri posits that a major risk of outsourcing public security tasks to a private provider is a decrease in state control and therefore a corresponding decrease in accountability.<sup>109</sup> This may not pose a major concern when it comes to tasks such as ticket inspections or security controls at airports or public events. However, this lack of accountability becomes more problematic when the outsourced activities are more likely to have a direct impact on a person's human rights (for example when PSCs are given powers of detention). Accordingly, when PSCs are contracted to provide public security, matters of responsibility and liability must be addressed by state authorities.<sup>110</sup>

As a final consideration, the Vidin case study discusses the hidden costs of outsourcing public tasks to PSCs. Sova 7, the company that so successfully operated in the Vidin region, owed much of its success to the active support of the local mayor who invested his (and possibly his staff's) time in promoting Sova 7 and collecting subscription fees on the company's behalf. State resources were thus used to support a private company. Both the Vidin and Vaqarr case studies also highlight the cost associated with mismanaged private security: police ultimately had to invest in re-establishing public security structures when private security solutions proved unsustainable. First downscaling and then re-building public security structures is unlikely to be significantly cheaper than preserving and maintaining the public structures initially in place. Hidden costs such as these must be considered before security is outsourced to a private provider.

In sum, when considering the privatization of security services formerly provided by state security, policy makers should consider the following questions:

- If the state is responsible for providing basic security and the PSC market should only be used to provide additional security, how should we define the "basic security" functions that must be reserved for the police?

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107 CoESS (2010) *Critical Infrastructure Security and Protection – The Public-Private Opportunity. White Paper and Guidelines by CoESS And its Working Committee Critical Infrastructure*. 8-9.

108 Franziska Klopfer, Nelleke Van Amstel eds. *A Force for Good? Mapping the Private Security Landscape in Southeast Europe* (Belgrade and Geneva: DCAF, 2015).

109 Bieri, Matthias (2015) 'Beständiger Aufstieg: Private Sicherheitsunternehmen in der Schweiz', in: Nünlist, Christian; Thränert, Oliver (eds.) *Bulletin 2015 on Swiss Security Policy*, Center for Security Studies (CSS), ETH Zurich, pp. 63-86.

110 Sparrow, Malcolm K. (2014) 'Managing the Boundary Between Public and Private Policing'. *New Perspectives in Policing Bulletin*. Washington, DC: U.S. Department of Justice, National Institute of Justice, 2014. NCJ 247182. p 9.

- Is it possible (and if so, is it desirable) to reduce public security provision and allow the PSC market to deliver (the majority of) security services? Is the private security industry economically robust enough to guarantee a sustainable delivery of security, even when the number, resources, and diversity of their clients fluctuate?
- Is the outsourcing of public security tasks to private providers genuinely more cost-effective, if one considers hidden costs such as the investment required to establish procurement arrangements (such as selecting and vetting private security and formalising contracts), and the cost of up-scaling and down-scaling public security provision quickly to fill any market gaps?
- Which tasks previously provided by public security are now being performed by PSCs? How can communication between law enforcement and these PSCs be improved? What kind of co-operation can be envisaged such that the state retains control (and preserves accountability), and avoid ending up paying more because setting up and maintaining control mechanisms is so expensive?





PART 2:

**THE ROLE OF PSCs  
IN THE PROTECTION  
OF OBJECTS  
OF NATIONAL  
SECURITY  
IMPORTANCE**

Part 3 will examine the role that private security plays in the protection of critical infrastructure<sup>111</sup> in two Southeast European countries: Bulgaria and Serbia. Damage to assets of critical importance to a society can have a tremendous impact on the security of thousands of people. The protection of critical infrastructure is therefore a matter of national security. While the duty to ensure protection is typically the responsibility of the proprietor of the critical infrastructure – regardless of whether the proprietors are private or public entities – the state must nevertheless define these duties and intervene if adequate protection is not provided.

These two case studies explain how private security companies (PSCs) can have an impact on national security when they provide security services to critical infrastructure assets, and examine whether PSCs can guarantee the required level of security in this context. The case-studies ask whether critical infrastructure protection (CIP), when conducted by PSCs, bears specific risks or opportunities. How can these risks be mitigated, and opportunities fostered? Is there a fundamental flaw in the decision to place PSCs in charge of a national security prerogative such as CIP?

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111 “Critical infrastructure’ means an asset, system or part thereof located in Member States which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions.” COUNCIL DIRECTIVE 2008/114/EC, of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection, Article 2(a).



## Mission Critical, Mission Impossible – The Role of PSCs in Protecting Critical Infrastructure in Bulgaria

*Rositsa Dzhékova and Anton Kojouharov*

### Introduction and background

Until 2013, the Bulgarian Ministry of Interior (Mol) had an internal department for technical security services (SOD), with territorial units and specialised monitoring centres at regional police stations. The Ministry also had the remit of providing security to all critical and strategic facilities and services, formally designated as such in Bulgaria. The removal of the guarding unit from the Mol in 2013 was part of a cost-cutting reform as, allegedly, it incurred losses of around BGN 2 million annually.<sup>112</sup> Now that the Mol has relinquished a large part of its security and guarding functions, PSCs have begun to fill the gap, including protecting critical and strategic infrastructure. The absence of a specialised security unit within the Mol has not, however, resulted in the absence of security provision by the security services of the Mol. On the contrary, many critical and strategic facilities and services - such as airports, the subway in Sofia and some train and bus stations - are still guarded exclusively by police forces. The decision on who guards what is made both at the local and national level. For example, the classification of the Sofia subway as a strategic facility was allocated by the Sofia Directorate of the Mol<sup>113</sup>. In such cases, the Mol is awarded a contract.

The level of safety and protection of critical infrastructure in Bulgaria, including potentially dangerous facilities not designated as such, has been somewhat of a quiet topic in the public domain. Regrettably, the controversies surrounding the protection of such facilities have been exposed by the media only after serious damage and loss of human life had occurred as a result of major incidents.

Critical infrastructure protection involves continuous and uninterrupted activities that are conducted in normal and complex environments, which may require engagement from all state organisations<sup>114</sup>. This includes information protection or intelligence and physical protection. Intelligence entails the monitoring and detection of planned or committed offenses against national security or critical infrastructure.

The motivation for selecting the specific topic for this case study stemmed from a concern about the lack of transparency regarding how potentially dangerous facilities or those designated as

112 According to then Minister of the Interior, Tsvetlin Yovchev, See "MVR sukrashtava 15% ot administratsiyata, zakriva turkovskite druzhestva" [Mol cuts 15% of its administration, closes its commercial entities], Media-pool.bg, 9 August 2013, <http://www.mediapool.bg/mvr-sakrashtava-15-ot-administratsiyata-zakriva-targovskite-druzhestva-news209889.html>

113 See Public Procurement Agency. "Opinion on the conclusion of preliminary control for Metropolitan AD," 1 December 2014, <http://metropolitan.nit.bg/assets/resourcedocuments/841/%D0%A1%D1%82%D0%B0%D0%BD%D0%BE%D0%B2%D0%B8%D1%89%D0%B5.pdf>

114 OECD, "Development of Policies for Protection of Critical Information Infrastructures," OECD Digital Economy Papers, No. 130, OECD Publishing, 2007. <http://dx.doi.org/10.1787/231008575813>

critical are being protected. In addition to a number of serious incidents in recent years, media reports of rigged public procurement procedures for providing security to such facilities have revealed a political dimension to the issue, allegedly related to conflicts of interest and corruption. This case study aims to shed light on how facilities – which are critical for the functioning of society – are potentially dangerous to public health – are being protected and what the role of private security companies is in this process.

Data from the interviews suggests that whether a facility has been designated as critical or not has little to no impact on how a PSC conducts its business. Conversely, PSCs have no input in the process of designating a service or facility with a particular security rating or priority. However, when a facility has been included in the list of objects/facilities of strategic importance to national security, its protection is closely controlled and monitored by the State Agency National Security (SANS), while the role of the PSC lies in adhering to and executing the security plan recommended or approved by SANS. This duality in treating the classification – i.e. importance of services and facilities, in relation to the risk of their failure and/or being subject to an attack – is partly due to lack of a clear and comprehensive legal framework regulating the designation of facilities and infrastructure.

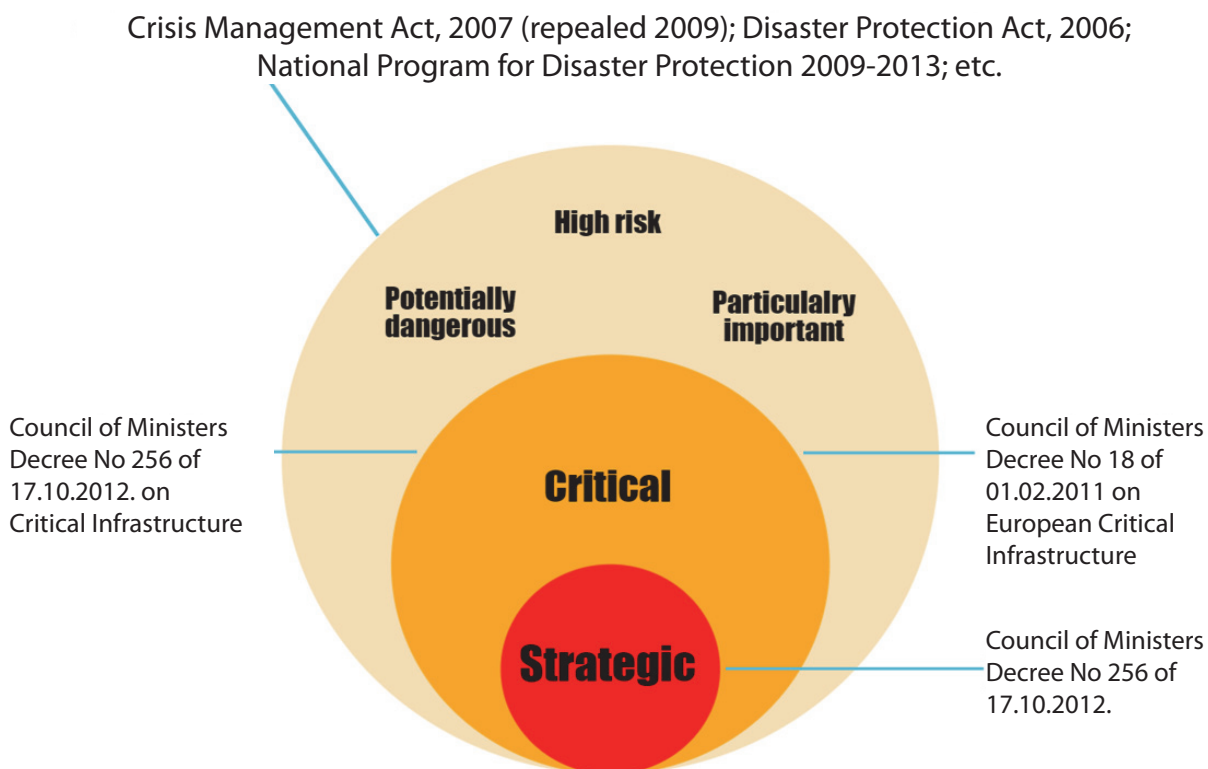
The national approach to CI protection is generally fragmented, with multiple definitions used when classifying facilities and services as critical, strategic, important, etc. In addition, it is not clear what consequences the various classifications actually entail for the provision of security to such services and facilities. Currently, under various Bulgarian laws and bylaws, an infrastructure component may be classified as a “strategic facility and activity of importance to the national security”, “critical infrastructure”, “potentially dangerous high-risk facility” or “particularly important facility” (see Figure 1). Only the first two will be discussed herein, as they are managed and implemented by official regimes and procedures.

It must be noted that the issues identified and discussed with regards to the role of PSCs in protecting critical infrastructure are not stand-alone. Rather, they fall within the problematics surrounding the activities of private security in Bulgaria already identified in the 2015 volume *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*.<sup>115</sup> Therefore, it is worth reiterating that corruption, rigged public procurement procedures, poor control and enforcement of rules, as well as a large grey sector, still plague the private security industry, regardless of the heightened risks, threats and responsibilities associated with protecting critical infrastructure.

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115 See Rositsa Dzhekova and Atanas Rusev “Bulgaria,” in *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, eds. Franziska Klopfer, Nelleke Van Amstel. (Belgrade and Geneva: DCAF, 2015), 31-60.

Figure 1. Regulatory Framework for CIP in Bulgaria



## Methodology

An initial media sweep was performed in order to identify key problematic areas of research interest. The keywords “critical infrastructure”, “incidents”, “private security company”, “strategic facilities” and “national security” were used in various combinations to yield results that may assist in gaining an overall perspective on the situation.

Document analysis was conducted on key national regulations, by-laws, strategic and other specialised documents. Most of the documentation is publicly available, with the exception of a few documents provided by interviewed persons.

Seven in-depth semi-structured interviews were conducted with a diverse set of stakeholders: one interview with a MoI representative; one interview with a representative from the Ministry of the Economy; four interviews with representatives from PSCs; one interview with a representative of a major telecom company, included in the list of strategic facilities; and one interview with a security expert. Contact was made with the chairman of the largest PSC association, who was instrumental in providing access to PSCs who have been involved in providing services and facilities included in the critical infrastructure list.

## Protection of important facilities and activities and PSC involvement

### *Critical Infrastructure*

Worldwide, deliver necessary services and ensure functioning of society, so their adequate operations are of crucial importance. The Council Directive 2008/114/EC of the European Union (hereafter CI Directive) highlights the paramount position that critical infrastructures occupy in contemporary society. It defines a critical infrastructure as

an asset, system or part thereof located in member states which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact on a member state as a result of the failure to maintain those functions.<sup>116</sup>

The drive behind a comprehensive EU regulation on CIP is predicated on the assumption that a national (or regional, or international) CI is part of a complex system of interconnected and interdependent CIs, since individual CI need products and/or services from other ones in order to function normally. This interdependencies are unavoidable, but the critical infrastructure vulnerable to failure<sup>117</sup>.

The term “critical infrastructure” first entered Bulgarian legal language in 2005, with the now defunct Crisis Management Act. This law defined CI as “a system of facilities, services and information systems, whose failure, malfunction or destruction would exert serious negative impact on the public health and safety, the environment, the national economy or the effective functioning of the state”.<sup>118</sup> Seven years later, the Council of Ministers (CoM) issued a decree (CoM Decree #256 on the “Order, manner and competent authorities for the identification of critical infrastructure and their risk assessment”) regulating the order, manner and responsible authorities for classifying facilities in critical infrastructure and their risk assessment. The Decree entered into force on 23.10.2012 and together with changes to the Protection from Natural Disasters Act of 2011, largely transposed requirements stemming from the above-mentioned. CI Directive.<sup>119</sup> The Decree provides general guidelines for the classification and designation of facilities and services as critical and makes the Mol responsible for the coordination of the process. Nineteen sectors are identified in the Decree, which contain elements belonging to the critical infrastructure, including

116 European Commission, “Council Directive 2008/114/EC on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection,” 2008, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:345:0075:0082:EN:PDF>

117 Ana Lauge, Josune Hernantes and Jose M. Sarriegi, “Critical infrastructure dependencies: A holistic, dynamic and quantitative approach,” *The International Journal of Critical Infrastructure Protection* 8 (2015): 16-23, <http://www.sciencedirect.com/science/article/pii/S187454821400081X>

118 Crisis Management Act (Promulgated, State Gazette, No 19/01.03.2005), available at <http://www.maxiconsult.bg/pdf/ZUK.pdf>

119 The 2012 CoM Decree elaborates further on the 2011 CoM Decree #19 on the “Establishment and Designation of European Critical Infrastructure in Bulgaria and the measures for their protection”.

energy, transport, ICT, environment, postal services, foodstuffs and agriculture and healthcare, among others. The responsibility for determining criticality in each of the sectors lies with the respective governmental structure managing and regulating that sector.

Following the guidelines set forth in the CoM Decree, each institution drafts its own methodology for criticality classification and subsequently for the risk assessment of critical infrastructures. This usually involves a working group at the government body which decides which of the services or facilities under its remit and responsibility are to be designated as critical infrastructure. After the operator of the facility or service is notified that their service/ or facility has been designated as critical infrastructure, they have one year in which to draft a risk assessment. The regime set forward in the Decree does not differentiate between various types of ownership of the operator of the facility or service identified as critical. Furthermore, the Decree only stipulates that critical infrastructure must be identified, the risks assessed, and the facility or service protected by the relevant measures. It does not interfere with how a critical infrastructure should be secured operationally and tactically. This risk assessment is sent to the Mol for approval. In this case, the responsibility for protection and risk assessment lies solely with the operator. In addition, the costs associated with security are also born by the operator. The operator may then initiate a procurement procedure for the provision of security in accordance with the risk assessment, which must then be approved prior to issuing by the principal organisation and the Mol. The security plan prepared by the PSC must be approved by the Mol prior to commencing security activities.

#### *Issues with the CIP regime*

This system, however, proves problematic on a number of levels. Although, according to the Decree, the Mol is in charge of coordinating the CIP regime, it does not participate in the risk assessment and analysis stages, which are instead conducted by the operators of facilities and services in the critical infrastructure. As such, from a control and coordination perspective, there is no clarity on what exactly critical infrastructure is and how it is being determined as such. From a resource allocation and crisis response perspective there appears a lack of prioritisation of critical services and facilities as the criteria are different for the various business and government sectors. Some are of the opinion that in many cases facilities are being evaluated as critical without due argumentation.

Data from the interviews suggests that there is no definitive connection between a designation of criticality and requirements for enhanced security measures. It appears that financial concerns override security ones when determining the need for and contracting of private security services, while operators of critical infrastructures tend to opt for the lowest offered price in a tender procedure.<sup>120</sup> One example, offered by an interviewee, included a former military depot operator who wished to secure a large perimeter with only one guard in order to save costs. A second interviewee indicated that important and critical facilities, such as large regional and municipal hospitals,

<sup>120</sup> BG-PS1; BG-PS2; BG-EX; BG-TL; BG-PS3, BG-ME interview with authors, Sofia and Plovdiv.

also select their security measures based solely on price.<sup>121</sup> In such cases, PSCs allegedly operating in the grey market may have a stronger chance of winning a tender bid for security services since they can offer their services cheaper.

In this context, PSCs are often faced with a difficult dilemma. As many critical infrastructure facilities are state owned, public procurements for security are regularly announced. PSCs participating in the tenders deem that some tender specifications are drafted in such a way that if implemented, security would be dangerously compromised, particularly in facilities related to military production, storage and utilisation.<sup>122</sup> This is the case because according to the interviewees, a lack of expertise in security matters, an environment of general neglect towards safety and security concerns and a strong desire to reduce expenses exist. In such cases, PSCs often attempt to convince operators to re-consider initially proposed specifications. This is all the more important since the operators are not obliged entities under the Private Security Act (PSA), and as such the contracted PSC is solely liable for any irregularities and offenses that may occur as a result of contractual obligations with the operator.<sup>123</sup>

Previous research in the field of CIP has pointed to the problematic issue of monitoring and controlling whether operators of critical infrastructure are fulfilling their responsibilities, as private companies and corporations may find it easy to conceal their weaknesses and vulnerabilities from the government.<sup>124</sup> During interviews this was confirmed, as concerns were voiced, particularly by state representatives, that the control and oversight of measures undertaken by a privately owned operator of a critical infrastructure may be difficult or impossible to exercise.<sup>125</sup> The rationale for this concern is the alleged inability of the state to impose security requirements onto privately owned critical infrastructures. However, data from the interviews suggest that these concerns are only valid for facilities and services that are not identified as strategically important, since in these cases the SANS exercises close control over the implementation of the regime and the applied security measures (see below for more information on the SANS).<sup>126</sup> The lack of control over the selection process of a PSC by a privately owned critical infrastructure was also alleged as an area of concern. While state-owned organisations are obliged to initiate procurement procedures required by the Procurement Act, privately owned critical infrastructures are bound by no such obligations.<sup>127</sup>

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121 As human resources for physical protection and guarding constitute considerable expenses, in many cases operators of critical infrastructure would specify in a tender procedure an insufficient number of guards to be deployed – often less than the accepted standard of three persons per shift. (BG-SP1 interview with authors, Sofia).

122 BG-PS1; BG-PS2 interview with authors, Sofia.

123 BG-SP1; BG-EX; BG-PS3 interview with authors, Sofia and Plovdiv.

124 Myriam Dunn-Cavelty and Manuel Suter, "Public-Private Partnerships are no silver bullet: An expanded governance model for Critical Infrastructure Protection," *International Journal of Critical Infrastructure Protection* 2 (2009): 179-187.

125 BG-MI, BG-ME interview with authors, Sofia.

126 BG-TL, BG-EX, BG-PS1 interview with authors, Sofia.

127 BG-MI, BG-ME interview with authors, Sofia.



Data from all interviews gives an overall impression that the implementation of the CIP regime suffers from a lack of expertise, strategic direction and clarity. This is demonstrated by the fact that PSC representatives and independent security experts are generally excluded from the process of determining criticality and the subsequent risk assessments. This may be considered a short-coming of the system as PSCs have valuable onsite operational knowledge and expertise, as well as situational awareness and intelligence of ongoing security threats. On a strategic and tactical level, this lack of communication may also hinder the government's ability to monitor the implementation regime where it sits outside its ownership. In such a framework of information sharing it may be difficult to establish whether private organisations are in fact passing on the relevant information.<sup>128</sup> In this scenario, the state assumes a coordinating function, as opposed to over-relying on monitoring and control. Some experts purport that this lack of effective communication – and therefore hindered monitoring – is best remedied through network governance models, self-regulating, and adequate and efficient use of Public-Private Partnerships (PPP).<sup>129</sup>

### **Protection of facilities and activities of importance to national security**

In 2009, the Council of Ministers issued Decree #181, introducing a list of facilities and activities that are classified as strategically important for national security. The classification is conducted by SANS and is periodically updated as threats and risks are continuously re-assessed by the Agency. The facilities and activities contained in the list are considered vital for national security; therefore their priority supersedes that of the facilities included in the critical infrastructure list. In this respect, all facilities and activities of strategic importance to national security are automatically considered as critical infrastructure, but not vice versa.

The security arrangements of strategic facilities and activities differ significantly from those in critical infrastructure. SANS exercises direct scrutiny over security issues and actively controls and monitors all security measures. A good example of the interaction between SANS, PSCs and operators in protecting strategic infrastructure is telecommunication. Telecommunication companies were included in the list pursuant with the Protection of Classified Information Act of 2002 (PCIA). The telecommunication companies are subject to the statute as they process and store classified information. On an annual basis, a commission led by SANS, including representatives from the local police department, conducts a security audit which is followed by the drafting of a risk assessment, conducted by SANS. SANS then gives instructions to the telecommunication company on how the security of specific strategic facilities and activities should be organised. As not all telecommunication facilities and infrastructure are subject to the regulations of the PCIA, SANS' involvement is limited only to those which are related to the processing and storage of classified information. After initial security audits and risk assessments have been completed, the agency

128 Myriam Dunn-Cavelty and Manuel Suter, "Public-Private Partnerships are no silver bullet: An expanded governance model for Critical Infrastructure Protection," *International Journal of Critical Infrastructure Protection*, 2: 179-187.

129 Ibid.



submits its recommendations for the security plan to the telecommunication company, which are regarded as mandatory. The PSC – employed by the company – then drafts a security plan in accordance with the Agency's requirements. The plan is sent back to SANS for final approval. Control and oversight of the security measures implemented to protect the strategic facilities and services is performed by way of audits and control checks by SANS, both on a regular and ad hoc basis.

In this particular case the tactical and operational security of the telecommunication infrastructure is implemented in two separate directions. The non-strategic facilities and services of the company are protected by its own resources, as the company also has its own private security licence. All strategic elements are protected by an externally hired PSC, while guidance, monitoring and control are exercised by SANS.

### Issues with strategically important facilities and services regime

Data from the interviews indicates that there is a strong reluctance and opposition from operators to be included in the list under Decree #181.<sup>130</sup> The operator must cede strategic control of its security to SANS and fulfil all requirements that the Agency makes in terms of security measures. Moreover, all security related expenses are the responsibility of the operator.

Despite tight control and oversight, the sector is often shaken by scandals involving rigged public procurement processes for security services. A prominent example is the Mini Maritsa Iztok EAD (MMI), a state-owned energy plant included in the list of strategic facilities in the energy sector, which had been sanctioned for breaching public procurement tenders. In 2009, the plant cancelled its 2005 contract for security with PSC Kremak. Without initiating a tender procedure MMI hired PSC "Professional Protection Electronic" under the pretext that being left without proper security constituted a de facto force majeure condition under which the company was (allegedly) allowed to bypass the legal procurement requirements. The parent company, Bulgarian Energy Holding (BEH), failed to intervene, despite being legally obliged to do so.<sup>131</sup> Moreover, MMI re-negotiated the price of the contract with PSC "Professional Protection Electronic" by increasing the amount owed to the PSC to over EUR 10 million for three years<sup>132</sup>. In an attempt to explain the motivations behind these offenses, allegations of collusion and corruption in the local government have been suggested.

Because of their status as strategically important and the close scrutiny of SANS, some such facilities may have used the veil of state secrecy to conceal irregularities in contracts signed for security services. Such was the case with another state-owned energy plant on the strategic facilities list – TPP Maritsa East 2 (TTPME2). The energy company had signed a framework agreement for

130 BG-PS1; BG-PS2; BG-PS3; BG-TL interview with authors, Sofia and Plovdiv.

131 Public Procurement Act (Promulgated, State Gazette No. 28/06.04.2004); Energy Act (State Gazette No. 107/9.12.2003). Available at <http://www.bgenh.com/index.php/bg/2014-04-13-20-56-05/2014-04-13-21-53-17>;

132 Ralitsa Nikolova and Annie Kodjaivanova. "Charged tenders in Mini Maritsa Iztok EAD," *Capital*, 9 July 2012, [http://www.capital.bg/biznes/kompanii/2012/07/09/1862627\\_minirani\\_turgove\\_v\\_durjavnata\\_marica-iztok/?sp=1#storystart](http://www.capital.bg/biznes/kompanii/2012/07/09/1862627_minirani_turgove_v_durjavnata_marica-iztok/?sp=1#storystart)

security services and infrastructures in 2014 and using the justification of strategic importance, managed to receive a state secret classification for it. Media investigations revealed that under the said framework agreement in 2016, the TTPME2 had contracted a company for the amount of roughly EUR 15 million for constructing security facilities. The contractor firm appeared to be linked to the controversial politician and businessman, Delyan Peevski. Consequently, the Bulgarian Prime Minister Boyko Borisov tasked the Ministry of Energy to declare the contract void as soon as revelations of the connection became public. The logic for cancelling the contract put forward by the Prime Minister was that the state energy company had been working at a loss and could not or should not afford such security expenses at this time.<sup>133</sup>

Despite these challenges, the regime of protecting the strategically important infrastructure under Decree #181 stands in sharp contrast to that under the CI Decree. Interviewees suggested that in general, SANS exercises strict and direct control of the security measures implemented by the operator or the contracted PSC. Thus, it may be concluded that strategically important facilities and activities appear to be well protected.

## Conclusion and discussion

This case study has pointed to the high level of involvement of PSCs in the protection of critical infrastructure in Bulgaria. This involvement is governed by Decree #181, which ensures strict monitoring and control of PSCs by SANS, and the CI Decree which allows PSCs to function in accordance with their other normal business activities. However, this involvement remains almost exclusively operational, given that PSCs are largely excluded from the strategic level of CIP management. Problems and challenges within the private security sector and within public procurement have also been revealed in the case study, as the ability of PSCs to provide high-quality services to critical infrastructure is inhibited by less-than-transparent public procurement practices.

This initial examination of CIP in Bulgaria has revealed several deficiencies on the strategic and operational level. These are obstacles to more effective participation of PSCs in the CIP, not only in regards to the operational implementation of security measures, but also at the strategic level of classifying infrastructure components as critical and their respective risk assessments. Currently, the operational experience and intelligence of PSCs appears to be largely untapped by authorities. The general shortcomings of the CIP regime may be summarised as follows:

- Fragmented legal framework – CIP in Bulgaria is regulated by the Disaster Protection Act, CoM Decree #181, CoM Decree on CI, as well as other laws and bylaws. In addition, the Decree on CI is implemented independently in each institution, which develops its own methodology for classification and consequential risk assessment. Therefore, the legal framework does not

133 Igljika Filipova. "The state voids TPP Maritsa East 2 contract with Vodstroj," *Capital*, 9 March 2016, [http://www.capital.bg/politika\\_i\\_ikonomika/bulgaria/2016/03/09/2720188\\_durjavata\\_prekrati\\_dogovora\\_na\\_tec\\_mari-ca-iztok\\_2\\_s/](http://www.capital.bg/politika_i_ikonomika/bulgaria/2016/03/09/2720188_durjavata_prekrati_dogovora_na_tec_mari-ca-iztok_2_s/)

provide for an effective basis for a comprehensive and prioritised CIP regime that may be adequately monitored and controlled.

- Lack of sector analysis – the sectors, facilities and activities to be protected as CI need to be identified with more specific security requirements and measures. Criteria for criticality must be agreed on a strategic and operation level. This would provide CI operators with clear criteria to establish security requirements in line with the level of criticality, which would allow adequate and relevant specifications for security measures to be written into procurement procedures. This may encourage a race-to-the-top competition among PSCs, whereby PSCs may be motivated by the best suited proposal, rather than the specific security needs.
- Lack of effective partnership among participants and stakeholders in the CIP regime – the critical infrastructure consists of a multitude of networks, facilities and activities that fall under the ownership of diverse state and private actors, which presents a hindrance in their protection. Where cooperation exists between responsible state authorities and PSCs, it is often performed ad hoc or informally. This can be remedied by more effective and legally binding coordination mechanisms.
- Weak control and oversight – irregularities surrounding public procurement in security services continue to plague the CIP sector. Most operators lack knowledge and expertise in security matters and aim at the lowest price in their tenders, often neglecting vital security concerns by drafting inadequate specifications. This may also act as a push factor for PSCs to move into the grey sector and/or encourage those already operating outside the formally established rules to continue. Furthermore, allegations of rigged tenders in the interest of a particular applicant are common practice.

### List and coding of sources

<i>Occupation/title of interviewee</i>	<i>Coding</i>
Representative of the Ministry of the Interior (Head of Department)	BG-MI
Representative of the Ministry of the Economy (Head of Department)	BG-ME
Management representative of a large PSC	BG-PS1
Management representative of a large PSC	BG-PS2
Security expert	BG-EX
Security manager in a large telecom	BG-TL
Representative of a large PSC professional organisation.	BG-PS3

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Nikolova, Ralitsa and Annie Kodjaivanova. “Charged tenders in Mini Maritsa Iztok EAD,” *Capital*, 9 July 2012, [http://www.capital.bg/biznes/kompanii/2012/07/09/1862627\\_minirani\\_turgove\\_v\\_durjavnata\\_marica-iztok/?sp=1#storystart](http://www.capital.bg/biznes/kompanii/2012/07/09/1862627_minirani_turgove_v_durjavnata_marica-iztok/?sp=1#storystart).

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## Privatising the Security of Critical Infrastructure in Serbia – The Case of Private Security at the Hydropower Plant Djerdap

*Marko Milošević and Predrag Petrović*

### Introduction

A significant transformation of the security provision for critical infrastructure is under way in Serbia. “Critical infrastructure” is a term used by European governments to describe assets that are essential for the functioning of a society and economy.<sup>134</sup> The term encompasses, for example, facilities for water and energy supply, important factories, telecommunication networks, and traffic assets. Hence, the security arrangements for critical infrastructure are of great relevance for national security and the wellbeing of citizens.

Until the early 2000s, security at critical infrastructure facilities in Serbia was provided by the facilities’ own in-house security services. However, in recent years some of these services have been restructured as separate commercial entities. These security companies are still state-owned,<sup>135</sup> and briefly held a monopoly on the provision of security services for critical infrastructure. In addition, some in-house security services remained, working alongside the state-owned security companies. New models are also emerging: in the case of the Djerdap hydroelectric power plant for example, security services have been partly outsourced and private security companies (which are not state-owned) have been employed to protect the critical infrastructure.

This case study examines the market mechanisms which – in the absence of relevant legislation – shaped the protection of Serbia’s critical infrastructure, with a specific focus on the Djerdap hydroelectric power plant (“HPP Djerdap” hereafter). Until recently, all permanent security services at HPP Djerdap were exclusively provided by the plant’s in-house security. The outsourcing of security services occurred gradually and was made possible by changes in Serbia’s legislation on privatisation. This study describes the outsourcing process, addresses how the in-house security service and their daughter company (Djerdap Services) contributed to ensuring security at the plant, and considers how cooperation between in-house and outsourced security could be improved. This study is particularly relevant as other nationally- owned critical infrastructure facilities in Serbia

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134 Directive 2008/114/EC of the European Council defines European Critical Infrastructure (“ECI”) based on an all-hazards approach while countering threats from terrorism as a priority. ECI includes two types of critical infrastructure: energy (electricity, oil, gas) and transportation (road, rail, air transports, inland waterways transport, and ocean and short-sea shipping and ports) infrastructure. Djerdap hydroelectric power plant combines both types of critical infrastructure, as it has electrical power generation as well as river transportation. The text of Directive 2008/114/EC is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:345:0075:0082:EN:PDF>

135 The only exception being Djerdap services (Djerdap usluge), that was privatized as a joint stock company with 500 shareholders. More information below.

currently employ almost 20% of the country's private security personnel through restructured daughter companies ("service companies").<sup>136</sup>

## Methodology

This case study builds upon a previous study conducted by the authors in Serbia from 2014 to 2015 and which was published as a chapter entitled "Serbia" in the DCAF book *A Force for Good?*, edited by Franziska Klopfer and Nelleke van Amstel.<sup>137</sup> Here, the topic is narrowed to examine an emerging challenge in Serbia: the private security protection of critical infrastructure. Research conducted for this study encompassed interviews with key stakeholders, and a desk-based analysis of existing legislation and public procurement documents related to the specific critical infrastructure enterprise of HPP Djerdap. Interviews were conducted with managers of two private security companies (PSCs) providing security to HPP Djerdap, and an interview was conducted with one security consultant employed to help service companies adapt to the new competitive business environment.<sup>138</sup> In order to better understand how private security is obtained through public procurement, an interview was also conducted with a licensed public procurement official.

Additional information was obtained using free access to public information, including a set of questions regarding the bidding procedure and selection of PSCs at HPP Djerdap. An analysis of legislation helped us to understand the "manoeuvring ground" available for PSCs in public procurement exercises. The HPP Djerdap website<sup>139</sup> and the Public Procurement Portal<sup>140</sup> were also useful tools, where data on past public procurements, contracts, request for bids, and questions was available. This data was used to supplement and enrich the data collected from interviews.

## Djerdap Hydroelectric Power Plant

The HPP Djerdap is located at the 'Iron Gate' gorge which embraces the Danube River on the Serbian border with Romania, near the town of Kladovo in the Bor district. The site encompasses seven hydroelectric power plants (Djerdap 1, Djerdap 2, four Vlasina HPPs and HPP Pirot), which together provide 25% of the electricity in Serbia.<sup>141</sup> The Djerdap dam is also a throughway for river

136 Almost 8000 private security personnel work in private security companies that were formally part of a state-owned facility. In addition to the company Djerdap Services (Djerdap usluge), which will be described in this case there are other examples such as the PSCs Kostolac Services, Kolubara Services or Telus. It is estimated that in total the Serbian private security sector consists of around 40 000 personnel.

137 Milošević, Marko and Petrović, Predrag, "Serbia", in F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF (Belgarde and Geneva) 2015

138 As there are three interviewees, all of whom are currently engaged in the provision of security, we promised to use their data anonymously. Any coding for the purpose of this case study may have rendered them identifiable, and as that could jeopardize their work and our credibility, we have opted to maintain their anonymity while still providing relevant data on the issue.

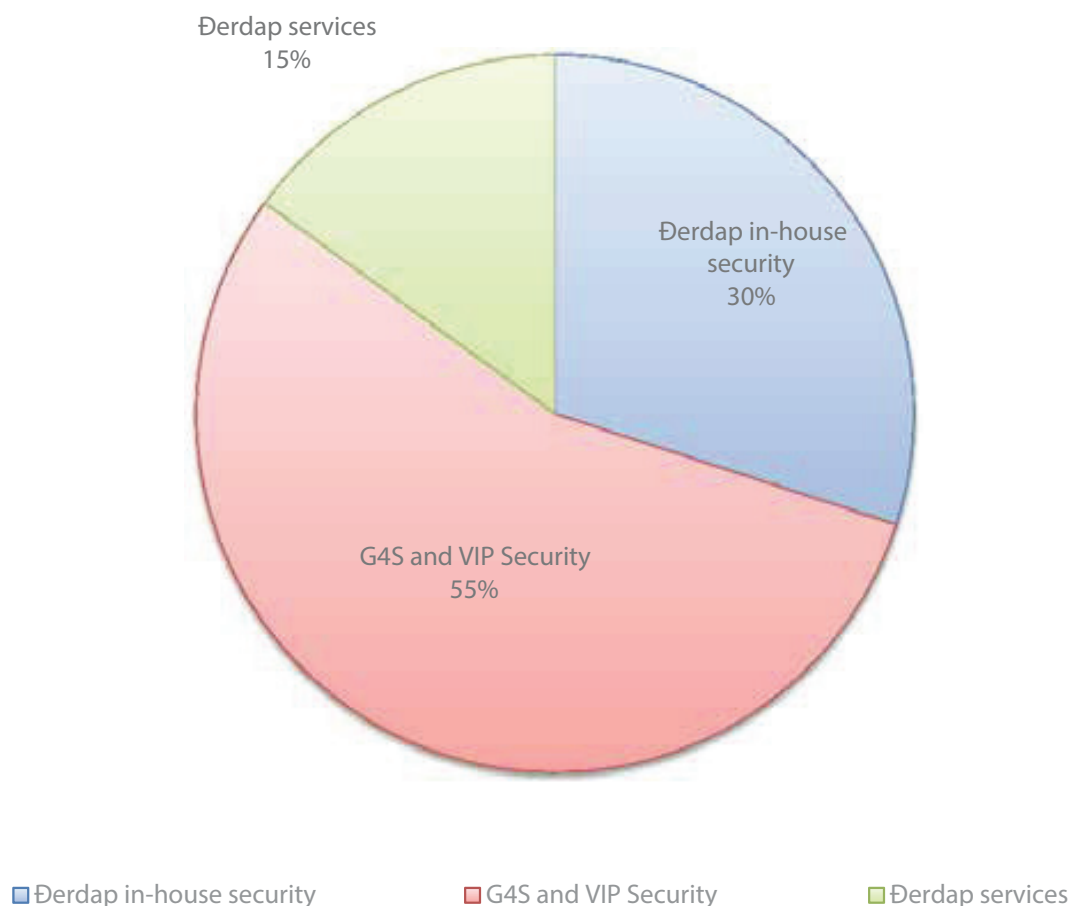
139 HPP Djerdap website, available at: [www.djerdap.rs](http://www.djerdap.rs)

140 Public Procurement Portal, available at: <http://portal.ujn.gov.rs/default.aspx>

141 The largest facility of this site is the Djerdap hydroelectric power plant, which produces 75% of the site's electricity output, while the remaining 6 HPPs together produce 25% of the energy of the hydroelectric power plants in the Djerdap system.



transportation and a border crossing with Romania. HPP Djerdap is one of several hydroelectric power plants and thermoelectric power plants which together make up Elektro Privreda Srbije (EPS) – a monopolist, state-owned company in charge of the production and distribution of electrical energy in Serbia.



### *Security Arrangements at HPP Djerdap*

Permanent security at HPP Djerdap is provided by the plant's in-house security and by contracted private security companies. Together they are responsible for most of HPP Djerdap's security. Until 2013, the sole PSC that was contracted was Djerdap services, a daughter company. The in-house security section covers 30% of HPP Djerdap's physical protection, 70% of the technical protection and 90% of the fire protection, while the contracted companies provide 70% of physical protection, 30% of technical protection, and also provide other types of services.<sup>142</sup>

142 Such as electrical, mechanical, and civil engineering works; river traffic management; maintenance of coastal and pump stations; maintenance of fire protection equipment; services in the field of recreation, culture, and sport; hotels and restaurants; administrative services, etc.

Additional security is provided, if necessary, by the regional police department, working together with the Serbian border police. Special and regular units of the police and of the military of Serbia from the wider region of Eastern Serbia also cover the territory of HPP Djerdap. Finally, as HPP Djerdap is situated at the border, Serbian-Romanian military and police forces operate in this area through the EUROPOL and the Partnership for Peace cooperation programmes.

#### *The Outsourcing of Security at HPP Djerdap*

As was the case for all state-owned enterprises,<sup>143</sup> security services at the Djerdap hydroelectric facility were previously provided exclusively by in-house security staff, employed directly by HPP Djerdap. In 2001, the Law on Privatisation<sup>144</sup> and (shortly after) the Decree on the Process and Manner of Restructuring of Enterprises and Other Legal Entities<sup>145</sup> were passed. The Decree provides for the restructuring of state entities, including via the breaking up of state entities into several legal entities in order to make privatisation more efficient.

As a result, one part of the in-house security service at Djerdap was set up as a separate commercial entity. The new company, "Djerdap Services" ("Djerdap usluge" in Serbian) first remained in state-ownership and was then privatised, becoming a joint stock company (500 shareholders).<sup>146</sup>

In Serbia it was common practice that when companies were dismantled, the newly created service companies would have a privileged status and received security contracts that lasted several years.<sup>147</sup> Indeed, when Djerdap Services separated from HPP Djerdap, it was agreed that the former 'mother' company was obliged "to award the contract to the extracted company"<sup>148</sup> and Djerdap Services therefore automatically received the contract to provide security services to the plant. This arrangement was initially set to last for three years, but was maintained for much longer.<sup>149</sup> This allowed Djerdap Services to develop expertise and resources, and to improve its services.<sup>150</sup>

In 2014, HPP Djerdap ended this exclusive arrangement and opened the tender for security services to all interested companies. The legal basis for this change was the Law on Public Procurement (the "Procurement Law" hereafter), which regulates the procurement of services by Serbian public bodies, including private security services. According to the Procurement Law, contracts

143 See Milošević, Marko and Petrović, Predrag, "Serbia", in F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF (Belgrade and Geneva) 2015

144 Law on Privatization, Official Gazette of RS No. 38/2001, 18/2003 and 45/2005

145 Decree on the Process and Manner of Restructuring of Enterprises and Other Legal Entities, Official Gazette of RS No. 1/2002

146 Djerdap Services were extracted as a separate entity in 1996. They were privatized by selling off the state-owned share through public auction. (Contract no. I-1864/06-685/05 signed on 31.10.2006)

147 This situation was not envisaged by the law, but as state retained a majority ownership in these "service companies", they were incentivised to award contracts to these new companies.

148 Interviewee Statement.

149 At least for a decade.

150 Other privatized public security companies were less successful. "Kragujevac Security" went bankrupt in 2015, while "Kostolac Services" does not have any property which could serve as capital – only human resources and an occasional vehicle. They are, therefore, unattractive to buyers.

with service providers are set for a period of one year, with Article 52 of the law providing for the exceptional possibility of concluding a public procurement contract lasting several years.<sup>151</sup> In accordance with the Procurement Law, the service contract must be awarded to the bidder offering the lowest price, or to the one with the most economically advantageous offer. This practice keeps the service prices low, with little variation in budget plans from one year to the next.<sup>152</sup> It came as a surprise to many when the multi-national private security company G4S and not Djerdap Services was awarded the tender based on this model.<sup>153, 154</sup>

Losing the tender prompted Djerdap Services to hire business consultants and make major investments in the development of its services, licensing<sup>155</sup> and equipment (improvements included specialised training, modern technology, etc.). This investment paid off, and in little more than a year Djerdap Services was included as a subcontractor in the next security services contract at the HPP Djerdap. The main security provider remained G4S, who together with VIP security<sup>156</sup> provided 55% of the workforce while Djerdap Services provided 15%. The HPP Djerdap in-house security provided the remaining 30%.

*Figure 1: Division of work amongst security services at HPP Djerdap in 2015*

The second procurement procedure of 2015 was marked by constructive questions<sup>157</sup> that prompted changes to the original Request for Bids (“RFB” hereafter), rendering it more specific.<sup>158</sup> The initial RFB conditions were presented as if to ensure that “a different company would win the job, one of the conditions being that guards wear mandatory navy blue uniforms without insignia,”<sup>159</sup> This

151 Legal entities can conclude contracts lasting a period of up to three years, but only if they are concluded in accordance with the provisions of Art. 54 of the Law on Budget System (Official Gazette of RS No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 and 108/2013). This could be possible, if the legal entity possesses financial assets to underpin the first year of the contract, has permission from the Ministry of Finance to handle financial commitments in the contract’s second and third years, and has confirmation from the Ministry of Finance to include them in financial plans for the relevant years. More on: <http://www.pravniportal.com/saglasnost-na-visegodisnje-ugovore-o-javnim-nabavkama/>

152 According to the Procurement Law, the budget plan of the user of public funds planned for the following year may change up to a maximum of 10% in excess of the previous year’s prices. (Art. 51, para 4).

153 High-value public procurement of security services for procurement code: BE “HPP Djerdap” B-75/13, 20 February 2014 (this is the exact code of the procurement as marked by HPP Djerdap).

154 This caused surprise amongst private security companies, because they had previously viewed former state-owned service companies as being untouchable when it came to securing contracts from their “mother companies.” However, it turned out that it was not possible to create a tender tailored to the characteristics of local firms without the same requirements also potentially being fulfilled by large multinational companies. This information is based on the statement of an interviewed PSC Manager, October 2015.

155 Involving paying for trainings and education for personnel.

156 A small but influential security company that informally advertises themselves as “being close to SNS” (Serbian Progressive Party, i.e. the ruling party).

157 Interested parties were able to ask questions during the call, and answers were provided by HPP Djerdap. Questions and answers were part of the Request for Bids (RFB) process and were made available online. The identity of interested parties remained concealed.

158 Tender documentation for the high-value public procurement of security services for procurement code: BE (Business Entity) “HPP Djerdap” B-33/15

159 Interviewee Statement: Navy blue uniforms were standard for Djerdap Services, whereas G4S usually wore grey uniforms. Such a restriction is not common in tenders and it suggests discrimination against other bid-

restriction was considered discriminatory for bidders with different uniforms. The tender itself was also very complicated and some conditions were not initially specified. For example, the tender required the installation of surveillance equipment, but the quantity and characteristics of these were only specified in the later amendments to the tender documentation. This specification of quantity and characteristics was crucial for bidders, because the costs of equipment had to be incorporated within the prices for employees' working time that PSCs would submit within their bid,<sup>160</sup> it is clear that the exclusion of these specifications in the initial tender becomes problematic and results in unfair tender bids.

The tender documentation for the high-value public procurement of security services for HPP Djerdap is worthy of analysis because it contains some interesting procedural improvements from the previous procurement cycle. In particular, in the section of the documentation<sup>161</sup> relating to the cost of services, the contracting authority HPP Djerdap provided that the price could be adjusted every 6 months, depending on the increase of the minimum wage.

Previously, the budget that had been accorded to G4S in 2014 as part of their contract with HPP Djerdap was unrealistically low: amounting to RSD 293 per hour. Djerdap services previously operated for a similar, even lower amount. It is not possible to invest less than RSD 330 per hour in the training and licensing of staff. Consequently, according to one of our interlocutors, "If we wanted to truly respect the standards, our economy would not be able to pay for security."<sup>162</sup>

During the contract with G4S in 2014, the Serbian Government (specifically the Socio-economic Council of the Government) increased the minimum hourly wage from RSD 115 to RSD 121. As a result, a procedure to adjust the price during the contract life was included in the new contract, which was a procedural novelty. In addition, the contracting authority defined an uncommonly low price as a price "insufficient to pay a minimum monthly salary with mandatory contributions," and stressed that such offers would not be considered. This represented a rare example of responsible procurement behaviour in the market for private security services.

Employees' hourly wages were also increased in the new contract: under the 2014 contract employees (of G4S) were paid RSD 293 per hour of work, while under the new contract wages increased to RSD 344 per hour (for employees of G4S, Djerdap Services and VIP). Additionally, the tender documentation provided for a process of determination of "the most economically advantageous offer" through the following weighted assessment:<sup>163</sup> the price (85 points), the com-

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ders.

160 The price was formed based on one working hour in RSD. This, however, was not the salary that ordinary security personnel received, as the hourly price had to cover the costs of purchase and installment of technical equipment, mid and senior managerial salaries, and daily costs (food, fuel, mobile phones, etc).

161 Tender documentation for the high-value public procurement of security services for BE "HPP Djerdap" B-33/15, p. 29.

162 Statement of an interviewee: Manager of one of the companies providing security to HPP Djerdap

163 Amendment to the tender for the high-value public procurement of security services for BE "HPP Djerdap" B-33/15, No. 10-28/1-33-4-1, 18 May 2015.

mencement of services (5 points), the possibility of installing a set of technical security equipment (5 points), and the possibility of installing an electronic access verification system (5 points). This was an improvement beyond simply assessing the lowest price.

## Protection of Critical Infrastructure

The legal framework in Serbia does not clearly prescribe security requirements for critical infrastructure, therefore it is not clear if private security can or should play a role in the protection of this infrastructure. For example, private security personnel are not explicitly named on the list of trained legal persons of importance for protection and rescue services in the Law on Emergency Situations.<sup>164</sup> The Law on Private Security<sup>165</sup> (the “Private Security Law” hereafter) does, however, include a chapter on “compulsory secured facilities” (Article 4 and 5), in which it describes the duties of the persons or entities legally responsible for running sites which are of strategic importance for the Republic of Serbia, the damage or destruction of which could cause serious consequences to the lives and health of the people, or which are of interest to national defence. The Private Security Law mentions procedures that must be followed when either a private security company or an in-house security service are tasked with securing these facilities.<sup>166</sup> The Government was expected to detail the criteria for identification of critical infrastructure facilities by May 2014, but has failed to do so to date.

The Decision on the Identification of Large Technical Systems of Importance for Defence is the only Act that specifies what the relevant critical infrastructure facilities are.<sup>167</sup> This Decision also lists the actors that are significant for defence, specifically in the areas of transport, energy, the production of coal, water supply and other defence-related areas. It lays down the obligation to report to the Ministry of Defence regarding the compliance of technical protection measures with legal standards, and it references the Defence Plan and the associated Decision on the Identification of Large Technical Systems of Importance for Defence for the purpose of prescribing the manner and procedure required to plan defence preparation. It specifies that if critical infrastructure facilities hire security services, this must be achieved through public procurement.<sup>168</sup>

## The Roles of Different Security Services in HPP Djerdap – A Critical Analysis

The case of HPP Djerdap showcases the different roles that in-house and private security companies can take on. The following section examines in greater detail the advantages and disadvantages of the security provision roles attributed to each of these actors.

164 Law on Emergency Situations (Official Gazette of RS No. 111/09 i 92/11), Article 16.

165 Law on Private Security, Official Gazette of RS No. 104/13

166 Ibid., Article 5. See also Article 45 of the same Law, which describes in more detail the requirements for in-house security (of any type of facility).

167 Decision on the Identification of Large Technical Systems of Importance for the Defence, Official Gazette of RS No. 15/2009, 54/2010, 4/2011 and 58/2011.

168 Articles 4-6 of the Decree.

*The In-house Security of HPP Djerdap - Relic or Necessity?*

In-house security staff at HPP Djerdap usually supervises technical protection systems. It is not clear why, when HPP Djerdap started to dismantle security and other services from the main company, it was decided not to fully privatise all security staff functions into the new company Djerdap Services. One reason to keep directly employing certain in-house staff may be their specialist technical knowledge. However, given that it has been two years since HPP Djerdap last purchased a new technical protection system, it is questionable whether in-house personnel will stay up-to-date with the latest developments in the protection of critical infrastructure. Also, among the assessments of the quality of security services in Djerdap presented by interviewees, the dominating view was that those with the 'best connections' in Elektroprivreda Srbije – the Serbian Power Company-<sup>169</sup> work in HPP Djerdap's in-house security. Accordingly, it seems that the in-house personnel are not necessarily recruited for the quality of their professional skills.

As mentioned above (see section on Protection of Critical Infrastructure), the Private Security Law does not explicitly require or forbid the use of external PSCs rather than in-house security services in critical infrastructure facilities.<sup>170</sup> It is not clear to the authors what the advantage is, in particular regarding the quality of security provision, of HPP Djerdap hiring security personnel directly and not through an external company.

It is clear, however, that all in-house staff (as well as former in-house staff now working for Djerdap Services) live in nearby communities, and there is pressure from local politicians to avoid laying-off local people. This dynamic is described in more detail below in the discussion regarding Djerdap Services.

*"Djerdap Services AD" - The Challenge of Transforming Service Activities*

Because Djerdap Services grew out of HPP Djerdap's in-house security service, it retained most of its original staff, many of which were from the nearby town of Kladovo. Indeed, Djerdap Services employs half of the total number of employed persons in Kladovo, and is one of the few employers in Kladovo (where 2,300 inhabitants of approximately 9,500 are unemployed).<sup>171</sup> This afforded Djerdap Services a reputation for being a "company of kin," and there is strong pressure on Djerdap Services from local politicians (afraid of losing their voters' support) to hire their staff from Kladovo.

169 Statements of several interviewees during research conducted during the period December 2015 – February 2016.

170 In fact, the Law on Private Security implicitly acknowledges that both in-house and external PSCs can be hired to provide security at objects of critical importance: it describes the duty of those in charge of such objects to secure the objects with either in-house and/or external PSCs (Articles 4 and 5).

171 Daily newspaper "Politika" 25 June 2012. "The Danube oasis turns to tourism." Around 4000 people are employed, and 2300 unemployed, together with 5300 retired persons. Former industries are no longer functional, and enterprises that ceased to exist in this town include "Ključ", "Napredak", "Gradac", "Galenika", "Termovent", "Metalac", and fishing pond "Djerdap." The only operational entities are Djerdap Usluge AD (1050 employees), Shipyard "Dunav-Rajna-Dunav" (200 employees) and HPP Djerdap (around 1000 employees). This structure of employment creates significant pressure on the remaining companies, of which two employ half of the active workforce in the city.



Djerdap Services is economically stronger than many other local PSCs, because it does not only provide security services. This is another legacy of being a privatised former national company; when Djerdap Services was founded as a company separate from HPP Djerdap, other former in-house services, including re-cultivation of terrain, shoreline maintenance and catering, were integrated into this one company. This was crucial when Djerdap Services suffered financial losses as a result of the low prices paid for security services at HPP Djerdap.<sup>172</sup> The company was able to invest somewhat in professionalising internally,<sup>173</sup> largely due to the profit it had made from its other activities. Other state-owned companies in Serbia which are currently considering splitting security and other former in-house services from the main company may follow this example, and group several of the former in-house services in one company to make it more commercially viable (as HPP Djerdap did with Djerdap Services).

#### *G4S: The Winner in a Time of Transition*

G4S is one of the two largest multinational private security corporations<sup>174</sup> operating in Serbia. The company employs a total of approximately 3,600 people in Serbia and has numerous contracts with the state, various public enterprises and the private sector (including banks). Having been awarded the contract with HPP Djerdap for the first time in 2014, G4S won the contract again in 2015, this time in cooperation with two smaller companies.<sup>175</sup> Following their initial tender success in 2014, G4S took over the job gradually. In line with the tender's requirements, G4S aimed to: a) do no harm, and b) improve the working procedures and terms in place.<sup>176</sup>

G4S has ample experience in securing critical infrastructure in other countries, and transferred this knowledge to HPP Djerdap. When working for private clients, G4S typically develops new working procedures. However, when doing business with the Serbian state, the state establishes the procedures which must be followed. A thorough security needs assessment, conducted by G4S upon receipt of the contract, concluded that it was important to improve the technical security provision at HPP Djerdap as compared to the physical security at the plant. It was therefore decided to purchase modern surveillance equipment because the old equipment had not been replaced nor upgraded for years. For the first time, the purchase was completed through a public procurement process, as required by law. G4S won the contract for the annual maintenance of video surveil-

172 See section above entitled "The Outsourcing of Security at HPP Djerdap" for more information on the unrealistically low prices that HPP Djerdap have allowed in their contracts with Djerdap Services in the years up to 2013. A more detailed explanation of unrealistically low prices and exploitative practices is also described in Milošević, Marko and Petrović, Predrag, "The Case of Serbia", in F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF 2015, p.94-99.

173 Djerdap Services received the SRPS A.L2.002 quality standard for the physical protection of public gatherings, and the SRPS A.L2.002 standard for situation management from the control centre with the use of patrol teams. It also possesses information security standard ISO/IEC 27001.

174 Worldwide, G4S employs approximately 500,000 people, and secures a wide range of facilities including critical infrastructure, airports, power plants, government and international institutions, 36 nuclear power plants, the border between the United States and Mexico, and NATO Headquarters. Statement of an interviewee.

175 High-value public procurement of security services for BE "HPP Djerdap" B-33/15, 13 July 2015.

176 As stated by an interviewee.



lance systems,<sup>177</sup> together with a company named “Tesla Systems d.o.o.”. As part of HPP Djerdap’s continued modernisation agenda, these two companies also won the contract for the purchase of goods<sup>178</sup> including video surveillance systems in the HPP Djerdap lots for individual dams which make up the HPP Djerdap system.<sup>179</sup> Since the arrival of G4S, important steps have thus been taken to improve the technical security infrastructure at HPP Djerdap.

Compared to technical security, it was more difficult for G4S to prove that it was as good as (or better than) local companies at providing physical security. As an ‘outsider’ company G4S did not hire its entire security staff locally, unlike HPP Djerdap’s in-house security and Djerdap Services. When G4S took over the contract for security services from Djerdap Services for the first time in 2014, it integrated some of the former staff of Djerdap Services, but only about 30%. In addition, all of the leadership were hired externally. This helped to increase discipline.<sup>180</sup> Nepotism and “chumminess” – which had posed a possible risk of security breaches in the past – were reduced.<sup>181</sup> However, as Djerdap Services had been one of the main employers in Kladovo (as described earlier), the fact that G4S mainly hired external employees had a significant impact on the community. This pressure also had a bearing on local politicians, who felt obliged to promise their voters that they would get their jobs back. It is possible that as a consequence of the negative image that G4S has earned for being a ‘foreign company,’ it was also subjected to various types of inspection “five times a year, while other companies usually undergo an inspection only once in a year.”<sup>182</sup>

### Outstanding Challenges

At first glance, it may seem that (despite a number of initial problems) all three security providers – the HPP Djerdap’s in-house services, the former in-house company Djerdap Services, and the new international provider, G4S – each bring expertise and advantages to security provision at the power plant. A closer look reveals, however, that a number of challenges persist. These challenges are caused by the practical difficulties associated with three highly diverse entities working together to provide security at HPP Djerdap.

An important source of friction has been the difference in pay between in-house and private security staff. Private security companies pay their employees the sum that had been agreed in the public procurement contract, while those working in the in-house section receive their salaries from the plant’s budget. When Djerdap Services first started operating as a separate private enter-

177 High-value public procurement of annual video surveillance maintenance services for BE “HPP Djerdap” B-240/15, 23 December 2015.

178 High-value public procurement of goods: video surveillance equipment, PP/2000/0004/2015, 9 February 2016.

179 The procurement of services relating to the main design for video surveillance of HPP Vlasina has been announced and is still in progress (Tender documentation for the high-value public procurement of services: the main design of video surveillance in Vlasina power plants, B-276/15, 27 November 2015).

180 Interviewee Statement: “There is plenty of strictness but no quality.”

181 Interviewee Statement: “There are many relatives and neighbours here; certainly they cannot be expected to control each other.” The statements in this footnote and the previous footnote are from two different PSC managers, reflecting how “stricter discipline was introduced.”

182 Statement of interviewed Security Manager.

prise, the salary of the in-house staff was 10% higher than that of Djerdap Services' employees. At the time of writing, their average salaries are twice as high, and in some job positions up to three times higher.<sup>183</sup> Unsurprisingly, such differences in salaries negatively affect the motivation of the external private security employees, who are performing the same duties while earning lower salaries.

Other challenges can be observed in the communication (or lack thereof) between the diversified security elements. In this specific case, when the contracted companies work together with the in-house security personnel, and jointly have to cooperate with the border police, they all have to be included in the secured communication system TETRA<sup>184</sup> and Service 112.<sup>185</sup> At the time of writing, this was not the case at HPP Djerdap. Also, there is no clear division of responsibility among the different actors in the field: it is unclear how to differentiate the responsibilities of the in-house security from the responsibilities of the contracted companies. Furthermore, currently three PSCs are contracted, and their division of responsibilities can only be determined by the contract.<sup>186</sup>

Also, there is a lack of control exercised by HPP Djerdap over contracted PSCs<sup>187</sup> such that irregularities or deficiencies are not reported promptly (and sometimes not at all), and HPP Djerdap does not closely monitor<sup>188</sup> the fulfilment of contractual obligations.<sup>189</sup> Employees at lower levels do not communicate problems to those at higher levels, while those employed at higher levels do not communicate them to the contracted security companies.

In addition to this, HPP Djerdap does not punctually plan or announce public procurement exercises for private security services, and this poses a risk of corruption. Specifically, at least twice HPP Djerdap made agreements with PSCs to prolong their contracted activities beyond the agreed timeframe.<sup>190</sup> This is not uncommon in the Serbian market,<sup>191</sup> but it demonstrates a lack of accountable planning.

183 Interviewee Statement: in December 2015 the average salary of personnel in in-house security was RSD 57,000, while in the contracting company it was RSD 25,000 (G4S, Djerdap Services and VIP).

184 TETRA is a European Telecommunications Standards Institute standard, specifically designed for use by government agencies, emergency services (i.e. police forces, fire departments, ambulance) for public safety networks, rail transport staff (for train radios), transport services, and the military.

185 112 is the European telephone number for emergencies. It is used to contact emergency services (emergency medical services, fire and police) in any country of the European Union as well as many others.

186 The authors were not given insight into contract provisions, so they were not able to determine how the contracting parties defined the division of duties and responsibilities.

187 Interviewee Statement.

188 Poor control over outsourced private security was described in F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF 2015, p. 92-93.

189 It has been noted in a response from HPP Djerdap (act No 50000-E.01.01.-72188/3-2016) that, for instance, the initial contract with G4S from 2013 was prolonged by amendment, i.e. "services will be provided for 365 days from its signature, or until planned assets are spent." This is an unclear timeframe. G4S won the contract from 20.2.2015-20.2.2015, and the time lapse from 20.2.2015 until 13.7.2015 (new public procurement) was justified with reference to this amendment.

190 Agreement between HPP Djerdap and Djerdap Services, 10-6/305-13, 2.10.2013, and Agreement between HPP Djerdap and G4S, 10-28/297, 21.5.2015.

191 Interviewee Statement; Licensed Public Procurement Officer.

However, some positive elements can also be identified within this privatised and diverse security construct. The public procurement procedures have prompted professionalization within the security market; the quality level of services is elevated by the presence of an international player like G4S. However, with the present cost of labour (which is determined through the public procurement tender and by a potential annual increase of up to 10%),<sup>192</sup> the replacement of equipment and investment on a greater scale is not financially feasible.

Below is a brief overview of the main benefits and disadvantages of outsourcing security at HPP Djerdap:

*Table 1. Main benefits and disadvantages of outsourcing security at HPP Djerdap*

<b>Benefits</b>	<b>Disadvantages</b>
Increasingly professional services	The division between the in-house security and contracted companies, and resulting unclear division of responsibilities and accountability
Better formulated tender requirements	Difference in salaries
Procurement of equipment for technical protection	Difficult communication – not included in the TETRA system
Reduced nepotism	Difficult communication between all the actors –
in-house security and contract firms	
Transformation of the company “Djerdap Services AD” from a state-owned to a joint stock company, as a pattern for other potential private security companies	Short contractual terms (one year); as a result, the possible new supplier needs time to adjust to the new job
Reduced impact of local politics on employment	Inability to control the quality of contracted/ provided security services, and problems with respecting scheduled deadlines for public procurement cycles

## Public-Private Partnerships

The Law on Public-Private Partnership<sup>193</sup> offers an opportunity to improve cooperation between the private security sector, the state, and public companies. It guarantees (in Article 18) that contracts may last from 5 to 50 years, which justifies long-term investments. The Serbian Law on Public Procurement,<sup>194</sup> on the other hand, limits public procurement contracts between state companies and private companies to one year. However, investment in equipment, training and procedures

192 See the section above entitled “Protection of Critical Infrastructure” for detail on the relevant legislative framework.

193 Law on Public-Private Partnership, Official Gazette of RS No. 88/11.

194 Law on Public Procurement, Official Gazette of RS No. 124/2012.

cannot become cost-effective in one year (the standard contract length), so there is typically no investment in improving services. Also, the Law on Public-Private Partnership specifies the obligation to submit annual reports as a measure of contract monitoring, and provides the conditions required for termination of a public-private partnership.

The privatisation transformation detailed in this case study could have progressed more smoothly if HPP Djerdap had decided to hire private security services in the framework of a public-private partnership. If HPP Djerdap had set up a public-private partnership with its security service providers, the contractor (G4S and Djerdap Services in this case) would be motivated to invest in new equipment as, in the long run, it would pay off, given the longer contract lengths permitted by the Law on Public-Private Partnerships.<sup>195</sup>

The Law on Public-Private Partnership also specifies that the private service provider must submit annual reports to the public client and provides the conditions required for termination of a public-private partnership. This way, the public client can retain close control over a contractor even under a multi-year contract. The only disadvantage of such long-term contracting may be the risk of forfeiting fair competition and efficiency. Also, as the example of HPP Djerdap shows, public-private-partnership contracts should only be used to procure services; all new equipment should still be obtained through the public procurement process to ensure that all potential service providers are allowed to compete (rather than solely the PSCs already under contract).

## Conclusion

Having assessed the transition of security in the case of HPP Djerdap, it is possible to draw conclusions transferable to other critical infrastructure assets in Serbia with regard to their acquisition of private security. Several branches of EPS (e.g. Kostolac coal production, Kolubara coal production, and Obrenovac thermal power plant) are might soon hire security services from private security companies instead of the “daughter companies” that previously guarded them. The challenge is twofold: on the one hand, a new company with new employees, standards and procedures will have to adapt its standards to a new context, and this will involve the acquisition of new equipment, the imposition of new standards and procedures, and training for personnel. On the other hand, “daughter companies” will have to adapt and improve to compete in new market environments. Some surveyed data<sup>196</sup> indicates that they are most likely to transform into a local company. Full privatization will be a challenge however, as apart from Djerdap Services, all other “service” companies are still state-owned. Djerdap Services has paved the way – managing to survive in the open market – and this recipe could be replicated by other companies. The main systemic problems blocking the path to privatisation are the limitations of public procurement exercises, which

<sup>195</sup> Interviewee Statement.

<sup>196</sup> Interviews conducted in late 2014 and early 2015, published in Milošević, Marko and Petrović, Predrag, “Serbia”, in F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF (Belgrade and Geneva) 2015, 88-89.

hamper investments in the long run by mandating short one year contract terms. This challenge could be overcome if public-private partnerships were established as an alternative model.

#### *List of Interviewees*

Manager, PSC that won the contract P1
Deputy Manager, Service PSC P2
Consultant for Service PSC P3
Licensed Public Procurement Officer P4
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Serbian Public Procurement Portal, available at: <http://portal.ujn.gov.rs/default.aspx>

## Reflections and Questions

The succession of different security services at the hydroelectric power plant (HPP) Djerdap in Serbia demonstrates that labels such as 'private,' 'in-house,' and/or 'state' do not necessarily determine a service's professionalism and reliability. The case study sets out how professionalism – and as a consequence, one can assume, the quality of security provision – increased at HPP Djerdap after the partial outsourcing of security (first from the in-house service to the privatized in-house service and subsequently to a completely external PSC). Unlike G4S, the international company which later won the tender contract, the in-house services and local PSC Djerdap Services did not have the political independence and major financial reserves required to hire more qualified staff and employ the latest technologies.

It is important to note, however, that this case study does not compare private and public security. Being employed by a state-owned company to provide security services, does not make the in-house guards part of the state security sector, just like none of the staff at the power plant is a state representative, as 'state-owned' does not equal 'representing the state'. Instead, the case study demonstrates that professionalism (and hence increased security) depends not on the degree of the security provider's affiliation to the state, but instead on their level of expertise, financial solvency (which is usually a precondition for expertise) and political independence. A clear contractual description of tasks and control over the delivery of these tasks are similarly important, as Kojouharov and Dzhekova also find in the case study regarding CIP in Bulgaria.

However, a comprehensive regulatory framework is not enough to ensure effective security provision. The Bulgarian case demonstrates that even with adequate regulation, PSCs protecting critical infrastructure can still avoid accountability. Even though legislation sets out detailed provisions determining how managers of critical infrastructure assets must identify and manage security risks, a legal loophole means that it is possible for owners of critical infrastructure to avoid these requirements.

Moving forward, an awareness of and commitment to the importance of monitoring security provision at critical infrastructure assets is needed on behalf of the state. This should include reforms to seriously address the problem of inexperienced or corrupt public procurement officials who fail to award contracts to the most qualified PSC, and fail to ensure that the contracted PSC meets the contract standards.

PSCs should also work with realistic budgets so as to provide good quality services. To this end, Milošević and Petrović argue that PSCs at the HPP Djerdap should not be hired under one-year public procurement contracts, but rather under public-private partnership agreements which allow for a multi-year commitment. This would enable PSCs to make long-term investments in the training and equipment that are necessary to adequately secure a critical infrastructure asset such as the HPP Djerdap.



Some of the underlying problems identified in the case studies are harder to overcome: in an austere economic situation, clients of PSCs are often unwilling or unable to offer high budgets for security services. In Southeast Europe, the market for PSCs is usually crowded, such that competition for contracts is fierce and companies are willing to outbid each other, even if this means having to accept contracts which will not provide them with the budget they need to offer quality services.<sup>197</sup> Genuine political commitment to enforcing CIP regulations and to eliminating corruption in the awarding of security contracts is therefore a crucial – if difficult – first step for policy makers.

In sum, when considering the regulation of security provision at critical infrastructure assets, policy makers should consider the following questions:

- Given that PSCs as commercial enterprises need to make investments financially worthwhile, is it possible to make CIP contracts profitable for PSCs? When are the procurement requirements for CIP too restrictive, such that investing in CIP becomes unprofitable for PSCs?
- Which kind of monitoring mechanisms can ensure that contractual security standards are met?
- What can be done to avoid overlapping or unclear control mechanisms for security at critical infrastructures?
- Should the national-level importance of CIP mean that security can never be delivered by private providers? Should there be extra state scrutiny in CIP contracting procedures, such as controls on vetting processes of hired personnel, background checks, and training?

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197 See the volume *A Force for Good?*, cited above, for a more detailed discussion on how – particularly in an economically weak country where it is relatively easy to establish a PSC (which is often one of the few viable business and employment opportunities) – PSCs in an overcrowded market begin to out-bid each other for contracts, undercutting each other's prices usually at the expense of their employees' wages.



**PART 3:**

**THE CHALLENGE  
OF QUALITY AND  
SUSTAINABILITY  
AS A RESULT OF  
DEFICIENCIES  
IN THE PUBLIC  
PROCUREMENT  
PROCESSES**

The public sector is one of the main clients of private security in Southeast Europe.<sup>198</sup> The manner in which public procurement contracts are handled therefore has considerable influence on the activities of private security companies. Best practice requires firstly that public procurement procedures for any type of services contracted by the government regulate the process by which a company is contracted and determine the criteria and policies that the contracted company should abide by, thereby forming an important regulatory tool. Secondly, public procurement procedures should ensure that government contracts are equally open to bids from all interested service providers, thereby facilitating fair competition, including equal opportunities to obtain government contracts.

Tender selection criteria and the selection processes will determine which PSCs obtain much sought-after public contracts. Tender specifications will then shape the specialisations and characteristics of PSCs, since they may adapt the services they offer to the demands of public clients. Tender specifications will also shape how PSCs carry out their work, in line with the security standards set and demanded by public clients. This means that the public procurement process provides an opportunity to insert incentives for PSCs to operate along higher standards. However, it also creates the risk of influencing the market in a negative manner, particularly when public clients demand a certain level of service for an unrealistically low price, which PSCs can only deliver by lowering quality and investment.

Public procurement procedures which are not in line with good practices are not solely a problem for the contractual relations that they concern directly; they generate several broader risks. A lack of expertise in the process of assessing bids may result in security arrangements that are insufficient or inappropriate for the object that is guarded, and this in turn can result in dangerous situations both for the persons in the object's vicinity and for the guards. To give another example, tenders decided exclusively based on the lowest price are likely to result in extremely low wages and little-to-no training for guards, which again in turn can cause dangerous situations for the public at large and for the guards. Public tenders for security services should therefore have precise specifications based on a thorough assessment of the secured object's security needs. Imprecise or unrealistic tenders and selection criteria generate a great risk that the best PSC will not be selected for the job, or that the selected PSC will not be able to carry out their tasks adequately. For example, many tenders are awarded to the cheapest provider, which later is not able to pay staff an adequate salary because the tender budget was set unrealistically low. Thus to ensure the efficient and accountable delivery of security services, good public procurement processes also require contracts to set out, with precision, the tasks that will be required of the PSC. The public sector client furthermore should regularly assess whether the targets defined in the contract are being met and whether security is being provided as agreed.

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198 F. Klopfer, N. Van Amstel (eds.) *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, DCAF 2015

In past studies throughout the region, it has become clear that in different contexts, the underlying causes of challenges within the public procurement process are remarkably similar.<sup>199</sup> In other cases reflected in this volume, it can be observed that a lack of clarity in the content of the procurement tender, a lack of knowledge of security needs amongst those who write the tenders, and a drive to keep costs as low as possible when managing security concerns, can result in a procurement process which is both insufficiently tailored to the assets it aims to protect, and insufficiently scrutinized by persons with relevant technical expertise. This can cause a dangerous situation for many stakeholders if it results in insufficient security arrangements protecting critical infrastructure sites.<sup>200</sup> The case study below will examine the procurement process in one Southeast European country, Albania, in greater detail, in order to allow identification of some of the root causes of flawed procurement processes.

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199 Ibid.

200 See Part 2, above.

## The Impact of Public Procurement Practices on the Private Security Sector in Albania – Analysing Public Procurement in Tirana in 2015

*Arjan Dymishi and Ola Çami*

### Introduction

It is widely acknowledged that public procurement practices in Albania do not always meet the standards of transparency, accountability and efficiency required by international best practice or national law.<sup>201</sup> As such, Albania is no different from other countries in the Western Balkans, where, despite efforts to improve public procurement, the practice still remains far from satisfactory.<sup>202</sup>

As previous research has shown, the public sector is one of the most important clients for private security services in Albania.<sup>203</sup> Private security companies (PSCs) are hired for various services; to guard public buildings and their premises, critical infrastructure and to provide protection for public gatherings. More than a quarter of the industry's annual turnover arises from selling these services to public clients. The manner in which public procurement contracts are awarded and enforced will therefore have a significant impact on the quality of PSCs' activities. As an influential client, the public sector could demand that security services act within the law and ensure security without negatively affecting the human rights of citizens. The manner in which public tenders are formulated and awarded and the way in which contract conditions are enforced are therefore very important for raising the standard of private security in Albania.

This case study focuses on the analysis of the public procurement of private security services in Tirana during the calendar year 2015. It begins by exploring complaints from PSCs regarding the public tendering of security service contracts, before examining how this is related to broader problems in public procurement in Albania. It then moves to examine the consequences that (alleged) irregularities in awarding contracts have on the private security industry as a whole – in particular the risks and opportunities they pose or might pose to the professionalism, quality of services and trust in the sector.

### Methodology

The data collection for this study includes both an analysis of related documents released by public institutions and interviews with key stakeholders. In order to gather qualitative information

201 Arjan Dymishi, Mariola Qesaraku and Bensik Baka, "Monitoring and evaluating the security sector governance in Albania," Tirana: Institute for Democracy and Mediation, 2014.

Ejona Bardhi, "Integrity in the Albanian Public Procurement. Principles and the fight against corruption," *Academic Journal of Interdisciplinary Studies* 3, No. 4, 2014.

202 Ilaz Duli, Safet Hoxha and Mersad Mujovic, "Reforms of Public Procurement in the Western Balkans," (paper presented at the 5TH annual IPPC, 2012).

203 Arjan Dymishi and Gentiola Madhi "Albania," in *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*, eds. Franziska Klopfer, Nelleke Van Amstel. (Belgrade and Geneva: DCAF, 2015), 7-29.

about public procurement procedures in Albania the following were analysed: actors, revenues, the number of complaints to the contracting authorities and 56 Public Procurement Agency (PPA) weekly bulletins for the year of 2015 in Tirana. For more information about the number of appeals against these complaints, 24 reports released by the Public Procurement Commission (PPC) were examined.

In order to strengthen the quality of desk-research findings and understand the issues regarding public procurement in more depth, interviews with managers and employees of PSCs and representatives from regulating and controlling institutions were conducted.

### **Legal and Regulatory Framework**

In the field of private security, public procurement is regulated through a complex legal framework. On the one hand, laws exist to regulate the activities of PSCs as security providers, while on the other, a number of market regulations aim to stimulate economic activity while ensuring fair competition among PSCs. The basic legal framework which regulates the procurement of services by the public sector is Law 9643/2006 "On Public Procurement, changed" (hereafter Law on Public Procurement) and the sub-legal act of the Council of Ministers nr.1, date 10.01.2007 "On public procurement rules". Both instruments have been amended in the last decade, with the most recent amendment in 2014. However, the legal base has not changed.

According to a recent assessment by the European Commission, "...the Law on Public Procurement is largely in line with the EU directives on classical and utilities procurement and is harmonised with relevant administrative and budget provisions [...]. Albania's legislation is not yet in line with Directive 2009/81/EC on defence and sensitive security procurement."<sup>204</sup>

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204 European Commission, Albanian Progress Report 2015. Brussels, 10 November 2015. Available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_albania.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf), 34.



Table 1. Regulation of Public Procurement in the Private Security Sector

The laws regulating Public Procurement in the Private Security Sector	Regulating and monitoring institutions
<ul style="list-style-type: none"> <li>- Law 9643/2006 "On Public Procurement, changed"</li> <li>- Sub-legal act of the Council of Ministers decision nr.1, date 10.01.2007 "On Public Procurement Rules"</li> <li>- Law 125/2013 "On concessions and public-private partnerships"</li> <li>- Law 75/2014 "On Private Physical Security Service"</li> <li>- Law 10053/2008 "Code of Labour"</li> <li>- Law 9121/2003 "On the Protection of Competition"</li> </ul>	<ul style="list-style-type: none"> <li>- Public Procurement Agency (PPA)</li> <li>- Public Procurement Commission (PPC)</li> <li>- Competition Authority (CA)</li> <li>- Public Procurement Units by the contracting authority (PPU)</li> <li>- Labour Inspectorate (LI)</li> </ul>

As seen in Table 2 below, a tender process goes through seven stages. If none of the bidders make a complaint to the contracting authority, the contract is signed and executed by the winning bidder. The duty of the Public Procurement Agency is to prepare proposals for public procurement rules and guidance, monitor the compliance of public procurement systems, verify the implementation of public procurement procedures and draft and issue Public Procurement Bulletins.<sup>205</sup> Together with the Public Procurement Commission (PPC), it monitors the Public Procurement Units (PPU) of the contracting authority and investigates and decides on violations. The Competition Authority and the Labour Inspectorate are responsible for monitoring the execution of the PSCs contracts.

<sup>205</sup> "Main tasks," Public Procurement Agency, <https://www.app.gov.al/ep/DetyratKryesore.aspx>

Table 2. Stages of contracting a service

Stages of contracting a service:	Details:
Request for offers and the application (online) from the companies interested	Contracting authorities define the procedure used and criteria needed to successfully secure a contract. The PSCs then apply electronically
Processing information for the selection of winners	The offers which do not fulfil the necessary criteria are disqualified and casting a lot for the remaining PSCs
Announcing the winner	The winner is announced in the Newsletter of the PPA
Dissatisfied bidders make a complaint to the contracting authority	The complaint should be made within 7 days of the announcement of the winner
The contracting authority rejects or accepts the complaint	The PPU review the complaint within 7 days
The bidders have the right to appeal to the Public Procurement Commission (PCC)	This requires a payment of 0.5% of the predefined limit fund
PPC replies by rejecting or cancelling the tender	If the complaint is rejected, the contract with the winner is signed

Source: Law 9643/2006, Sub-legal act decision nr.1, date 10.01.2007<sup>206</sup>

If a bidder disagrees with the allocation of a contract, it can first complain to the public body that awarded that contract (contracting authority); this process is free of charge. If the bidder does not agree with the reply from the contracting authority it can then submit a complaint directly to the PPC.<sup>207</sup>

## Complaints and Lack of Accountability

In 2015, all but 14 out of 124 decisions on public procurement of security services in Tirana (open procedures) were appealed against by bidders; 110 appeals alone were made in Tirana. Contracting authorities rejected almost 80% of these appeals. Most complaints to the PPC were related to unfair disqualification of bidders.<sup>208</sup> This is hardly surprising given that on average 7 out of 10 bidders were disqualified in public tendering processes in 2015.<sup>209</sup>

206 Law 9643/2006 "On Public Procurement, changed"; Sub-legal act of the Council of Ministers decision nr.1, date 10.01.2007 "On Public Procurement Rules".

207 For this, PSCs have to pay a tariff of 0.5% of the limit fund to the PCC. The limit fund is a pre-defined allocation of the government budget for the procurement of a specific service for a certain institution which should not be surpassed. The bidders are provided with this information beforehand and take it into consideration when making offers.

208 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

209 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

Complaints about the award of tenders for the provision of security services were disproportionately common. In the previous year, in 2014, the PPC received 480 complaints related to guarding services. This means that almost 60% of all complaints to the PPC were from private security companies, even though only 15% of public contracts are related to the sector. This percentage rose even further in 2015, accounting for nearly 70% of all cases (see table 3).

Table 3. Number of cases reviewed by PPC in 2015

Month	Complaints in total (2014)	Complaints related to PSCs (2014)	Complaints in total (2015)	Complaints related to PSCs (2015)
<b>Total</b>	<b>834</b>	<b>480</b>	<b>1139</b>	<b>770</b>
Percentage related to total		(58%)		(67%)
Increase in percentage from the following year			36%	60%

Source: PPC (2014, 2015)<sup>210</sup>

In its decisions for 2014, the Public Procurement Commission found many irregularities, especially with regards to decisions by contracting authorities to disqualify bidders. The PCC noted that contracting authorities lack transparency when giving reasons for a qualification or disqualification of a bidder.<sup>211</sup> As a result, the PCC cancelled decisions in 20% of cases where complaints had been brought forward by PSCs (116 out of 480 complaints were approved, with corrective measures taken).<sup>212</sup> At the same time, no contracting authority was fined in 2014 for irregularities in their tendering decisions for security contracts.<sup>213</sup>

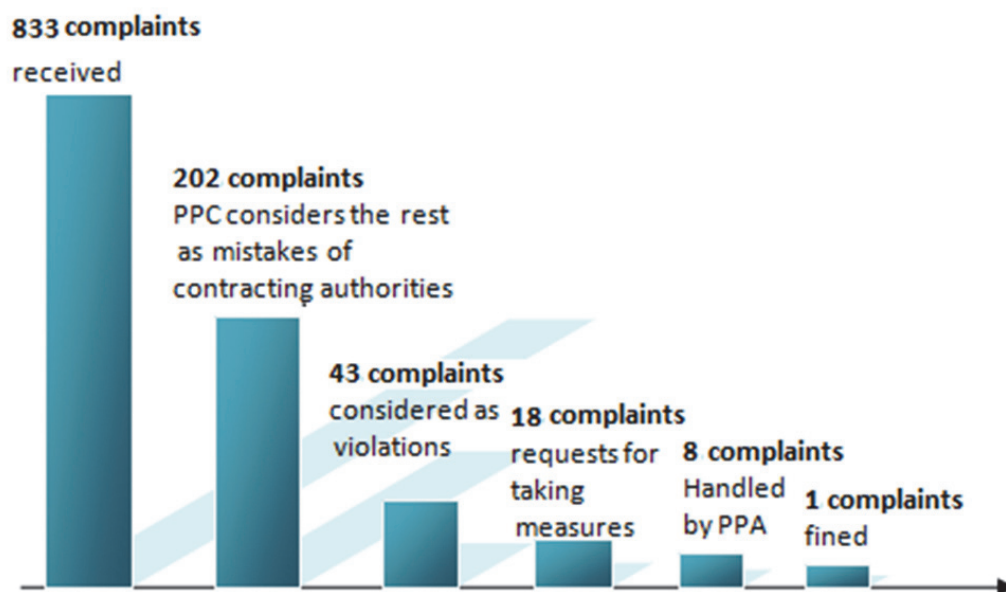
210 Public Procurement Commission, "Complaints in Process," [http://www.kpp.gov.al/ppadv/Complaints\\_in\\_Process.aspx](http://www.kpp.gov.al/ppadv/Complaints_in_Process.aspx)

211 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

212 Public Procurement Commission, "Annual Report 2014".

213 In total, a contracting agency was only fined in one case out of 478 complaints that the PCC received in 2014. This case was not related to an institution contracting PSC's services. Respublica, "Impunity in Public Procurement," 2015, [https://www.osfa.al/sites/default/files/libri\\_kpp\\_per\\_web\\_ok\\_0.pdf](https://www.osfa.al/sites/default/files/libri_kpp_per_web_ok_0.pdf)

Graph 1. Stages of a case from complaint to fining, and figures for cases handled by the PCC in 2014



Source: Respublica (2015)<sup>214</sup>

At first, the fact that almost all tendering decisions on public contracting of private security in 2014 were contested by PSCs seems alarming. However, an interviewee from a PSC informed the authors that most PSCs complain to the PPC with the hope that the PPC will cancel the procedure and re-hold the tender.<sup>215</sup> Therefore, submitting complaints to the PPC can be seen as an automatic step that PSCs take in the hope of getting a second chance to bid for the contract. Indeed it seems that many of these complaints have little merit as the PPC only found irregularities in 20% of those submitted in 2014.

However, since almost all public tenders for security services were contested, the 20% where irregularities were identified constitute almost 20% of all public tenders. The fact that tenders for guarding services are disproportionately represented in the cases brought to the PPC further indicates that public bodies seem to have problems carrying out tenders for security services. Furthermore, given that none of these public bodies were fined for irregularities, a feeling of impunity results, making it easier for contracting authorities to systematically break tendering rules.

## Winning Companies and Revenue Distribution

A closer look at the public contracts awarded for providing security services does indeed give rise for concern. In recent years, the market for public tenders for security services in Albania has become extremely polarised. In 2013 and 2014, five companies consistently won tenders and received 10% of the total revenue of all public contracts related to the procurement of private security services.<sup>216</sup> In 2015, the number of companies narrowed to only three PSCs (servicing over

214 Ibid.

215 PSC3 telephone interview with authors, 10 February 2016.

216 Arjan Dyrmishi and Gentiola Madhi "Albania," in *A Force for Good? Mapping the Private Security Landscape in*

30 institutions and receiving 25% of the total revenue). The remaining tenders were won by a number of companies that only guard between 1 or 2 institutions each. These companies make minimal or no (ALL 0.1<sup>217</sup>) profit from these public contracts.

Table 4. Relevant information and statistics on PSCs in Albania

Total Nr. Of PSCs who have won at least one tender	40
Total number of Contracting Authorities who have tendered at least once	86
Average number of buildings guarded by one PSC	2
Average time a building is tendered in a year	4 (every three months)
Total revenue from public procurement for guarding services only	915,743,128.63
Estimated sum needed for the payment of guards based on minimum wage	14,190,000
Difference	901,553,128.63 (83% of the revenues)

Source: PPA (2015)<sup>218</sup>

There could be many reasons why contracting agencies repeatedly choose the same PSCs when selecting winning bids in tender processes. However, there is a widespread belief amongst PSCs in Tirana that these decisions are the result of corruption. This belief is often based on the direct experience of companies. Technical directors of a number of PSCs in Tirana have told the authors that it is impossible to win a tender without paying bribes, having connections with high level politicians, or both.<sup>219</sup> As contracting authorities are solely responsible for the selection of the winning bid, having a connection with the director of the procuring public institution often determines the winner.<sup>220</sup>

### Criteria and Selection Process

In its report on public procurement in Tirana in 2015, the PPC never directly refers to the issue of corruption. However, the fact that it found irregularities in 20% of all contested tendering decisions regarding PSCs (corresponding to nearly 21% of all contested tendering decisions<sup>221</sup>) indicates that more needs to be done to avoid deliberate or accidental misuse of public procurement

*Southeast Europe*, eds. Franziska Klopfer, Nelleke Van Amstel. (Belgrade and Geneva: DCAF, 2015), 7-29.

217 PSC1-PSC4 10 interview with authors, November 2015 - 20 January 2016.

218 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

219 PSC1-PSC4 interview with authors, 10 November 2015 - 20 January 2016.

220 PSC1-PSC4 interview with authors, 10 November 2015 - 20 January 2016

221 Public Procurement Commission, Annual Report 2015

procedures. As the PPC mentions in its report, transparency is one of the issues that needs to be addressed.<sup>222</sup>

### Box 1.1 Example of lack of transparency

In 2015, two private security companies were excluded from bidding in all the procurement tenders: one PSC was excluded in September 2015 for a period of 3 years and the second PSC was allowed to bid again only in October 2015. On the PPA website the excluded companies are published only by name, without justification of the PPA's decision; therefore lacking public transparency and not providing reasons behind their exclusion.

Although e-procurement has helped to increase the transparency of many of the procedures, public procurement processes using a "negotiated procedure without prior publication"<sup>223</sup> are carried out with minimal transparency. In 2015, the negotiated procedure was the most commonly used procurement process in public tenders for security services.<sup>224</sup> Compared to other procedures, however, this procedure has much less stringent requirements as regards to the openness and transparency of the tendering process.<sup>225</sup> Even though the Law on Public Procurement states that the preferred procurement procedure should be an "open procedure"<sup>226</sup> and that the "negotiated procedure without prior publication" should be applied only in exceptional cases,<sup>227</sup> in 2015, 42% of all contracts for security procurement (144 contracts out of 241) were awarded through the "negotiated procedure without prior publication".<sup>228</sup> The "open procedure" was only used for 40 out of 241 contracts. According to the PPA's annual report of 2015, the contracting authorities justified the use of the procedure as "an emergency", necessary to fulfil immediate needs or as a result of multiple failed public procurement tender procedures.<sup>229</sup> Although the PPA has acknowledged

222 Ibid.

223 The Law "On Public Procurement, amended" 9643/2006 prescribes seven public procurement procedures: Open procedure; Request for Proposals; Negotiated Procedure without prior publication; Negotiated Procedure with prior publication; Restricted Procedure; Design Competition; Consulting Services. (Law 9643/2006 "On Public Procurement, changed", art 33).

224 Public Procurement Agency Newsletter, 2015, [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

225 Unlike the "Open Procedure", which does not impose limits on the number of bidders, the "Negotiated procedure without prior publication" is carried out with at least three bidders which are selected by the contracting authorities to take part in the bidding process. (Law 9643/2006 "On Public Procurement, changed", art 38). The "Negotiated procedure without prior publication" is the only procedure where the open and transparent online application portal is not used. (Under all other six procedures, interested operators apply electronically via an online portal on the official website of PPA, which enables transparency of the process to bidders and the public).

226 Law 9643/2006 "On Public Procurement, changed", article 29.

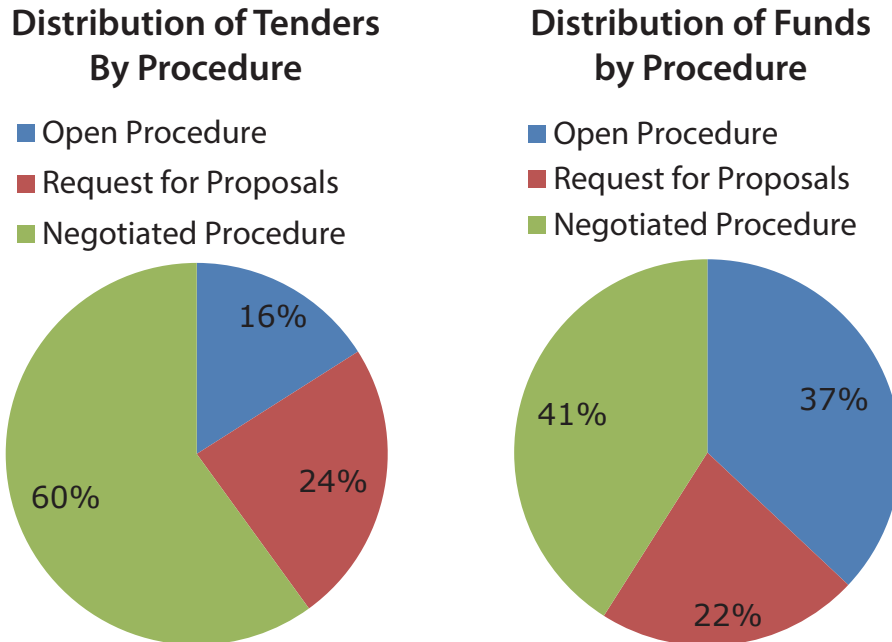
227 The Law specifies this as cases of "urgent need" or to meet the needs of the beginning of the year until the opening of the bidding process in March of each year. (Law 9643/2006 "On Public Procurement, changed", art 33).

228 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

229 Public Procurement Agency, Annual Report 2015.

the frequent use of the “negotiated procedure” as a problem and has included its reduction in its list of priorities, nothing significant has so far been done to reduce its use.<sup>230</sup>

Graph 2: Distribution of tenders and funds by procedure



Source: PPA (2015)<sup>231</sup>

In addition, a lack of precision in procurement procedures makes it relatively easy for contracting agencies to avoid providing detailed justifications for the selection of successful bidders. The Law on Public Procurement and the Procurement Regulations prescribe two ways of selecting a successful bid: the lowest price and the most economically advantageous bid. According to the limited data available for 2015,<sup>232</sup> only 3 successful bids were selected on the basis of the most economically advantageous bid versus 39 that were selected based on the lowest price. In practice, the use of the “lowest price criteria” has not brought benefits to the state budget (as intended by the use of that criterion). For all procurements in 2015 in Tirana, the allocated fund limit was ALL 845’056’960.30, considering the value of contracts awarded (ALL 915’743’128.63) this results in a difference of ALL 70’686’168.33, paid from the extra funds allocations, with the state having exceeded its allocated budget. It seems necessary to re-assess the current method used by the state, since using the lowest price criteria for selecting winning bidders – with the aim of saving funds – seems to be highly inefficient.

230 Public Procurement Agency, Annual Report 2015; CA02, PPA01 interview with authors.

231 Public Procurement Bulletins January-November 2015 [https://www.app.gov.al/ep/2015\\_Arkiva\\_e\\_Buletineve.aspx](https://www.app.gov.al/ep/2015_Arkiva_e_Buletineve.aspx)

232 These figures are based only on a quarter of tender processes because 77% of announcements did not provide information about the selection criteria as the law does not require that this information is included.



One reason why so few bids are selected by determining which is the most economically advantageous is that the selection criteria remain overly complex and difficult to measure. Bylaws entitle contracting authorities to establish criteria on the “quality” of the product and to request supporting documentation and implementation from the PSCs. The authors were not able to find any manual or instruction for contracting authorities regarding the definition and rules for defining the “quality of service”. This certainly makes the process of selection according to the most economically advantageous bid vulnerable to misuse or abuse, as the PPC has noted in a recent report. It found irregularities in connection with contracting authorities, specifically concerning the determination of those criteria which are in conflict with the law on public procurement.<sup>233</sup>

The lack of criteria on selecting the most economically advantageous bid opens the possibility of favouritism, whereby institutions opening bids list criteria fitting only one PSC in order to award the tender to this PSC. Since it is not possible to measure the quality of security provision as there are no specific guidelines, the institutions tend to abuse the system.

#### *Effect on the sound development of the market*

The –monopoly that a few big companies have on the market has had an overwhelming negative effect on the private security industry and has had knock-on consequences for employees of PSCs and the quality of PSC services.

As demonstrated in Table 4 above, the average revenues from the public sector contracts are high. Such turnover could allow for investment and development in the private security sector. In reality, however, only a small number of companies profit from it – those that are awarded the most contracts. The other PSCs, who are usually only awarded one or two contracts, struggle to make ends meet and often cannot afford to pay their guards the minimum wage. The division of contracts into lots<sup>234</sup> further favours larger companies over smaller ones.<sup>235</sup>

As it is impossible to cover the costs of operation, those companies which lose contracts are either forced to reallocate money from the contracts with their private sector clients in order to stay competitive or change the conditions of employment of their guards by, for example, paying less than the minimum wage, enforcing longer shifts or denying the right to paid leave.<sup>236, 237</sup> In

233 Public Procurement Commission, Annual Report 2015.

234 A contracting authority contracts private security for more than one location or institution at the same time. In this case the contract is divided into “lots” representing the locations or institutions. Law 9643/2006 “On Public Procurement” Article 47/3

235 The division of the contracts into “lots” does not enable economic operators to submit an individual bid, but obliges them to participate in the tender only with unity (partnership with other PSCs), bringing restriction of competition and preventing economic operators to enter these procedures as individual bidders. This kind of division into lots of the contract constitutes a barrier to market entry service procurement and maintenance of physical security in terms of the Law “On the Protection of Competition”. (Competition Authority (2013), “Assessment of the impacts of regulation on competition”)

236 PSC1-PSC4 interview with authors, 10 November 2015 - 20 January 2016.

237 During our research we have encountered the following trend: PSCs *do not pay a wage* to the guards which monitor public institution with a high traffic of people. The guards survive on the tips that are given to them or

some cases, PSCs have even been known to assign less guards than requested by the Ministry of Interior (or defined in the contract) in order to cover the costs.<sup>238</sup> On the other hand, the dominating companies take advantage of the revenues of the public market, lowering the prices in the private market; thus making it difficult for other companies to cover operational costs. Therefore, the general quality of services provided by PSCs under public contracts is low. This is compounded by the fact that contracting authorities rarely reprimand PSCs for not fulfilling their contractual obligations.

### **Failure of quality control**

There are three main institutions responsible for regulating and monitoring public procurement and 49 people who, in practice, manage all seven stages of the procurement and more than 4,000 procedures per year.<sup>239</sup> The PSCs and public institutions argue that the number of employed civil servants is sufficient to maintain a healthy procurement process.<sup>240</sup>

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even forced on them by the visitors. At night some of them make money by renting out parking spaces of the government building parking lot. (PSC02, CA01, CA02 interviews with authors).

238 PSC1, PSC3, interviews with authors, 10 November 2015 and 22 December 2015

239 Public Procurement Agency, Annual Report 2014.

240 PSC02, interviews with authors, 22 January 2016; PSC04, interviews with authors, 15 November 2015; PPA01, interviews with authors, 19 February 2016; CA02, interviews with authors, 18 February 2016.

Table 5. Capacities of the Regulating and Monitoring Institutions

Institutions	Duties	Number of people
Public Procurement Unit	<ul style="list-style-type: none"> <li>- Administration of the selection process</li> <li>- Management of complaints</li> </ul>	3 per institution (1 lawyer)
Public Procurement Agency	<ul style="list-style-type: none"> <li>- Preparation of proposals for public procurement rules, development of Standard Tender Documents and the issuance of guidelines;</li> <li>- Verification of the implementation of public procurement procedures, phase after signing the contract and in case of violations of the laws and regulations, fines or proposal of any administrative measures;</li> <li>- Monitoring the performance of the system of public procurement, and the implementation of measures and activities in order to achieve and maintain a fully transparent and efficient system of concession / public private partnerships;</li> <li>- Drafting and issuance of the Bulletin of Public Notices;</li> <li>- Exclusion of economic operators from participating in public procurement.</li> </ul>	28
Public Procurement Commission	Oversees the legality of public procurement procedures, taking decisions on complaints relating to public procurement procedures.	5 commissioners (3 lawyers) (1 chairman 1 deputy) And 13*(2014) civil servants in the institution
<b>Total</b>		<b>49</b>

Source: PPA (2016), PPC (2016), Law 9643/2006

The PPA is a well-established institution. However, its role remains diminished due to a lack of cooperation between the PPA and other key institutions. The mechanisms for coordination between the PPA and institutions such as the PPC, the Labour Inspectorate, the Competition Authority and public procurement departments located inside the contracting authorities (that aid in the efficiency of PPA) are lacking; resulting in a failure to efficiently award and implement tenders. Following the establishment of new local government units resulting from recent territorial administrative reforms, the capacity of local employees assigned to public procurement issues need to be adjusted to the change.<sup>241</sup>

On the other hand, the PPC has struggled in areas concerning the selection and retention of its members. By law, the PPC should be composed of 5 people, 3 of whom are lawyers, elected by the Council of Ministers for a five year mandate.<sup>242</sup> In fact, no one from this commission was able to finish their five year mandate and in only one year, 2014, 10 people took over this role and left it.<sup>243</sup> The commission was left with 3-4 members throughout this time and without a deputy, which, by law, is crucial in the functioning of the commission. As it is not possible to make decisions, procedures are thus suspended.<sup>244</sup>

The Labour Inspectorate and the Competition Authority only organize a limited number of inspections during the year, mostly concerning the presence of a required number of guards on duty, proper documentation, wages received by employees and overall working conditions. In most cases, the inspections are announced and the PSCs manage to arrange the documents and guards beforehand. The Competition Authority is the only public institution which is allowed to conduct unannounced inspections and reports a high number of abuses. However, fines are the only mechanism used to sanction the PSCs and deal with irregularities.<sup>245</sup>

## Outcomes and Recommendations

The private security industry has played an important role in the provision of security in Albania. Despite their role as one of the key security providers, PSCs have remained small and underdeveloped. This case study has observed trends in the execution of contracts in the public market and pointed to the poor implementation of labour legislation with respect to the employees' rights. The latter has a negative impact on the motivation of guards to join and stay in the market, on the quality of services and on the desire to further professionalise the sector.

241 Since June 2015, Albania has undergone a rearrangement of its territory, moving from more than 300 administrative units to only 61, which requires an adaptation of the number of local inspectors and employees, and the introduction of new, more efficient mechanisms. As of now, the PPA has not managed to do this. European Commission, "Albanian Progress Report 2015," 2016, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_albania.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf)

242 Law 9643/2006 "On Public Procurement, changed",

243 Respublica, "Impunity in Public Procurement," Tirana: Expo Vision Albania, 2015, [https://www.osfa.al/sites/default/files/libri\\_kpp\\_per\\_web\\_ok\\_0.pdf](https://www.osfa.al/sites/default/files/libri_kpp_per_web_ok_0.pdf).

244 Ibid.

245 CA01, CA02, interview with authors, 16 February 2016 and 18 February 2016.

In general, the market remains distorted due to the dominating position of a small number of PSCs, who in turn benefit from favouritism and the inefficiency of public procurement procedures in acquiring bids. Problems concerning the transparency of the public procurement process and the sentiment that the acquisition of tenders is unfair have resulted in a high number of complaints by PSCs. Despite this however, the incentives for change remain low as reform is not in the interest of those obtaining the contracts.

The fact that non-delivery of contract obligations are not sanctioned further confirms the widely held view that quality in private security services is not considered important for gaining or keeping contracts. Few investments in the quality of services are therefore made – market profits are not allocated to increase the human and physical capital of the enterprise but rather absorbed by the owners.

The lack of control over the public procurement of security services has also resulted in a lack of concern in regards to fulfilling the contract obligations to public sector clients. An improvement in the monitoring of procurement procedures and in the awarding of contracts would allow for oversight and control institutions to move beyond merely assessing compliance with the law, to a full assessment of practices. This would require the PPA to further increase its capacity to monitor the e-procurement system and to increase the transparency of their concession procedures and plans.<sup>246</sup> Increasing the cooperation between oversight and control institutions, such as the PPA and the Labour Inspectorate, could result in better enforcement of contract obligations and provide an incentive for PSCs to invest and offer better quality services to their clients. Furthermore, these trends call for a need to adjust procurement regulations and guidelines in order to award contracts based on a measure of quality and less on the lowest price. This would allow for fair tendering processes and better auditing by controlling institutions and further act to discourage corrupt practices.

## Coding of Sources

Occupation of the interviewee	Coding
Technical Director of PSC1	PSC1
Technical Director of PSC2	PSC2
Technical Director of PSC3	PSC3
Technical Director of PSC4	PSC4
Civilian Employee in a Public Institution which has contracted PSCs	CEP1
Civilian Employee in a Public Institution which has contracted PSCs	CEP2
Civilian Employee in Competition Authority public institution	CA01
Civilian Employee in Competition Authority public institution	CA02
Civilian Employee in Public Procurement Agency	PPA01

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## Reflections and Questions

The main problems highlighted in the above case study on public procurement of private security in Tirana in 2015 did not stem from a lack of regulation or laws, but rather from a lack of implementation of existing regulations and a lack of resources. The main causes of the flawed public procurement of private security in Tirana in 2015 show to be a lack of transparency in the procedures on the one hand, and a lack of oversight of the implementation of these procedures on the other. The lack of transparency throughout the procurement process makes it difficult to review the fairness of contract-award decisions and therefore frustrates competing participants, while at the same time creating opportunities for corruption and nepotism. If the reasons for appointing the same company repeatedly are unclear, the assumption of those rejected will quickly be that there is unfair bias or corruption. Indeed, there can be no independent control of how procurement procedures are conducted if there is no transparent publication of which procedures were used and to what result. Equally important, a lack of oversight means that even when there are policies geared towards preventing favouritism and corruption (e.g. an open tender process with the opportunity for all to participate), these are not implemented. This was observed in the Tirana case study, where the “negotiated procedure without prior publication” was used preferentially instead of as an exception.

In the latter stages of the public procurement procedure (i.e. the execution and monitoring of the execution of the contract), the implementation of policies regarding monitoring are also lacking. Monitoring bodies have few resources, and in the Tirana case described above a high turnover of the personnel performing monitoring roles was observed. This meant that capacities and expertise were frequently lost. Also, as is the case for other states in the region, responsibilities for contract oversight lie with several bodies in Albania, and these bodies do not exchange information nor communicate between each other.

These procurement flaws have several effects on the market. Fierce competition for contracts which are awarded based on the criteria of lowest price leads to a race-to-the-bottom of tender application budgets. This often means that employees are paid below minimum wage, and too few employees are allocated to one task. Due to these tender awards for very little money, once a company wins a contract, there is no budgetary space for investment in company equipment, training and innovation, and quality consequently suffers. This contract performance issue is paired with an absence of review of how contracts are being executed; thereby allowing the companies that bid below cost-price to operate more cheaply than is required by the terms of the contract for which they are responsible (e.g. allocated too few guards to a site). Finally, the lack of transparency in the procurement process may mean that certain companies receive preferential treatment, leading to a few companies obtaining most contracts with little consideration given to the quality of the service they deliver.

Efforts to ensure quality of PSC services, for example by allowing tenders to be awarded based on the most economically advantageous offer instead of merely on the lowest price, are not taken up because of a lack of knowledge within the relevant procurement departments. This knowledge is needed to judge complex PSC offers with important technical aspects, and to understand how to measure quality against bidding criteria.

Currently, the notion that public procurement procedures can influence the functioning of a market and the level of professionalism of services has taken root and garnered attention at the international level. States can induce professionalism, by setting quality criteria within their contracts, thereby encouraging good practices, and setting an example for market performance. It is one way for states to implement their obligations to ensure respect for human rights by business actors. Several initiatives aimed at different business sectors have attempted to make states aware of the good practices that exist in this regard, which could be replicated throughout different business sectors and by different states.<sup>247</sup> Good practices at all stages of the public procurement process have also been identified specifically for the private security industry.<sup>248</sup> It is therefore imperative, given the role the state plays as a regulator and as a client of PSCs, that they consider and recognise the challenges and opportunities the procurement process offers them, and accordingly adapt their policies in light of these.

In sum, when considering the regulation of public procurement of private security services, policy makers should consider the following questions:

- What level of caution and regulation is warranted if a state contracts out an essential service such as security?
- How far does the responsibility of the state go when it comes to ensuring – through its public procurement procedures – that companies are in compliance with requirements based on human rights standards, including labour policies, minimum wages, and appropriate training to prevent excessive use of force?
- How can the state, through solid procurement policies, best exercise oversight to monitor whether the operations of private security providers are in line with the quality criteria set in contracts?
- How can local practices be best adapted to international best standards?<sup>249</sup>

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247 See, for example, the International Learning Lab on Public Procurement and Human Rights, available at: <http://www.hrprocurementlab.org/>

248 Boddi, E., Burdzy, A., van Amstel, N. Putting Private Security Regulation into Practice: Sharing Good Practices on Procurement and Contracting 2015- 2016 – A Scoping Study, DCAF, 2016, available at: <http://www.dcaf.ch/News/DCAF-Study-on-Procurement-of-Private-Security-is-published>

249 Ibid.

- Do the different state bodies in charge of overseeing the execution of contracts and compliance with contract criteria coordinate their work and streamline their activities, in order to ensure effective oversight? If not, should they?
- How can the state ensure that the correct knowledge and resources are allocated to guarantee the implementation of its public procurement procedures?





**PART 4:**

**THE CHALLENGE  
OF ENSURING  
PROFESSIONALISM  
AMONGST PSC  
STAFF**





## Conflicts of Interest – Former and Acting Police in the Business of Private Security in Serbia

*Predrag Petrović and Marko Milošević*

### Introduction

The Serbian Law on Private Security, adopted towards the end of 2013, stipulates that all new as well as existing personnel in the Serbian private security sector (estimated at around 30,000 to 50,000 staff) will be required to undergo mandatory training and licensing. The legislation aims to increase the professionalism of private security staff in Serbia, a goal which will only be reached if the training schedule is adequate, the quality of the training is satisfactory and the examination process is both objective and rigorous. To complete the required training, private security companies (PSCs) can enrol their staff in one of the many newly established private training centres. The licensing exam is administered by the Serbian Ministry of the Interior.

The following case study focuses on one of the main training centres for private security, Edukator MK. The centre was established by the former Chief of the Police Directorate of the Republic of Serbia, Mladen Kuribak, shortly after his retirement from the police service. Indeed, there is a long-standing tradition in Serbia whereby acting or former police officers transition to work with or in private security: officers 'moonlight' in private security after their day shift in the police service; police employees act as private security consultants; or former police work for or even set up their own private security company or private security training centre, as in the case of Mladen Kuribak and Edukator MK.

This case study describes how the blurring of roles between police and private security personnel has an impact on the rigorousness of the training and exam process, and therefore on the professionalism of current and future private security staff in Serbia. The fact that current legislation in Serbia does not regulate conflicts of interest between the police and the private security sector is of particular importance in this context; the irregularities and risks of corruption attached to this situation are explained in detail in the following study. Factors facilitating anomalies in the licensing process are analysed, and recommendations are offered as to how best to address these problems and minimise risks.

### Methodology

Both desk research and interviews with stakeholders informed this case study. Special attention was paid to legal provisions addressing corruption risks, as well as to a set of by-laws prescribing curricula for private security trainings and regulating the examination process. To obtain information from the Ministry of the Interior (Mol) regarding licensed training centres, as well as regarding members of the Mol's exam commission, two questionnaires were sent to the Mol evoking the Freedom Information Act.

Initial findings obtained through desk-based research were checked, broadened and strengthened through a series of interviews with stakeholders, some conducted specifically for this research purpose and some over the course of two previous studies: *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [New-Old Challenges of the Private Security Sector in Serbia] and *A Force for Good? Mapping the Private Security Landscape in Southeast Europe*. Private security managers and guards provided both employers' and workers' views on and expectations of the licensing and training process, while representatives of the Association of Private Security and of the Commission for Public-Private Partnerships in Security offered broader perspective on the system and the major flaws creating opportunities for corruption.

### Earnings Amounting to EUR 3 Million

When the National Assembly of Serbia adopted both the Law on Private Security<sup>251</sup> and the Law on Detective Activity<sup>252</sup> in 2013, it ended the twenty years during which private security had not been regulated by a specific law in Serbia.<sup>253</sup> The two new laws prescribe the requirements that private security companies and detectives, as well as their employees, must meet in order to operate legally. Among other things, the Laws make vocational training<sup>254</sup> a compulsory requirement for companies, security personnel, and detectives seeking work permits (often called "licenses").<sup>255</sup>

With between 30'000 and 50'000 private security guards currently employed in Serbia, and with the price of courses starting at RSD 12'000,<sup>256</sup> training is potentially a very lucrative business. Between them, training centres can expect to earn at least RSD 360 million – approximately EUR 3 million.

As of 28 January 2016, the Serbian Ministry of the Interior had approved 84 private security training centres.<sup>257</sup> The total estimated value of the training and the large number of accredited centres indicate that competition within the training market will be fierce. However, fierce competition will not necessarily yield lower prices and better value-for-money within the training business. Rather,

251 Zakon o privatnom obezbeđenju [Law on Private Security], "Sl. glasnik RS", br. 104/2013 i 42/2015 [Official Gazette RS 104/2013 and 42/2015]. Hereafter: "Law on Private Security"

252 Zakon o detektivskoj delatnosti [Law on Detective Activity], "Sl. glasnik RS", br. 104/2013 [Official Gazette RS 104/2013]. Hereafter: "Law on Detective Activity"

253 The Law on Social Self-Protection of the Socialist Federal Republic of Yugoslavia, Official Gazette RS 14/96 ceased to apply after the breakup of Yugoslavia.

254 The law stipulates that vocational training of private security personnel may be carried out by individuals and legal entities - accredited by the Ministry - that meet the financial, technical, professional and staffing requirements for conducting such training. Detailed requirements to be met by the training centres have been prescribed in the Mol's Rulebook on Detailed Requirements for Legal Entities and Individuals Who Wish to Conduct Vocational Private Security Training.

255 Law on Private Security Articles 12-14; Law on Detective Activity Articles 4-9

256 At first, the cost of individual training rose to RSD 25,000; however, the prices later dropped due to competition.

257 Mol's response to BCSP's questionnaire, 3 February 2016.

existing research findings suggest that such conditions in the private security market (in the absence of effective controlling institutions) may facilitate irregularities and even corruption.<sup>258</sup>

### Training Flaws: Opening the Door to Irregularities

The training programme for private security personnel envisages 101 hours of training: 66 hours of theoretical lectures and 35 hours of practice, lasting a total of 18 days. In order to receive a certificate stating that the training has been completed, one is not allowed to miss a single lecture. Research on the implementation of the Law on Private Security, conducted by the Belgrade Centre for Security Policy (BCSP) in 2014 and 2015,<sup>259</sup> found that both private security managers and personnel believe that the programme is unrealistic, as attendees are already working in private security and are unlikely to be able to miss work in order to attend the full scope of the training.

Accordingly, private security guards indicate that their choice of training centre depends on which centre offers the easiest course of training combined with the most certain prospect of passing the exams before the MoI Commission. In short, they expect to be awarded certificates of competence without having to attend all of the classes, and they expect the centre which provided their training to “fix it” such that they can successfully pass the exam before the MoI Commission, even though they might not possess the required knowledge (in particular due to their absence from lectures).

These expectations are based on three facts. First, the monitoring of training is the responsibility of the training centre itself, not an external instance. Second, candidates are allowed to submit their examination applications through the training centre. This makes it easier for training centres to bribe examiners because the latter can easily identify – and favour – the candidates from the training centre in question. Finally, examinations can be held in the training centres themselves, which suggests that centres may have the opportunity to tamper with the exams.

Private security companies have similar expectations to their employees, especially since it has been ascertained that they will bear the costs of training and licensing of their employees. Many security companies are already in discussions with training centres, hoping to negotiate better prices and terms.<sup>260</sup> Private security companies are interested not only in obtaining a good price for the training, but also in ensuring that the training infringes as little as possible on the op-

258 For additional information about the functioning of the security sector in Serbia, see: Franziska Klopfer and Nelleke van Amstel (eds.), *A Force for Good: Mapping the Private Security Landscape in Southeast Europe*, (Belgrade and Geneva: DCAF), 2015, pp. 83-107, and Predrag Petrović and Marko Milošević (eds.), *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [New-Old Challenges of the Private Security Sector in Serbia], BCBP, Beograd, 2015.

259 For additional information on this research, see: Predrag Petrović and Marko Milošević (eds.), *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [New-Old Challenges of the Private Security Sector in Serbia], BCBP, Beograd, 2015.

260 The authors identified this during their interviews with security managers conducted for the purpose of the publication titled *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [New-Old Challenges of the Private Security Sector in Serbia] (cited above) - either through the testimony of the interviewees, or by way of the fact that interviewees had meetings with representatives of training centres scheduled immediately after the interview.

erations of the company (whether through the absence of their employees or the fact that an employee, having failed the exam, would be obliged to re-take it).<sup>261</sup> The market pressure and corresponding need for economic efficiencies may be such that managers could foreseeably request “that [a security guard] be in the protected facility, while being simultaneously registered as having attended training in the training centre on a specific day.”<sup>262</sup>

Companies try to corrupt the training process more often than individuals. One reason for this is that companies must bear the cost of their employees’ training. Furthermore, so far the training has not proceeded as scheduled and only 665 candidates out of an estimated 30’000-50’000 security guards have been trained to date. As the licensing must be completed by January 2017, this is likely to create considerable pressure on companies scrambling to comply with industry standards. Finally, unlike individuals, security companies have significant bargaining power when negotiating with the training centres: they can pressure a training centre to accept their requests (e.g. in terms of permitted absence from lectures) by threatening to train their employees in one of the 83 alternative training centres.

### **Edukator MK: A Training Centre in a Hotel**

Edukator MK was the first centre to receive accreditation to train private security personnel. According to data from the Business Registers Agency, Mladen Kuribak founded Edukator MK<sup>263</sup> on 6 November 2014,<sup>264</sup> receiving the license to train private security personnel according to Programmes 1 and 2<sup>265</sup> on 2 February 2015. Educator MK organises its trainings in the premises of Hotel ‘MK Star,’ Trstenička St. 2, in the Belgrade suburb of Borča where the seat of Educator MK is also located. Hotel MK Star also shares Edukator MK’s landline telephone number.<sup>266</sup>

261 When bylaws regulating training were being drafted by the Mol, a group of PSCs, among which were big companies, advocated for distance learning to be incorporated into the programme. The first version of the bylaws allowed for distance learning, but this option was excluded from the final version. According to some private security managers, distance learning was excluded from the bylaw due to strong pressure from the “police” lobby, which consisted of a group of former and current police officers. Information based on interviews with two private security managers, 22 September 2015 and 23 January 2016.

262 Predrag Petrović and Marko Milošević (eds.) *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji [New-Old Challenges of the Private Security Sector in Serbia]*. BCBP, Beograd, 2015 p. 24.

263 The “MK” abbreviation within the company name is derived from the first letters of the first name and surname of Mladen Kuribak.

264 Serbian Business Register Agency, available online at: <http://pretraga2.apr.gov.rs/EnterprisePublicSearch/details/EnterpriseBusinessName/7248118?code=B419BBBB18A3F5D2E44C54E6BD969FED1AAE6E6E>, accessed 3 April 2016.

265 Four vocational training programmes for private security exist: 1. Training for risk assessment in protecting individuals, property and businesses; 2. Training for physical-technical protection of individuals and property, as well as for maintaining order at sports events, rallies and other places of people’s gatherings; 3. Training for planning and designing of the technical systems of protection; 4. Training for installation, putting into operation and maintenance of the technical systems of protection. (Pravilnik o programima i načinu sprovođenja obuke za vršenje poslova privatnog obezbeđenja [Rulebook on Programmes and Ways of Realizing Trainings for Private Security], “Sl. glasnik RS”, br. 117/2014 [Official Gazette, No. 117/2014 ]).

266 According to data from the Business Registers Agency, MK Star Hotel is registered as a hospitality facility owned by entrepreneur Jasmina Stojic. The hotel was founded on 26 December 2005. The website of ‘MK Star’ Hotel: <http://www.hotelmkstar.com/rs/o-nama.php>, accessed 12 December 2015.

By 28 January 2016, Educator MK had received authorisation to open eight additional training centre branches in cities throughout Serbia.<sup>267</sup> Consequently, this company now covers almost all of Serbia, and is the firm with the highest number of branches in Serbia. Educator MK ranks second-highest with regard to the number of people trained to date. Of the 665 candidates who had passed the certification exam by 28 January 2016, 122 completed the training through this company. The Faculty of Engineering Management is the only institution which trained slightly more candidates (125).

*Table 1. Private Security Training Centres and Number of Candidates*

Training Centre	Number of trained candidates	Number of candidates who have passed the certification exam
FAKULTET ZA INŽINJERJSKI MENADŽMENT [Faculty of Engineering Management]	125	85
EDUKATOR MK	122	87
VARNOST FITEP	118	88
PATROL PLUS	85	68
SECUT	66	56
RPD-FTO	58	55
INEX PLUS	23	19
CPK	20	4
DOO ZAŠTITA PLUS [Protection Plus]	17	17
KMD	11	8
SECURITAS	2	2

### Conflict of Interest Risks

Although conflicts of interest<sup>268</sup> are only a possibility, if left unregulated they are likely to lead to corruption or, at best, to a deterioration of the reputation of institutions and the individuals who work in them. Having recognised this as a serious problem, some EU countries have stipulated in their legislation that former police officers are prohibited from working in private security companies for the first five years after the termination of their service in the police force.

267 Edukator MK's local training centres and their opening dates: Šimanovci and Pećinci - 5 May 2015; Vranje - 29 May 2015; Novi Pazar - 19 June 2015; Kragujevac - 2 July 2015; Niš - 3 July 2015; Novi Sad - 14 July 2015; Požarevac - 21 August 2015; Leskovac - 16 December 2015.

268 A conflict of interest involves a conflict between the public duty and private interests of a public servant; where the interests of the public servant as a private citizen may improperly influence the performance of his/her public duties and responsibilities. Notably, if public servants find themselves in a situation involving a conflict of interest, this does not necessarily mean that they are corrupt; corruption would require them to use their public authority to acquire a benefit for themselves or someone else. Thus, a conflict of interest signifies a risk which may lead to corruption.

In Serbia, the practice of police officers taking on a second job outside of their police duties has long been tolerated, despite repeated concerns voiced even by those working within the Serbian police.<sup>269</sup> Regarding regulation of this practice,<sup>269</sup> the Law on the Police merely briefly stipulates that police officers are not allowed to engage in “activities that are incompatible with official duty.” It, however, does not specify which activities are “incompatible,” instead leaving it to the Minister of the Interior to provide, in a by-law, a more precise definition of “incompatible” duties and activities as well as the terms for conducting activities outside of regular business hours. This by-law has not been enacted to date.<sup>270</sup>

There are therefore no laws prohibiting former police from working for or setting up a private security company or private security training centre. Nor does the law impose a certain period during which former police cannot be engaged in the private security sector, so as to avoid the use of personal connections to the relevant company’s advantage. Yet the temptation to use connections with former police colleagues, especially for individuals who recently occupied very important roles in the Serbian police, is considerable. As mentioned above, Mladen Kuribak, the owner and director of Edukator MK, immediately founded his training centre after he had left the police. His former colleagues in the police were concurrently regulating and organising the exams for the (aspiring) private security employees who pay Kuribak’s company to prepare them to pass the licensing exam.

A particular area of concern is the composition of the licensing certification body. It is likely that the Ministry of Interior Commission in charge of the certification exam<sup>271</sup> will mostly be composed of employees from the Police Directorate.<sup>272</sup> The Police Directorate also includes a recently-estab-

269 In 2010, the Chief of the Internal Affairs Sector at the time, Dragoljub Radović, commented that the fact that some police officers carry out independent economic or other activities in addition to their police work represents a major problem for the police. An example of these independent activities is the provision of security services to affluent clients. Available online at: <http://www.politika.rs/scc/clanak/150493/Unutrasnja-kontrola-zavodi-red-u-MUP-u>, accessed 28 April 2016.

270 There are also practical and socio-economic reasons explaining why moonlighting is not usually reprimanded. First, it is very difficult to prove that a police officer is moonlighting as a private security guard, as this would involve extensive investigative work including the implementation of special measures (e.g. wire-tapping): for example, when caught moonlighting as private security guards at a club, police officers usually claim that they simply came to the establishment for a drink. The second reason is socio-economic in nature: police salaries are very low, such that police managers tolerate their colleagues’ extra work. The third reason is the most important and the most problematic: police managers are at times the organisers responsible for police officers’ moonlighting activities. They can be, in fact, the ones who establish direct contact with e.g. club owners, and who arrange contracts for jobs. Such jobs often grow into racketeering and extortion scams, as those who do not wish to hire police protection are soon faced with a series of checks and raids. Available online at: <http://www.cins.rs/srpski/news/article/policajci-koji-rade-kao-obezbedjenje-osumnjiceni-za-nasilje-i-korupciju>, accessed 28 April 2016.

271 In particular, the examinations based on Programme 1 (which covers vocational training for duties related to risk assessment in the protection of persons, property and business operations), and Programme 2 (which covers vocational training for duties of physical and technical protection of persons and property, and for the maintenance of order at sporting events and public gatherings).

272 This is likely because employees of the Police Directorate have the most knowledge and experience in these areas: employees from the private security sector will be acquiring licenses to carry out the specialised duties of security personnel with and without the use of weapons.



lished Department which is tasked with the monitoring and supervision of the activities of detectives and those working in private security.

It is probable that Kuribak, for example, still has close connections to the Police Directorate, not least because his former deputy, Zoran Alimpić, is now the Chief of the Police Directorate. In a country like Serbia, where corruption is not uncommon such relationships can very easily create the perception of corruption amongst trainees who might suspect that the licensing exam will be made easier for students at MK Edukator because the owner has connections to the Mol. Trainees can then easily lose faith in the integrity of the licensing exam and the importance of the training process.

### **The Mol's Lack of Awareness of Employee Involvement in Training Centres**

In the course of their research, the authors have also heard about other cases of acting police officers working for private security training centres in Serbia. To investigate further, in September 2015 information was requested from the Mol<sup>273</sup> regarding the names of the relevant training centres, the number of employees of the Mol and the police who founded or work in them, and whether the employees had requested the consent of the Mol for their engagement in such activities. The Mol replied that it did not possess a document which contained such information. This suggests that the Mol does not keep track of whether its employees have second jobs in private training centres, nor whether such work could adversely affect the performance of police duties and damage the image of the institution.

### **Possible Consequences**

This particular case points to several possible negative consequences. First, the professionalization of private security – one of the main purposes of the Law on Private Security – will not be achieved, or at least will be undermined, if training requirements are compromised. Turning a blind eye to weak exam candidates will mean that poor training remains the norm. This will produce poor performance of private security duties, which may in turn result in below-standard protection of clients' property as well as human rights abuses. Second, this sends the message to yet un-licensed private security guards that they can pass the exam with ease, regardless of their knowledge, if they undergo training at the "right" centre. Other training centres may then resort to similar illegitimate practices in order to stay in the market. The end result will not be a value-for-money system usually present in open markets with a healthy competition. Third, this indicates to the police force that persistent conflicts of interest can continue unsanctioned, and promotes the perception that private security businesses are more legitimate when run by former state security officers. BCSP's latest research confirms that police forces generally do not trust private security companies, viewing them instead as criminals and amateurish security experts, unless the PSC is run by former police officers.<sup>274</sup>

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273 Mol's response to BCSP's questionnaire No. 8922/15-2, 26 August 2015.

274 For a detailed account of the obstacles to achieving effective cooperation between public and private security



### Conclusion: Addressing the Problems at the Mol

There is a need to determine whether any of the employees of the Mol and the police work in accredited training centres, and whether any of these employees are members of the Commission in charge of the certification exam. The Law on Civil Servants stipulates that a civil servant can perform additional work only if this work does not present a conflict of interest with his main job, only out of working hours, and only with the formal permission of his superior. This provision, along with provisions on risk assessment within the Police Law, provide a solid legal basis which could be used by police managers to start checking if police officers are working for the private security sector.

It is also necessary to address the factors that facilitate irregularities in the training process, which could ultimately transform conflicts of interest into corruption. The bylaw specifying the required training programme should be amended to reflect the real training needs of private security guards. The training programme should be more practical; focusing more on real-life situations and incorporating lessons drawn from private security practice. Training hours need to be reduced to enable PSC guards to attend classes alongside their regular job. The bylaw should also enable PSC guards to be absent from some (theoretical) classes, and should oblige training centres to organize additional (catch-up) classes for those who could not attend previous classes. These measures would relieve the pressure currently on PSC guards (who would no longer need to learn as much heavy content), and PSC managers (for whom trainings would no longer be an obstruction to employees' regular work). This would all together reduce the conflict of interest risks described herein.

Though training and licensing should be completed by the end of 2016, it is estimated that only 2% of PSC guards will be licensed by the envisaged deadline; the whole process has been notably sluggish.<sup>275</sup> Yet this delay presents an opportunity to meaningfully improve the process, in line with the above-described set of measures.

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see: Predrag Petrović and Marko Milošević (eds.), *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [New-Old Challenges of the Private Security Sector in Serbia], BCBP, Beograd, 2015, pp. 79-90.

275 Dragiša Jovanović, Stanje u procesu licenciranja [Overview of the licensing], Svet bezbednosti [World of Security], 31 March 2016, available online at: <http://www.svet-bezbednosti.rs/sr/novosti/stanje-u-procesu-licenciranja,18800.html>, accessed 4 April 2016.

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Interviewee	Date of interview	Coding
Manager, Multinational PSC	January 2016	MM1
Manager, Local PSC	February 2015	ML1
Manager, Local PSC	March 2015	ML2
Manager, Local PSC	April 2015	ML3
Manager, Local PSC	November 2015	ML2
Manager, Belgrade PSC	October 2015	MB1
Manager, Belgrade PSC	October 2015	MB2
Manager, Belgrade PSC	September 2015	MB3
Chamber of Commerce Representative	October 2015	Ch1
Representative of the Group for Physical Security	October 2015	Ch2
President of the Commission for Public Private Partnerships	February 2016	PPP1
Employee, Local PSC	February 2015	EL1
Employee, Local PSC	March 2015	EL2
Employee, Local PSC	April 2015	EL3
Employee, Local PSC	November 2015	EL4
Employee, Local PSC	May 2016	EL5
Employee, Belgrade PSC	December 2015	EB1
Employee, Belgrade PSC	January 2016	EB2
Employee, Belgrade PSC	May 2016	EB3
Employee, Multinational PSC	December 2015	EM1

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## Bylaws

Pravilnik o bližim uslovima koje moraju da ispune pravna i fizička lica za sprovođenje stručne obuke za vršenje poslova privatnog obezbeđenja [Rulebook on Detailed Requirements for Legal Entities and Individuals who are to Conduct Vocational Private Security Training], "Sl. Glasnik RS", br. 117/2014 [Official Gazette, No. 117/2014 ].

Pravilnik o načinu polaganja stručnog ispita za vršenje poslova privatnog obezbeđenja, visini troškova organizovanja i sprovođenja ispita i sadržini i načinu vođenja evidencija [Rulebook on the Ways of Conducting Private Security Exams, their Prices and Content and Methods of Keeping Exam Records], "Sl. glasnik RS" , br. 104/13 [Official Gazette, No. 104/13].

Pravilnik o programima i načinu sprovođenja obuke za vršenje poslova privatnog obezbeđenja [Rulebook on Programmes and Ways of Realizing Trainings for Private Security], "Sl. Glasnik RS", br. 117/2014 [Official Gazette, No. 117/2014 ].

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Mol's response to BCSP's questionnaire, 3 February 2016.

## Identifying Patters of Private Security Sector Shortcomings in Kosovo – The Albi Mall Case

*Donika Emini and Mentor Vrajolli*

### Introduction

The private security sector in Kosovo is ever increasing, their services range from physical protection of private and public properties, protection of VIPs, safeguarding ‘properties of strategic importance’, and providing security at sports and entertainment events.<sup>276</sup> Despite their growing presence within the security sector, and the adoption of the Law on Private Security Services in 2011, the regulation of private security companies (PSCs) in Kosovo is still a challenge. The status of private security guards and in-house security guards, the quality of their training and the hierarchical structures of PSCs are often questioned, especially when violent incidents occur involving employees of this sector.

This case study examines one such instance which occurred in one of the largest shopping malls in Kosovo, Albi Mall, and resulted in the murder of a private security guard who was guarding the premises. This case study will identify some of the challenges of licensed in-house security services, where owners of a premise do not hire an external PSC but employ their own security guards directly. This study will highlight patterns among in-house licensed operators and unlicensed operators, including the lack of a clear management structure and of proper training of security guards.

Additionally, this case study advocates for the strengthening of the capacities of the Division for Private Security Companies (DPSC) within the Ministry of Internal Affairs (MoIA), in order to prevent incidents which may put private security guards in dangerous situations due to the lack of adequate preparations on how to respond to an imminent threat, and how to behave in accordance with their mandate.

### Methodology

This case study was informed by qualitative desk research and extensive analysis of existing legal texts. Additionally research was conducted using news and media reports. Research and data collected was further supported with structured and semi-structured interviews with key stakeholders in the private security sector, the Ministry of Internal Affairs, police officers and the Data Protection Agency. Focus group meetings were held with a variety of representatives from the aforementioned institutions and sectors in order to gain a better understanding of the management structure within PSCs, the trainings provided to security guards and the shortcomings within these. One focus group meeting was held in January 2016 with Kosovo Police representatives, while the second focus group brought together PSC representatives in March 2016.

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276 Florian Qehaja et al. *Assessment of Private Security Companies in Kosovo*, Prishtina: KCSS, 2009, 9.

### Detailed Description of the Case

On Monday, 30 March 2015 at approximately 3 o'clock in the morning, three armed and masked individuals entered the Albi Mall in Pristina, located just one kilometre outside of the city. As they entered the shopping mall, the burglars were spotted by the on duty security guard. Following an altercation between the security guard and the burglars, the security guard was shot and died at the scene. By the time that the police was informed and arrived at the crime scene, the burglars had already fled.<sup>277</sup>

On 10 April 2015, the Police announced they had arrested four suspects for their involvement in the crime. One of the suspects was a 20 year-old male, accused of fatally shooting the security guard. The suspect was an employee working as a waiter at the cafeteria where the burglary took place and immediately confessed the crime.<sup>278</sup>

At the indictment reading session which took place on the 31 March 2016 in front of the Pristina Basic Court, the prosecutor explained that on the night of the crime, three of the suspects used a hidden passage to enter the third floor of the shopping mall. To divert the attention of the guard on duty the fourth suspect – the waiter at the cafeteria who was waiting in the car – called the guard on the phone asking him to bring down the wallet he intentionally left in the bar of one of the cafeterias where he worked at. Assured by this plan, the three other suspects began their search for the safe box. However, the guard noticed or heard something on the upper level and immediately went to check. He approached the burglars, and in panic one of them (the suspect who later admitted the crime) shot him. Although injured and threatened by a weapon, the guard refused to retreat from the scene. Instead he approached the armed burglar and started a physical confrontation with him. During this confrontation the guard was fatally shot.<sup>279</sup>

### Analysis of the Case

In Kosovo, incidents like this one, where the lives of security guards are at risk, are not isolated. There have been other cases in the past which have had similar, serious consequences. Some of the issues which trigger these incidents are closely related to the regulation of the private security sector in Kosovo as well as the functioning of the existing supervision mechanisms.

Within this context, the above case raises several questions. First of all, is the private security employee supposed to intervene in the case of an armed robbery? Does the professional training enable the private security employee to deal with situations like this? Additionally, what is the level of supervision and support available to private security employees who, like the guard in the Albi

277 Kosova-Info, News Portail "Vritet Punetori i Sigurimit në Albi Mall" [A Security Guard shot dead in Albi Mall], 30th March 2015 <http://kosova-info.com/vritet-punetori-i-sigurimit-n-albi-mall/>

278 "L. Sadiku, i dyshuari kryesor për vrasjen e rojës në Albi Mall" [L. Sadiku, the main suspects for killing of the Guard in the Albi Mall ], Kosova Press, 10 April 2015, <http://www.kosovapress.com/sq/siguri/l-sadiku-i-dyshuari-kryesor-per-vrasjen-e-rojes-ne-albi-mall-39736/>

279 Video footage of Indictment Session recorded by "Kallxo.com" <https://www.youtube.com/watch?v=K1Jiz6b-VZQA>

Mall, are employed directly as in-house security under the management of the shopping mall? Could the weaknesses of the guarding system in the Albi Mall have motivated further the burglars to commit the crime? Answers to these questions will also point to whether this is an isolated incident or if such a situation could materialise again given similar circumstances.

#### *Analysing the duties of the private security guard*

The victim of this tragic incident was a licensed basic security guard. According to current legislation, a basic security guard is a licensed person who exercises static guarding and mobile patrolling for the physical protection of property or a secure area.<sup>280</sup> His/her role is to monitor only and immediately report any incident to the supervisor and the police.<sup>281</sup> A basic security guard is not obliged to risk their life by directly confronting the perpetrators in order to prevent material damage of the area which they are tasked to protect. According to the Law on Private Security Services (hereafter LPSS) basic security guards are not authorized to carry weapons.<sup>282</sup> The guard at the Albi Mall was just a basic security guard and therefore unarmed and unable to prevent the armed attack on his own.

In the basic security training for private security guards, responding to an incident is one of the main training modules.<sup>283</sup> However, as PSC managers admit,<sup>284</sup> those trainings are very short and highly inadequate to be able to prepare a security guard for a potential incident. Indeed, according to PSCs owners only less than two percent fail to pass the examination run by DPSC.<sup>285</sup> This shows that there are no proper curricular criteria for licensing basic security guards. Passing the exam may not guarantee that private security guards fully understand their duties. Often, wearing the uniform of a private security guard alone and being seen as a person with authority influences the guards' behaviour.<sup>286</sup> Guards tend to act as if they have greater powers and are stronger than they actually are. Therefore, in order to ensure that security guards are reminded of their role and duties, the LPSS has foreseen a subordination structure within the PSCs which includes: a Responsible Person (legal representative)<sup>287</sup> and a Security Manager.<sup>288, 289</sup>

280 Law on Private Security Services, (Assembly of Kosovo 2011/04-L-004) [hereafter: Law on Private Security Services or LPSS], April 2011, Art. 2.

281 PSC Owner A & B interview with author, April 2016.

282 Law on Private Security Services, Article 28.

283 MoIA and DPSC Official interview with author, April 2016.

284 PSC Owner A & B interview with author, April 2016.

285 PSC Owner A, B & C interview with author, April 2016.

286 PSC Owner B interview with author, April 2016.

287 According to Article 2, paragraph 1.26 of the Law on Private Security Services, a Responsible Person is "an individual who is at least 21 years old, who has three years' experience in the security field and who is, according to this Law held responsible for the activities of an Applicant Entity, a Private Security Company and its employees, including Security Workers".

288 According to Article 2, paragraph 1.33 of the Law on Private Security Services, the Security Manager is "a Specialist Security Worker who is responsible for managing the operations of a Private Security Company".

289 Law on Private Security Services, Article 12.



Larger PSCs may be capable of imposing a strict hierarchical control, including supervisors and other managerial positions. However, as will be elaborated in the following section, smaller PSCs, especially in-house services (despite the fact that they are licensed) often lack functional hierarchical structures, which in turn affects how their guards perform their duties and how they react in difficult situations.

In the Albi Mall incident, several factors might have led the private security guard to take the unwarranted risk of trying to stop the armed burglars. Potentially, the guard was not entirely aware of his duty and responsibilities as a basic security guard and acted beyond his mandate. Additionally, he might not have been able to properly judge the risks involved and may have acted out of fear of losing his job.

#### *Employer's Position in the Incident*

The company for which the security guard worked is a licensed in-house security service, established by the Albi Shopping Mall owners to provide services for internal needs only.

The operations of in-house security services are controversial. They are not referred to in the Law on Private Security Services and until recently it has been questioned whether businesses should be licensed to provide in-house private security services. Mainstream PSCs have been strongly against allowing in-house security services to be licensed. Their argument is that unlike regular PSCs which are obliged to respect a wide range of strict criteria in order to maintain their license, these criteria do not apply to in-house services. In addition, the in-house security services do not have any contractual relation with their clients. Because in-house security are usually small in size it is less likely that the state control body for private security, the Division for Private Security Companies (DPSC), which already lacks in capacities<sup>290</sup>, will not supervise them. This means that on the practical level in-house security services are not obliged by anyone to increase professional capacities of their workers and to engage security managers to supervise their security workers. Therefore, while economically it is more convenient for a certain business to license its own in-house security service from the service quality point of view, licensing such companies may pose risks, in particular to the safety of employees and third parties involved.<sup>291</sup>

Yet, despite these dilemmas raised by PSC owners, in 2014 the Ministry of Internal Affairs issued a decision which allows these business operators to obtain a license for their in-house security services.<sup>292</sup> The decision to allow businesses to license their in-house security services has resulted in both positive and negative outcomes. Positive aspects include the prospect of higher salaries and, in some cases, better treatment of security guards when it comes to labour rights.<sup>293</sup> How-

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290 DPSC only has four inspectors.

291 PSC Owner A & B interviews with author, April 2016.

292 Ibid.

293 Impression collected from anonymous random interviews with private security guards working for both in-house and mainstream licensed PSCs.



ever, the negative aspect is that, as owners of mainstream PSCs pointed out, businesses usually lack the commercial interest to develop internal professional capacities of their in-house PSCs.<sup>294</sup> Hence, compared with the mainstream PSCs, the incentives of these businesses to invest in professionalization of their in-house security services remain much lower, since they are not established to sell services for third parties, and therefore lack professionalism. In addition, considering these businesses provide security services only for their own needs, they do not have contractual obligations towards third parties which would oblige them to develop clear hierarchic and management structures, security protocols, and define security parameters.<sup>295</sup> Considering that they only cover their in-house needs, these businesses are not obliged to predefine the number of employees required to cover the protected area of any third party, to have a supervisory staff, or to define the mechanisms of assistance in case of an incident. This means the obligations of these businesses regarding their services are only towards DPSC. Considering the limited capacities that DPSC has, and the high number of larger PSCs operating in Kosovo, in practice the possibility of these businesses to be penalized for not respecting the parameters set by Law on Private Security Services or administrative instructions remains extremely low.

In-house security services are found to lack the proper hierarchical structures which larger mainstream PSCs usually have. Very often, their guards serve alone on duty; they may also be required to cover a very large area without following any logical security parameters. In addition, in the case of the Albi Mall security and other similar in-house security services, clear job descriptions and regular training were lacking, which would otherwise enable guards to have better capacities to deal with difficult situations.

### **Trends and Prevention Measures**

In Kosovo, incidents involving private security guards have appeared at all levels of private security service providers, including PSCs, in-house based security providers, and within the grey market of this sector.<sup>296</sup>

The problems regarding mainstream PSCs remain mainly related to violations of labour rights, which occasionally result in guards who are caught stealing in the areas they are hired to protect, often because they are not paid enough or at all by their employer.<sup>297</sup> When it comes to in-house based private security, the main problems remain the lack of investment by the business in the professional capacities and the lack of security management structure.<sup>298</sup> Similar problems exist when it comes to the grey market.

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294 PSC Owner J interview with author, April 2016.

295 Ibid.

296 KP Deputy Director interview with author, February 2016.

297 Ibid.

298 PSC Owner A interview with author, April 2016.

Security guards employed by night clubs, discos, pubs, restaurants, and casinos are usually paid in cash at a daily rate (much higher than licensed basic security guards).<sup>299</sup> Their employers usually ask a high degree of loyalty from them, otherwise they may not be rehired the following day.<sup>300</sup> In many cases they are required to show aggressiveness, disproportional authority towards customers, and sometimes even to use force, which may lead to violence.

Another incident shows how the lack of training and management that goes with the activities of such unlicensed guards, can put the safety of both customers and the security personnel themselves at risk. The incident in question, which led to the death of a security guard, took place in the Café Restaurant Bon Vivant which is a busy cafe in the centre of Pristina on 13 October 2014 at around four o'clock in the afternoon.<sup>301</sup>

This altercation began when the waitress asked a group of customers to leave the table arguing that it was already reserved. The customers refused to leave the table, and a guard, who was not in uniform at the time, intervened by telling the customers to leave. The customers felt offended by the treatment and refused to comply with the request of the security guard to leave the restaurant. After a short physical confrontation the guard forced the two customers to leave. A few minutes later, they returned to the restaurant with a loaded gun, shooting the security guard in broad daylight.<sup>302</sup>

In this case, it is difficult to assess whether the behaviour of the security guard was in accordance with what the situation demanded. Unlike in the Albi Mall case, the guard in the Bon Vivant restaurant was not licensed. Nevertheless, the similarity between both cases is that in order for any private entity to be able to deliver private security services properly, it is crucial for the guard to have clear subordination structures in accordance with the Law on Private Security Services.

## Lessons Learned

Despite the fact that criminal acts such as armed burglaries are very difficult to prevent, incidents such as the one in Albi Shopping Mall or in Bon Vivant café could have been responded to without resorting to violence. In both cases the guards became victims of the crime; this raises questions of the professionalism of their behaviour.

The main question arising from the Albi Mall case is whether security guards should have physically confronted the armed burglars while alone on duty. This also questions the terms of engagement and the duties that the guard had, as well as his training on dealing with such situations.

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299 Common impression collected through informal discussions with various individuals working as unlicensed private security guards in pubs, discos, restaurants and night clubs during the period January – April 2016

300 KP Deputy Director interview with author, February 2016.

301 "Ndërron jetë i plagosuri në Prishtinë [video]" [Dies wounded in Pristina], *Koha.net*, 13 October 2014, <http://koha.net/?id=3&l=29180>

302 Ibid.

Additionally, it is necessary to significantly increase the frequency of DPSC inspections, in particular to prevent incidents with unlicensed guards, as in the second case.<sup>303</sup> Indeed, the decision of DPSC to authorize private businesses to license in-house security services may be considered as positive, enabling a break from the potential monopoly by bigger PSCs. Such a decision should be necessarily followed with a significant increase of institutional capacities of DPSC, in order to have effective supervision over these companies, to ensure that newly licensed in-house guards are not struggling with similar problems as the 'grey market guards' in the lack of hierarchy, training, and professionalism.

In both cases, similar lessons can be drawn. CurriculaC for basic security training should be more in-depth, providing an employee with sufficient insight when it comes to their response to incidents. Equally, DPSC should ensure that all private security entities contain functional hierarchical structures in accordance with the Law on Private Security Services. In order to ensure the response of their guards during incidents is proportional to the risks, private security entities should continuously invest in professionalizing their personnel. Providing private security employees with detailed terms of reference and employee responsibilities in case of an incident could further prevent guards from putting themselves or others in unnecessary danger. Taken together, these measures could establish a safe working environment for the employees of private security agencies and demand more responsibility of these firms in the provision of adequate security to their clientele.

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303 PSC Owner A interview with author, April 2016.

## Interviews and Coding of Sources

Position/Title of Interviewee	Coding
Deputy Director of the Agency	Data Protection Agency Official, 2016
PSC owner and Executive Director of a small company in the Dukagjini Region	PSC Executive Director A
PSC Executive Director of one of the largest companies in Kosovo	PSC Executive Director G, March 2016
Owner of a small company offering CCTV services to small businesses.	PSC Owner and Security Expert D
Deputy Director of the KP working in the Region of Prishtina	KP Deputy Director
Two representatives from the MoIA – Public Safety Division	MoIA and DPSC Officials
Police Officer from the Dukagjini Region	Police Officer D
Police Officer from the Prishtina Region	Police Officer E
Police Officer from the Anamorava Region	Police Officer F
Police Officer from the Prishtina Region – Operational Department	Police Officer H
Owner of a medium company offering CCTV services only	PSC Owner H
Owner of a PSC operating in Prishtina only	PSC Owner A
Former Police Officer, Owner of a small PSC providing services to international organizations in Kosovo and Security Expert	PSC Owner and Security Expert
Owner of a PSC operating in Peja	PSC Owner J
Security Manager working in the PSC offering CCTV services only	PSC representative and security expert F

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Video footage of Indictment Session recorded by “Kallxo.com”  
<https://www.youtube.com/watch?v=K1Jiz6bVZQA>

## Official Statistics

Official Statistics of the Kosovo Police, 2016

Official Statistics of the Kosovo Police, March 2016

Officials Statistics of the Ministry of Internal Affairs, 2016







# POLICY SUGGESTIONS FOR IMPROVING PRIVATE SECURITY GOVERNANCE IN SOUTHEAST EUROPE

The aim of this book is to explore and explain the impact that private security has on human rights protection, the democratic order of a country and the state's and people's security.

The eight case studies confirmed that private security plays an increasingly important role in the security sector in all four target countries: in Albania, Bulgaria, Kosovo and in Serbia. However, an increase in private security did not necessarily lead to an increase in security. On the contrary, the case studies show that in many instances, insecurity was merely shifted from one social group to another and that often security is provided at the expense of human rights protection. The fact that existing regulation is often not enforced or controlled or that the state or state officials do not set clear limits to the role of private security actors, shows that there is an overall lack of awareness of the impact that private security does or should have. It also means that opportunities for private security to contribute to an increase in security are not seized because not enough is being done to ensure that private security can act in a professional and accountable manner.

## **Privatization of security must not lead to the state abdicating its duty to ensure the safety of the state and all citizens**

Several case studies in this volume tell the story of an increasing privatisation of security services that were previously delivered by state security.<sup>305</sup> If large sections of security provision, in particular security priority setting, are privatised, then the state abdicates its duty to ensure the basic security all citizens need to enjoy their human rights. The state is obliged to guarantee all citizens all human rights equally and has to provide the security that is necessary to this end.<sup>306</sup> In the absence of effective security, human rights – such as the right to life, the prohibition of torture or the prohibition of slavery and forced labour – cannot be guaranteed. All rights are at peril if the state institutions that are responsible for ensuring these rights are not preserved and protected. For in a privatised security market, security priorities have to match market demands. A commercial security provider will offer the security their clients demand and can pay for. These priorities

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305 See in particular Part 1 of this volume.

306 Council of Europe Parliamentary Assembly Recommendation 1713 (2005) Democratic oversight of the security sector in member states.

might coincide with a security agenda that aims to ensure the protection of citizens' human rights, but it does not necessarily have to. Therefore security that is offered commercially can only ever complement but not replace the state duty to provide the basic security necessary to ensure every individual's human rights.

In addition, a state that abdicates its priority to provide and set the priorities for the majority of security offered in the country also deprives its citizens from their right to self-determination. American scholar David Alan Sklansky has noted that in countries where large parts of security are ensured by private providers, it is the PSCs and their clients and not the citizens and their elected representatives in parliament and government who determine the security agenda.<sup>307</sup>

The Vidin case study in Part 1 in which a private security company de facto assumed the role of police in the Bulgarian region is a pertinent example in this context. It shows that clear limits need to be set to the privatisation of security to avoid that the state fails in its human rights obligations. In this case, a Bulgarian PSC, with the support of the local mayor, was able to provide protection from burglars for a large part of the local community. However, the PSC did not provide other kinds of security – for example security for vulnerable groups such as victims of domestic abuse – because it was not hired to do so. Another limit to the privatisation of security should also be set when privatisation leads to greater social and economic inequality. Security enables active participation in social and economic life.<sup>308</sup> Citizens who do not feel secure enough to freely engage in social and economic activities will accordingly be less well-placed to seize such opportunities.<sup>309</sup> The PSCs providing security in Vidin, Bulgaria and Vaqarr, Albania, (Part 1) had to downscale or cease their activities when they lost clients and therefore funding, leaving a security void in their wake which police struggled to fill on short notice. This illustrates how the provision of security (and hence equal access to human rights and social and economic opportunities) is at a risk of becoming both unequal and inconstant if it is linked to the the profitability of PSC operations and the financial solvency of PSCs. The PSC and their clients' solvency may increase or decrease, but security certainly will not be provided as an undeniable right to all citizens.

### **Outsourcing of security decreases security sector accountability<sup>310</sup>**

Many security measures employed by the state such as stop and search, interrogations or detention, can limit an individual's basic rights. To make sure that unlawful limitations to these rights are

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307 Sklansky, David Alan, Private Policing and Human Rights. *Law & Ethics of Human Rights*, Vol. 5, Issue 1, Article 3, 2011; UC Berkeley Public Law Research Paper No. 1792651. Available at SSRN: <http://ssrn.com/abstract=1792651>

308 Strange, Susan, *States and Markets*, 2nd Edition. 45. Strange argues: "By exercising this power, the providers of security may incidentally acquire for themselves special advantages in the production, or consumption of wealth and special rights or privileges in social relations. Thus the security structure inevitably has an impact on the who-gets-what of the economy."

309 Recommendation Rec(2001)10 of the Committee of Ministers to member states on the European Code of Police Ethics.

310 Much of this argument was developed together with Paulo Costa, Police Programme Manager, Southeast Europe Division, DCAF.

brought to justice or avoided altogether, state security actors have to be accountable and transparent. When the state outsources such activities to a PSC it becomes more difficult to ensure accountability.

In the good governance of state security accountability is established at several levels: individual accountability of the professional, direct control of the manager and the hierarchy chain, internal control mechanisms and external control and oversight. Of central importance is the behaviour of the individual professional and the direct management who through their professional conduct in line with legal and constitutional requirements avoid any misconduct or violation of laws from occurring. The same level of control and oversight would have to be applied to private security actors acting on behalf of state security, which would first of all require serious commitment to training PSC staff, especially on human rights standards. This is not evident, especially in the four target countries examined in this volume; where training standards are generally low (see below). Even with the adequate training which can ensure the professionalism of the individual PSC employee, real accountability would mean that staff is not only under the control of their direct manager but also a representative of the state body on whose behalf they act, such as the local head of police. Unlike a state security employee, the PSC employee has not committed themselves to working for the state and is not a legitimate representative of the state. As was discussed at the closing of Part 1, adding additional layers of management and control might raise costs and decrease transparency and accountability or the control system.<sup>311</sup>

### **Corruption, bad economic policies, weakened rule of law severely limit the efficiency, effectiveness and accountability of private security**

A clear lesson from the case studies is that often wider systemic social, political or economic problems are the causes behind a lack of professionalism by private security. Wide-spread economic or political corruption, a struggling and badly regulated economy or the lack of rule of law can be important obstacles to efficient, effective and accountable private security. As long as these contextual problems cannot be addressed, policy makers should be careful if and to which extent they allow the privatisation or outsourcing of state security to private security providers.

A common theme throughout the case studies is the inability of PSCs to pay their staff adequately or on time, because the prices for private security services are so low that PSC managers struggle to cover staff costs. As a consequence, staff are unmotivated and may act unprofessionally. At the same time their labour rights are violated. The authors of the case studies all consider that the fierce competition of the many PSCs who tend to outbid each other with unrealistically low offers in order to win contracts. The case study on public procurement practices in Tirana, Albania (Part 3) showed that the private security market in Albania is replete with companies which are obvi-

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311 See also: Bieri, Matthias (2015) 'Beständiger Aufstieg: Private Sicherheitsunternehmen in der Schweiz', in: Nünlist, Christian; Thränert, Oliver (eds.) Bulletin 2015 on Swiss Security Policy, Center for Security Studies (CSS), ETH Zurich, pp. 63-86.

ously lacking the capital to be economically viable and which systematically underpay their staff. The state does not seem to prevent these unviable businesses to be set up and continue to exist. The employees, on the other hand, faced with the same dire economic situation, are willing to put up with this because they know that living in a country with a very high unemployment rate, it might be better to stay in a job, even if the salary is only paid occasionally. The lack of choices and desperation forcing PSC employees to accept mistreatment by their employers is also evoked in the Albi Mall case (Part 4). The Djerdap hydropower plant case study (Part 2) demonstrates how a PSC's solvency links to the professionalism of private security services. In the case study an international PSC was able to provide much better services than because unlike the local PSC which had previously held the contract it had concluded a contract with a realistic budget with its clients and it was able to rely on a vast pool of expertise and financial resources.

In many countries with a weak economy, where few private businesses or individuals can pay for private security services, the contracts that PSCs manage to make with state institutions constitute a the source of a large part of overall PSC revenue. For PSCs in Albania, Bulgaria, Kosovo and Serbia, the state is a major client and the terms set by state bodies in public procurement contracts have a great impact on PSCs' professional practices. Simultaneously, public bodies in these countries are notoriously inefficient and lacking in transparency and are often accused of corruption. It is therefore not surprising that public procurement practices seldom follow international standards. The Tirana public procurement case study in Part 3 is a case in point. The lack of professional standards specified either in tender selection criteria and the lack of control by public clients on whether the security services have been delivered as required, means that PSCs see little incentive to work professionally and improve the quality of their services.

Systemic corruption can affect every aspect of PSC activities, especially those which are meant to improve and maintain the professionalism of its services. Unfortunately, both economic and political corruption is still very prevalent in Southeast Europe. The case study on the new PSC training scheme in Serbia (Part 4) showed that even with a new detailed training curriculum and clear accreditation requirements for private security staff, the credibility of the PSC training and examination is jeopardized if it cannot be assured that all conflict of interest and corruption risks are removed in the training system. When the state-owned hydropower plant in the Djerdap case study (Part 2) hired a PSC, local politicians used their power to compel the PSC's management to employ only staff from the surrounding municipalities. These were not necessarily the most qualified employees but it seems that the PSC had no choice but to yield to the pressure even if this might mean compromising their professionalism.

## **Policy suggestions**

To conclude this chapter, a set of policy suggestions to different actors in the private security landscape are proposed below. The suggestions touch on many issues covered in the case studies

of this book. Some are direct answers to the open questions that were raised at the end of Parts 1 to 4.

**Legislator:** When considering increased privatisation of security, bear in mind that the state has the duty to provide security consistently, reliably and equally to all citizens; this means clearly establishing that it is the role of the state to provide security that is needed to protect citizens' human rights and equal access to social, political and economic opportunities.

Legislation on the privatization of security and the outsourcing of state security has to take into account the limits that external factors like systemic corruption, feeble control mechanism and a weak economy pose to the good functioning of private security. Private security regulation should be informed by this reflection and either (a) set in place policy measures to remove these systemic obstacles that do not allow private security to provide quality services or (b) limit the services that private security are allowed to provide.

**State security:** State security activities outsourced to private security need to be thoroughly examined as to the ways in which they could potentially limit human rights; great caution should be taken when outsourcing activities which can limit people's rights.

Only staff trained in professionally carrying out security services on behalf of the state in line with human rights obligations should be allowed to carry out these tasks.

Managerial control and accountability has to be ensured by the state actor over outsourced security activities; if the accountability that is required from the state security actor cannot be ensured for the private security provider, the task should not be outsourced.

**State agencies**

**purchasing security:** Detailed and transparent public procurement processes with regard to selection and result delivery monitoring are essential not only to ensure effective public procurement of security services but also to raise the professional standards of private security in general.

State clients of security services have to ensure that effective mechanisms are set in place and applied to control the effective, efficient and accountable delivery of security

State control and accreditation:

The legal framework clearly has to set out the areas that need state control and oversight; in particular those areas where private security can limit citizens' human rights.

State control should also look into causes that limit the professionalism of private security, including the rights and working conditions of private security workers.

To ensure the professionalism of the sector training and accreditation of private security companies and private security professionals have to be transparent, relevant and effective.

Parliamentary oversight / independent oversight bodies:

The professional delivery of security by private security sector should be considered as an important contribution to good governance of the security sector and (to some extent) the protection of state and human security as well as the protection of human rights and the state's democratic order; oversight bodies responsible for these issues should also oversee the professional functioning of the private security sector.

PSC industry:

PSCs should be aware of the importance of support for private security employees the need for adequate managerial control and support.

The private security industry should pro-actively develop and adhere to self-regulatory standards of professionalism that reflect their importance in the country's security landscape and that contributes to efficient, effective and accountable security provision.

Professional standards should be discussed in industry associations through which the industry can also advocate with the government for a regulatory framework that is necessary as a precondition for private security professionalism.

## List of Contributors

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## Project partners

**The Geneva Centre for the Democratic Control of Armed Forces (DCAF)** is one of the world's leading institutions in the areas of security sector reform and security sector governance. DCAF provides in-country advisory support and practical assistance programmes, develops and promotes appropriate democratic norms at the international and national levels, advocates good practices and conducts policy-related research to ensure effective democratic governance of the security sector.

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# DCAF

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**The Center for the Study of Democracy (CSD)** is an interdisciplinary public policy institute founded in 1990 dedicated to the values of democracy and market economy. CSD is a non-partisan, independent organisation fostering the reform process in Bulgaria through impact on policy and civil society.

[www.csd.bg](http://www.csd.bg)



**The Institute for Democracy and Mediation (IDM)** is an independent, non-governmental organisation, founded in November 1999 in Tirana, Albania. It works to strengthen the Albanian civil society, to monitor, analyse and facilitate the Euro-Atlantic integration processes of the country and to help the consolidation of good governance and inclusive policy making. IDM carries on its objectives through expertise, innovative policy research, analysis and assessment-based policy options.

[www.idmalbania.org](http://www.idmalbania.org)



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**The Kosovar Centre for Security Studies (KCSS)** is a non-governmental and non-profit think tank established in 2008 with the main aim of developing research studies in the security sector. KCSS conducts research and organises conferences and seminars in the related fields of security policy, rule of law, justice, and monitoring of the security sector. KCSS activities contribute to strengthening the principles of democratic oversight of security institutions in the Republic of Kosovo.



**KCSS**  
Kosovar Centre for Security Studies

[www.qkss.org](http://www.qkss.org)

**The Belgrade Centre for Security Policy** is an independent research centre that devotes its efforts to improving the security of individual citizens and society as a whole. The focus of the Centre's interests are policies aimed at the improvement of human, national, regional, European and global security. The Belgrade Centre for Security Policy realises its objectives through research, analysis and practical policy proposals, advocacy, education, publishing and specialist support for security sector reform in Serbia.



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