

A FORCE FOR GOOD?

Mapping the private security landscape in Southeast Europe

Franziska Klopfer and Nelleke van Amstel (Eds.)

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in Southeast Europe**

Publisher: Geneva Centre for the Democratic Control of Armed Forces

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Design and Layout: DTP Studio, Belgrade

Printed by: UNAGRAF d.o.o., Belgrade

Printing: 200 copies

The publication has been made possible by the generous support of the Swiss National Science Foundation (SNSF).

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Belgrade/Geneva 2015

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PREFACE

Around the world, security is provided by a wide range of public and private actors. An important part of the global security landscape is occupied by a burgeoning commercial security industry. However, while much attention has been given to the regulation of international private military and security companies operating in conflict and post-conflict settings, the growth of the domestic private security industry has received significantly less attention. This is troubling. As with any part of the security sector, democratic oversight is essential to ensure that negative outcomes for the security of the state and its citizens do not continue unchecked.

At the national level, the size, roles and impact of the private security sector can be directly linked to key questions of democratic security sector governance: Do national authorities have a clear picture of all those actors playing a security role on the national territory? How do private security providers affect individuals or communities on a day to day basis - is this 'more' security or simply security for those that can pay? And is there a clear delineation of roles and responsibilities between public and private security actors? It is particularly important to understand these dynamics in contexts of democratic consolidation where the security sector may play a disproportionately influential role. This imperative to understand the realities of the private security industry and situate it within a wider framework of state and human security underpins the Private Security Research Collaboration Southeast Europe (PSRC).

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is strongly involved in work to promote standards of democratic oversight of private security as part of its wider mandate to support security sector governance and reform. One important objective underpinning DCAF's assistance in Southeast Europe is to reinforce the capacity of civil society organisations to foster a more open, locally-owned debate on different challenges of security governance in the region and beyond. The PSRC follows this approach in the contexts that are the focus of this project: Albania, Bulgaria, Kosovo and Serbia. The contributions contained in this volume therefore constitute both an important evidence base in order to address the role of the private security sector in wider security sector governance dynamics in these countries, but also a necessary precursor to developing nationally-driven solutions to a contemporary security sector governance challenge.

The PSRC is founded on strong partnerships. It benefits from the synergies between DCAF's long term work to support democratic transitions in Southeast Europe and our commitment to promote effective oversight and accountability of the private security sector. The project also represents a wholly collaborative venture between DCAF and four research institutions: the Centre for the Study of Democracy (CSD), the Institute for Democracy and Mediation (IDM), the Belgrade Centre for Security Policy (BCSP) and the Kosovar Centre for Security Studies (KCSS). Finally, this project would not have been possible without the commitment of the Swiss National Science Foundation (SNSF) to support high quality applied research that promotes learning across borders. This volume is the first fruits of what promises to be a



valuable long term partnership to generate and share knowledge, reinforce capacities, and ultimately, to support sustainable development in Southeast Europe.

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Acknowledgements

It would not have been possible to finalise this volume without the support of a number of people. Numerous colleagues from all five partner organisations of the Private Security Research Collaboration Southeast Europe (PSRC) contributed to organising the working meetings of the PSRC. Our gratitude also goes out to those colleagues who have since left the project, who have contributed to its success and in particular to this publication. Benjamin Buckland was involved in setting up the original outline for the publication. Audrey Olivier Muralt helped develop the publication concept and together with Martha Baillargeon contributed to the editing of earlier drafts of the manuscripts.

During the last phase of preparing the volume, Damjan Denkovski has been instrumental in editing the final chapters and overseeing the publication schedule. Joanne Steel and Kathryn Kosanovich provided language editing.

The Editors,

Geneva, September 2015



Introduction: For a Better Understanding of Private Security Regulation

Franziska Klopfer

The private security industry polarises opinion. For some, it is simply unacceptable to hand responsibility for public security to commercial entities driven – according to this argument – purely by the pursuit of profit. For others, private security companies (PSCs) offer a much needed complement or even an alternative to beleaguered state security services. Perspectives may vary for reasons as diverse as wider national attitudes to privatisation of state services in general or, for example, personal experience of PSCs. But views are always likely to reflect either strong opposition or support. In short, it seems that there is no general agreement about the role that PSCs should and can play as part of the security sector in a democratic state.

This topic has been the focus of considerable attention in research and policy circles at national and international levels. Spurred by high profile incidents in contexts such as Iraq and Afghanistan, much attention has been given to the role of PSCs and private military/security companies (PMSCs) in conflict and post-conflict environments.¹ This has led to international non-governmental actors, governments and PSCs themselves coming together to develop international regulatory mechanisms that aim to ensure transparency and accountability while fostering good practices and improved standards within the industry.²

While developments on the international level provide important starting points for private security regulation, they do not provide a detailed analysis of how private security can contribute to ensuring security as a public good. Indeed, the answers to this question will differ significantly from context to context. A true understanding of private security and

1 See, for example: Avant, Deborah (2002). "Privatizing Military Training." *Foreign Policy in Focus* 7, no. 6 (2002); Bakker, Christine and Mirko Sossai, eds. (2012). "Multilevel Regulation of Military and Security Contractors: The Interplay between International, European and Domestic Norms". Oxford: Hart Publishing.

2 Instruments such as the Montreux Document (<http://www.dcaf.ch/Project/The-Montreux-Document>) or the International Code of Conduct for Private Security Service Providers (<http://icoca.ch/>) have contributed to these processes as has the development of national legal frameworks and self-regulatory initiatives, such as the work of the Confederation of European Security Services (CoESS). Co- or self-regulatory initiatives have also become more common at the national level where they complement an increasing number of national laws specifically regulating private security services.



its regulation can only start from two fundamental considerations: (1) which role does the state want to attribute to private security providers within the security sector; and (2) which framework is most effective to enable private security to deliver those services and fulfil to clearly defined standards. The first question requires a political decision. The second situates private security within the wider framework of domestic security sector governance concerns. Crucially, both questions need to be answered based on a clear understanding of national security needs and the actual roles played by PSCs operating in a given context.

Assessing security privatisation from a governance perspective

Efforts to promote democratic security sector governance must be founded on a clear understanding of all actors that play a role in security provision, management and oversight. This picture can only be derived from a thorough assessment which highlights the opportunities and challenges that PSCs actually present. The assessment has to consider the opportunities and challenges PSCs present to security, but also to other fundamental values of the democratic state such as the protection of human rights and the democratic order.

The value of such an assessment of national PSCs' capacities and their (potential) role in the national security sector goes beyond the need for a healthy debate on PSC regulation in a specific country. Discussion at national, regional and international levels on the role of PSCs and standards for their regulation must be informed by concrete examples that show how and why private security companies act in different social, economic, political and legal contexts. Current literature on the privatisation of security mainly focuses on experiences from Northern America or Western Europe, that is, from consolidated democracies with strong economies and long traditions of market liberalism. In order to more fully inform the European discussion on the privatisation of security, it is important to compare these with experiences from Eastern European countries: the experiences of former communist or socialist countries, which are now in political and economic transition. These contexts have different security needs, fewer resources to meet those needs and a private security industry that is only in the early stages of its development.

Private Security Research Collaboration Southeast Europe (PSRC)

The project Private Security Research Collaboration Southeast Europe (PSRC)³ aims to contribute to filling this knowledge gap with a thorough analysis of the private security sector in Bulgaria, Albania, Serbia and Kosovo. This volume, *A Force for Good? – Mapping the private security landscape in Southeast Europe*, is the first publication to come out of this project and provides a general overview of the development of PSCs and the current shape and size of the private security industry in the target countries.

As currently planned, the PSRC runs from 2014 until 2017. During this period the five project partners – the Geneva Centre for the Democratic Control of Armed Forces (DCAF), the Centre for the Study of Democracy (CSD), the Institute for Democracy and Mediation (IDM),

³ DCAF would like to acknowledge with grateful thanks the funding support provided by the Swiss National Science Foundation (SNSF) which has made this project possible. www.snf.ch



the Belgrade Centre for Security Policy (BCSP) and the Kosovar Center for Security Studies (KCSS) – will examine the specificities that relate to the countries' recent political and economic transitions from socialist/communist regimes to liberal democracies and free-market economies. After collecting and analysing data on the development of the private security sector, the project researchers will develop recommendations for private security regulation in each of the target countries, based on local needs and the opportunities or constraints PSCs operating in those countries create. The project will then try to bring these findings to regional and international discussions on private security.

One specific aim of the project is to compare and contrast the situation in the target countries in order to identify which key factors – historical, economic, social, political or legal – have shaped the evolution of the private security sector. In particular, it is important to understand how the post-conflict context in Serbia and Kosovo has influenced the private security sector, in comparison with the non-conflict settings of Albania and Bulgaria. Unlike the other target countries, Bulgaria is already a member of the European Union (EU) and it will be important to see how EU membership and EU regulations have shaped the private security sector in Bulgaria.

A Force for Good? – Mapping the private security landscape in Southeast Europe

The following four chapters will explore and assess the origins and current state of the private security sector in each of the target countries, with specific reference to principles of good governance and the protection of human rights. In particular, the authors examine when and how the first private security companies developed and whether and how PSCs, their clients, and other factors such as relevant legislation determined the services private security offers today, and which companies were established/have survived in the market. The studies look into the economic importance of private security especially as a source of employment. They also explore if PSCs are able to provide quality security services by looking at the background and qualifications of managers and employees. A number of important questions are addressed: who are the people who work for PSCs, what is their level of expertise and professionalism and what are their working conditions? How important are (political) relationships for the success of a PSC and do domestic political considerations have an impact on which PSC receives contracts and how well they work? How is quality defined and enforced by both PSCs and their clients, especially public sector clients? Finally, do PSCs and state security providers coordinate, cooperate or compete with each other?

Key elements in shaping the analysis of how these principles apply to the private security sector were found in the Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict (Montreux Document)⁴. Building on this and other sources, prior to starting the empirical research the project team defined a number of concepts and terms to ensure a consistent approach to the research:

⁴ <http://www.dcaf.ch/Project/The-Montreux-Document>



- **Private Security Services Providers:** Commercial entities – whether registered or not – which provide security services to a wide range of clients with the aim of making a profit.
- **Private Security Services:** Services provided by private commercial entities aiming to protect or secure people, goods, sites, locations, events, processes and/or information, to make a profit. These services can be preventive and may support and complement public law enforcement agencies, where permitted.
- **Private Security Companies:** Irrespective of how they describe themselves, private security companies are any kind of registered business entity or firm, such as a sole proprietorship (whether public or private) or corporation, that provide private security services.
- **Private Security Personnel:** Persons working for a private security company or provider, on a permanent or part-time basis, whether as employees or under a contract, being staff, managers, directors and owners. Where allowed, private security companies' personnel may carry or operate weapons in the performance of their duties.

Within a framework of democratic security sector governance, security should not only be provided in an effective, efficient and transparent manner but it should also be subject to effective oversight and accountability. The state security sector is accountable to a range of civil management and oversight bodies. However, there is no single accepted model for oversight of the private security sector. It is general practice for the executive to ensure a level of control over PSCs' activities, mainly through a licencing regime for companies and their employees, and sporadic controls of labour conditions. (These practices are followed across all four contexts, although not necessarily frequently or strictly enough). However, it is not clear which other control or oversight functions should be carried out, for example, to maintain the good functioning of PSCs and assess the impact of their activities on human rights. It is also not clear, whether the same bodies that oversee the state security sector – in particular, parliament and independent state bodies – should also oversee the private security sector. The topic of oversight is therefore only marginally covered in this volume and is planned to be examined in greater detail by the PSRC in future research.

For their research the authors used a variety of open sources as well as semi-structured interviews with relevant stakeholders. The relative opacity of the sector in the Western Balkans did not always make it easy for the researchers to get the information they required, especially on illegal activities. In cases where answers were obtained, these are often subjective perceptions rather than hard evidence as most information was given orally by their interlocutors. Given the tendency towards poor record-keeping by the state and market actors in the target countries, not all of the required information was available in writing.

In **Chapter Two**, Arjan Dyrmishi and Gentiola Madhi, IDM, provide an overview of the private security sector in Albania, a country where the legislation on private security has changed frequently in the last decade. Successive laws redefined the concept of PSCs and their role in Albanian society and for a long time considerably restricted the size of companies and the



services they were allowed to provide.

Chapter Three, by Rositsa Dzhekova and Atanas Rusev, CSD, presents an analysis of the state of play in Bulgaria, where PSCs were for a long time considered to be closely linked with organised crime. This situation was addressed by strong regulatory efforts. Specific legislation on private security in Bulgaria was developed quite early on and PSCs have actively tried to improve professional standards in private security.

In **Chapter Four**, Mentor Vrajolli and Donika Emini, KCSS, provide an insight into the PSC market and regulation in Kosovo. The private security industry had already started to develop before Kosovo's declaration of independence in 2008, but was only regulated after that date. The weak economy of Kosovo sustains a fragile private security sector, where the rights of PSC employees are systematically abused.

Chapter Five focuses on the situation in Serbia. Predrag Petrović and Marko Milošević, BCSP, were able to obtain extensive information on the current state of the Serbian private security sector from both official documents and interviews, but data was not always conclusive and clear. While the private security sector in one of the region's stronger economies is certainly big, the development of PSCs in Serbia was held back by important factors such as conflict and sanctions, economic crises and overall politicisation of the security sector. The Serbian case is also exceptional in that, until recently, the country lacked a specific law on private security and the sector developed for more than 20 years without a clear legal framework.

The final and concluding chapter by Nelleke van Amstel, DCAF, provides a comparative analysis of all four contributions, drawing implications, conclusions and recommendations for the region and trying to answer some of the questions about the possible opportunities and challenges that PSCs could provide as actors or supporters in a national security sector.





Albania

Arjan Dyrmishi and Gentiola Madhi

Introduction

Since the end of the Cold War, the privatisation of security has been one of the main features of security sector reform in Southeast Europe, spurred by the focus on crime prevention and neoliberal economic policies. This growing trend has also been visible in Albania, where over the last two decades the private security sector has developed considerably.

Currently, the private security sector employs close to the same number of people as the Albanian State Police (ASP). The market's annual turnover amounts to over 40 million Euros. If one were to include the grey market in these estimates, the figures for both the number of employees and annual turnover would be significantly higher.

Despite the increasing relevance of the private security sector and the implications of the privatisation of security for security sector governance, there has been little academic interest in this topic in Albania.

Against this background, this study examines the private security sector in Albania with the aim of contributing to the policy discussion on private security and filling the empirical research gap.

This chapter argues that effectively addressing the problems identified will remain a challenge for the near future, mainly due to:

- poor records of the government agencies in effectively controlling the implementation of the law;
- lack of effective oversight of these agencies;
- lack of a coherent policy concerning the private security sector;
- politicisation and corruption in public procurement; and
- poor self-organisation of the private security sector.



The authors suggest that the Albanian government should adopt a clear policy for the private security sector, drawing on the challenges and opportunities that stem from the privatisation of security, and ensure better governance of this sector by improving the capacities and cooperation of government agencies, as well as a greater involvement of the Albanian Parliament. In addition, the authors recommend the strengthening of the companies' role in policy formulation and implementation, as well as the consolidation of the association of companies and the need to encourage the establishment of employees' associations.

Data and Methodology

Data for the study was collected mainly from governmental institutions charged with the licensing and control of private security companies (PSCs), as well as from PSCs' websites. Information and opinions were also collected from interviews and communications with PSC representatives and Albanian State Police officials.

The data on the number of companies and the number of personnel employed was received from the ASP and the Labour Inspectorate (LI).¹ The financial data was collected from the National Registration Centre (NRC),² Public Procurement Agency (PPA)³ and General Tax Directorate (GTD)⁴. The National Licensing Centre (NLC)⁵ website was used for obtaining relevant information on the type of licenses and the PSCs' financial statements for the years 2012 and 2013.

The public procurement bulletins published by the Public Procurement Agency (PPA) proved a useful source and 159 PPA bulletins were reviewed in order to collect data on government contracts awarded to PSCs for the years 2012, 2013 and 2014. More specifically, the data collected includes: (a) the amount of public money spent to purchase security services from PSCs; (b) the number of companies that have obtained at least one public contract; and (c) the overall amount of funds that each company has received through public contracts. In addition, reports of the National Competition Authority (NCA),⁶ which reviews the complaints of PSCs on the tendering processes, have been analysed to better understand issues related to competition.

The data from the ASP, Labour Inspectorate, National Registration Centre, and General Tax Directorate were cross-examined in order to map the number and geographical distribution of PSCs, as well as the number of the personnel employed, and the financial situation and dynamics of the market and individual PSCs.

The information collected from the PSCs' websites provided data on clients, products, staff, trainings, etc. The review of websites was used as a means to find out the extent to which the PSCs use their websites as a marketing tool and to understand competition dynamics.

In addition to information from documents, 17 interviews were conducted in the period

1 Labour Inspectorate Official Page: www.inspektoriatipunes.gov.al.

2 National Registration Centre Official Page: www.qkr.gov.al.

3 Public Procurement Agency Official Page: www.app.gov.al.

4 General Tax Directorate Official Page: www.tatime.gov.al.

5 National Licensing Centre Official Page: www.qkl.gov.al.

6 National Competition Authority Official Page: www.caa.gov.al.



from November 2014 to January 2015 with various sources (see Table 1, below, for a full list of sources). The aim of the interviews was to understand issues related to companies' licensing and control, vetting and training of personnel, the spread of the grey market, the relations among PSCs and their capabilities to self-organise, and the relations between PSCs and their clients.

Furthermore, a focus group discussion was organised with representatives from 16 PSCs, while telephone calls and email communications were subsequently used to call on different interviewees to clarify issues emerging in the course of data analysis.

Overall, the representatives of the PSCs showed openness and interest to share information, whilst the ASP officials were more reserved. In order to ensure more open and frank communication with the interviewees, it was agreed that they would not be cited by name, so a coding system was used to refer to the interviewees (see Table 1, below).

Table 1: Coding of Sources

Occupation of the interviewee	Coding
Chief Inspector, General Directorate of Albanian State Police	POL-01
Police Inspector, Tirana Police Directorate	POL-02
Bank Security Director	Bank-01
Bank Security Director	Bank-02
Business Association Representative	Business-01
Representative of the Union Security Albania	Other-01
Representative of the National Union of Security Companies	Other-02
Representative of the Confederation of the Trade Unions of Albania	Other-03
Private Security Companies	PSC-01 to PSC-20

Historical Background

The private security market in Albania began to develop in the early years of the 1990s, following the end of the communist regime. Its emergence is primarily a direct result of the security sector reform that dismantled the communist era security apparatus and of the introduction of a free market economy.

Given the near total legal vacuum inherited from the communist regime, the adoption of legislation on security institutions was a priority in the early transition period.⁷ In this process the Law on the Service of Civilian Guards was adopted in 1993, covering the provision of security services by private actors.⁸ The first private security companies started to operate in that same year. Throughout the 1990s however, security was considered an exclusive domain of the State, so besides the civilian guards, the ASP also provided security services to

7 Dyrmishi, A. et al (2011). Context analysis & chronology of security sector reform in Albania 1991-2009. Institute for Democracy and Mediation, Tirana, Albania.

8 Law no. 7696, date 7.04.1993, "On the Service of Civilian Guards". Hereafter: Law on the Service of Civilian Guards (1993).



private entities on a contractual basis. These services were provided by the Police of Objects, a branch of the Albanian State Police established by law in 1992.⁹

This state-centric concept of security was evident from the mandate of the civilian guards, which according to the 1993 Law on the Service of Civilian Guards had ‘the duty to provide security services’¹⁰ to private entities. Nevertheless, whenever considered relevant, the ASP had the mandate to exercise its competences even in the field of jurisdiction of the Civilian Guard.¹¹ The main services provided by the civilian guards included static security, secure transportation and close protection of persons.¹²

The ASP continued to provide services to private contractors until 2001, when the Law on the Guarding and Physical Security Service¹³ abrogated both the Law on the Service of Civilian Guards and the Law on the Police of Objects.

The 2001 Law on the Guarding and Physical Security Services sought to provide an improved framework with regard to licensing and controlling private security companies, and promoting the downsizing of the ASP by cutting the Police of Objects service entirely. The 2001 Law also moved away from the state-centric conceptualisation of private security by removing the concept of ‘a duty’ of the PSCs to provide security services and adopting the concept of ‘mission.’¹⁴ More specifically, the mission of the PSCs was defined as providing (a) security to the premises owned or used by private and legal entities, (b) security and safety to Albanian and foreign citizens, (c) security and transportation of goods, cash, and valuables.¹⁵

In contrast to the 1993 Law which stipulated the ASP as the only government entity tasked with both licensing and controlling the PSCs, the 2001 Law empowered PSCs to apply for private commercial entity licenses in accordance with the Commercial Companies Law.¹⁶ The 2001 Law also removed the hitherto existing ban on the right of the PSCs to establish business and labour associations.¹⁷

When the ASP started to be downsized, the government began to offer guarding services commercially. At the same time technological advances meant that devices such as alarm and electronic surveillance became a lot more affordable, increasing the demand by business and private homes for ASP commercial security services. The market expanded, but the private companies operating in security remained small and underdeveloped, unable to offer a high quality in their services.

After years of lobbying by PSCs, a new law was adopted in August 2014 which was envisaged to address the cause of these problems. The Law on Private Physical Security Service¹⁸ regulates the following: (1) certification and licensing of the PSCs and the companies’

9 Law no. 7550, date 20.01.1992, “On the Police of Objects”. Hereafter: Law on the Police of Objects (1992).

10 Law on the Service of Civilian Guards (1993), Art. 2.

11 Law on the Police of Objects (1992), Art. 11.

12 Ibid., Art. 2.

13 Law no. 8770, date 19.04.2001, “On the Guarding and Physical Security Service”. Hereafter: Law on the Guarding and Physical Security Service (2001).

14 Law on the Guarding and Physical Security Service (2001), Art. 1.

15 Ibid., Art. 1.

16 Ibid., Art. 3.

17 Law no. 7985, date 13.09.1995, on some supplements and changes to the Law on Service of Civilian Guards (1993), Art. 1.

18 Law no. 75, date 10.07.2014, “On Private Physical Security Service”. Hereafter: Law on Private Physical Security Service (2014).



employees; (2) relations between the PSCs and their contractors; (3) functions, duties and responsibilities of the PSCs' managers and employees; and (4) administrative sanctions for non-compliance.

To start with, the 2014 Law better defined the standards of professionalism and the criteria for the vetting of the PSCs' staff. It clarified the handling and use of weapons, as well as banned any kind of subcontracting of private security services. The Law also introduced an obligation for PSCs to establish command and control facilities and equipment.¹⁹

In addition, the Law eliminated some barriers to the development of the market and the companies such as the removal of the obligation to renew the licence every three years.²⁰ This was an important change because a limitation to the duration of the licence²¹ and the uncertainty as to whether their licence would be renewed had previously discouraged companies from investing in their businesses. The new Law also brought an end to the cap on the number of PSC employees that could be hired in a district. The cap had been introduced by the 1993 Law (confirmed in the 2001 Law) and declared that the number of PSC employees within a single district should not exceed five percent of the number of employees of the police force in that district.²² In the same period the market was also opened to foreign companies for the first time.²³

The 2014 Law also obliges PSCs to respect a series of internationally recognised principles, such as human rights, anti-discrimination, legality, professionalism, objectivity as well as to prevent conflict of interest during the exercise of their duties.²⁴ However no reference of the Montreux Document is made to the law or the white paper on the law, although Albania is a participating since 2009.²⁵

The definition of private security and its role in the state has also evolved across the different laws. The 1993 Law still referred to 'the obligation of the civilian guards'²⁶. In the 2001 Law 'obligation' then became the 'mission the private security companies'²⁷. The 2014 Law marks a full break from the state centric security concept; the Law recognises private security companies as business entities with their own aims and objectives and therefore sees the purpose of the law as 'the regulation [of] their activity'²⁸.

In addition to the Law on Private Physical Security Service, the activities of PSCs are also regulated by the Law on Weapons²⁹, the Law on the Use of Firearms³⁰, the Law on Licenses

19 Law on Private Physical Security Service (2014), Art. 6.

20 Ibid.

21 A one year limit introduced by the 2001 Law; this was extended to three years by the 2005 amendment to the Law (Law on the Guarding and Physical Security Service (2001), Art. 3 and Law on Amendments to the Law on the Guarding and Physical Security Service (2005), Art. 1).

22 Law on the Service of Civil Guards (1993), Art. 4; Law on the Guarding and Physical Security Service (2001), Art. 11.

23 Council of Ministers. "White paper on the adoption of the Law 'On Private Physical Security Service'", http://www.parlament.al/web/pub/re_l_sig_fizike_17460_1.pdf.

24 Law on Private Physical Security Service (2014), Art. 4.

25 Participating States of the Montreux Document: <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/international-humanitarian-law/private-military-security-companies/participating-states.html>.

26 Law on the Service of Civilian Guards (1993), Art. 2. Emphasis added.

27 Law on the Guarding and Physical Security Service (2001), Art. 1. Emphasis added.

28 Law on Private Physical Security Service (2014), Art. 1.

29 Law no. 74, date 10.07.2014, "On Weapons", Art. 41.

30 Law no. 72, date 10.07.2014, "On Use of Firearms", Art. 4/1.



Authorizations and Permissions³¹, and the Law on the Code of Labour³². Due to the complexity of the regulatory framework a number of agencies are in charge of controlling PSCs. In addition to the ASP, this includes the National Registration Centre, the National Licensing Centre, the General Tax Directorate, and the Labour Inspectorate.

The Private Security Sector – Main Developments and Trends

Services, Customers and Market Turnover

The services provided by the PSCs in Albania have been largely defined by law. The Law on Private Physical Security Service (2014) defines three categories of security services that can be provided by private entities: (1) guarding of premises, (2) protection of persons and (3) protection of transportation services.

Most companies specialise in guarding, a service of which there is most demand.

Box 1: Companies and services offered in 2015

In May 2015 there were 240 PSCs that provided static guarding services and physical protection to people (Category I.3.A) and 24 companies that provided protection and transportation of cash and valuable goods (Category I.3.B). In the period from August 2014 to May 2015, 44 PSCs providing Category I.3.A services and 5 PSCs providing Category I.3.B services went out of business.³³

In providing their services, the PSCs may carry weapons, special equipment and use service dogs. The types of weapons and ammunition, the equipment, the service dogs, and their use are defined by the ASP in accordance with guidelines issued by the Minister of Interior and the General Director of the ASP.³⁴ Physical force or weapons can be used only when necessary and when all other means fail to ensure compliance. When using force or weapons the companies are obliged to provide first medical aid to the injured, if necessary and possible, and inform the ASP.³⁵

The Law also obliges PSCs to use electronic surveillance equipment when providing security services and to save the data for a six month period starting from the registration date.³⁶ The companies are obliged to give access to the equipment and the data stored to the law enforcement agencies when requested.³⁷

Traditionally, the main customers of the PSCs have been large businesses, banks, embassies, and international organisations.³⁸ Over the past few years, more and more small businesses, private residences and homes have started to contract PSCs. This has mainly been the result

31 Law no. 10081, date 23.02.2009, "On Licenses, Authorizations and Permissions".

32 Law No. 7961, date 12. 07, 1995, "On the Code of Labour".

33 Albanian State Police, official communication, mail, 4 August 2014.

34 Law on Private Physical Security Service (2014), Art. 34, 36, 37.

35 Ibid., Art. 33, 35.

36 Ibid., Art. 32.

37 Ibid., Art. 31.

38 Page, M., S. Rynn, Z. Taylor (2005). SALW and Private Security Companies in South Eastern Europe: A cause or effect of insecurity?. SEESAC publications. p. 11.



of technological developments which has led to the decrease of the costs of the accompanying electronic equipment.³⁹

Although the overall demand for security comes from the private sector, the government remains the largest single customer, procuring mainly static guarding services for public institutions, including critical infrastructure. The amount of public funds allocated for such services in the period between 2012 and 2014 has varied from nine to eleven million Euros annually. This is equal to nearly nine percent of the annual budget of the Ministry of Interior (see Table 2, below).⁴⁰

The majority of companies provide security to both government institutions and private businesses, with exclusive reliance on either private or public funds being rare. Within the period analysed, over one third of the PSCs have had access to public funds allocated for procuring security services (typically, public funds make up over 40 percent of the annual revenues of these PSCs (see Table 2, below)). At the same time, a large number of companies operate across districts, providing services to different branches of the same business

Table 2: PSCs and contracts from public funds (2012, 2013 and 2014)

Year	Companies that have won at least one public tender	Public funds allocated to procure security services (EUR)	Total amount of the declared revenues of the companies that have won a public tender (EUR)	Ministry of Interior annual budget
2012	115	9,2 million	22 million	117,3 million
2013	119	10,4 million	23 million	116,2 million
2014	114	11 million	-----	121,6 million

Source: NRC (2012-2014), PPA (2012-2014) and ASP (2014).⁴¹

Licensing of Companies

Regarding the licensing and certification process, the Law on Private Physical Security Service (2014) focuses mainly on defining the authorities responsible for issuing the licenses and certificates, the criteria that the applicants must fulfil to obtain a licence and the deadlines for issuing of the licences and certificates.

PSCs are provided with a professional licence issued by the Albanian State Police (ASP) General Director, following the review of the application and certification of the company by the Commission on Certification and Licensing (CCL).⁴² The duration of the PSC's licence is unlimited. The Law provides for two categories of licences: category I.3.A that is valid for

³⁹ According to interviewees the average price of providing an alarm system and monitoring service for small businesses and homes is about EUR 15 a month.

⁴⁰ The Ministry of Interior budget in 2014 was ALL 17,022,880,000, or EUR 121.6 million.

⁴¹ Albanian State Police, official communication, mail, 4 August 2014.

National Registration Center, Search for Subject (2012-2014), http://www.qkr.gov.al/nrc/Kerko_Per_Subjekt.aspx. Public Procurement Agency, Weekly Bulletins (2012-2014). Decisions issued by the Albanian Competition Authority (2012, 2013, 2014) <http://www.caa.gov.al/decisions/list/page/1>.

⁴² Law on Private Physical Security Service (2014), Art. 6.



providing physical security of objects, citizens and social activities; and category I.3.B that is valid for providing security for transportation of cash and valuable goods.⁴³ In order to obtain the licence, the PSC should be registered at the National Registration Centre as a joint stock or limited liability company and have already appointed a technical director (TD).⁴⁴ The PSCs may receive both categories of licences; they must however have separate technical directors for each category.⁴⁵

The Size of the Sector

The market for private security has been growing steadily in Albania as can be seen in the increase in the number of PSC employees in the past years. Over the last ten years, the number of employees of the private security sector has increased substantially (from around 4,093 persons in 2005⁴⁶, to 7,995 in 2014). According to the latest data from the ASP, the number of employees employed by the sector is 8,911.⁴⁷ This number is high considering that the ASP itself had 10,998 employees in January 2015.⁴⁸

In contrast, the number of PSCs has declined from 316 to 264 over a period of less than a year (see Graph 1, below).⁴⁹ This development is mainly the result of a ban on subcontracting has led to the closure of a number of small companies, mainly in the regions.

Generally, PSCs in Albania have remained rather small in size with the smaller entities employing up to dozen people and the larger between 100 and 200 people.⁵⁰ This trend is a result of the 1993 and 2001 legal provisions that set limits on the number of employees that a PSC could employ in any one district⁵¹. To circumvent this restriction, many PSCs outsourced components of their business to subcontracting companies based in other districts. In response, the 2014 Law abolished the cap on the number of employees per district but also banned subcontracting. Since this time many companies have merged with their former subcontracting partners, and now larger companies with a larger employee base are commonplace, while the total overall number of companies has decreased.⁵²

43 Ibid., Art. 7.

44 Ibid., Art. 14.

45 Ibid., Art. 8. For more information on the position and role of technical directors as defined by the Law, please see Section 'Companies and Staff', below, p. 16.

46 Page, M., S. Rynn and Z. Taylor (2005). SALW and Private Security Companies in South Eastern Europe: A cause or effect of insecurity?. SEESAC publications, p. 9.

47 Albanian State Police, official communication, mail, 21 May 2015.

48 According to data from the Albanian Ministry of Finance: <http://www.financa.gov.al/al/buxheti/buxheti-ne-vite/buxheti-2015>.

49 Albanian State Police, official communication, mail, 21 May 2015.

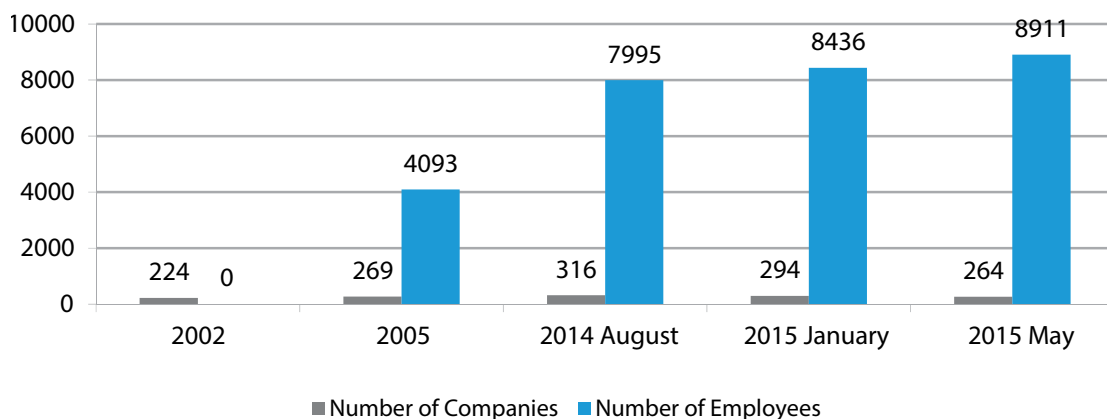
50 Albanian State Police, official communication, mail, 4 August 2014.

51 See Section 'Historical Background' p. 9.

52 Albanian State Police, official communication, mail, 21 May 2015.



Graph 1: The number of private security companies and personnel in the 2002 to 2015 period



Source: Page, Rynn, Taylor (2005); ASP(2014) ; POL-01 (2015); ASP(2015) ⁵³

The Grey Market

The number of employees that effectively work for PSCs is envisaged to be higher than reported. In order to avoid paying social security contributions, companies tend to declare only some employees. Some PSCs also hire persons who do not have a licence to work as private security employees – usually retired police and military officers. Although it is difficult to establish the exact number of employees of this status, based on interviews with PSC employees the number is approximated to be over one thousand people.⁵⁴

Data collected from interviews and statistics also suggests, however, that a number of PSCs choose not to employ additional people, but rather try to save money by over-burdening their employees and by keeping them working for longer hours than they were contracted for as well as without holidays or leave.

There is also evidence of companies that are not registered as PSCs but which employ people who provide security services. A number of companies that operate in the oil, energy and maritime transportation sectors have established their own security departments which are estimated to employ several hundred private security guards.⁵⁵ The banking sector, comprising over 550 offices throughout Albania, is also estimated to employ several hundred security staff who are registered as regular bank staff.

Although the legal standing of such practices remains unclear, it continues to be widespread. Additionally, a number of businesses such as supermarkets, business centres, gat-

⁵³ Page, M., Rynn, S., Taylor, Z. (2005). SALW and Private Security Companies in South Eastern Europe: A cause or effect of insecurity?. SEESAC publications, p. 9; Albanian State Police, official communication, mail, 21 May 2015 and 4 August 2014; PSC-01, personal communication, 18 January 2015.

⁵⁴ PSC-03, personal communication, 23 December 2014; PSC-01, personal communication, 18 January 2015; PSC representatives, Focus Group, 23 January 2015.

⁵⁵ Such as Albpetrol (www.albpetrol.al) which operates in the production and marketing of petroleum products; the companies operating in the production, transmission and distribution of power that include the Albanian Power Corporation (www.kesh.al), the Albanian Transmission System Operator (www.ost.al), the Operator of Distribution of Power (www.oshee.al); the Durres (www.apdurre.com.al) and Vlora (www.portivlore.com) ports.



ed apartment blocks, private schools, parking services, etc., employ security guards on the company’s payroll rather than contracting licensed PSCs.

According to approximations by a PSC representative, the total number of people employed as security guards who are not regulated by the Law on Private Physical Security Service, because they are not licenced, declared and/or do not work for a PSC, may exceed 10,000.⁵⁶

Geographical Distribution of Companies

In terms of geographical distribution, more than half of the registered companies (approximately 150) are based in the capital Tirana (see Table 3, below). The distribution of PSCs not only reflects the general trend of distribution of businesses in the country⁵⁷ but also the demand for security services which is higher in these areas.

Table 3: Location and size of the fourteen largest PSCs in Albania.

	The companies	Company registration district	Number of employees
1.	PSC-01	Tirana	218
2.	PSC-02	Tirana	164
3.	PSC-03	Tirana	164
4.	PSC-04	Fier	159
5.	PSC-05	Tirana	157
6.	PSC-06	Tirana	156
7.	PSC-07	Kukes	154
8.	PSC-08	Vlore	131
9.	PSC-09	Tirana	158
10.	PSC-10	Lezhe	120
11.	PSC-11	Durres	121
12.	PSC-12	Tirana	112
13.	PSC-13	Tirana	107
14.	PSC-14	Tirana	111

Source: ASP (2014).⁵⁸

Companies and Staff

In general the PSCs in Albania are privately held companies owned by one, two or a few individuals. The majority of the owners are businessmen of different backgrounds while nearly 20 percent are former police officers.⁵⁹ In order to increase the chances of winning public tenders a few owners have established more than one company, which permits them to enter the competition by placing multiple bids.⁶⁰

⁵⁶ PSC representatives, Focus Group, 23 January 2015.

⁵⁷ Albania has a total of about 104,275 active enterprises and half of them are concentrated in the Tirana and Durres districts (Korbi, A. and L. Lleshaj (2015). "The Financial Leasing in Albania and its Financing Costs", European Scientific Journal, Vol. 11, No. 7).

⁵⁸ Albanian State Police, official communication, mail, 4 August 2014.

⁵⁹ This calculation has been made based on data acquired from the interviewees.

⁶⁰ This information was shared during a number of interviews with PSC owners and staff. See also Section 'Public Procurement', below, p. 20.



The technical directors together with the administrators are legally responsible for the management of the PSC. The position of the technical director was introduced by the 2001 Law with the intention to ensure the separation of the business and technical aspects and to professionalise the companies and was confirmed in the 2014 Law on Private Physical Security Service.⁶¹ Thus, the Law sets out the structure of the companies in broad terms, requiring three levels of hierarchy: the administrator, the technical director, and the employees. In order to apply for a licence a company should have appointed an administrator and a technical director who must have been issued a certificate by the ASP.⁶²

In practice, however, the owners of the companies often get involved in the daily management and make important decisions even of a technical nature. These decisions have sometimes contributed to shaping the working culture of a company by valuing profit more than professionalism and integrity.⁶³

The Law defines the administrator as the PSC's legal representative. The administrator has to:

- ensure the company's compliance with the laws and regulations, including the respect for human rights;
- ensure the provision of services in accordance with the contract; and
- maintain the relations with the ASP by communicating and reporting problems and irregularities.⁶⁴

The company's technical director or technical directors⁶⁵ are responsible for the "direction, management and control of the activity of the company".⁶⁶ The technical director's main responsibilities include:

- produce and implement the plan for the protection of the subject or object indicated in the contract;
- ensure that the company's employees have received adequate education and training, including on the legal framework and the rules and procedures on the storage and use of weapons; and
- ensure cooperation with the ASP in case of incidents or crimes within the area of the company's responsibility.⁶⁷

Administrative Sanctions

Administrative sanctions are laid down for the administrator, the technical director(s) and the employees in case of failure to comply with or violation of the 2014 Law. Sanctions are administered by the ASP and include a written remark or removal of the license for the ad-

61 Law on Private Physical Security Service (2014), Art. 18.

62 *Ibid.*, Art. 14.

63 PSC representatives, Focus Group, 23 January 2015.

64 Law on Private Physical Security Service (2014), Art. 24.

65 PSCs can obtain two categories of licence. For each category they must hire a separate technical director. (Law on Private Physical Security Service (2014), Art. 8. See also Section 'Licensing of Companies', above, p. 13.

66 *Ibid.*, Art. 25.

67 *Ibid.*, Art. 26.



ministrator, written remark or removal of the certificate for the technical director and the employees, as well as financial penalties for all three.⁶⁸ The Law also specifies the kinds of violations and respective sanctions as well as the authorities within the ASP for administering each category of sanction.⁶⁹

Political Influence

Even though the Albanian legislators tried to avoid the politicisation of the private security sector by passing a provision in the 1995 amendment to the 1993 Law which prohibited the formation of private security company associations⁷⁰, the sector quickly came under the influence of politicians and state officials.⁷¹

The Law of 2001 sought to address the issue of politicisation by obliging companies to appoint a technical director who is in charge of the management of the PSC.⁷² The assumption was that the owners of PSCs might have political ties, and by leaving the day-to-day operation of the PSC in the hands of the technical manager, it could be avoided that the political affiliations of the owner would have an impact on the activities of the PSC.

The introduction of these technical directors, however, has not resolved the problem of politicisation as the owners still make the major decisions within the companies, especially on the companies' development.⁷³ In addition, companies mainly foster political connections in order to acquire new contracts.⁷⁴

Over the years companies have noticed that there can be a downside to entanglements with the governing parties, namely when the party they supported moves from government to opposition and they no longer have a direct link to the decision-makers. Given that the refusal to renew the licence by the ASP was often used as a tool to remove companies from the market⁷⁵ the PSCs strongly lobbied to remove the provision for the renewal of licences and the current Law on Private Physical Security Service (2014) does not impose limits on the duration of a licence⁷⁶.

Professionalism and Training

The majority of PSC staff is employed as security guards. However, in recent years the companies' manpower has been diversified to include employees with IT and technology skills. Whilst remaining largely male dominated, a few women have begun to join the sector.

The Law on Private Physical Security Service (2014) stipulates that employees of PSCs are

68 Ibid., Art. 38, 39.

69 Ibid., Art. 40-47.

70 Law nr. 7985, date 13.9.1995, "On Some Changes and Modifications to the Law nr. 7696, date 7.4.1993 On the Service of Civilian Guards", Art. 1. For more information on the prohibition of industry associations, see Section 'Self-Organisation of Employers and Employees', below. p. 24.

71 Page, M., S. Rynn and Z. Taylor (2005). SALW and Private Security Companies in South Eastern Europe: A cause or effect of insecurity?, SEESAC publications, p. 12.

72 Law on Private Physical Security Service (2014), Art. 25. On the technical director, see also Section 'Companies and Staff', above. p. 16.

73 On the influence of PSC owners in their companies, see also Section 'Companies and Staff', above. p. 16.

74 PSC-11, personal communication, 12 December 2014; PSC-01, personal communication, 18 January 2015; PSC-20, personal communication, 10 January 2015; PSC representatives, Focus Group, 23 January 2015.

75 Business-01, personal communication, 15 January 2015.

76 Law on Private Physical Security Service (2014), Art. 6/3.



obliged to respect the country's laws, regulations and ethical standards.⁷⁷ The Law also requires that all PSC employees must be issued with a certificate by the ASP. The certificates for the employees are issued by the Director of the ASP District Directorate within 30 days from the application date, following a review by the Certification Commission (CC).^{78, 79}

One of the conditions for obtaining a certificate is that the aspiring PSC employee has to have completed a professional training provided by the ASP or a licensed training centre and passed the related exam.⁸⁰ To improve the quality of training, the 2014 Law also provides that the training has to be overseen by the ASP, and allows for private education centres, which should diversify the training offer.^{81, 82}

According to PSC professionals, this basic training has turned into a mere formality⁸³ and on-the-job training is considered more important. The training modules for in-house training are generally of normative content and include theoretical knowledge of the legal framework and regulation, handling accidents, first aid in case of emergency, intervention and conflict management, psychological and also physical preparation for facing difficult situations. More specific training modules consist of tactical and operational training for close protection services and cases of intervention for special operations, use of firearms, anti-explosive training and human rights principles.

The quality of the in-house training, however, depends very much on the company's priorities, their capacities and resources. According to several sources, small companies, which provide mainly static guarding services and have fewer employees, tend to regard the training as an additional cost, while larger companies have been more interested in training and on occasion have even hired foreign consultants to provide specific training modules such as close personal protection.⁸⁴

Still, many companies do not necessarily see training as a worthwhile investment given the high staff turnover that is typical in the sector. Quite frequently, employees leave before companies can profit from the training they gave to them.⁸⁵ Moreover, customers often do not ask for quality services and would rather hire staff that is cheaper, than staff that is well-trained. Employees themselves rarely feel incentivised to improve their skills because this comes with few rewards. Most organisations are hierarchically flat, so professionalism and good performance seldom result in promotions or other (financial) perks.⁸⁶

77 Ibid., Art. 32.

78 Ibid., Art. 5.

79 The employees' certification criteria include: be an Albanian citizen above 18 years old; have completed high school; have completed the professional training provided by the ASP or licensed training centre(s) and passed the related exam; fulfil the reliability criteria; not have been convicted for criminal offences. (Law On Private Physical Security Service (2014), Art. 12/1) If the applicant is a former police or military officer, the completion of professional training is not obligatory. (Ibid., Art. 12/2).

80 Law on Private Physical Security Service (2014), Art. 12/1.

81 Ibid., Art. 29.

82 Some companies have identified training as a possible future market with one company rushing to build an EUR five million training facility. (Vizion Plus. "Pelikan Security inauguron ambientet e reja" [Pelikan Security Inaugurates New Premises]. 27 September 2014. Available at: <http://vizionplus.al/pelikan-security-inaguron-ambientet-e-reja/>).

83 This is an outcome of one-to-one interviews conducted with representatives of the private security companies.

84 PSC representatives, Focus Group, 23 January 2015.

85 Bank-01, personal communication, 20 November 2014.

86 This is an outcome of one-to-one interviews with private security employees.



Regulation of Relations between the PSCs and their Contractors

The 2014 Law aims to ensure quality of services by setting out the main obligations that the PSCs must fulfil when entering into contractual relations with their customers. The Law prescribes that the contract should specify the license category, the description of the object to be guarded, the number of guards, the type of armament and uniforms used by the PSC, and financial obligations. For the protection of objects of a certain importance the protection plan has to be approved by the ASP in accordance with guidelines defined by Council of Ministers' decision.⁸⁷

The Law also prohibits the PSCs to subcontract their services and obliges them to establish command and control centres (CCC) in all the districts in which they operate. The CCCs should be operative 24 hours a day, seven days a week, and be equipped with communication and surveillance means.⁸⁸

The ASP is responsible for controlling the provision of services in accordance with the Law and the contracts.⁸⁹ Its competences include monitoring and inspections and are further set down by regulation issued by the Minister of Interior.⁹⁰

Public Procurement

Public procurement in Albania remains highly prone to corruption,⁹¹ despite some improvements.⁹² The main problems identified with the procurement of private security services include the lack of transparency and favouritism in the selection process as well as the selection of contractors based on the lowest bid. As public procurement bulletins show, government agencies select private security companies based on the lowest offer with no official criteria on the quality of services. They often procure security services by calculating the costs of services based on the minimum salary.⁹³ In the long term these practices have had major negative implications on the development of the market and the quality of services.

Albanian legislation foresees seven types of standard procurement procedures and the related application conditions.⁹⁴ The research has found that nearly 12 percent (106 out of 867) of public tenders were conducted through the 'open procedure' during 2014.⁹⁵ Three hundred and sixty-two tenders were conducted through the 'demand for proposals' procedure,⁹⁶ where the contracting state authority invites at least five companies to participate in the tender and 399 tenders have been conducted through the 'negotiation procedure'. The latter procedure does not foresee the publishing of tenders but the selection of a number

87 Law on Physical Security Service (2014), Art.18.

88 Ibid., Art. 18, 22.

89 Ibid., Art. 19.

90 Minister of Interior Regulation "On the functioning of the Private Physical Security Service" (NO.157) (2015).

91 Chêne, M. (2010). "Anti-Corruption and police reform", U4 Expert Answer, Anti-Corruption Resource Centre, No. 247.

92 European Commission (2014). Albania Progress Report 2014.

93 PSC representatives, Focus Group, 23 January 2015.

94 Law no. 9643, date 30.11.2006, (modified), "On Public Procurement". Hereafter: Law on Public Procurement (2006), Art. 29, 30, 31, 32, 33, and 34.

95 Law on Public Procurement (2006), Art. 30/1.

96 Ibid., Art 34.



of companies by the contracting authority.⁹⁷ It should be used only in exceptional cases.⁹⁸ The trust of the PSCs in the tendering process is low and a very large number of decisions on tenders are appealed by the companies that did not win the tender.⁹⁹ PSC representatives maintain that it is not possible to win a tender without paying bribes (as much as ten percent of the procurement value), have connections with high level politicians, or both.¹⁰⁰ In order to increase the chances of winning some owners have established more than one company in order to participate in the same public procurement processes by placing multiple offers.¹⁰¹ In the period between 2012 and 2014 a small number of companies appear to have won public tenders consistently, amounting up to ten percent of all yearly tenders.¹⁰²

Table 4: Access to public funds by five PSC during the period 2012- 2014

PSC	Public tenders gained in 2012	Total amount of money gained in 2012	Public tenders gained in 2013	Total amount of money gained in 2013 (EUR)	Public tenders gained in 2014	Total amount of money gained in 2014 (EUR)
PSC-05	83	749 thousand	80	663 thousand	78	524 thousand
PSC-03	39	788 thousand	53	915 thousand	45	651 thousand
PSC-06	16	144 thousand	36	440 thousand	46	384 thousand
PSC-07	21	206 thousand	35	399 thousand	41	299 thousand
PSC-18	14	108 thousand	17	132 thousand	24	239 thousand
Total	173	1.9 million	221	2.5 million	234	2.1 million
Total number/ value of public tenders	711	9.2 million	800	10.4 million	867	10.9 million

Source: NRC(2012-2014); PPA(2012-2014)¹⁰³

97 Ibid., Art. 33/1.

98 Ibid.

99 Analysis of the decisions issued by the Albanian Competition Authority (2012, 2013, 2014) <http://www.caa.gov.al/decisions/list/page/1>.

100 This was the general impression of all interviewees.

101 The analysis of the 2012-2014 procurement bulletins of the Albanian Public Procurement Agency showed that there were mismatches on some cases between the identification number (NUISS) and the names of three companies (PSC-03, PSC-20 and PSC-19). Theoretically, the wrong declaration of the data of the winner of the public tender should have led to the annulment of the tendering process but this has not taken place in practice. When asked to explain such mismatch PSCs' representatives attending the focus group discussion confirmed that establishing multiple companies is a known practice.

102 Interview, (PSC-05).

103 Public Procurement Agency, Weekly Bulletins (2012-2014); Analysis of the decisions issued by the Albanian Competition Authority (2012, 2013, 2014) <http://www.caa.gov.al/decisions/list/page/1>.

National Registration Center, Search for Subject (2012-2014), http://www.qkr.gov.al/nrc/Kerko_Per_Subjekt.aspx.



Prices and Value of Private Security Services

As a rule, the costs of services are based on the costs of the gross salary of one guard multiplied by the number of guards. Administrative and other costs are also added but the salary of the guards constitutes the bulk of the costs. Public sector and private sector clients alike tend to hire PSCs offering the lowest price rather than those offering better quality services. For example the price offered by banks for one guard has more than halved over the last ten years.¹⁰⁴ In a crowded market, companies feel that they have to offer low prices in order to secure contracts.¹⁰⁵ In the long run, only bigger companies will benefit from this trend because smaller companies will be unable to afford consistently offering services for such a small profit margin.

In order to survive, some PSCs seem to adopt semi-legal or illegal methods to save money. The cross-examination of financial and employment data show discrepancies in the revenue certain companies received from public procurements, the revenues they declared, and the number of employees they have. For instance, as can be observed from Table 6, below, although PSC-10 has 120 employees, which is more than the 112 employees of PSC-12, PSC-10 has declared seven to ten times less revenue than the PSC-12 over the period analysed. Such discrepancies are evident to various extents with other PSCs even though they seem to offer the same kind of services and charge similar prices. This suggests that some PSCs rely on gaps in the system and the ineffectiveness of the tax and revenues institutions to avoid taxes.

Table 6: Declared revenues of the PSCs for the years 2012 and 2013 and number of employees.

	PSC	Declared revenues in 2012 (EUR)	Declared revenues in 2013 (EUR)	Number of guards in 2014	Number of guarded objects in 2014
1.	PSC-01	1.6 million	2.7 million	218	61
2.	PSC-02	-	-	164	92
3.	PSC-03	1.5 million	1.8 million	164	68
4.	PSC-04	646 thousand	918 thousand	159	38
5.	PSC-05	116 thousand	-	157	81
6.	PSC-06	222 thousand	277 thousand	156	76
7.	PSC-07	320 thousand	295 thousand	154	38
8.	PSC-08	1.1 million	785 thousand	131	61
9.	PSC-09	146 thousand	211 thousand	158	9
10.	PSC-10	175 thousand	133 thousand	120	42
11.	PSC-11	-	-	121	10
12.	PSC-12	1.3 million	1.3 million	112	32
13.	PSC-13	2.4 million	2.3 million	107	30
14.	PSC-14	88 thousand	513 thousand	111	16

Source: NRC (2012-2014); ASP (2014).¹⁰⁶

¹⁰⁴ Bank-02, personal communication, 20 November 2014.

¹⁰⁵ See section on 'Public Procurement', above, p. 20, for the dynamics of this underbidding between competing companies in which state bodies through their public procurement practices have become complicit.

¹⁰⁶ Albanian State Police, official communication, mail, 4 August 2014.



Working Conditions of Staff

The decrease in prices for private security services also had a negative impact on the working conditions of PSC staff. As described above,¹⁰⁷ in their efforts to reduce prices in order to attract customers, PSCs try to minimise labour costs.

The salaries of PSC staff in Albania are rather low and close to, or hardly above, the mandated minimum salary (ALL 22,000 or EUR 157).¹⁰⁸ The cost of labour is generally low in Albania, a country which also has a high unemployment rate.¹⁰⁹ Salaries in similar service sectors in Albania are often not much better, which means that jobs in private security are neither more nor less attractive than work in other sectors.

Because of the generally dire economic situation, PSC employees are particularly vulnerable to abusive practices by their employers. The Albanian Labour Inspectorate has noted practices such as unpaid overtime, no differentiated payment for work over the weekends, nightshifts or during holidays as well as unpaid social security contributions.¹¹⁰ Employees tend to tolerate these practices, because they are afraid of losing their job in a crowded labour market where jobs, especially for lower-skilled people, are difficult to obtain.¹¹¹

To ensure fairer remuneration for the PSC employees and to improve the quality of private security services the Law on Physical Security Service obliges PSCs to pay their employees at least 50 percent on top of the mandated minimum salary.¹¹² However, the implementation of this clause has been slow and at the time of writing (mid-2015), the relevant bylaws have not yet been issued by the Minister of Finances.

Self-Organisation of Employers and Employees

Self-organisation of PSCs is rather poor and in very early stages. This is mainly due to the legal framework and political influence. In an attempt to prevent the politicisation of PSCs (which the government, led by the Democratic Party of Albania at the time, saw as closely linked to the former communist establishment), the 1995 amendments to the Law banned the establishment of any associations of PSCs.^{113, 114}

In 2004, a PSC owner established an association of PSCs, the National Union of Security Companies (NUSC). However, the NUSC failed to attract many companies, as many doubted the motives of the founder and suspected that the NUSC was mainly an attempt to gather support against a competitor. This competitor then reacted by establishing another associ-

National Registration Center, Search for Subject (2012-2014), http://www.qkr.gov.al/nrc/Kerko_Per_Subjekt.aspx.

107 See Section 'Prices and Value of Private Security Services', above, p. 22.

108 This is an outcome of the conducted one-to-one interviews with private security employees.

109 Salaries have already also been decline in Albania as a result of the devaluation of the currency over the past years.

110 Albanian Labour Inspectorate, official communication, mail, 23 July 2014.

111 Note: Unemployment rate in Albania for the 2007-2014 according to the Albanian Institute of Statistics (INSTAT). For the 15-29 age group, the unemployment rate has increased from 22.8% in 2007 to 35.6% in 2014, while for the 30-64 age group, it has risen from 10.7% in 2007 to 14% in 2014. <http://www.instat.gov.al/en/themes/labour-market.aspx>.

112 Law on Physical Security Service (2014), Art. 18.

113 Law nr. 7985, date 13.9.1995, 'On Some Changes and Modifications to the Law nr. 7696, date 7.4.1993 On the Service of Civilian Guards', Art. 1.

114 Dyrmishi, A. et al (2011). Context analysis & chronology of security sector reform in Albania 1991-2009. Institute for Democracy and Mediation, Tirana, Albania. The sector still ended up being politicised because of corruptive practices in the procedure for awarding licences. See Section 'Political Influence', above, p. 18.



ation: the Albanian Association of Protection and Physical Security.¹¹⁵ Today, the NUSC is still functioning even though it has not managed to expand its membership beyond seven or eight members.¹¹⁶ The NUSC is also a member of Business Albania, which is a larger national business association.¹¹⁷ Meanwhile, no information could be found on recent activities of the Albanian Association of Protection and Physical Security.

Following the adoption of the Law in 2014, there have been renewed attempts to overcome divisions among the companies and to improve the organisation within the sector. In February 2015 the Union Security Albania (ASU) was established as an umbrella association with over sixty PSCs.¹¹⁸

The ASU is registered as a non-profit organisation and has statutes and internal regulations.¹¹⁹ The ASU's main objectives include the protection of professional, intellectual, ethical, social and material interests of its members; the development of professional skills and ethics; combating misbehaviour; the enabling of scientific research and publications on private security and better information of the society on the matter.¹²⁰ The ASU also aims to adopt a code of conduct but so far its efforts have been focused on the internal consolidation of the organisation and on the adoption of the bylaws needed to implement the recently adopted legislation (on PSCs, on weapons, on the use of weapons).¹²¹

The organisation of the sector's employees is also underdeveloped. Currently there is a Union of Security Employees, a member of the Trade Unions Federation of Police Services of Albania,¹²² but its role is rather symbolic as no collective agreement has been signed with any employer.¹²³

Control and Oversight

The institutions that have control functions are the Ministry of Interior, the Ministry of Finances and the Ministry of Labour. The competences of these institutions include both ex ante powers, empowering the ministers to adopt rules and regulations (see Table 7), as well as ex post powers focusing on implementation and compliance.

115 PSC-03, personal communication, 23 December 2014.

116 Other-02, personal communication, 20 October 2015.

117 Business Albania Home Page, www.biznesalbania.org.al.

118 Gazeta Telegraf. "Themelohet Union i Shoqerive te Ruajtjes se Sigurise", [The Union of the Physical Security Companies has been established]. 19 March 2015. Available at: <http://telegraf.al/aktualitet/themelohet-unioni-i-shoqerive-te-ruajtjes-fizike-te-shqiperise>.

119 Chairman of the ASU managing board, official communication, e-mail, 10 April 2015.

120 ASU press communiqué, sent by email, 27 March 2015.

121 Chairman of the ASU managing board, personal communication, mail, 6 April 2015.

122 Trade Union Federation of Police Services of Albania, Home Page <http://kssh.org/en/federatat/federata-e-sindikatave-te-sherbimit-poligor/>.

123 Other-03, personal communication, 6 May 2015.

**Table 7. Competences of the Minister of Interior to issue rules and regulations**

In accordance with the Law 'On Private Physical Security Service'	In accordance with the Law 'On Weapons'
Issues regulations on licensing and vetting	Issues regulations on experimental shooting
Issues regulations on composition, competences and rules of procedure of the complaints commission established in the General Directorate of the ASP	Issues regulations on the theoretical and practical education and training on weapons
Issues regulations on the control competences of General Directorate of Police and the District Police	Issues guidance on medical abilities of those using weapons
Issues regulations on the uniforms and symbols of the PSCs	Issues regulations on the commissions for issuing licenses and authorizations
Issues regulations on training programmes and their duration	Issues guidance on tariffs (jointly with the Minister of Finances)
Issues regulations on the equipment to be used by the PSCs	
Issues regulations on the competences and responsibilities for administering sanctions	
Issues regulation on tariffs (jointly with the Ministry of Finances)	

Source: Law no. 75, date 10.07.2014, 'On Private Physical Security Service'; Law no. 74, date 10.07.2014, "On Weapons".

There is little information on the implementation of the normative acts issued by the ministers. No publicly available reports exist on the ministerial oversight of the performance of the ASP in performing its control competences; however the ASP does include a section on the PSCs in the annual report to the minister.¹²⁴

The Albanian Parliament has contributed to oversight over private security through the adoption of the legislation but has never organised specific hearings on issues related to the private security sector. Moreover the Albanian Parliament does not seem to fully understand the deeper issues surrounding the private security sector. Despite the range of issues discussed in this study, the debate in the Parliamentary Committee on National Security and in the Parliament's plenary session that touched on issues related to private security were largely centred on the liberalisation of the private training centres and the improvement of the employees' salaries.^{125, 126}

The oversight by independent state bodies is rather limited given that their mandates focus mainly on government agencies. The only independent institution that has oversight competences over PSCs is the Information and Data Protection Commissioner (IDPC).¹²⁷ Under

124 POL-01, personal communication, 13 January 2015.

125 Parliamentary Committee on National Security, "Minutes of the Meeting of 08.07.2014", Parliamentary Document, pp. 29-41, http://www.parlament.al/web/pub/komisioni_i_sigurise_date_08_07_0214_18382_1.pdf.

126 Parliament of the Republic of Albania, "Minutes of the Meeting of 10.07.2014", Parliamentary Document, 8th Legislature, pg 39-41, http://www.parlament.al/web/pub/proc_10_07_2014_18272_1.pdf.

127 Dyrmishi, A., B. Kuçi, E. Gjokutaj, (2011). An assessment of the role of the independent oversight bodies in Security Sector Reform in Albania. Institute for Democracy and Mediation. Albania.



the Law on Personal Data Protection, the PSCs must inform the IDPC office of their compliance with the processing, retention and transfer of personal data.¹²⁸ Given the extensive use of video surveillance, the PSCs have access to personal data, which creates a high risk of misuse. However, IDPC reports do not provide any evidence on the degree of compliance and potential abuse of the PSCs regarding personal data.^{129, 130}

Reflecting the lack of overall policy debate and attention to the private security sector, media reporting has also been scarce and patchy. PSCs have come to the attention of the media (and hence the public) only in cases of incidents, without any further investigation on the underlying issues and problems concerning the sector.

Conclusion and Recommendations

This study analysed the private security sector in Albania. Due to a lack of earlier research, the study is based mainly on primary data such as legislation and regulations, government data on labour and revenues, and websites of government agencies and PSCs. However, poor record-keeping in the sector and a certain reluctance of government agencies to share information, have made the analysis of data more challenging. Therefore, the study relies considerably on qualitative analysis of information acquired through interviews and email and telephone communication with PSC managers and employees. The PSCs have been more cooperative and open and have shown an interest to promote research of this sector.

The private security market has developed considerably in terms of size and possibly provides an important contribution to crime prevention and public safety in the country. The regulatory framework has developed concurrently with the sector. To a certain extent it has reflected market trends but it has also largely contributed to shaping the sector by restricting companies' size and the services they could offer. Other than by the legislation, the sector has been considerably affected by widespread corruptive practices in the processes of licensing and public procurement which in turn have undermined professionalism and incentivised self-organisation of the sector. The authors therefore make the following recommendations:

- In spite of the improvements made by the adoption of the new Law in 2014, there is a need for a **more comprehensive policy approach** and concerted action involving all stakeholders, in order to define a clear policy on the future of this sector. This policy should be based on the challenges and opportunities that stem from the privatisation of security and on **international standards and good practices**.
- The **institutions and agencies empowered with controlling competences need to improve their capacities** and ensure better interaction and cooperation in order to achieve a clear picture of the private security industry, which in turn will serve as a basis to adopt a more streamlined policy and strengthen the governance of the sector.

128 Law nr. 9887 date 10/03/2008, "On protection of personal data", amended by Law Nr. 48/2012 and Law nr.120/2014.

129 Commissioner for Freedom of Information and Protection of Personal Data (2013). Yearly Report. http://www.idp.al/images/autoriteti/Raporte_Vjetore/raporti_vjetor_2013.pdf.

130 Commissioner for Freedom of Information and Protection of Personal Data (2014). Yearly Report. http://www.idp.al/images/autoriteti/Raporte_Vjetore/RAPORTI_VJETOR_2014.pdf.



- The overseeing institutions, such as the ministries and independent institutions must pay greater attention to the **implementation of the legal framework**.
- The **parliament has to play a greater role** by including reports on the sector's governance and contributions to security in the agenda of the executive branch.
- The **PSCs must support newly established business associations which in turn should work to promote good governance of the sector**, resistance to corruption and further professionalism by fully complying with and respecting the labour rights of their employees.
- **The ASU should work to draft a code of conduct** to be adopted by the assembly of the association to outline its commitment to the respect of human and labour rights and strive for higher service and professional standards. In addition, the ASU should work on the **strengthening of the PSCs' role in the policy formulation process**.
- In order to provide for a balanced social partnership within the sector, it is necessary to promote the **strengthening of the union of employees in associations**. The ASU and the Albanian trade unions should contribute to this process.



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Bulgaria

Rositsa Dzhekova and Atanas Rusev

Introduction

This chapter presents the main findings of a mapping study and legal framework analysis of the private security sector in Bulgaria. It reviews the sector's underlying legal, social, economic and political drivers and challenges.

The development of the Bulgarian private security sector in the period from 1990 to 2004 was marked by corruption and organised crime, and a limited capacity and will of state authorities to regulate and control them. There have been significant improvements in this respect since 2004, in particular the introduction of a specific law which regulated the activities of private security companies (PSCs). PSCs are no longer broadly considered to be linked to organised crime or involved in racketeering. However, the sector still suffers from problems, which are often the result of the broader security and economic challenges in the country.

The Law on Private Guarding Activity (2004) was an important step but it was never followed up on by a clear and comprehensive national policy or strategy for the future development of the sector. The industry itself has been pushing for more transparency and better regulation, attempting to shed its bad reputation and secure better business conditions, but it lacks effective self-regulatory mechanisms.

Numerous problems remain such as corruption, poor control and enforcement of rules, as well as a large grey sector. Public procurement regulations impede fair competition in the private security market. Legislation on conflict of interest, in particular when it comes to government officials' involvement in private security, does exist but is not enforced. The sector is one of the biggest employers in the country and at the same time has/generates one of the largest informal sectors in the national economy. All these issues require better coordination among regulatory authorities and the provision of adequate resources for control and oversight.



Methodology

The study is based on desktop research and a review of a range of secondary sources and public records, as well as in-depth interviews with relevant stakeholders. Overall, five interviews were conducted with well-placed sources at the Ministry of Interior (Mol), all in senior leadership positions at different key departments. Further interviews were conducted with senior managers and/or owners of PSCs and with independent security experts.

Table 1: Respondents interviewed within the mapping study

Occupation of the interviewee	Coding
Senior inspector, General Directorate National Police, Sector "Control of Hazardous Devices", Mol	POL-1
Senior inspector, General Directorate Security Police, Sector "Control of the Private Security Sector", Mol	POL-2
Senior officer, Directorate „Public Order and Traffic Control“	POL-3
Senior inspector, Directorate "Internal Security", Mol	POL-4
Former senior manager, General Directorate "Criminal Police", Mol	POL-5
Director Security, large insurance company with foreign ownership	PSC-1
General manager, mid-size PSC based in Sofia, over 300 employees	PSC-2
General manager / owner of a top-three PSC operating nationally (over 1,200 employees)	PSC-3
General manager, leading PSC with more than 2,000 employees	PSC-4
Independent expert and researcher on crime, organised crime, law enforcement and corruption	EXP-1

Historical Background

Already in the 1970s, several types of guarding services were being provided in Bulgaria. They were defined in the legal framework of the socialist state as the people's guarding militia (police) and departmental (in-house) guarding units at production facilities and other organisations. In addition, mayors were allowed to appoint field guards to secure agricultural production. In the early 1990s these state-controlled guarding services were abolished. The emergence of private security should be seen in the context of the broader processes of dissolution and reorganisation of the entire state apparatus and the transition from state to private property.

The private security sector in Bulgaria has gone through a series of transformations since its emergence after the fall of communism. In his analysis of PSCs between 1990 and 2006, Gounev¹ recognises three main periods in the development of the industry.

During the first phase between 1990 and 1994, practically no regulation of PSCs existed. The first companies had emerged after broad downsizing of the state's security structure² and the army staff.³ Therefore, unlike in other post-socialist states, the state's previous mo-

1 Gounev, P. (2006). "Bulgaria's Private Security Industry". In: Bryden, A. and M. Caparini, (eds.). *Private Actors and Security Governance*. Geneva: LIT & DCAF, pp. 109-128.

2 CSD (2004). *Partners in Crime: The Risk of Symbiosis between the Security Sector and Organised Crime in Southeast Europe*. Sofia: CSD.

3 Gounev, P. (2006). "Bulgaria's Private Security Industry". In: Bryden, A. and M. Caparini, (eds.). *Private Actors and Security Governance*. Geneva:



nopoly in the security sector was severely weakened during the early nineties, leading to highly inefficient and weak control over the growing levels of crime. In the first years of the transition, many state enterprises which previously had in-house security units were closed down, while other state-owned companies faced severe financial constraints and could not afford to continue using the guard services of the police. The newly established private security companies quickly filled this vacuum, by offering prices two-to-three times lower than the police. Private security services at that time, however, were characterised by a number of problems in terms of quality and control.

At the same time, the justice system was also incapacitated. Coupled with rising crime rates, the state's inability to provide security for individuals and fledgling businesses resulted in a strong demand for private security services. The generally difficult economic situation meant that professional athletes also had bleak employment prospects. Networks of criminalised athletes were involved in protection racketeering and forceful debt collection along with other illegal activities like drug smuggling and car theft. Through their criminal actions they reinforced the demand for their own protection services. Due to the high visibility of criminal groups the state made its first attempt to control their activities by passing Ordinance №14 for the Issuance of Permits for Guarding of Sites and Private Individuals by Physical and Legal Persons in 1994⁴. The new Law stipulated that PSCs which employ or are founded by persons that are under investigation, have criminal records or have not paid taxes cannot receive licences. Since that was true of almost all PSCs, many were closed down.⁵

The Law, however, had an unexpected negative consequence that started what became the second stage of the transformation of PSCs, which lasted until 1997. Many of the PSCs which could not receive a licence for security were transformed into insurance companies. Under the new guise the same practices continued and forced insurance replaced forced protection. The two biggest rival insurance companies, VIS-2 and SIC (which also acted as fronts for criminal organisations) had nationwide coverage.

The third period, from 1998 to 2006, is characterised by the government's more active attempts to counteract the criminal insurance companies. This came at a time when the economy showed signs of stabilisation and the national regulatory framework as a whole was strengthened. In 1998 an amendment to the Law on Insurance demanded the re-registration of insurance companies with higher capital and also practically prohibited them from carrying out private security activities and from being affiliated in any way with PSCs. Extensive inspections of PSCs and sites with armed and unarmed guards were carried out which uncovered numerous violations. Despite these efforts, however, racketeering remained relatively widespread until more strict regulation was imposed in 2000 and 2004.

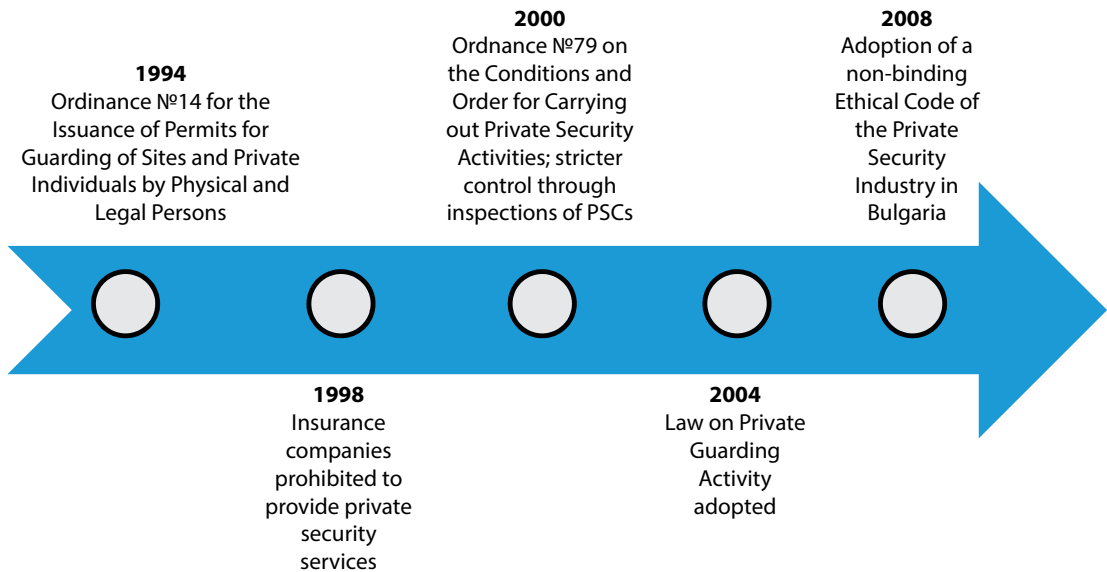
LIT & DCAF, pp. 109-128.

4 Promulgated in State Gazette, no. 28 from 1994.

5 Gounev, P. (2006). Bulgaria's Private Security Industry. In: Bryden, A. and M. Caparini, (eds.). *Private Actors and Security Governance*. Geneva: LIT & DCAF, pp. 109-128.



Figure 1: Timeline of key regulatory developments concerning the private security sector in Bulgaria



Legal and Regulatory Framework

The most important legislative initiative regulating the private security sector came in 2004, in the form of the Law on Private Guarding Activity⁶ which was meant to introduce best practices from Western countries. The Law defined private security and set out the five types of security activities allowed to be provided, established an obligatory basic training course for PSC employees and reduced administrative procedures on renewing licences, thus freeing police capacity to focus on control. The control over PSCs was mandated entirely to the police and the Ministry of the Interior (MoI), where a specialised Directorate for “Control of the Private Security Activity” was established. A significant change of the Law on Private Guarding Activity occurred in 2011, which allowed PSCs registered in the European Union (EU), the European Economic Area or Switzerland to operate on equal footing with Bulgarian companies after it has been determined that local conditions are met.

The Law covers most relevant guarding activities but is not always coherent, comprehensive and exact. Definitions are insufficiently detailed and formulations are not always clear. There is also no specific document or bylaw setting out the procedure for the implementation of the Law. Weaknesses can also be found in: the lack of implementation of an effective control of activities, lack of exact regulations of the relations with contractors and third parties, as well as the lack of cooperation among the Ministry of Interior (MoI) and its structures and other public bodies.

⁶ Law on Private Guarding Activity (2004), last amended in State Gazette no. 53, 27 June 2014. Hereafter: Law on Private Guarding Activity (2004).



The Law only sets out rules, requirements and technical standards for the guarding of valuable consignments and cargo (subject to regulation by a separate ordinance from the Mol⁷) but not the four other areas of PSC activities.⁸ The Law does not foresee stricter requirements for guarding critical infrastructures such as ports or nuclear power plants. Similarly, the Law also does not regulate procedures for checking if a PSC that applies for a licence for technical alarm systems has the necessary equipment and capacity.

Box 1: Licensing

There is a licensing system in place for all types of private security activities granted to traders or legal persons registered under the Bulgarian Commercial Law or under the legislation of another member of the EU, the EEA or Switzerland.⁹ Licences are issued by the Mol through the Director of the Directorate General “Security police”¹⁰ and are not limited in time¹¹.

To be certified, a company has to prove that it is registered under the Commercial Law, has no liabilities and has paid a fee.¹² In addition, individuals registered as sole entrepreneurs, managers or members of the management body, as well as the unlimited liability partner in a limited or general partnership, have to prove that they have a clear criminal record, absence of instituted penal proceedings for deliberate crimes of a general nature, and that they do not suffer from any psychological illness.

The Single Automated Centralised Register for the licences of PSCs envisioned in the Law on Private Guarding Activity is still not established.

Several other national regulations indirectly affect PSCs, including, among others, the Law for Public Procurement¹³ and the regulatory regime on the use of weapons. Further developments in the area have been made following the requirements and regulations of the European Union in connection with Bulgaria’s accession to the EU in 2007, as well as international obligations and commitments.

7 See Ordinance № I-121/24.06.2004 of the Ministry of the Interior on the organisation of the security for transportation of valuable packages and cargos.

8 The Law defines the following areas of PSC activities: guarding persons, guarding property, guarding during events, guarding valuable consignments and cargo and self-protection (Law on Private Guarding Activity (2004), Art. 5, par. 1). These activities may also be carried out through technical security systems and auxiliary devices (ibid., Art. 5, par. 2).

9 Law on Private Guarding Activity (2004), Art. 13, par. 1 and 2.

10 Ibid., Art. 14.

11 Ibid., Art. 18, par. 1.

12 Ibid., Art. 15.

13 Last amended in State Gazette no. 17, 6 March 2015.



Box 2: Use of force and weapons

The Law on Private Guarding Activity stipulates that security activities can be carried out by unarmed or armed guards.¹⁴ They can use auxiliary devices, but are limited to handcuffs, rubber and plastic truncheons. No further devices are allowed.¹⁵ The Law says that guards are entitled to use physical force and auxiliary devices only under specific circumstances¹⁶, but does not define in which cases the weaponry could be used. Reference could therefore be made to the Bulgarian Criminal Code which says that it is only acceptable in general cases of inevitable self-defence.¹⁷

The registration procedure for weapons carried by private security guards is equal to that of regular citizens and is regulated by the Law on Weapons, Ammunitions, Explosive Substances and Pyrotechnics¹⁸ and the respective bylaws of Law on Private Guarding Activity¹⁹. Private security guards have to apply for a permit to the Ministry of the Interior. PSCs have to apply for an additional permit for the carry and use of firearms by their employees²⁰.

Bulgaria is party to the main international treaties with regards to the protection of human rights and their provisions are incorporated into the Constitution. In the legislation related to private security activities the main principles for the protection of human rights are also taken into account.²¹ As a member of the EU, the country has to comply with European legislation and to integrate mandatory provisions into national legislation. Bulgaria joined the Montreux Document in 2013, and is participating in the activities of the Human Rights Council of the UN.

Market Challenges

This section provides an overview of the private security market in Bulgaria, the types and quality of services provided and the factors driving the demand for private security. It will also look at the main obstacles hindering fair competition and problems with public procurement of private security services.

14 Law on Private Guarding Activity (2004), Art. 12.

15 Ibid., Art. 34.

16 These circumstances are defined in Article 34 of the Law on Private Guarding Activity (2004) as including situations "(1) [...] where it is impossible to fulfil their official duties in any other way, taking into account the concrete situation, the nature of the violation of the public peace and the personality of the offender;" and "(2) [...] after an obligatory warning, with exception of the cases of sudden attack. (3) In using physical force and auxiliary devices the guards shall be obliged to protect the life and the health of the persons against whom they are directed. (4) The using of physical force and auxiliary devices shall be stopped immediately after the achievement of the objective of the applied measure."

17 Criminal Code, Chapter II, Art. 12, par. 1 (referring to self-defence). Last amended State Gazette 107, 24 December 2014.

18 Law on Weapons, Ammunitions, Explosive Substances and Pyrotechnics, last amended State Gazette 56, 24 July 2015. Art. 50-60.

19 Law on Private Guarding Activity (2004), Art. 12, par. 2.

20 By doing so PCSs are required to state the aim for the use of firearms, provide identification of the employees, labour contracts with their employees, and personal permits of each employee. An additional permit for firearms storage is also required (Law on Weapons, Ammunitions, Explosive Substances and Pyrotechnics, Art. 79). The PSC is not allowed to provide firearms to guards unless the guards have their own permit. Law on Private Guarding Activity (2004), Art. 21, para 1.

21 Law on Private Guarding Activity (2004), Art. 3, par. 1.



Overview of the Market

The market for private security services in Bulgaria, like in other EU Member States, is hard to define in terms of size and scope. This is mainly due to the lack of a clearly defined economic activity classification that captures security-related products and services. Mol sources stressed that the lack of an electronic register of PSCs is a major obstacle, although such a register is envisioned in the Law on Private Guarding Activity.

Quantifying the market and the key economic actors is further complicated by the fact that once a licence is granted by the Mol, it has no expiry date (unless revoked or returned). As such, it is difficult to know how many of the licensed PSCs are indeed operational. Some of the companies also perform other types of economic activities, and having a licence does not automatically mean that they are engaged in private security. According to official information from the Mol, the number of licences granted to PSCs, as of April 2014, amounted to 2,688, out of which 85 were annulled, returned or revoked.²² This leaves 2,603 firms with active licences.²³

There are two main types of services envisaged by the Law on Private Guarding Activity: private guarding activity and self-guarding (in-house security) of the premises of private entities or corporate bodies. The official list of licences granted by the Mol, as of April 2014, shows that out of the 2,603 licensed firms, 672 firms are not commercial traders in private security services, licensed only for self-guarding and hence these are not private security services providers, per se, but are a variety of companies and public bodies that have a self-guarding unit. Mol representatives alluded that there are plans to take the self-protection activity out of the Law on Private Guarding Activity and to regulate it within the Law on Private Property.²⁴

The private guarding activities (not applicable to self-guarding units) are defined in Figure 2. The legal definitions of private security activities do not refer specifically to other related types of activities, such as mobile patrols and response teams, monitoring call-centres responding to signals of security breaches, the engineering and installation of technical security systems, etc.

Figure 3 and Figure 4 below provide an overview of the percentage of firms licensed to perform each of the security activities and services as outlined by the LPGA.

²² Interview, (POL-1, POL-2).

²³ According to POL-3, there are around 300 active firms that have sustainable private security business. The rest have a licence, but have developed their activities in another domain or are inactive. Out of those active PSCs, around 20-30 are the larger players that hold the greater share of the market. Industry sources also provided their own estimates of the actual number of active companies and the types of market players. According to them the functioning companies are around 800 at best (Interview, PSC-2). Around 120 of those PSCs secure a large number of premises and deliver higher quality services. There is a final number of 50 PSCs which develop significant business activity and are well-known for their quality of service.

²⁴ Interview, (POL-1, POL-2).



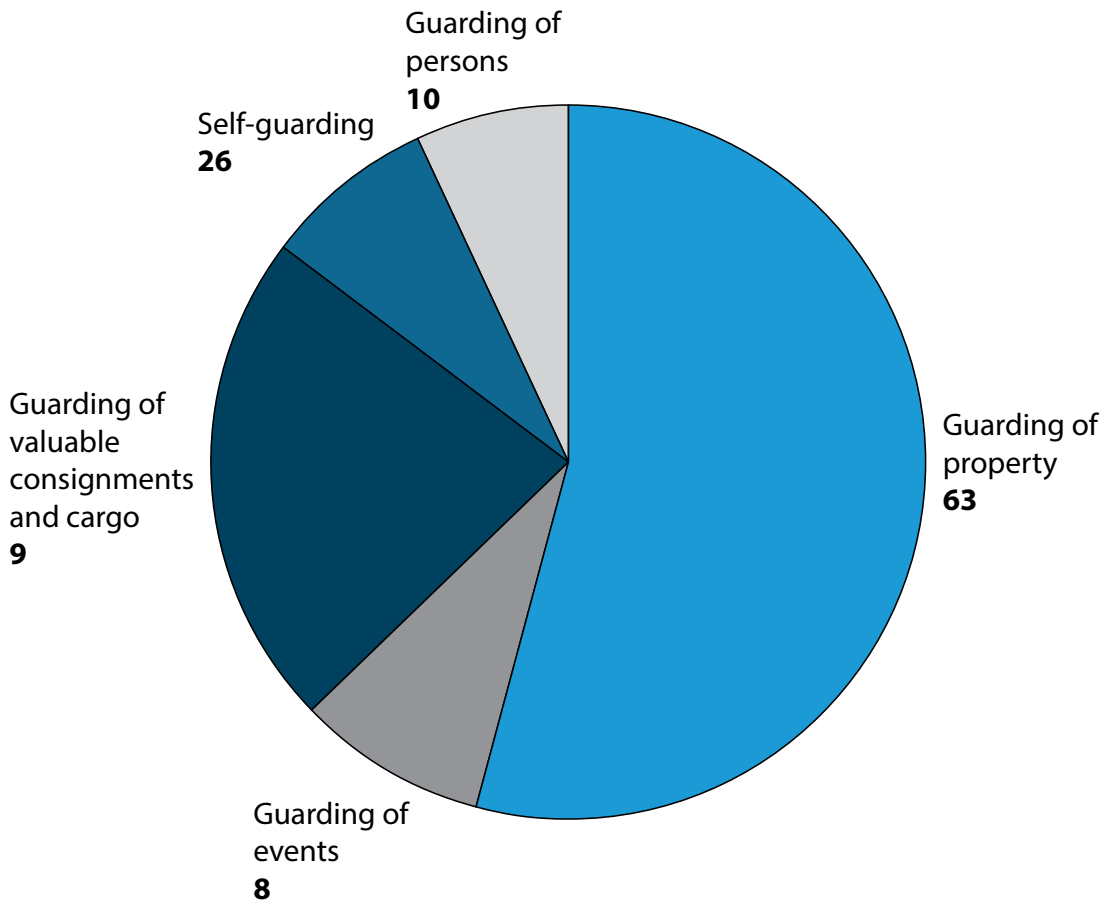
Figure 2: Types of private security activities defined in the Law on Private Guarding Activity²⁵

Guarding of persons	<ul style="list-style-type: none">• related to the protection of bodily inviolability of individuals against illegal encroachment, as well as its prevention and repression
Guarding of property	<ul style="list-style-type: none">• concerning the physical protection against illegal encroachment onto property, which may also include introduction of an admission regime on-site
Guarding events	<ul style="list-style-type: none">• actions directed at providing for the undisturbed and unimpeded holding of mass events or activities of a short-term nature
Guarding of valuable consignments and cargo	<ul style="list-style-type: none">• activities protecting money, securities, precious metals, works of art and other valuables whose transportation is necessarily carried out under armed guard, with specially equipped transport vehicles, reliable connections and other technical and auxiliary protection devices
Guarding with technical security systems	<ul style="list-style-type: none">• surveillance and control of guarded sites through the use of technical devices and systems, and following up on obtained results

²⁵ Law on Private Guarding Activity (2004), Art. 6-10.



Figure 3: PSCs licenced for each category of security services allowed by the Law, as a percentage of all licenced firms (2014)

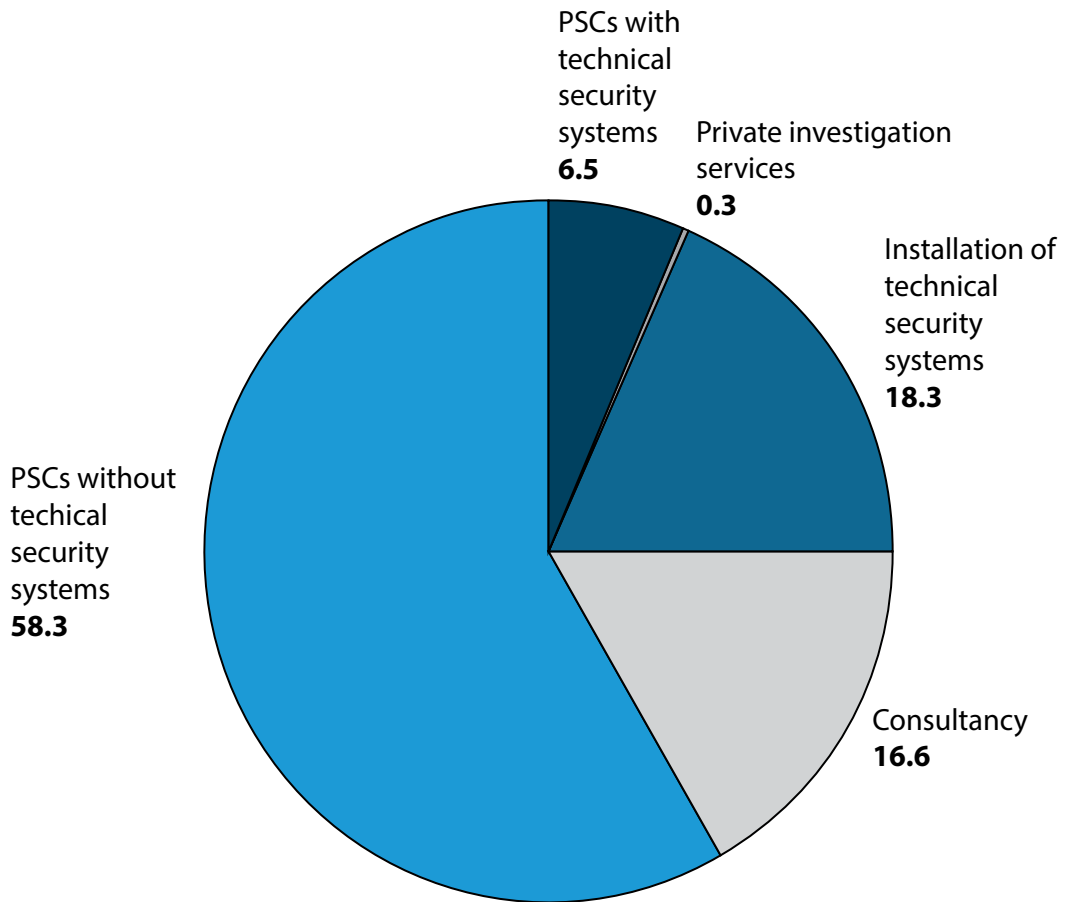


Source: Author's calculations based on Mol list of licenced firms (2014). Note: some firms are licenced for more than one type of activity.

There is a discrepancy between those activities defined by the Law and the national classification of economic activities, where the activities performed by PSCs fall within several categories, provided in Figure 4. A 2012 study by the Bulgarian Chamber of Commerce used these categories of economic activities to estimate the number of firms in the sector for 2011 at 4,514.



Figure 4: Distribution of private security companies in percent as per the type of economic activities performed (2011)



Source:

Bulgarian Industrial Association (2012) Sector analysis of the competences of the labour force in the sector "guarding and investigative activities", p. 3.

Base: 4,514 PSCs, whose activities fall within the scope of the private security sector, according to the national classifications of economic activities.

According to the well-informed owner of a top-3 PSC, around 25 percent of the sales turnover is generated from technical security systems (these include CCTV, intruder, burglar and fire alarms, etc.), another 30 percent come from guarding valuable consignments and cargo and the rest is generated by physical security.²⁶ Technical security services are provided mainly by the larger companies who can afford to invest in 24/7 monitoring call-centres, mobile response teams and vehicles.²⁷ As the data above shows, only 6.5 percent of the

²⁶ Interview, (PSC-3).

²⁷ According to security experts cited in the media, to be profitable, a company needs to have at least 1,000 customers / facilities under techni-



PCs are specialised in providing technical security systems.²⁸ There are some providers in the market who have only a few response cars but try to cover a large territory, indicative of the low quality of the service provided.²⁹

Market Turnover and Size of Companies

According to a study conducted in 2010 by the Open Society Institute Sofia, the average annual expenditure of firms for security is BGN 3,096 (approximately EUR 1,560).³⁰ Assuming that there are around 300,000 active VAT-registered firms in Bulgaria in the whole economy, this would mean that the market for PSCs amounts to roughly BGN 900 million (EUR 450 million). According to a study from the Confederation of European Security Services,³¹ the annual profit of the sector for 2010 was estimated at EUR 311 million.

More recent estimates of the sales turnover were provided by interviewed stakeholders. According to a MoI source,³² the actual size of the market is at least BGN 1 billion (EUR 500 million). Alternative estimates based on the data available to professional associations put the overall turnover of the market at BGN 1.6 billion (EUR 800 million).³³

On the basis of a sample of 340 companies extracted from the commercial registry,³⁴ there are at least five PSCs with an annual turnover exceeding EUR 10 million. Four of them provide the full range of security services allowed by law, while the fifth specialises in distribution and engineering of security systems. The largest player in the market is "SOT 161,"³⁵ which has a significantly larger number of employees compared to all other PSCs – more than 4,500 for 2014, according to corporate filings. The other top four companies employ between 1,000 and 2,000 people. The annual turnover of SOT 161 for 2013 was BGN 59.4 million (EUR 30.3 million), again almost twice as high as the next biggest PSC.

cal security in the same city, because otherwise the maintenance of response teams available around the clock cannot be justified (Mediapool. "Нашата полиция" е най-голямата "частна охранителна фирма" [Our Police is the Largest Private Security Company]. 5 April 2014. Available at: <http://www.mediapool.bg/nashata-politsiya-e-nai-golyamata-chastna-ohranitelna-firma-news191497.html>).

28 According to PSC-3, the initial investments as well as the ongoing costs for establishing and maintaining such an infrastructure (cars, response centre, mobile guards available around the clock, etc.) are substantial. For example, the operational costs for one response car are covered if the car services at least 250 customers in a given city / town.

29 Interview, (PSC-3).

30 NAFOTS (2013a). "Секторът на частните услуги за сигурност – къде сме ние?" [The Private Security Sector – Where Do We Stand?]. Presentation given at the National Consultation held on 1 November 2013, Borovets, Bulgaria. Available at: <https://prezi.com/splrskudu3e/copy-of/>.

31 Confederation of European Security Services (2011). Private Security Services in Europe. Facts and Figures 2011. Wemmel: CoESS.

32 Interview, (POL-3).

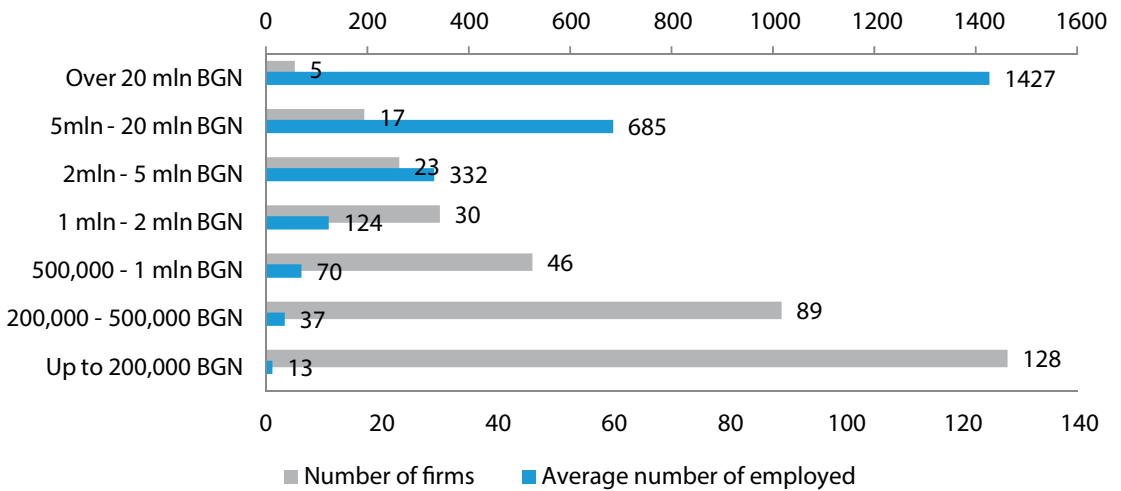
33 Interview, (PSC-3).

34 These are all firms that fulfil the following criteria: active firms with registered main activity "investigative and guarding activity," which have issued financial reports for 2013. It can be assumed that these are the most active companies on the market, which are operating largely in the official sector. This list, however, is far from exhaustive because some firms are registered under another industry heading although their business clear falls within the activities described in the Law on Private Guarding Activity (2004).

35 SOT stands for Signalno Oхранitelna Technika EOOD.



Figure 5: Number of firms and average number of employees as per annual turnover 2013 (a sample of 340 firms that issued financial reports for 2013)



Source: Author's calculations based on data from the BULSTAT commercial registry (Apis). Base: a sample of 340 firms

Factors Driving the Demand for Private Security

Most industry sources agreed that in Bulgaria the market for private security is saturated. When procurement awards are announced, there are at least 10-15 companies that participate in the bidding.³⁶

According to the World Bank Enterprise Survey 2013, around 75 percent of Bulgarian private enterprises pay for security, while 21.4 percent experience losses due to theft and vandalism. Overall, 8.3 percent of the firms interviewed identified crime, theft and disorder as a major concern.

Table 5: Demand and business costs for security services in Bulgaria

	In Bulgaria	In the region	Globally
Share of companies paying for security	75.7	53.7	56
Average security expenses of firms paying for security (percentage of sales)	0.9	1.5	1.7
Percent of companies experiencing losses due to theft and vandalism	21.4	11.2	22.2
Company losses due to damage, theft, vandalism or inflammation (as percentage of sales)	3.4	3.4	5.1
Percentage of companies defining crime, theft, and disorder as serious threat	8.3	9.3	22.1

Source: The World Bank (2013) Enterprise Surveys. Bulgaria (2013), <http://www.enterprisesurveys.org/data/exploreconomies/2013/bulgaria#crime>

Base: 293 firms surveyed

³⁶ Interview, (PSC-2).



The National Business Crime Survey conducted by the Centre for the Study of Democracy (CSD), Sofia, in 2010 shows that the number of Bulgarian firms using the services of PSCs has increased since 2005, which includes the hiring of guards but also a more widespread use of alarm systems. The number of companies employing in-house guards has also increased by ten percent. Nearly 60 percent of Bulgarian firms in 2010 used technical security systems provided by PSCs. The driving forces for these developments are mainly fear of crime, lack of trust in the police, the low price, as well as the large number of economic actors generally, who are operating in the grey sector.³⁷

Security experts agreed that the demand for private security services is mainly driven by the rising feeling of insecurity among citizens and firms along with the increasing or sustained high levels of crime over the past years. Around ten percent of private persons seek private security services (mainly technical security systems).³⁸

Industry sources agreed that the market has grown in the past years despite the economic downturn. At the same time, there is a trend of business consolidation – there have been several mergers of large PSCs, and leading players have increased their market share while the overall number of firms has decreased.³⁹ Different estimates of the size of the market show that the sector generates substantial sales turnover and employs a large number of people in the low-wage segment. Therefore, it deserves greater attention in terms of improving business conditions and labour code compliance, increasing the quality of services and ensuring fair competition.

Market Competition and Public Procurement

Interviewees mention a number of barriers to fair and open competition in the sector for private security services. None of the sources could confirm the existence of monopolies or “territorialities” in the market, although the closure of the MoI’s own private security unit, in 2013, led to some PSCs strengthening their market positions. Corrupt practices and irregularities in public procurement procedures are a common concern.

There are no specific procedures for the contracting of security activities and companies, who are appointed and contracted under general conditions for the provision of services. MoI sources pointed to the lack of clear rules on determining what kind of security (public or private) will be provided at different public sites, which is often based on ad-hoc political decisions. While it could certainly be argued that the security of critical infrastructure should be provided by the police, there are different practices for the premises of state institutions.⁴⁰ A more serious problem is the lack of specific regulations concerning guarding critical infrastructure.

³⁷ The assumption is that contracts in the grey sector cannot be enforced through the legal system and official law enforcement channels, therefore opening a market niche for private enforcers. Gounev, P. (2006). “Bulgaria’s Private Security Industry”. In: Bryden, A. and M. Caparini (eds.), *Private Actors and Security Governance*. Geneva: LIT & DCAF.

³⁸ Interview, (PSC-1).

³⁹ Bulgarian Industrial Association – BIA (2012). Секторен анализ на компетенциите на работната сила в сектор „Дейности по охрана и разследване“ [Sector Analysis of the Competences of the Labour Force in the Sector “Guarding and Investigative Activities”]. Sofia: BIA. ; MoI data on licenced firms.

⁴⁰ For example, the MoI is providing security services to the Ministry of Foreign Affairs, while the National Customs Agency uses private security services.



Further issues raised by PSCs and law enforcement alike relate to the lack of effective mechanisms to verify the technical and human capacities of PSCs applying for licences, or their compliance with labour regulations, which undermines the quality of services provided and results in undue market advantages for non-compliant firms.

The State as Competitor

The role of the Mol in the private security sector during the transition period and until recently has been twofold – as the main licensing, control and sanctioning authority; and until 2013, also as a competitor. Until 2013, the Mol had its own department for technical security services (SOD), with territorial units and specialised monitoring centres at regional police establishments. The SOD employed around 1,200 people, mainly engineers and technicians, as well as operators working in monitoring centres. According to official data from the General Directorate of “National Police,” in 2012, the SOD service of the Mol was covering up to 21 percent of all facilities secured.⁴¹ This shows that the Ministry of Interior was the largest and most powerful security services provider in Bulgaria.

In 2012, this started to change as SOT 161 EOOD was the largest private company in the sector with six percent market share, while the Mol’s SOD held nine percent. It came as no surprise that professional associations requested the SOD’s licence to be taken away due to unfair competition.⁴² They argued that a controlling and licensing authority cannot be a market participant at the same time; indeed, this is forbidden by European law.⁴³ In 2013 the Minister of Interior announced that the SOD unit of the Mol would be closed down.

In the course of the restructuring process within the Mol and the closing of its SOD unit many employees were made redundant. According to market sources, most of the SOD’s former staff were hired by SOT 161, the company that also took over the majority of sites previously guarded by the Mol.⁴⁴ Currently there are only two state-owned security companies that are active, but their role in the market is marginal.

The State as a Client

According to the security experts interviewed, the main customers of private security services continue to be public institutions. Over the past several years, there have been numerous reports in the media highlighting irregularities with public procurement and tender procedures in the private security sector. According to trade union representatives,⁴⁵ prices offered in public procurement procedures in the sector are quite low, which automatically affects the wages paid to employees. This is partly linked to practices of some of the larger PSCs which tend to win tenders using particular public procurement procedures. It is usu-

41 Trud. “MBP дава бизнес за 20 млн. лева на частни охранители” [The Mol is giving away its business for 20m BGN to private security providers]. 19 August 2013. Available at: <http://www.trud.bg/Article.asp?ArticleId=2247220>.

42 The Mol was de-facto a subcontractor of more than 700 private security companies in 2013, some of which have been incapable of providing incident response services and hired the police instead.

43 Trud. “MBP се оказа най-голямата охранителна фирма” [The Ministry of Interior Turned Out to Be the Biggest Security Company] 5 April 2012. Available at: <http://www.trud.bg/Article.asp?ArticleId=1314155>.

44 There are a few large market players that have established a sort of monopoly, especially in Sofia – SOT 161, for example, took over most of the former customers of the Mol after 2013, while Sektron is a technical security company that tried to take over all former Mol customers which had installed its equipment. The merger of two leading PSCs has also made them a powerful player (3S SOT and VIP Security).

45 Press interview with Anna Zaimova, Chairwoman of the National Trade Union of professional security officers and guards: Novatarealnost.bg. “Обществените поръчки унищожиха заплатите в охранителния бранш” [Public Procurement Destroyed the Salaries in the Security Sector]. 15 October 2012. Available at: <http://www.novatarealnost.bg/?p=544>.



ally the company with the lowest price that wins the tender, which comes at the expense of safety and security. This was confirmed by all interviewees from the Mol, as well as by security managers.⁴⁶

Industry sources point out that there is another way in which public institutions are contributing to irregularities in public procurement. Tender specifications often predispose companies to make violations, by imposing impossible requirements in public tenders.⁴⁷ For instance, according to the Labour Inspectorate, night-time security should be provided by at least 4.17 individual guards, whilst contractors look for no more than two guards per premise and intend to pay less than minimum wage salary for it.⁴⁸

Part of the problem is that public authorities have limited budgets and tend to opt for the cheapest offers.⁴⁹ Delayed payments for services contracted by public bodies are a widespread problem, usually by a period of at least three months.⁵⁰

Box 3: An example of a scheme for circumventing the Law on Public Procurement

In November 2014, two large state-owned companies (National Electricity Company EAD and the Mines Maritsa-East EAD) announced public tenders for security services in several lots due to the large number of premises and industrial complexes to be guarded. Combined, the tenders amounted to nearly EUR 50 million. However, because the previous security contracts were due to expire in December 2014, the duration of the new tender procedure was going to leave the companies without any security until the winner was selected and started working. As the premises in question are of national significance, leaving them without security was unacceptable.

Hence, the awarding bodies referred to Article 119v, Paragraph 3 of the Law for Public Procurement, which allows the contracting authority to invite a provider without a public tender in the case of force majeure, that is, when following the standard requirements would have negative consequences. Afterwards, two consortiums were invited to take over the security of the premises in question. Some of the firms in these consortiums were completely unknown in the industry and therefore it is questionable why they were invited. The source depicted the situation as a new large-scale semi-fraudulent scheme that aims to circumvent the legal requirements for open and fair competition. According to him, it was solely the contractor's fault that the procurement was announced only a month before the previous security contracts expired, hence the circumstances cannot be considered force majeure.

*Source: PSC-3; media reports.*⁵¹

46 Interview, (PSC-1, PSC-2, PSC-3).

47 Interview, (PSC-2, PCS-3).

48 Another example of a public body offering minimal remuneration for guards is that of the public company Water Supply and Sanitation EAD in the city of Haskovo that announced a public tender for security services in 2008, offering a monthly fee of BGN 200 (EUR 100) per guard, which was below the minimum wage at that time (BGN 240 or EUR 120). Press interview with Anna Zaimova, Chairwoman of the National Trade Union of professional security officers and guards: Novatarealnost.bg. "Обществените поръчки унищожиха заплатите в охранителния бранш" [Public Procurement Destroyed the Salaries in the Security Sector]. 15 October 2012. Available at: <http://www.novatarealnost.bg/?p=544>.

49 Interview, (PSC-2).

50 Zastrahovatel. "И часните охранители с недостойни доходи" [Private security guards are underpaid]. 04 January 2013. Available at: <http://www.zastrahovatel.com/statia.php?mysid=4849&t=4>.

51 OffNews.bg. "Нова мода: Държавни фирми създават "форсмажор", за да раздадат милиони на тъмно" [New Trend: State Companies



The illustrated examples indicate that the issues related to public procurement are one of the major factors impeding fair competition in the industry and lowering the quality of services. This is the result of a complex set of factors such as lack of specific provisions for procurement of security services, the proliferation of corrupt practices endemic to all public sectors, and the political affiliations of PSCs, among others. Improving regulation for guarding critical infrastructure deserves urgent attention from policy-makers.

Workforce and Social Challenges

This section reviews the workforce structure of the private security market and related social challenges, such as low salaries. The latter is linked to the low educational level required for guards, thus attracting mainly low-skilled workers (pensioners, students, etc.). Vetting procedures and training are insufficient for guaranteeing professionalism among guards. Grey practices, such as undeclared work and different labour law violations, are widespread. At the same time, the sector has a very important social function as it provides employment for former policemen or military personnel, or to members of their families.

Workforce Structure and Salaries

There is a lack of data on the exact number of people employed in the private security sector. On the one hand, this is due to the large informal sector⁵²; on the other hand, there is no single institution responsible for gathering data and maintaining an up-to-date database, hence different sources conflict.

According to the National Statistical Institute, the number of people employed in the sector was 77,611 in 2011, and 67,800 at the end of 2014, while sources from Mol, responsible for control and oversight of the sector, suggested that the actual number of employees is around 120,000-130,000. According to trade union representatives, the exact number of employees in the sector is unknown,⁵³ but is more likely close to 200,000. Some Mol sources⁵⁴ have also estimated that there are around 180,000 – 200,000 persons employed in the sector (including those working in in-house security units).

Fabricate "Force Majeure" Circumstances to Give Away Millions in the Dark]. 28 January 2015. Available at: <http://goo.gl/JIU6BL>.

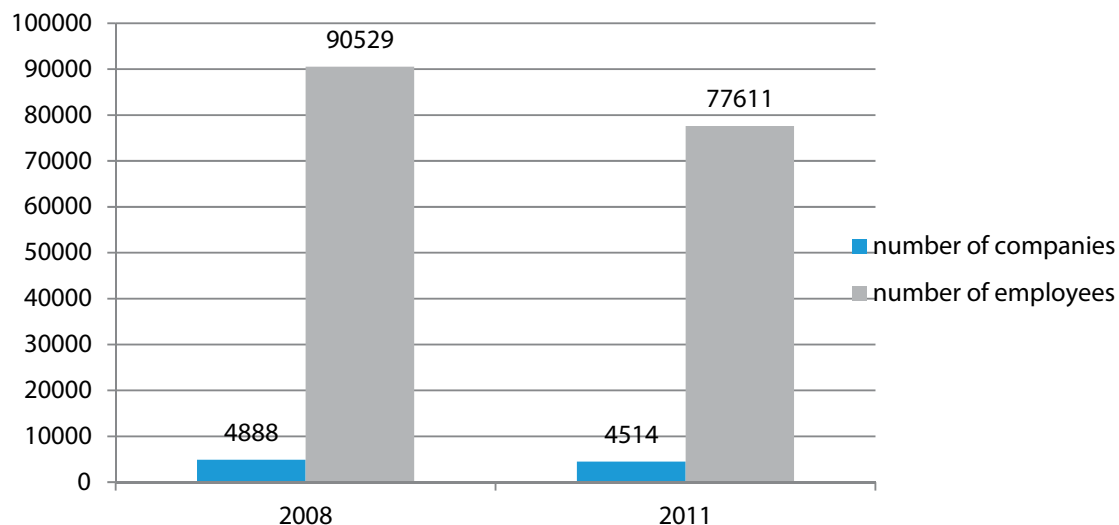
52 Non-registered or non-licensed firms, registered and licensed firms that hide turnover, the actual number of employees or actual salaries, cash-in-hand payments and other practices aimed at reducing tax and social security liability.

53 Novatarealnost.bg. "Обществените поръчки унищожиха заплатите в охранителния бранш" [Public procurement destroyed the salaries in the security sector]. 15 October 2012. Available at: <http://www.novatarealnost.bg/?p=544>.

54 Interview, (POL-3).



Figure 7: Number of firms and employees in the private security sector (2008-2014)



Source: Bulgarian Industrial Association (2012) Sector analysis of the competences of the labour force in the sector “guarding and investigative activities”, p. 34. . The data on number of companies is based on the national classifications of economic activities, not on the categories of activities defined by the LPGA. The number of employees is based on data from the National Statistical Institute.

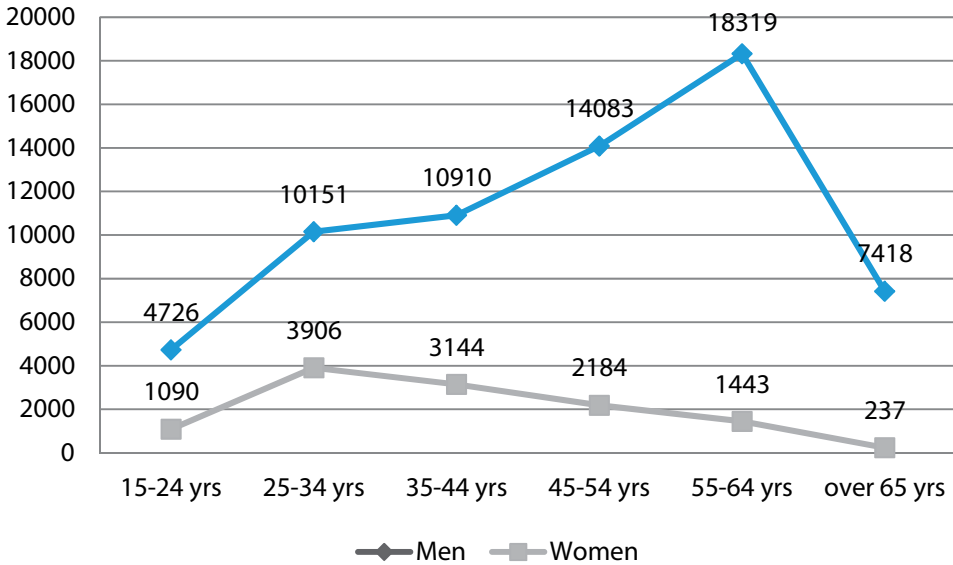
According to the estimates by one of the professional associations, the actual number of personnel is 148,200 people employed in PSCs, and another 30,000 working in self-guarding units of other firms and public bodies.⁵⁵

A comprehensive study of the workforce in the private security sector was conducted by the Bulgarian Industrial Chamber (2012), covering the years 2008 to 2011. Eighty-five percent of personnel are men, 50 percent of whom are between 45 and 64 years old, while 11 percent are in pension age (60 years for women and 63 years for men). The women employed in the sector are, on average, younger (33 percent of all women are in the age group 25-34).

55 Interview, (PSC-3).



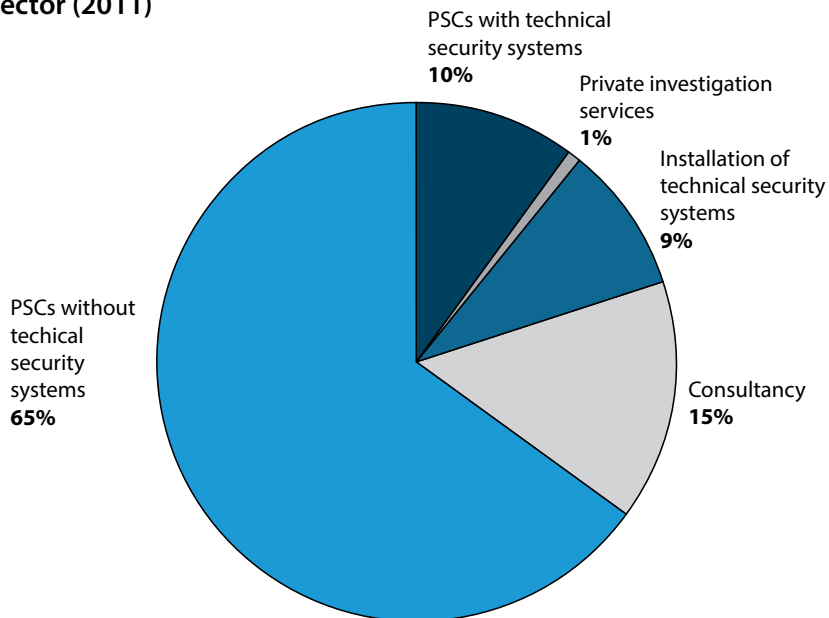
Figure 8: People employed in the private security sector: gender and age structure (2011)



Source: Bulgarian Industrial Association (2012) Sector analysis of the competences of the labour force in the sector “guarding and investigative activities”, p. 37. Base: 77,611 employees registered at the National Social Security Institute for 2011.

Looking at the different types of security-related economic activities, 65 percent of the workforce employed in this sector is working at PSCs without technical security systems (meaning they are engaged in the physical guarding of people and premises).

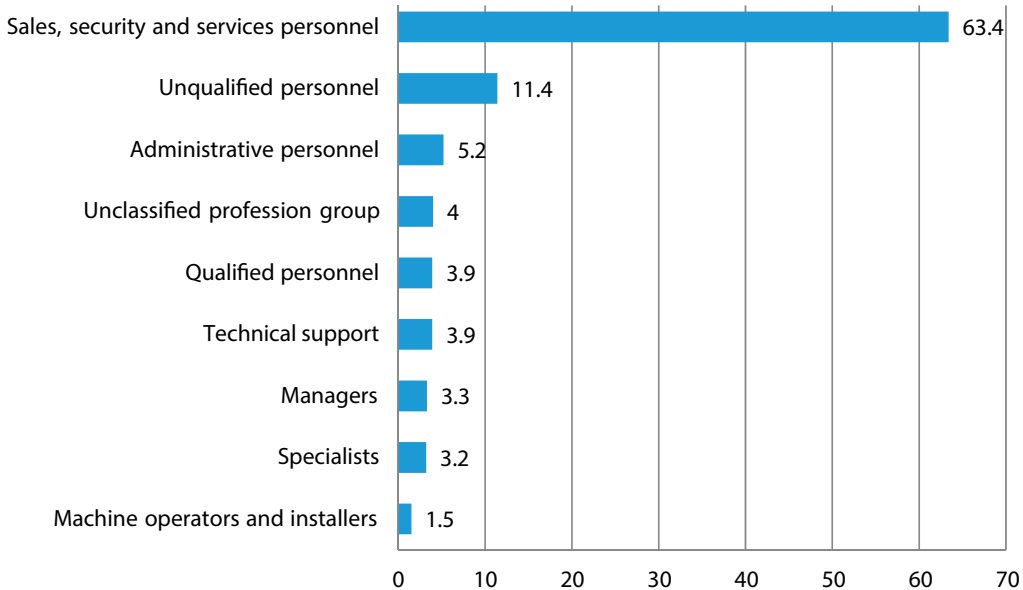
Figure 9: Distribution of personnel as per type of economic activities within the private security sector (2011)





Source: Bulgarian Industrial Association (2012) Sector analysis of the competences of the labour force in the sector “guarding and investigative activities”, p. 35. Base: 77,611 employees registered at the National Social Security Institute for 2011.

Figure 10: Qualification structure of the workforce in the private security sector (2011)



Source: Bulgarian Industrial Association (2012) Sector analysis of the competences of the labour force in the sector “guarding and investigative activities”, p. 38. Base: 77,611 employees registered at the National Social Security Institute for 2011.

The largest share of security personnel – around 66 percent – is employed in Sofia and the surrounding Southwest region.

Starting salaries of private security guards performing basic tasks (i.e. unarmed, low qualified) tend to be the minimum wage (BGN 360 or EUR 180) or lower. This is a widespread practice in the sector and is applied not only for new employees, but generally for all physical security personnel.⁵⁶ The professional association National Association of Industrial Security Companies (NAFTSO) (2014) has estimated that guards should take home at least BGN 318 (EUR 162) based on the minimum wage. The monthly labour costs of employers for one guard should not be lower than BGN 550 (EUR 280) in order to account for the minimum salary, social security payments and additional costs (trainings, uniforms, etc.). Sources reported that some employers deduct additional costs from salaries, which further decreases the net pay of guards.

⁵⁶ According to a senior Mol officer, close protection guards for personal security are one of the best paid groups. Their monthly net salary is around BGN 1,500 (EUR 750) (their social security insurance, however, is paid on less than half of their salary). They further get several “extras” on top of their salaries paid by the employer – gym membership, food, etc.



The Social Function of the Sector

The restructuring of state security (coupled with the early retirement age in the sector) and the withdrawal of state funding to sports clubs created a large group of persons for whom the private security sector was a natural “safe harbour” and source of income. At the same time, a rise in crime rates and liberalisation of the security market created many business opportunities for PSCs.

Especially in small towns and villages with high unemployment, jobs in private security are vital, and hiring is facilitated through strong social networks and personal ties. Therefore, PSCs are seen as “reservoirs of employment” in the low-wage segment of the workforce, and local authorities have sought to support this process through different national employment programs.⁵⁷ As a consequence, large market players find it difficult to penetrate the sector in smaller towns due to the strong protection of smaller firms by the municipal authorities.⁵⁸ Furthermore, one of the reasons for the lacklustre control exercised by local police chiefs over the sector is that they see local PSCs as their future employers after retirement or redundancy from the Mol.

Training and Professionalism

Most PSC managers have gathered vast professional experience in the structures of the Mol, the army or other state security institutions. However, these are relatively conservative and hierarchical organisations and most of the managerial staff lack qualifications that match the requirements of contemporary business.⁵⁹ Industry sources, as well as the aforementioned BIA study (2012) indicate that there is a lack of competency in the areas of business administration, business development and innovations.

The Law on Private Guarding Activity (2004) requires that all guards complete the minimum training programme (40 hours), which covers theory and practice in legal competences, duties and rights of guards, relationships with citizens, personal protection and first aid.⁶⁰ Since there is no licensing regime for guards⁶¹, they are not required to repeat the course. The Mol is considering introducing individual licensing that is valid for three years, after which guards need to apply for a licence renewal. A concern raised by Mol respondents is that training centres often circumvent the rules and issue certificates only on paper; this problem is exacerbated by the Mol’s non-participation in the examination process. Interviewees and sectoral studies suggest that very few requirements for training are fully enforced due to the lack of financial capacity of employers to provide additional training⁶² that

57 For example, in April 2014 a National Programme, “Security,” was launched by the Ministry of Labour and Social Policy and the Ministry of the Interior (Adopted with Order РД 01-224/02.04.2014 of the Minister of Labour and Social Policy, available at <http://www.mlsp.government.bg/bg/projects/>). The aim of the programme is to promote jobs for 5,000 unemployed persons in 2014 for a maximum of eight months as “security guards” - assistants in maintaining public order. This provoked a negative reaction by large industry associations according to whom the programme leads to unfair competition in the security sector. Analyses of the results and consequences of the programme are yet to be presented.

58 Interview, (POL-4, PSC-3).

59 Interview, (POL-3).

60 NAFTAO. Програма минимум за първоначално обучение на лица, заемачи длъжностите „ръководител на охранителна дейност“ и „охранител“ [Programme Minimum for Initial Training of Persons Employed in the Positions “Guard” and “Line Manager Security”]. Available at: http://www.naftso.org/language/bg/uploads/files/documents_0/document__6c728b89d19b5282e1b8d0406bd1e28d.pdf.

61 This is to say that the licences are not limited in time, and guards do not need to repeat the training.

62 Nevertheless, several examples were mentioned of PSCs applying for EU funds under the operational programme, “Competitiveness,” in



goes beyond the basic training.⁶³ Given the low salaries, there is little motivation for career development by the employees themselves. Mol sources⁶⁴ suggest that the vetting process is insufficient⁶⁵ and a large share of hiring is done through personal recommendations of family members and acquaintances.

Regulation and Control Challenges

This section looks at the challenges for regulation and control stemming from political affiliations of PSC owners, grey and illegal practices, as well as recent developments in self-regulation and attempts at improving the cooperation between this sector and the police.

Ownership and Political Links

In general, the majority of owners and managers of PSCs can be classified into three groups: former senior employees of the Mol (80 percent), former officers from the Ministry of Defence (15 percent) and former State Security officers (the former secret police) or other (five percent).⁶⁶ Most of the big players in the market are companies established in the 1990s, some of which have a more controversial past than others.

Most sources agreed that owners/managers of PSCs are generally well connected with the political class.⁶⁷ Although interviewees were reluctant to provide details, they agreed that these political links are prerequisites for corruption and undue competition in public tenders. There are no specific measures in the PSC legal regime preventing conflicts of interest and corruption, especially in connection with contracts for guarding important state-owned infrastructure.

order to provide additional training to employees. Despite these positive examples, interviewees from the Mol expressed the concern that this mechanism is used by PSCs only to absorb additional funds, while trainings are not actually provided at all or are only provisional (Interview, (POL-3)).

63 Bulgarian Industrial Association – BIA (2012). Секторен анализ на компетенциите на работната сила в сектор „Дейности по охрана и разследване“ [Sector Analysis of the Competences of the Labour Force in the Sector “Guarding and Investigative Activities”]. Sofia: BIA.

64 Interview, (POL-3).

65 According to the Law on Private Guarding Activity (2004), a security guard or guard chief can be appointed if they are at least 18 years of age and fulfil the following requirements: 1) they must be citizens of Bulgaria, of an EU Member state or state from the EEA or Switzerland; 2) have not been convicted of an intentional crime of a general nature; 3) no criminal proceedings for having perpetrated an intentional crime of a general nature have been instituted against them; 4) do not suffer from a psychological or physical illness; 5) for guards – educational degree not lower than middle school; for guard chiefs – not lower than high school; 6) have acquired professional qualification, “Security Guard” (Law on Private Guarding Activity (2004), Art. 27).

66 Interview, (PSC-3).

67 For example, the president of the large security company, Balkan Security Group EOOD, is a retired Major General, who used to be the head of security for the former Bulgarian communist leader, Todor Zhivkov, and two former democratic presidents. Rumen Penkov, the owner of the company, Security Agency Scorpio OOD, was deputy minister of the interior from 2005 to 2008 in the tripartite cabinet led by the Bulgarian Socialist Party. The company Scorpio was accused in the media of frequently violating labour regulations, evading taxes and depriving its 2,000 employees of pensions. The company has a negative reputation among other industry sources due to its inclination to derive undue advantages through its political connections. Allegations of undue influence have been raised in connection with Scorpio’s contracts to guard the National Customs Agency. The current Prime Minister established Ipon 1 EOOD in 1991. In 2001, he was appointed chief secretary of the Mol and transferred ownership of the company to his close associates. The company provides security to a number of strategic objects for the national economy enterprises and is highly profitable. The PSC Khan Krum won a contract to guard the Kozlodui Nuclear Power Plant. The PSC is owned by an off-shore company and linked to a former Member of Parliament and member of the Movement for Rights and Freedoms political party.



Grey and Criminal Practices

The informal or “grey” sector within the market for private security companies is a sensitive and problematic topic.⁶⁸ There is a common understanding among all interviewees that this market has one of the largest informal sectors in the national economy. At the same time, the industry has a very vital social and economic function – it provides employment to a large number of low-wage workers, hence authorities seem reluctant to introduce any excessively repressive measures for reducing undeclared work and tax evasion.

Most PSCs are believed to be involved, to varying degrees, in grey practices such as evading taxes and social security contributions through different techniques.⁶⁹ ⁷⁰ The fact that estimates of the number of security guards from the National Social Security Institute and the Mol differ so considerably⁷¹ is a sign that the grey market might be quite large. Associations have estimated that in 2013, the tax authorities collected BGN 200 million (EUR 100 million) in taxes paid on invoices for private security services alone.⁷² The losses to the state budget due to the grey practices in the private security sector (such as evasion of social security contributions, other taxes, etc.) have been estimated at BGN 700 million or EUR 350 million. The key factor contributing to grey practices seem to be the low prices for private security services, which push salaries down and force PSCs to hide revenue, actual salaries and the actual number of employees. The consequence is that the quality of the service provided is almost always compromised.

Another factor contributing to the widening of the informal sector is the lack of efficient coordination between Mol inspectors and inspectors from the National Revenue Agency and/or the Labour Inspectorate.⁷³ An example was mentioned of an attempt by the Mol to revoke the licence of a company which had failed to pay taxes of EUR 2.5 million. However, the NRA refused to confirm this or provide information as it constituted a tax secret.⁷⁴ According to POL-3, such cases reinforce informal practices and show the lack of enforcement of tax and labour law regulations in the private security industry.

Besides the practices for tax evasion and labour violations listed above, there are also other

68 According to the definition adopted by the EU and OECD, the informal economy (alternatively also called grey, shadow or undeclared) is defined as “all legal production activities that are deliberately concealed from public authorities for the following kinds of reasons: to avoid payment of income, value added or other taxes; to avoid payment of social security contributions; to avoid having to meet certain legal standards such as minimum wages, maximum hours, safety or health standards, etc.” OECD (2002). *Measuring the Non-Observed Economy*. Paris: OECD Publishing, p 139.

69 Interview, (POL-3).

70 Examples include the hiring of pensioners as guards, who receive salaries in cash, evading social security payments to the state budget (Interview, (PSC-1)). Often they are registered not as guards, but as porters or janitors.

Other examples are signing a contract for five guards, while the premises are in fact guarded by ten (Interview, (POL-2)) and when social security contributions are paid on the salaries of only five guards and all guards are paid below the minimum wage despite the contract being signed for BGN 500 (EUR 250). Hiring a guard for the minimum duration of employment within the standard labour contract - five days a month (Interview, (POL-3)). The employer's overall labour cost declared to the authorities is then EUR 40 or EUR 50 per guard per month. The rest of the wage is paid cash-in-hand. Also, by registering employees as members of a cooperative in the PSC, they receive only EUR 10 monthly in dividends, while the rest is paid cash-in-hand.

71 See Section ‘Workforce structure and salaries’, p. 46.

72 Interview, (PSC-3).

73 Interview, (POL-3).

74 In another example, a PSC owed EUR 3.5 million in taxes but won public contracts for securing critical infrastructure. Another PSC has been awarded several public tenders due to the low price it offered, but at the same time the company has been delaying salary and social security payments for months.



types of grey and 'black' (criminal) practices on the private security market. These include the provision of certain services without the appropriate licence or any licence, performing semi-legal activities not regulated by law, or engaging in purely criminal acts.

For example, industry sources suggested that close protection/personal guard services are provided by guards registered as drivers and the company does not have a licence for private security services as required by the Law, or their licence does not cover personal guarding.⁷⁵ In contrast according to an Mol inspector, only one percent of the firms are found performing services with an improper licence.^{76, 77}

Another 'grey area' is the provision of private investigation services, which is not covered by the Law on Private Guarding Activity or any other regulation. Industry and police sources stressed that there is no proper training for private investigators in Bulgaria and detective agencies are said to operate in breach of personal data protection regulations.⁷⁸ Some associations that represent investigation agencies have lobbied for the adoption of a separate law regulating their activities, but no such law exists at the moment.

According to media reports, PSCs have been involved in debt collection, especially in association with the new segment of small cash loan services. Unfortunately, sources could not provide a more detailed estimate of the extent of this problem in more recent times. Some mentioned that debt collection is subcontracted to "specialised" collectors now rather than to private security firms.

Extortion racketeering has been a criminal activity frequently associated with the private security sector in the past.⁷⁹ Police sources claim that this is no longer the case, and if there are incidences of extortion nowadays,⁸⁰ these are isolated cases, not the rule.⁸¹ Extortion rackets from hotels, bars and restaurants, common practices of PSCs in the 1990s, seem to have stopped.⁸²

Nevertheless, there have been recent reports⁸³ in the media implicating private security

75 Interview, (PSC-1).

76 Interview, (POL-2).

77 The fines for such violations range between EUR 5,000 and EUR 25,000.

78 Interview, (POL-1, PSC-3).

79 CSD (2004). *Partners in Crime: The Risk of Symbiosis between the Security Sector and Organised Crime in Southeast Europe*. Sofia: CSD.; Gounev, P. (2006). "Bulgaria's Private Security Industry". In: Bryden, A. and M. Caparini (eds.). *Private Actors and Security Governance*. Geneva: LIT & DCAF, pp. 109-128.

80 In March 2014, two employees from the leading company, VTA Security Services, from the city of Aitos, were arrested for the extortion of a local businessman. Both of them had criminal records. The businessman was threatened that if he did not renew the contract, no clients would be allowed to enter his premises and the inventory would be destroyed on a weekly basis. VTA management admitted that one of the employees involved had a contract with the company, but as a consultant offering insurance contracts. In 2011, VTA headquarters were raided by anti-mafia police as part of an investigation into alleged illegal activities. These included the alleged involvement of VTA management in extortion, the use of violence and threats against debtors, illegal lending of money (loan sharking), and forced transfer of company ownership. Standartnews.bg. "Охранители рекетират търговците в Айто̀с" [Security Guards Racketeer Businesses in Aytos]. 27 March 2014. Available at: http://www.standartnews.com/regionalni/ohraniteli_reketirat_targovtsite_v_aytos-231592.html.

81 Interview, (POL-3, POL-4).

82 Police sources suggested that the ownership of bars and restaurants is concentrated in the hands of powerful businesses and if there is some competition from other providers, the more likely strategy is for the more influential businessmen to try to neutralise and obstruct the business of competitors through utilising connections with the local authorities (i.e. police, tax and labour inspectors). (Interview, (POL-3)).

83 In 2011, two guards from the PSC, Pride Security, were arrested on charges of serious bodily injury of the owner of a restaurant chain in Sofia, who was allegedly extorted by them to pay protection rackets. The suspects are a former sambo champion and a fitness instructor, while the bosses of the PSC, who reportedly ordered the assault, also managed an MMA club and a fitness club, according to media reports. They are said to be former bodyguards of the notorious criminal bosses, "brothers Margini". Skandalno.net. "ММА босове рекетират бизнесмени" [MMA Bosses Racketeer Businessmen]. 26 November 2011. Available at: <http://skandalno.net/mma-bosove-reketirat-biznesmeni-31043/>; Vsekiden.



guards in engaging in debt collection and “forced security.” Police sources could not deny that the guarding of agricultural production in rural areas, for example, where the presence of local police is less immediate, is still vulnerable to “forced security” practices.⁸⁴

According to the police and media, PSCs are only sporadically involved in theft. Reports exist of PSC employees targeting the houses where they have installed technical security. They inform their accomplices where in the house valuable objects can be found. The accomplices then burgle the house and when the alarm goes off the PSC mobile teams delay their response or temporarily silence the alarm.⁸⁵

None of the sources interviewed were willing to provide details on the alleged links of PSCs with organised crime, although the existence of such links was not denied. According to POL-3, some PSCs continue to have a close relationship with organised crime, especially in connection with dubious night clubs and casinos. POL-1 also mentioned that organised crime groups are involved in providing private security services through proxies, such as some well-known Bulgarian entrepreneurs with criminal backgrounds, e.g. the prosecuted drug boss, Zlatimir Ivanov (aka Zlatko the Beret), who is the ultimate owner of one of the leading PSCs, Arkus Security, and other security firms. A senior officer from the general police directorate suggested that owners linked to organised crime or other black practices remain in the background of their security business. They hire experienced former police officers as managers, who have excellent contacts with the police.⁸⁶

These examples, although considered incidental and exceptional, highlight how important the proper level of regulation and control over the sector is in order to prevent PSCs from causing insecurity and in order to maintain the trust of citizens and businesses in the security industry.

Cooperation between Police and PSCs

Although cooperation of the private security sector with the MoI is a key precondition for the proper functioning of the former, as highlighted in the Law on Private Guarding Activity, the interviewed sources had mixed opinions of the practical effectiveness of this cooperation, despite interest expressed by both sides for improved cooperation. Informal cooperation with the police, through the personal links of managers, occurs more regularly.

There is no recent official data on the ratios for private security force/population and police force/population. However, considering that there were around 28,000 policemen in Bulgaria in 2014, and around 130,000 private security guards, then the ratio of private security force/population for 2014 would be 1 to 55, and the ratio of police force/population would stand at 1 to 251. It is obvious that the role of the private security force in providing security has increased in recent years, as opposed to that of the police.

com.

“Световен шампион преби ресторантьор” [A World Champion Beat a Restaurant Owner]. 12 December 2011. Available at: <http://www.vsekiden.com/108171/svetoven-shampion-prebi-restorantyor/>.

84 Interview, (POL-4).

85 Other examples such as theft from a shopping centre or theft of valuable consignment transports where the security firms were complicit (Interview, (POL-3)) exist. The profit from the theft is then divided among the thieves, physical guards, people monitoring the CCTV cameras and the manager of the PSC himself.

86 Interview, (POL-3).



Industry sources stressed that PSCs have a much more important role for fighting conventional crime than the police, mainly in terms of prevention (deterrence through the presence of guards or technical security systems).⁸⁷

Box 4: An example illustrating the key role of PSCs in fighting conventional crime

In North-western Bulgaria, conventional crime has been a lingering problem among the numerous small villages with ageing populations and very low income. The police have been less effective in tackling frequent cases of burglaries and thefts of agricultural production, allegedly committed by the local Roma population. In this context, the PSC Sova 7, from the town of Vidin, developed a model for effective protection of small villages – they concluded a joint contract with a number of households in the village (around 20), each of which pays BGN 7 to BGN 10 (EUR 3.5 to EUR 5) per month for the provision of security services to the whole village. The service includes the permanent presence of guards, who patrol the streets. Very often Roma people from the community are hired as guards. On the one hand, they try to influence their fellows not to commit crimes and on the other, provide information on perpetrators to the police. The crime rate in villages using such security services has decreased significantly.

*Source: POL-5 and media reports.*⁸⁸

On a formal level there are two main mechanisms for cooperation: a Memorandum of Cooperation between PSCs and the Mol on the scope and nature of the desired cooperation, as well as the Advisory Council for Cooperation on Issues of Private Security Activity at the Directorate General National Police, Mol. The Council's members include representatives of all six PSC associations as well as senior managers of the General Directorate for the "National Police" at the Mol.

In June 2014, a Memorandum of Cooperation was signed between all six professional associations and the Mol. The main areas of cooperation envisioned in the Memorandum include the detection, prevention and deterrence of crimes, exchange of information related to crime prevention, legislative changes concerning the administrative control of the private security sector, the potential for establishing an integrated communication system, etc. According to police sources, the cooperation that is taking place is mainly ad-hoc.⁸⁹ PSCs have a large amount of information obtained in the course of their operational work – information which can be shared with the public security structures. However, the source pointed out that, unfortunately, the Mol is not seeking out this information effectively. Some interviewees commented that such exchanges of information could be made obligatory through legislative action.

⁸⁷ Interview, (PSC-3). According to the respondent, over the past year there have been only 3 burglary attempts at premises guarded by his company.

⁸⁸ Niebg.net. „Сова 7” бди над хората от селата [Sova 7 Watches Over the Village Population]. 27 January 2014. Available at: <http://www.niebg.net/dpal/node/3061>.

⁸⁹ Interview, (POL-2).



Self-regulation

The Law on Private Guarding Activity allows for self-organisation and regulation.⁹⁰ Although there is not a single umbrella association covering all companies in the sector, national PSCs are relatively well organised into associations, some of which have been very pro-active in pushing for greater transparency and professionalism of the sector. Attempts at establishing representative trade unions have been less successful so far.

Currently there are six professional/industrial associations of the PSC sector.⁹¹ Three of them represented the largest companies in the sector, while the other three associations are comprised of 60 smaller firms. The oldest and most active association, the National Association of Industrial Security Companies (NAFTSO), is an associated member of the Confederation of European Security Services (CoESS). Among its members are the top 50 PSCs in the country, which hold around 20 percent of the market. Three other smaller industrial associations have formed a union (Confederation of the branch organisations from the private security sector – CBOPSS) in order to counter-balance NAFTSO's influence. Overall, only around 20 percent of all active PSCs are members in any of the six existing associations.

Industry sources⁹² have suggested that the authority of these associations is limited.⁹³ Still, the associations have become more vocal in recent years, focusing on issues such as better regulation of public procurement of security services, measures to reduce the grey sector and different illegal practices that harm fair competition, and a review of the conflicts in provisions of the Labour Code and the Law on Private Guarding Activity, among others. Associations collaborate⁹⁴ mainly when facing the Mol as an industry in the Advisory Council.

The Bulgarian Union of the Security Industry unites three industry organisations in an attempt to gain greater influence (BCGS, National Association Fire Safety and Alarm, and the Bulgarian Association of Private Detectives), and while it managed to establish a common ethical code for the industry in 2008,⁹⁵ the code is not binding nor does it have monitoring mechanisms. Internationally, The International Code of Conduct for Private Security Service Providers (ICoC) is not signed by Bulgarian PSCs, nor are any Bulgarian PSCs members of the ICoC Association (ICoCA).⁹⁶

Some private security guards are represented through the Confederation of Independent Trade Unions in Bulgaria (CITUB), one of the largest labour organisations in the country. However, CITUB is not recognised by the sector as being representative. Guards and Security Employees National Trade Union (GSENTU), a sector-specific trade union was established in 2005, and while it is recognised by the sector, it is not recognised by the largest profes-

⁹⁰ Law on Private Guarding Activity (2004), Art. 38.

⁹¹ National Association of Industrial Security Companies (NAFTSO), National Association of the Person and Associations implementing Private Security Activities (NALSICOD), National Association of Technical Equipment Based Security Companies (NAFOTS), Union of Companies for Protection and Security (SFOS), the National Industry Chamber of Guards and Detectives, and the Bulgarian Chamber for Guarding and Security.

⁹² Interview, (PSC-2).

⁹³ An example given is the unsuccessful attempt at implementing some sort of special traffic regime for patrol cars of PSCs that operate alarm systems.

⁹⁴ In 2005, four associations signed a memorandum for issuing common positions to protect the needs of the sector.

⁹⁵ Ethical Code of the Private Security Industry in Bulgaria, Bulgarian Industry of the Security Industry, 2008. Available at: http://www.naftso.org/language/bg/uploads/files/documents__0/document__b75cfedd5d7b42685aa7d59b33338469.pdf.

⁹⁶ www.icoca.ch.



sional association. Moreover, it only represents around 1,000 people working in the sector, limiting its influence.⁹⁷

Industrial relations and social dialogue within the private security sector in Bulgaria are difficult and underdeveloped, not least of which is because of competition between the largest industry associations, but also in the context of the general demise of trade unions in Bulgaria.

Conclusion and Recommendations

A significant set of challenges has emerged before the private security sector in recent years, despite the numerous improvements of the legal and economic environments in which they operate. These include public procurement irregularities, corruption, lack of professionalism and quality of service, lingering crime-related problems and grey economy practices. Further efforts from state authorities and the sector itself are needed to tackle illegal practices and improve the professionalism and the overall market situation of the sectors, the quality of the services provided, and the salaries and working conditions of guards. The following recommendations could be made in this respect:

- Consideration of **specific rules for public procurement of security services** guaranteeing the quality of these services.
- **Higher requirements for guarding critical infrastructure sites and other key public sites**, including higher levels of training and special skills, technical capabilities and equipment, human resources, and higher liability for companies.
- Provision of **adequate resources** for all aspects of licensing, control and monitoring of the sector. This might include considering **multi-agency responsibility** or decentralisation in relation to licensing and monitoring the sector (by local government, the National Parliament, the Labour Inspectorate or other government authorities). Furthermore, assigning some oversight functions to other bodies outside the Mol could reduce the room for informal relations between PSCs and their regulators.
- The establishment of an **electronic registry** of PSCs as envisioned in the Law and mechanisms for its cross-checking with other public registries (of the National Revenue Agency and/or the Labour Inspectorate, as well as the registry on the possession of firearms).
- **Higher criminal liability** of PSC guards involved in different violent and illegal practices. This could also include increasing PSC company liability to enforce stricter control of management over employees. Establishing **internal anti-corruption and integrity systems** might also contribute to improved professionalism and is a task that can be pushed forward by mechanisms of self-regulation (e.g. professional associations).
- The potential of PSCs to play a **greater role in the provision of security** remains untapped. There is a need for identification of best practices to improve the cooperation of the police and private security companies in **tackling conventional crime**.

⁹⁷ NAFTAO has tried, and failed, to reach a collective agreement with CITUB directly. GSENTU signed a collective agreement in 2008, but it was not signed by NAFTAO and hence it was not recognised as binding.



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Kosovo

Donika Emini and Mentor Vrajolli

Introduction

The emergence of a private security sector within Kosovo began immediately after the end of the conflict in 1999, a result of the influx of a large number of international, diplomatic and humanitarian missions who found themselves in need of professional guard and protection services. As the main clientele of this sector, they were concerned about the existence of links of some security guards with former security structures¹ and the fact that this private security sector was largely unregulated. Concurrently, crucial political processes were taking place, including the dissolution of the Kosovo Liberation Army (KLA) and the reintegration of its members into newly established state security institutions, in particular the Kosovo Police Service and the Kosovo Protection Corps. However, not all KLA members were able to be absorbed by these new security structures, which led to a concern that former combatants would use private security as a platform to engage in the security sector. To enact a degree of control, the United Nations Mission in Kosovo (UNMIK) promptly issued Regulation 2000/33 on the “Licensing of the Security Service Providers in Kosovo and the Regulation of their Employees”, a two-page document which regulated the private security sector in Kosovo throughout the UNMIK administration.

In line with UNMIK’s efforts to demilitarise Kosovo, Regulation 2000/33 prohibited locals (including local PSCs) from using weapons. Solely international PSCs were permitted to possess and carry weapons, effectively preventing local PSCs from providing cash-in-transit guarding, vital assets protection, or securing contracts with banks, diplomatic offices and international premises, i.e. more profitable contracts. With the Kosovo Police Service being mandated to guard public institutions, local PSCs were limited to providing basic security services and camera surveillance which did not require the use of weapons, being low profit

¹ The name for the new police force, “Kosovo Police Service”, was chosen by the first international police commissioner, Sven Frederiks and later changed when Kosovo declared its independence in 2008 to “Kosovo Police”.



engagements to private clientele. Regulation 2000/33 had a significant impact on the economic situation of PSCs in Kosovo. Given that local PSCs were in fierce competition with each other for low-profit contracts, there was a downward trend in the prices of their services, a consequence that was reflected in the salaries and the lack of adherence to labour codes. Simultaneously, the business environment for international PSCs was much more profitable and much less competitive, enabling them to dictate the prices of services offered.

Until 2008, there was a Security Service Division (SSD) within the Kosovo Police Service that operated under the UNMIK police. This mechanism was responsible not only for the supervision of private security companies, but additionally provided security services through its 580 static guards personnel who wore similar uniforms to that of the police force. This unit was responsible for protecting public properties such as buildings and other important public assets. Indeed, through such a structure UNMIK created and trained public security guards which would in some sense compete with the PSCs.

The Law on Private Security Services², approved in April 2011, created the basic conditions for free market competition in the private security sector, by establishing formal equality between local and international PSCs. The Law however includes relatively strict provisions on regulating the armament of PSCs and clearly delimits the competencies of PSCs to avoid infringing on the mandates of the Kosovo Police or other security structures.

Role and Development of Private Security Sector in Kosovo

Number of Private Security Companies (PSCs), their Role and Services Offered

According to the Law on Private Security Services (2011), a PSC is a legal entity licensed by the competent body, the Division for Private Security Companies (DPSC)³, to provide Security Services in accordance with this Law. The Law lists the following licensed security services: basic security services, close protection services, cash-in-transit services, electronic property surveillance services, and security services of public gatherings.⁴ Neither the Law on Private Security Services nor any other law in Kosovo regulates the operation of Private Military Companies (PMCs), private detectives or intelligence personnel.

Based on the official data provided by the DPSC at the Ministry of Internal Affairs (MoIA), there are around 60 registered PSCs in Kosovo (see Table 1)⁵. Table 1 below gives an overview of the services that PSCs in Kosovo have obtained licences for. As is evident from this information, PSCs in Kosovo mainly tend to offer basic security (guarding) services⁶, of which there is most demand in the market due to the low cost of these services. With a

2 Law on Private Security Services, Official Gazette of the Republic of Kosovo / No. 5 / 21 July 2011. Hereafter: Law on Private Security Services (2011).

3 See Section 'Division for Private Security Companies (DPSC), below, for more information on the DPSC. P.69.

4 Law on Private Security Services (2011), Art. 5.

5 Notice that the number of PSCs is not related to the number of licenses considering that a single company may have more than one licence, depending on the number of the services it provides.

6 Fifty-three PSCs in Kosovo offer basic security services according to the latest data provided by the MoIA. Interview, (DPSC Representative A, 2014); Interview, (DPSC Representative B).



relatively inexpensive labour force⁷ and limited investment in expensive equipment, their provision constitutes a relatively low financial risk for the PSCs.

Only a few companies offer specialised services. This can be partly explained by the fact that until the adoption of the Law on Private Security Services in 2011 local PSCs were not able to offer such services⁸. In addition, the procedure for licensing specialised services is complicated and costly and close protection service and cash-in-transit services require well trained personnel and advanced technology (including vehicles, weapons and uniforms), which only big and well-consolidated PSCs can offer. This means that such services become more expensive and less affordable for the average client.

Demand is increasing for electronic surveillance and close protection and the number of licences awarded for these services has increased. However, since these services require more specialised and trained staff and because surveillance equipment is quite expensive, only bigger PSCs tend to offer electronic surveillance.

Only six companies offer specialised services for public gatherings. In general, the Kosovo Police secures most public events and gatherings in Kosovo, so clients usually do not hire private security companies for such services.⁹

Table 1: Licensed companies for private security services in Kosovo according to services (2012-2014)¹⁰

NUMBER OF SERVICE LICENCES ISSUED BY DPSC FOR THE PERIOD 2012- 2014				
TYPES OF LICENCES FOR THE PROVISION OF PRIVATE SECURITY SERVICES	Number of Licences			
	2012	2013	2014*	TOTAL
LICENCES FOR BASIC SECURITY SERVICES	42	7	12	61
LICENCES FOR THE CLOSE PROTECTION SERVICES	0	1	0	1
LICENCES FOR CASH-IN-TRANSIT SERVICES	3	4	0	7
LICENCES FOR ELECTRONIC SURVEILLANCE OF PROPERTY SERVICES	4	9	5	18
LICENCES FOR SECURITY SERVICES IN PUBLIC GATHERINGS/ EVENTS	4	6	3	13
LICENCES FOR PROVISION OF BASIC PROFESSIONAL TRAINING	4	2	0	6
LICENCES FOR SPECIALISED TRAINING INSTITUTIONS	3	0	0	3
TOTAL	60	29	20	109

* From January to 05 December 2014

Non-Licensed Private Security Providers

The so-called black market and grey market represent a significant challenge for the private security sector in Kosovo. Indeed, although there is no official data, estimates suggest that

7 Interview, (PSC Owner A, 2015).

8 See Section 'Introduction', above. p. 61f.

9 Interview, (PSC Owner B, 2014).

10 Official statistics DPSC, 2015. Interview, (DPSC Representative A).



the black and grey market comprises between 20 and 40 percent of the private security market¹¹.

Among those that can be considered 'grey' are the practices of large private businesses (supermarkets and shopping malls) which have established their own internal security divisions without registering their guarding staff with the DPSC. Similarly, the majority of restaurants, night clubs, pubs and discos have engaged their own security guards without applying for a licence. The persons employed by these businesses do not possess official authorisation, and in many cases wear a uniform of some description, control entrances, check suspected individuals for weapon possession, and engage in the use of physical force in those cases when they deem that order has been breached. According to DPSC officials, in most cases the unlicensed security guards lack proper training and as a consequence there have been cases of maltreatment and excessive use of force.¹²

Another example of a grey market practice are PSCs which have received the licence for a specific service but in certain cases may also offer services for which they have not obtained a licence.

The majority of PSCs which operate in the Northern part of Kosovo are not registered at all and can therefore be considered as operating on the black market. Until 2009, these companies had only been registered with the Serbian authorities and hence do not feature on the registers of the DPSC. Indeed, to date the DPSC possesses records of only one international company (operating throughout Kosovo) as operating in the North.

Private Security Personnel

The Law on Private Security Services defines a basic worker as an individual licensed by the DPSC who provides services through a licensed PSC. In 2009 the private security sector employed over 4,500 security employees, whilst the number of Kosovo Police officers was estimated to be close to 8,000, resulting in a ratio of two police officers per private security employee.¹³ By 2014 this number had increased to 5,041 persons working for PSCs, with a total number of 6,802 persons certified as of the end of 2014. With this increase, the ratio has dropped to 1.5 police officers for each private security employee, and if one were to include the PSC personnel working in the grey and black market, the ratio would be closer to one to one.¹⁴

The majority of the private security personnel (6,169 certified and 4,633 licensed)¹⁵ are security employees engaged in providing basic security services. This is the lowest rank within the private security sector which does not require any advanced professional training or

11 Interview, (DPSC Representative B).

12 See, for example, the following story about incidents with unregistered persons operating in the private security sector: KOHAnet. "Ndërron jetë i plagosuri në Prishtinë" [A Wounded Person Dies in Prishtina]. 13 October 2014. Available at: <http://koha.net/?id=3&l=29180>. At least three similar cases happened during 2014 and 2015 involving untrained and unlicensed "security guards" in different night clubs and bars in Prishtina. Moreover, the DPSC officials admit that the largest cases of such cases were reported from night clubs and similar venues.

13 Qehaja, Florian (2009). Measuring the Development of Private Security in Kosovo. Prishtina: Kosovar Center for Security Studies. pp 5-6.

14 Interview, (DPSC representative B, 2015).

15 Licensed workers include persons who have undergone the training process, obtained the certificate from the PSC training institute and as member of PSC are licensed to provide security services. Whereas, certified are persons who underwent the training process, however, due to the fact that they are not later employed by a PSCs, by law these persons are not eligible to provide private security services.



specific qualifications. The number of persons providing basic security services and electronic surveillance is quite large compared to those providing close protection and cash-in-transit services. The ratio of unarmed to armed guards is 100 to two¹⁶. Licensed persons operate unarmed, while currently only 119 are authorised to carry weapons in accordance with their profile and sector.¹⁷

There is however, a discrepancy when it comes to statistical data which shows that not all certified security workers are licensed and working for PSCs. More precisely, in comparison the two tables below show that during the period between 2012 and 2014, around 1,761 persons that obtained a certificate did not (re)apply for licensing at the DPSC. This raises the question whether these 1,761 persons continued to work in the sector unlicensed, i.e. in the black and grey market. When considering this statistic it is prudent to note that some of those who obtained a certificate might have failed to pass the MoIA's examinations or were unable to secure "the promised" job in this sector and therefore were not able to apply for a licence.

Table 2: Basic certificates training professional and specialised¹⁸

BASIC CERTIFICATES TRAINING PROFESSIONAL AND SPECIALISED				
TYPE OF CERTIFICATES FOR BASIC AND SPECIALISED SECURITY PERSONNEL	Number of Certificates in 2012	Number of certificates in 2013	Number of certificates in 2014*	TOTAL
CERTIFICATION BASIC PROFESSIONAL TRAINING	3096	2054	1019	6169
CERTIFICATION MANAGER FOR BASIC SECURITY SERVICES	51	30	33	114
CERTIFICATION SECURITY MANAGER FOR TPG SERVICES	7	5	0	12
CERTIFICATION SECURITY MANAGER ELECTRONIC SURVEILLANCE OPERATOR	10	15	5	30
CERTIFICATION SECURITY MANAGER FOR CLOSE PROTECTION SERVICES	0	1	2	3
CERTIFICATION OPERATOR FOR ELECTRONIC SURVEILLANCE SERVICES	60	100	49	209
CERTIFICATION OPERATOR FOR CLOSE PROTECTION SERVICES	0	15	9	24
CERTIFICATION GUARD FOR CASH-IN-TRANSIT SERVICES	62	12	99	173
OTHER	47	8	1	56
TOTAL				6802

* From January to 05 December 2014

¹⁶ Leaving aside the number of instructors and trainers in the private security sector.

¹⁷ MoIA Data and Statistics. Interview, (DPSC Representative A, 2014).

¹⁸ Official statistics DPSC, 2015. Interview, (DPSC Representative A).



The most concerning issue in the private security sector remains the low number of security managers. Indeed, according to PSC representatives, the ratio between managers and security guards is one to 60 which, according to a PSC owner, is extremely low.¹⁹ According to general practice the proportion should be one certified security manager for 30 security workers.²⁰ In addition, there are indications that many of the companies operate without a certified security manager.

Table 3: Licences for personnel - basic and specialised training²¹

LICENCES FOR PERSONNEL - BASIC AND SPECIALISED TRAINING				
TYPES OF LICENCES FOR SECURITY PERSONNEL BASIC AND SPECIALISED	Number of Licences in 2012	Number of Licences in 2013	Number of certificates in 2014*	TOTAL
BASIC SECURITY PERSONNEL	710	2965	958	4633
MANAGER FOR BASIC SECURITY SERVICES	4	53	27	84
SECURITY MANAGER FOR TPG SERVICES	0	6	1	7
SECURITY MANAGERS FOR ELECTRONIC SURVEILLANCE OPERATORS	5	9	10	24
SECURITY MANAGERS FOR CLOSE PROTECTION SERVICES	0	1	1	2
OPERATOR FOR ELECTRONIC SURVEILLANCE	8	89	30	127
OPERATOR FOR CLOSE PROTECTION	0	15	8	23
GUARD FOR CASH-IN-TRANSIT	0	61	26	87
OTHER	39	14	2	54
TOTAL				5041

* From January to 05 December 2014

According to the Law on Private Security Services, the basic requirements for licensing a private security employee is the successful completion of the basic vocational training confirmed by a certificate and to have successfully passed the examination organised by the DPSC as competent body.²² For the aspiring private security employee it is mandatory to have successfully completed specialised training (including trainings on the use of a weapon) and to have a minimum of three years working experience.²³ Whilst individuals applying for the position of private security employees are required to meet relatively simple conditions, security managers have to prove that they have a professional background in security with extensive relevant experience.²⁴

19 Interview, (PSC Owner A, 2015).

20 Ibid.

21 Official statistics DPSC, 2015, Interview, (DPSC Representative A).

22 Law on Private Security Services (2011), Art. 16.

23 Ibid., Art. 18.

24 Administrative Instruction, NO. 27/2011 on Licensing Procedures, Ministry of Internal Affairs, Art. 5.



The training curriculum for PSC employees is designed and overseen by the DPSC, which although based on EU best practices, has been criticised by PSC owners. They suggest that the curriculum does not sufficiently cover vital topics, such as the use of force and the respect of human rights, and they argue that training institutions lack field experts and equipment to provide quality training. It has also been asserted that most trainers have only basic knowledge of the sector and are not competent to address issues such as data protection, avoiding physical or psychological torture, potential human rights violations or threat prevention methods.²⁵ In addition, courses are only three days long, which does not give the trainees even enough time to learn the proper use of handcuffs.

The DPSC's capacity to provide training for managers has also been questioned by the PSC owners and managers. Since no advanced academic and professional background is required in addition to the tests and trainings, in fact managers often lack the knowledge needed to compile security and emergency plans.

As a result, though trained, the personnel are not prepared and are potentially unable to manage complex situations. This is why some PSCs have opted to provide extra professional training for their staff as they believed the DPSC had not sufficiently prepared them for the job.

Legal Status of Private Security Employees

Whilst public uniformed security employees enjoy a special status, in contrast private security employees do not. Even though private security employees work in an environment where they may have to engage in the use of force, are exposed to dangerous situations, and therefore suffer a higher risk of having their rights violated, the Law on Private Security Services does not furnish them with any form of special protection. The Law does not provide for any internal complaints mechanism which employees could refer to when their rights are breached by their employer, nor can complaints by PSC employees be brought to the DPSC. The only complaint mechanism the security workers have is the Inspectorate of Labour and regular courts.

As a consequence, the only possibility to somehow advocate to have their concerns addressed remains self-organisation through a union. This was suggested also by representatives of the DPSC and the Ministry of Labour.²⁶ The employees themselves, however, do generally not see establishing unions as a good approach for resolving their grievances. While they do have concerns about salaries and working conditions²⁷, fear of losing their job restrains them from complaining. They are also not convinced that a union would address their specific concerns.²⁸

25 Interview, (PSC Owner D, 2015).

26 Interview, (MoIA Representative A, 2015).

27 See Section 'Insufficient Control or Oversight over Violations of Labour Law and Public Procurement Procedures', below. p.72ff

28 Interview, (Employee A, 2015).



Supervision of Private Security Companies

According to the Law on Private Security Services (2011), the competent body for the implementation of the Law is the Ministry of Internal Affairs (MoIA). The Assembly of Kosovo, through the Committee on Internal Affairs and Security, is obliged to exercise control and hold the MoIA accountable in cases of major violations and offences that take place in the private security sector.²⁹ The MoIA exercises its role through two newly established mechanisms: The Division for Private Security Companies (DPSC) (which includes the Inspectorate); and the Appeals Commission for Private Security (ACPS).³⁰ The following subsections will discuss and analyse the role of the DPSC and its Inspectorate, and that of the ACPS.

Division for Private Security Companies (DPSC)

The MoIA's Department of Public Safety is responsible for regulating the work of PSCs in Kosovo through its specialised Division for Private Security Companies (DPSC).³¹ According to the Law on Private Security Services, the Division serves as the institutional focal point for the private security sector.³²

Despite its broad competencies, the DPSC remains relatively ill-equipped, as suggested by the fact that it is comprised of a single director and three inspectors. This limits the capacity of the DPSC to oversee such a large and diverse sector, and as a consequence generates a perception that the Government of Kosovo does not consider the Division, nor the sector, a priority. PSC owners have voiced their discontent over feeling ignored by the authorities when they request law amendments, including requests for increasing the capacity of the DPSC.

Box 1: Competencies of the DPSC

Among the competencies of the DPSC are:

- Organising the licensing, relicensing, suspension and revocation of licenses of PSCs and their staff.
- Serving as a focal point for all issues related to private security services.
- Monitoring the compliance with laws and professional standards of PSCs and staff.
- Ensuring respect for personal data protection.

Source: Law on Private Security Services (2011), Art. 7.

The following sub-sections will analyse separately the responsibilities of the DPSC: the process of licensing, relicensing, revocation and suspension, penalties and data protection.

Licensing of PSCs and their security workers

The licensing of PSCs and PSC employees is regulated by the Law on Private Security Ser-

²⁹ Rule of Administrative Procedures of Assembly of Republic of Kosovo, Annex 2.1, April 2010.

³⁰ Law on Private Security Services (2011), Art. 6.

³¹ MoIA, 2008 Public Safety Department, for more information please refer to: <http://www.mpb-ks.org/?page=2,31>.

³² Law on Private Security Services (2011), Art. 6.



vices (2011) and Administrative Instruction No 27/2011 on Licensing Procedures³³. According to this Law, only licensed PSCs are permitted to operate in the private security market.³⁴ The DPSC issues separate and specific licenses to the PSCs for each of the services defined by the Law³⁵, in order to ensure that the PSCs in Kosovo do not operate beyond their field of expertise. As a result, the PSCs are obliged to apply for separate licences for each service. PSCs must undergo financial and criminal background verification³⁶ and the founders and owners, as well as the responsible persons, are subject to verification.³⁷ Depending on the service they provide, the PSCs are obliged to employ at least five specialised security employees, who are licensed by the DPSC in accordance with the Law on Private Security Services and the Administrative Instruction on Licensing Procedures. This means that aside from the licensing of the PSCs, the DPSC is also responsible for providing specific licenses for the private security employees.³⁸

Background verification (including the verification of criminal records) and other legal requirements are also preconditions for employees who want to receive a licence as a part of a PSC. The minimum requirements of the DPSC for licensing security employees are: to possess the necessary physical and mental capacity; to be at least 18 years old; to have full legal capacity to act; to have successfully completed the basic vocational training, confirmed by a certificate; to have successfully passed the examination organised by the competent body.³⁹ In addition to this, the minimum age for candidates involved in specialised services is 21; they are required to have completed secondary education; and to have successfully completed specialised training (including related to the use of weapons); and have a minimum of three years' work experience in the sector.⁴⁰

The existing vetting process has been subject to numerous debates and complaints⁴¹, in particular because it has been said that it excludes many persons from gaining employment in this sector.⁴² Whilst the files of individuals are retained in the databases of Police, Prosecution and Courts, due to the lack of an integrated database,⁴³ the vetting process is spread across these institutions - causing prolonged bureaucracy when it comes to process or licensing of security workers. As a result, in order to be provided with the licence, PSC employees need to apply separately to all these institutions to receive written, verified confirmation that the applicant is not a subject of a criminal charge or investigation.⁴⁴ Accord-

33 Administrative Instruction No 27/2011 on Licensing Procedures (19.12.2011). Hereafter: Administrative Instruction on Licensing Procedures (2011).

34 Law on Private Security Services (2011), Art. 1.

35 Ibid., Art. 10. Also, see Section 'Number of Private Security Companies (PSCs), their Role and Services Offered', above, p.62, for more information on the types of services that PSCs can obtain licenses for.

36 Law on Private Security Services (2011), Chapter 3.

37 Ibid., Art 11.

38 Administrative Instruction on Licensing Procedures (2011), Art. 14.

39 Ibid., Art. 16.

40 Ibid., Art. 18.

41 Persons with a criminal record or who are currently being investigated for a crime cannot obtain a vetting certificate. This includes cases where people were found to have committed only minor offences and even for very old, still open cases that have not yet been dealt with efficiently by the court or the Kosovo Police. It also includes individuals under investigation or persons who have an open case in the court – even for open cases implicating a person in a car accident.

42 Interview, (PSC owner – Security expert A, 2015).

43 Interview, (PSC Owner E, 2015).

44 Interview, (PSC Owner A, 2015).



ing to the DPSC Representative A, the vetting process should be reassessed and adjusted accordingly.⁴⁵

Since licences are only valid for three years,⁴⁶ both PSCs and security workers have to periodically apply for re-licensing. Requests for licence extension must be submitted to the DPSC at least a month before the current licence expires, along with all required supportive documentation.⁴⁷ The procedural requirements for re-licensing are similar to those for initial licensing.

In many cases, PSCs are obliged to keep unpaid reserve security workers, or to demand overtime from the already engaged staff until the PSC's unlicensed staff is provided with a licence. The process is further complicated by the fact that neither the Law on Private Security Services nor the Administrative Instruction on Licensing Procedures provide a clear definition of what the parameters of background verification are.⁴⁸

Revocation and Suspension of the Licence

One of the key responsibilities of the DPSC is the suspension and revocation of licences of both PSCs and their employees in cases when the DPSC finds that such subjects no longer operate in line with the Law on Private Security Services and its administrative instructions. Conditions for the suspension and revocation of licences of security workers and PSCs are the same.

The Law on Private Security Services stipulates that a licence may be suspended for a period of one year in the case of misleading, false or omitted information in the application process, or when an inspection finds a licensee to be breaching the agreed conditions during DPSC inspections.⁴⁹ The Law also stipulates that the procedure for suspension, including the obligation of the licensee to inform its clients within 15 days after the decision for suspension, is to be made by the DPSC. Furthermore, in cases when a licensee is dissatisfied with the decision of the DPSC, this Law also refers to Article 8 of the Law on the Administrative Procedure's⁵⁰ deadline and appeal procedures.⁵¹

The act of revoking a licence means that the license ceases to exist. The licence can be revoked at any time if the licensee declares that they no longer wish to exercise their private security activities. The revocation of license can also happen also in case if the licensee is breaching the law. Respectively, it can be revoked by a judicial decision if the licensee exercises the private security activity in contradiction to the licence or the licensee acts in contravention to this Law.⁵² The Law stipulates that in cases when a licence is revoked in this manner, the licensee is prohibited to reapply for a period of three years post revocation,

45 Interview, (DPSC Representative A, 2015).

46 Ibid., Art. 20.

47 Administrative Instruction on Licensing Procedures (2011), Art. 6.

48 Often, DPSC officials are themselves confused as to whether offences such as a traffic accident make a potential applicant ineligible to apply for a licence, since the regulations are unclear (Interview, (DPSC Representative A, 2014)).

49 Law on Private Security Services (2011), Art. 43.

50 Law on the Administrative Procedure No. 02/L-28 of 22 July 2005. Hereafter: Law on Administrative Procedure (2005).

51 Law on Private Security Services (2011), Art. 43.

52 Ibid., Art. 44.



unless a successful appeal has been made to the ACPS.⁵³ Furthermore, the Law explicitly requires the DPSC to adopt a sub-legal act regarding the revocation of the licence; this document, however, has still not been adopted.

Penalties

The DPSC is also authorised to issue penalties for PSCs and private security employees in cases when the Law on Private Security Services or the administrative instructions have been breached. Penalties can be issued to members of management, supervisory staff, a private security worker or a legal entity (providing unauthorised private security services).

Of course, a breach of this Law by a legal entity, namely a managerial structure, has a greater severity and therefore carries a higher penalty ranging from EUR 200 to EUR 7,000. For minor technical offences⁵⁴, the legal entity may be fined from EUR 200 to EUR 1,000. The DCSP may also fine a legal entity between EUR 1000 and EUR 3000 for minor offences related to disobeying the Kosovo Professional Standards.⁵⁵ Fines between EUR 3000 and EUR 7000 can also be issued in cases when a legal entity provides services that are not granted by the licence; non-obedience of the commence rules; employment of unlicensed security workers or engagement with them outside the scope of the licence; as well as other similar unlawful situations.⁵⁶

The penalties instituted by the DPSC against security workers working for legal entities are lower compared to those implied to PSC, which is understandable. They vary from EUR 30 to EUR 3000 depending on the scale of the offence. Security workers may be fined between EUR 30 and EUR 150 when they are found not to be equipped with an official identification card or when a security worker does not wear the uniform required by the Law.^{57, 58} For more serious offences such as the carrying of unauthorised weapons or failure to immediately inform the Kosovo Police when a firearm is discharged the DPSC may issue fines between EUR 1000 and EUR 3000.⁵⁹ However it is debatable whether the DPSC Inspectorate has sufficient capacities to identify cases which require penalisation considering the limited capacities this division has.

53 Ibid.

54 This includes offences related to the use of surveillance signs, disobeying pat-down search rules, carrying unauthorised weapons or dogs, a lack of necessary equipment by security workers, the use of equipment outside the line of duty, irregularities related to data collection, as well as other technical issues forbidden by law (Law on Private Security Services (2011), Art. 45.2). Legal entities may also be fined between EUR 200 to EUR 1000 for trying to avoid the process of investigation of its security workers when they have used force or when letting security workers use security equipment for unlicensed activities (Ibid., Art. 46.3).

55 These include breaching the principle of confidentiality; allowing conflicts of interest between its workers; failing to equip through communication means the close protection of operatives; breaching the authorisations and duties of the PSCs; breaching the authorisations and duties by security workers related to carrying of equipment; not keeping audio and video recordings of data in accordance with the law; as well as other issues (Ibid, Art. 45.3).

56 Law on Private Security Services (2011), Art 45.4.

57 Ibid. Art 46.1.

58 Moreover, the Law states that the DPSC may issue fines between EUR 30 and EUR 150 for minor offences conducted by security workers such as: legitimising emergency service workers; using force without following the defined warning procedures; lacking an identification card or not returning it as required by law; using equipment outside of licensed activities without properly informing the Kosovo Police; not immediately providing medical assistance to a person whose movement is temporarily limited by the use of force; not wearing a uniform whilst on duty, and other related issues (Ibid., Art 47.1). Security workers may also be fined between EUR 100 and EUR 500 when operating without a license; breaching the principle of confidentiality; in a case where there is a conflict of interest with state security institutions; when using unauthorised security equipment; when in possession of a category of a firearm not permitted by law or carrying weapons outside of the line of duty; and when not reporting the use of force to the Police (Law on Private Security Services (2011), Art. 47.2).

59 Law on Private Security Services (2011), Art. 46.



DPSC Inspectorate

Legally, the DPSC Inspectorate, which is one of the main mechanisms of the DPSC, operates in accordance with the Law on Private Security Services and its administrative instructions. Procedurally, the Inspectorate carries out its inspections in accordance with Administrative Instruction No. 08/2012 on Inspection Procedures. The Inspectorate is empowered with a relatively broad authorisation, and is entitled to conduct regular, extraordinary, and repeated inspections.⁶⁰ Inspectors of the Inspectorate have the legal authorisation to enter into secured zones of the PSCs at any time without prior notification^{61, 62} with the aim of identifying potential breaches of the Law on Private Security Services by the PSCs and its workers, as well as to ensure that the Kosovo Professional Standards by Security Workers and Private Security are respected.⁶³

In addition, the Inspectorate verifies whether applicants for licences meet minimum criteria and ensures that the Control Centres are properly equipped and operate in accordance within the law.⁶⁴ Lastly, the Inspectorate is obliged to verify whether insurance contracts are regularly renewed, in order to ensure coverage for the PSCs in case of any damage.⁶⁵ It is important to note that the Law on Private Security Services aims to avoid conflicts of interest between inspectors and the PSCs by specifically forbidding inspectors to be involved in any way with PSCs, outside of exercising the tasks related to their official duty.⁶⁶

Appeals Commission for Private Security Companies

Like the DPSC, the establishment of the Appeals Commission for Private Security Companies is overseen by the Law on Private Security Services. It is a mechanism which acts as a resource which the PSCs can use for complaints filed against the DPSC's decisions in accordance with the Law on Administrative Procedure.⁶⁷

Insufficient Control or Oversight over Violations of Labour Law and Public Procurement Procedures

As elaborated above, not all aspects related to the private security sector are regulated by the Law on Private Security Services or its administrative instructions. In particular, the Law on Private Security Services does not refer at all to labour rights and public procurement procedures which are two challenging areas of the private security sector. The main argument why legislators excluded these two areas from the Law on Private Security Services is

60 Regular inspections are those conducted in accordance with the inspection plan. Extraordinary inspections are usually conducted in response to initial suspicions or calls for an emergency response. Repeated inspections are conducted to verify the elimination of deficiencies that were found during regular inspections (Administrative Instruction No. 08/2012 on Inspection Procedures, Art. 5). The inspectorate organises its inspections in six phases and they start from: Site selection; Preparation; Introduction; Inspection; Closing Meeting; and Report writing (Ibid., Art 4).

61 Law on Private Security Services (2011), Art. 36.

62 Indeed, it is a criteria set by the DPSC when licensing the PSCs, which requires prior written consent for unlimited access for the inspectors to places of businesses pursuant to this Law (ibid., Art 12).

63 Ibid., Art. 36

64 Ibid., Art. 21.

65 Ibid., Art. 24.

66 Ibid., Art. 36.

67 Ibid., Art. 8.



that these domains have already been regulated by other, existing laws, and accordingly, the principle of 'lex specialis' should ensure that the more specific laws apply in these areas. However, the legislation which covers labour rights and procurement is highly inadequate for the private security sector.

The rights and working conditions of the private security workers are not directly dealt with by the Law on Private Security Services but in the Law on Labour⁶⁸. As mentioned above⁶⁹, it does seem problematic that because of the nature of their work private security workers are exposed to higher levels of risk to their health and bodily integrity but are not awarded a special protective status, neither by the Law on Private Security Services nor by labour law provisions. This is even more perplexing since uniformed security personnel working for state security (for example, policemen) are awarded a special status which provides them with certain protective measures.

The official stance of the DPSC is that labour rights issues in the private security sector exceed its competences defined by law and are the sole responsibility of the Ministry of Labour and Social Welfare through its Executive Agency of the Labour Inspectorate.⁷⁰

The Executive Agency of the Labour Inspectorate currently employs fifty inspectors who are responsible for covering all labour issues in the private and public sector throughout the entire territory of Kosovo, including formal and informal employment. In numerical terms, this means more than 200,000 and 25,000 registered employees in Kosovo. The Inspectorate does not have a specific inspection plan and inspects randomly, unless specific complaints are submitted.

In effect, the human resources and professional capacities that are at the disposal of the Inspectorate to inspect the labour rights issues of more than 6,000 (or 8,000 including the grey market) employees in the private security sector are extremely limited⁷¹, which makes it difficult for them to address the perceived commonplace exploitation of employees and abuses of labour rights.

Many of the shortcomings can be traced back to the lack of a sector-specific definition of labour rights in the Law on Private Security Services. While general definitions of exploitation and abuse of labour rights are defined for all employment sectors in the Law on Labour, the relevant provisions are lacking clarity.⁷² Practically, the existence of these legal gaps makes it extremely difficult for the Labour Inspectorate to track the exploitation of PSC employees.

Another problem is the definition of minimum salary. Firstly, although the Law on Labour states that the Government of Kosovo shall define a minimum wage at the end of every calendar year based on the proposals by the Social-Economic Council,⁷³ the Law does not specify that the minimum salary applies only to the regular, 40 hour week. Secondly, the

68 Law on Labour No.03/L –212, 01.11.2010. Hereafter: Law on Labour (2010).

69 See Section 'Legal Status of Private Security Employees', above. p. 67.

70 Interview, (DPSC Representative A, 2015).

71 Interview, (Labour Inspectorate A, 2015).

72 For example, in addition to the 40 hours of full-time work, the Law on Labour (2010) allows employers to require from their employees (18 years or older) to work an additional 8 working hours (compulsory extended working hours) per week without referring to the compensation for such an extension (Art. 23.2). Since the Law does not limit the maximum working hours per month that an employee can work for the same employer, the employer is able to use this mechanism on a regular basis. Moreover, the Law allows the employer to require compensated volunteer overtime work (Art 23.3). This allows the employer to use the clausal of compulsory extended working hours on the regular bases. In addition, the Law allows employers to ask their employees for compensated volunteer overtime work (Art. 23.3).

73 Law on Labour (2010), Art. 57.



Law only states that the employees are entitled to extra pay⁷⁴ for extra work but it does not affirmatively refer to the liability of employers to cover such obligations.

Public institutions that subcontract their security to private security companies (including the Labour Inspectorate) fail to require the PSCs to respect the Law on Labour when signing contracts with such companies.⁷⁵

The PSC employees themselves are helpless in the face of such exploitation. Often a whole family depends on the salary of the security worker who then feels obliged to accept the requests for extended hours with no salary upgrade if they wish to keep their position.⁷⁶ In addition to better control and enforcement of existing legislation it would also be important to pass new legislation on the maximum amount of working hours per month that an employee is allowed to work in addition to the maximum amount of hours per week which are already defined.

The institution of the Ombudsperson, which by its mandate is supposed investigate human rights abuses in Kosovo, has not acted specifically upon the issue of abuse of private security employees' labour rights. According to representative of the Ombudsperson's office, the legal mandate of Ombudsperson applies only when it comes to violations of human rights by public institutions; therefore, despite being aware of the poor conditions that the private security workers have, the institution of the Ombudsperson does not have any legal base and authorisation to tackle this issue.⁷⁷

Contractual Relations between PSCs and its Clientele (Public & Private)

Many of the challenges related to the abuse of security workers in Kosovo are related to bad practices in hiring PSCs. In general, clients pay very little for private security services, which then in turn lead PSC managers to exploit their staff. Contractual relations between a PSC and its clients are defined by the Law on Public Procurement⁷⁸ (for public sector clients) and the Law on Obligational Relationships⁷⁹ (for private sector clients). This section analyses the relations between the PSCs and its public institution clients as well as their relations with their private sector clients. The analysis intends to identify the key shortcomings stemming from these relations and also to provide solutions which could contribute to the improvement of the PSC industry in general.

Contractual Relations between PSCs and Public Institutions

The public sector is the biggest and most important client of PSCs covering roughly 80 per cent of the market, followed by financial institutions such as banks and other small clients such as individual businesses.

⁷⁴ The Law states that the employee is entitled to allowances calculated upon the basic salary with the ratio of: extra 20 percent per hour for those working overtime; extra 30 percent per hour for those working in the nightshifts and extended working days; and extra 50 percent per hour for those working during the national holidays and weekends.

⁷⁵ See Section 'Contractual Relations between PSCs and its Clientele (Public & Private)'; below, p. 74.

⁷⁶ Interview, (PSC employee C), 2015.

⁷⁷ Interview, (PSC Executive B, 2015).

⁷⁸ Law on Public Procurement No. 04/L-042, 19.09.2011. Hereafter: Law on Public Procurement (2011).

⁷⁹ Law on Obligational Relationships Law No. 04/L-077, 10.05.2012. Hereafter: Law on Obligational Relationships (2012).



The contractual relations between PSCs and the respective public institutions are based on procedures defined by the Law on Public Procurement. The purpose of the Law is to ensure the most efficient, economical, and transparent use of funds and resources by the contracting public authorities in Kosovo. Furthermore, it is supposed to ensure the integrity and accountability of public officials, civil servants and any other subject conducting or involved in a procurement activity.⁸⁰ However, as the Law only provides general principles for managing the procurement process, in practice the requirement for cost efficiency⁸¹ often outweighs the requirements for quality assurance⁸².

Such a narrow interpretation of the Law on Public Procurement means that when it comes to procuring private security services, public bodies select only the lowest offers without regard to quality. Private security services mainly provide labour force, and those PSCs which offer very low prices for their services will then cut the labour costs to still keep a profit margin. In many cases they reduce salaries to such an extent that they are in fact in conflict with some of the most basic provisions of the Law on Labour.⁸³ It comes as a surprise then that the Procurement Review Body recently concluded that the Law on Public Procurement does not oblige procurement authorities to disqualify offers that contradict provisions of the Law on Labour⁸⁴. Hence, it did not take into consideration the duty of all public institutions, including the Public Review Body to eliminate the contractual elements that contradict other legislations such as in this case Law on Labour.⁸⁵

Such practices are very common in public institutions and one gets the impression that each institution operates within its own rules, rather than within the national legal framework. At times the public procurement officers simply lack the knowledge to properly assess offers for private security services. It would appear that those responsible for public procurement just went for the cheapest offer because it is an easier option than taking the time to critically examine whether the private security company would really be able to provide the right kind of services to the required level of quality. In the worst cases public procurement officers might actually favour particular offers because of informal links they have with the tendering PSC competing for tender. Indeed, there are indications that in many cases, PSCs affiliated with individuals with a political background have been regularly awarded contracts. Such indications may explain also why institutions are turning a blind eye when it comes to accepting offers with extremely low prices per service that cannot realistically guarantee a minimal salary for the security workers.

Further to this, the Public Procurement Regulatory Commission, responsible for the supervision all public procurement, cannot be relied upon to help avoid the abuse of public procurement of private security services. As a mechanism, it monitors the entire public sector and is able to review only eight to twelve percent of all procurement contracts as well as

80 Law on Public Procurement (2011), Art. 1.1, 1.2.

81 Ibid., Art 6.

82 Article 51 of the Law stipulates that only economic operators that have the professional, financial and technical capabilities to meet the terms and conditions of a contract should be taken into consideration for a public procurement contract.

83 In some of the offers it is stated that the labour power per hour for a single security guard is between 0.7 to 0.8 Euros gross.

84 Interview, (Procurement representative A).

85 Interview, (Procurement representative B, 2015).



dealing complaints.⁸⁶ The Commission tends to shift responsibility to the Inspectorate of Labour, which, as discussed above, is also unable to oversee the sector⁸⁷. Since there is already a specialised oversight mechanism for PSCs (the DPSC), it would be beneficial if the responsibility for oversight of labour and procurement standards is shared across these institutions, strengthening the oversight of the PSCs and ensuring better functioning of the sector as a result.

Contracts between PSCs and private enterprises

Contractual relations between PSCs and private sector clientele are regulated by the Law on Obligational Relationships, a generic law which governs negotiations between all forms of private contracts, ensuring that all contracting parties consensually agree to the terms of the contract, and that the basic legal and ethical practices are considered.⁸⁸

There is no mechanism which would be responsible for the oversight of the details of the contract between a private entity and a PSC. The PSCs are responsible for informing the DPSC about the content of the contract however only in the relation to the LPSS. However, those contracts are not overseen by any mechanism except if reported to the court for the other issues such as whether the economical offer is fictional or whether the price offered covers the minimal salary of security workers.

The DPSC does not view the protection of the labour rights of employees as part of their mandate. Therefore, insofar as contracts do not contravene the Law on Private Security Services (which does not regulate labour issues), the DPSC will not engage with the specifics of the contract beyond the basic provisions of the Law on Obligational Relationships.

Conclusion

The growth of the private security sector in Kosovo has been largely demand-driven. The current legislative framework regulates the basic features and mandate of private security companies and their employees so as to allow them to operate in the sector without infringing on the mandate of public security institutions such as the Kosovo Police.

There are a number of challenges that private security faces in Kosovo. The Division for Private Security Companies lacks institutional support from the MoIA, which means that they lack the capacity, training and financial resources which would enable them to exercise their role effectively. Their mandate, in part, entails the oversight of training programmes and facilities. The problem is compounded by the limited capacities of licensed training centres to provide more complex, specialised, training than foreseen in the requirements for basic security services.

The most critical finding of this research is that the legal framework does not sufficiently protect the rights of private security employees. The Inspectorate of Labour, with its broad mandate, has a fairly limited will and capacity to tackle the labour rights issues of PSC em-

⁸⁶ Interview, (Procurement representative A, 2015).

⁸⁷ See Section 'Insufficient Control or Oversight over Violations of Labour Law and Public Procurement Procedures' p.72.

⁸⁸ The Law stipulates that a contract shall be null and void if the subject of the obligation is absolutely impossible, impermissible, un-specific or un-specifiable (Art. 35). In addition, it states that a subject of an obligation shall be deemed impermissible if it contravenes provisions of the public order, compulsory regulations or moral principles (Art. 37).



ployees, while the DPSC is only guided by the Law on Private Security Services (which does not regulate labour rights) and the Ombudsperson's office considers private sector matters outside of its mandate. Through inadequate public procurement practices and the associated downward pressure for prices of private security services, state institutions often contribute to, and indirectly enable, the violation of the labour rights of PSC employees.

The professionalism of the sector is becoming a topic of interest in Kosovo, and there have been (unsuccessful) attempts at forming associations and unions that would represent the interests of PSCs and their employees and advocate for their interest. However, at the time of writing, the sector remains disorganised and disjointed.

Recommendations

- The **MoIA should invest in the DPSC** both in its human resources and professional capacity building. Furthermore, an agreement in the form of a MoU should be compiled in order to enhance cooperation between the PSCs and DPSC. Aside from its oversight and control, the DPSC should cooperate with PSCs on constant basis and not only in cases of inspection or administrative means.
- The **cooperation between the Kosovo Police and PSCs should be further enhanced** in recognition that these public and private security providers can increase the level of public safety, contributing to the overall safety within Kosovo. The intensity and frequency of meetings between these parties should be increased and held on regular basis. These parties should not see each other as competitors in cases when their cooperation is considered necessary.
- **Constant control and oversight of the private security industry by the public sector** is vital and the MoIA, along with the Assembly of Kosovo, should not leave any potential legal vacuum in this process. This sector is important and requires full attention from the public institutions. In addition, this sector is largely increasing and therefore the Committee on Internal Affairs and Security should include in its agenda the oversight of DPSC and through this the private security sector.
- The MoIA and the DPSC should find a way **to register the companies that have established their own internal security providers**. The "grey market" has been increasing with companies offering services to night clubs that have also established their security services, operating without licensing and registration and remaining outside MoIA oversight.
- **The procurement process should be stricter** and reject the abnormal low offers by the PSCs; this would increase the quality of the services and the treatment of the private security personnel. Furthermore, **the procurement managers should oversee the implementation of these contracts** and pose sanctions for the companies failing to provide the services as set by the contract. Alongside the procurement managers, the inspectorate should pose sanctions for the companies violating basic labour rights such as working hours and low salaries in this sector.
- The **Law on Private Security Services should be amended** and it **should contain specific provisions which define the specific status of the private security workers**. The Law should include a compulsory provision which guarantees private security work-



ers insurance benefits and other incomes related to the specificity of their duty. Also, it should be more specific when it comes to protecting them from risk exposure.

- The **PSCs should strictly implement the labour law**. PSCs personnel need extra attention and better treatment in the workplace, including the level of salaries as required by law, holiday, overtime – working hours during holidays and night hours. The PSC personnel should be provided with the uniform as set by law along with the professional training to work in this sector.
- **Professional training of the PSC personnel is needed**, especially regarding the use of force and weapons and incorporate more practical lessons. Health and safety during working hours is an issue of concern in a sector where the employees are directly exposed to danger. Compensation for work related injury and obligatory insurance should be provided by the PSCs and the procurement process should include this amongst other requirements and criteria. The PSCs should be organized to **rejuvenate the associations**, aiming to unify their stand on such issues as price of services and other requests to be addressed to the MoIA and associated public institutions.
- There should be concrete efforts which enable the **PSC security workers to be organized in labour unions**, this would enable the employees in this sector to be more organized and have their voices heard by both their employers and the responsible institutions, such as the inspectorate, Ministry of Labour and other institutions such as courts, state prosecution and so on.
- The DPSC or EALI should **inform the private security worker about the existing complaint mechanisms**. In particular, the EALI should be scrutinized for the potential to purposefully neglect the condition of labour rights in the private security sector. The potential violation of labour rights of private security workers guarding the building of this inspectorate is serving as a negative message for other private security workers that EALI is not the appropriate body of which to submit their complaints.
- The existing limitation of the Ombudsperson's mandate within the public sector does not reflect the reality in Kosovo, where the private sector is growing gradually. In particular keeping in mind the emergence of the PSCs and the private security in general where the violation of human rights has become a very serious issue, **the Ombudsperson's mandate should be expanded to include the private sector**.
- The **PSCs should revitalize their associations** in order to protect their interests in an organized manner against those PSCs that use informal connections (bribery, nepotism or political connections) to obtain a privileged position with state institutions (including the procurement authorities and EALI) in the private security market.



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**List of Interviews**

Occupation of the interviewee	Date interviewed(optional)	Coding
Kosovo Assembly Representative	December 2014	Representative A
Director of the DPSC	December 2014	DPSC Representative A
Former Director of Division for Private Security Companies	December 2014	DPSC Representative B
Deputy Ombudsman	February 2015	Ombudsman A
President of the Procurement Review Body	February 2015	Procurement Representative A
President of the Public Review Body	February 2015	Procurement Representative B
Executive Body Labour Inspectorate	February 2015	Labour Inspectorate A
Head of the Legal Department at the Ministry of Labor	February 2015	MoiA Representative A
Head of the Legal Department at the Ministry of Labor	February 2015	MoiA Representative A
Director of the Legal Department at the Ministry of Labour,	December 2015	MoiA Representative A
Owner of a big PSC in Kosovo	February 2015	PSC Owner A
Executive Director of a big PSC in Kosovo	December 2014	PSC Executive Director A
PSC Owner and Security Expert	February 2015	PSC owner – Security expert A
PSC Executive Director	February 2015	PSC Executive B
Owner of medium private security company	December 2014	PSC Owner C
Owner of small private security company	January 2015	PSC Owner D
Owner/ Executive Director of private security company	February 2015	PSC Owner E
Employee (basic security service)	February 2015	Employee A
Employee (Close Protection)	January 2015	Employee B
Employee (electronic surveillance)	March 2015	Employee C





Serbia

Predrag Petrović and Marko Milošević

Introduction

The private security sector in Serbia employs between forty and fifty thousand people, matching the number of police officers and exceeding the number of Serbian Armed Forces personnel by almost a third. The sector's emergence and development was the result of various interlinked social, economic and political conditions and factors. Some of these were positive, such as the privatisation of state-owned and public goods, increased investment, the influx of international companies into the Serbian market, legal regulation of the sector and so forth. Others were negative, however, such as the outbreak of a civil war, United Nations (UN) sanctions, the rapid growth of the black market, corruption, criminality and the weakening of state institutions. These factors shaped the Serbian private security sector, which is today simultaneously a source of security and insecurity for the country's citizens. In this chapter, we will present a brief overview of how the Serbian private security sector emerged and developed. We will then examine the state of the sector as it is now – in other words, what form the sector takes, who are the people it employs and what are the main economic, normative and political conditions and factors determining how it functions.

Historical Background

The first private security companies in Serbia were created in the late 1980s, just before the collapse of the socialist order and after the adoption of the 1986 Law on System of Social Self-Protection¹. Provisions in this Law obliged industrial and commercial organisations to provide personnel or systems in order to secure their premises or resources. Soon companies offering private investigation services emerged and some also offered security services. These companies were usually small, with no more than twenty employees, and often established by former police officers. After the socialist system was transformed into a democracy, the 1990 Constitution² placed private property on equal footing with other

1 Law on System of Social Self-Protection, Official Gazette RS 14/1986.

2 The first constitution of the Republic of Serbia since the Second World War in which the political order of the country is described as demo-



kinds of ownership.³ A number of police officers saw this as an opportunity to make a profit by offering their services on the commercial market and left their public sector jobs to establish security companies.⁴ Some state-owned security companies, privatised in the early nineties, also took advantage of this initial wave of transition.⁵

The outbreak of war in former Yugoslavia and the UN sanctions against Serbia, which spurred the growth of the shadow economy, put a sudden end to these developments. Crime and corruption rose and police effectiveness plummeted during the last decade of 20th century. Many security companies became involved in criminal activities such as racketeering, drug dealing and debt collection. The situation worsened still in 1993 when the Law on Social Self-Protection was revoked, pushing the entire sector into illegality.⁶

War and sanctions in the 1990s put socio-political transitions to a halt, which continued only after the end of the autocratic Milošević regime in October 2000. The most important change for the development of the private security sector in Serbia then came with the privatisation of state- and public-owned enterprises and with the influx of foreign companies, especially banks.⁷ A representative of the private security company PROGARD explained that, “[our] market share grew in parallel with the regional growth of our biggest clients: foreign banks, industrial concerns, petrol station chains, retail chains, etc.”

The sector not only grew in size but also became more professional. Ties to criminal networks became rarer as foreign companies, one of the largest client groups, made it clear that they did not want to entrust their property and business to security companies that employed personnel with criminal backgrounds. New standards for professionalism were also introduced with the arrival in the Serbian market of the two largest security companies in the world: G4S and Securitas.⁸

After the year 2000, the Serbian private security sector became increasingly professional, and as some companies came to understand the importance of sector-wide organisation and cooperation, in 2005 they formed the Private Security Association within the Serbian Chamber of Commerce⁹. One of the principal goals of this association was to advocate for wide-ranging regulation of the sector as a whole. In 2006, the association prepared a draft

cratic was adopted on 28 September 1990. It was supplanted on 8 November 2006 when the National Assembly adopted a new constitution in response to the break-up of the state union of Serbia and Montenegro.

3 During the socialist regime (1945-1990) only state and public property were recognised. Private property existed but its extent was limited to small craft shops and farming lands. See more at: Kresic, Andrija (2009). “Socijalizam i druga Jugoslavija”, Republika. Year XXI (2009). N. 466-467. Available at: <http://www.republika.co.rs/466-467/28.html>.

4 The best example of this is Protector, later renamed to PROGARD. In 1992 the company was established by Miroslav Gojković, former Belgrade Police Assistant Director.

5 As was the case, for example, with Sigurnost Vračar. More information on this company is available at: <http://www.sigurnostvracar.co.rs/>.

6 For more on this see: Petrović, Predrag (2011). “Privatizacija bezbednosti u slabim državama: Slučaj Srbije” [The Privatisation of Security in Weak States: The Case of Serbia]. Belgrade: Čigoja. pp. 79-96.

7 Milošević, Marko (2008). “The Influence of the Market on Private Security Sector”. In Private Security Companies in Serbia: Friend or Foe, Sonja Stojanović et al. (eds.). Belgrade: CCMR. p. 57.

8 The fact that both G4S and Securitas bought up some of the largest local companies could be seen as a sign that a certain level of professionalism was achieved across the Serbian private security sector. As well as an injection of fresh capital, these two companies also introduced new and improved standards and higher quality services, with ambitions to improve best practices further still. See Petrović, Predrag (2011). “Privatizacija bezbednosti u slabim državama: Slučaj Srbije” [The Privatisation of Security in Weak States: The Case of Serbia]. Belgrade: Čigoja. pp. 97-103.

9 Previously, some private security companies were organised in the Belgrade Chamber of Commerce in the early 2000s, while others organised themselves within the Business Association of Private Security Companies in 2001. Yet, the first effective association was established in 2005 within the Chamber of Commerce of Serbia.



law that would comprehensively regulate the sector and they continued to advocate for legal change. Additionally, in an attempt to further regulate the sector, the association produced a code of conduct for companies, as well as standards for the provision of private security services.

Although the 2009 National Security Strategy¹⁰ acknowledged private security as an actor in the security sector, PSCs were generally not defined or regulated in the national regulatory framework.¹¹ The private security sector itself had, up to that point, been only partially regulated and the different regulations were spread across 18 different laws.

This situation did not change until November 2013 – twenty years after the end of the socialist regime – when the Law on Private Security¹² and the Law on Private Detectives¹³ were adopted.

The Law on Private Security introduced important measures that aimed to define, regulate and professionalise the sector. It also proscribed mandatory vocational training and licensing of companies, employees and private investigators. In order to properly separate the business activities of private security companies from those of private investigators, two different types of licenses were introduced. The Law also regulates the powers available to private security personnel and private investigators, as well as how and by whom these elements of the sector will be overseen. Lawmakers, experts and the wider public (rightly) expect that the enforcement of these laws will ‘clean up’ the sector. However, at the time of writing (mid-2015) the implementation of the Law has not yet started.

In spite of these largely positive changes, the private security sector has, over the past five years, continued to face barriers to its reform. The global economic crisis has had a particularly negative effect on the market and therefore also on the professionalism of companies, as will be explained in detail in the following sections.

Profile of the Serbian Private Security Sector

The private security sector in Serbia has changed considerably in recent years as a result of far-reaching economic, legal and political changes: The economic crisis has deepened, political power has been restructured and, finally, the private security sector itself has been subject to specific legislation.

As described above, the private security sector in Serbia initially developed in the absence of any laws or regulations. Even at the time of writing (mid-2015), the newly adopted Law on Private Security has yet to be implemented.

10 According to the Strategy, PSCs have “responsibility for the implementation of internal security policy, whose activities include security protection of individuals, objects and other material goods not covered by the protection of the competent state authorities”. Ministry of Defence. “National Security Strategy”, Official Gazette RS 88/2009. p. 27.

11 In the bylaw Decision on Determining Authorized and Trained Legal Entities for Protection and Rescue in Serbia (Official Gazette RS 36/2011), PSCs are not listed among the 353 legal entities recognised as important for protection.

12 Law on Private Security, Official Gazette RS 104/2013. Hereafter: Law on Private Security (2013).

13 Law on Private Detectives, Official Gazette RS 104/2013.



Box 1: Sector Profile

- 600 registered companies, but realistic assessments suggest 300 viable companies;
- Almost half of all registered companies based in Belgrade;
- An estimated workforce of 40 to 50 thousand employees;
- Value of market around EUR 140 million annually;
- The market is dominated by two large multinationals: Securitas and G4S;
- Local areas usually contain two or three mid-size local companies;
- A large number of small firms will not survive licensing;
- Domestic companies with links to political parties currently in power have a strong market position;
- Political connections are key for winning contracts;
- Around 50 percent of contracts are with public institutions or companies;
- Unrealistically low hourly rates (around EUR 1);
- Around 30 percent of employees are not registered.

Services on Offer

According to the Business Registers Agency (APR)¹⁴, there are 579 companies¹⁵ offering some form of security services, 46 percent of which are registered in Belgrade.

Table 1: Overview of registered companies providing security services

Business Activity Code	Type of Service Provided	Number of Registered Businesses	
		In Serbia	In Belgrade
80.10	Private Security	119	70
80.20	Security Systems Services	449	187
80.30	Investigative Activities	11	7
Field 80	Protection and Investigation Activities	579	264
		100%	46%

Source: Serbian Business Registers Agency.¹⁶

The core services provided by most companies are security services (mainly provision of security personnel). One of the more significant services provided to private sector clients is the protection of cash-in-transit. As the number of clients increases, the cost of this service drops due to the fact that the takings of several businesses can be collected in one trip, which increases the profitability of this service.

¹⁴ Agencija za privredne registre (APR) [Business Registers Agency]: <http://www.apr.gov.rs>.

¹⁵ According to June 2014 data.

¹⁶ See more at: Petrović, P. and M. Milošević (eds.) (2015). "Novi-stari izazovi privatnog sektora bezbednosti u Srbiji" [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP, pp. 39-40.



Some companies – particularly those based outside Belgrade – diversify their activities when they cannot ensure their survival by only offering security services.¹⁷ A number of companies exist that are registered as security companies but actually provide services which cannot be considered security services.¹⁸

Given that there is no information on how many of these companies are active and how many are actually engaged in the provision of security services for persons or premises¹⁹, it is difficult to accurately determine the real size and scope of the market. In addition to registered companies, there are so-called ‘illegal security companies,’ made up of groups of undeclared security personnel mainly working for bars and clubs.

According to some estimates, PSCs in Serbia employ between 30 and 50 thousand people and have a combined annual turnover between EUR 90 million and EUR 180 million. Seven years ago the estimated value of the market was around EUR 150 million, while the number of companies was around 3,000. Most of the smaller firms are stagnating and very few were able to expand their operations.

Types and Size of PSCs and their Geographic Distribution

The Serbian economy has experienced a steady decline in the past few years. Many state-owned enterprises have been privatised but only a few have continued to operate successfully; even in the cases of successful privatisation, companies have engaged in belt-tightening.²⁰ Very few of the surviving companies are able and willing to afford private security services and PSCs have to compete over a declining number of private client contracts. As a result, the private security sector’s best clients have been the state itself, as well as banks and the large corporations still able to pay for security services. It is therefore hardly a surprise to learn that individual companies’ economic growth and decline often seem to coincide with government changes.²¹

Most significant public-sector and private-sector contracts are managed and awarded centrally, in Belgrade, even those for services outside the capital.²² This favours large, Belgrade-based companies as well as multinational companies. Smaller, local private security companies can only exist in their own immediate locality.

17 There are companies that provide accounting services, catering services and even form cultural clubs and print books. In Vojvodina, representatives of (at least) one company till plots of land. Another company has a registered cultural club devoted to an ethnic minority and also publishes books. One of the examined companies even provides care services for the elderly.

18 Companies that work in other fields such as supply of personal protective equipment and footwear, risk assessment, operation of training centres and other activity related to the private security sector also sometimes choose to become members of the Private Security Association at the Serbian Chamber of Commerce. The Business Registers Agency is not able to list all of these companies, which can provide security services only as one of many of the services they offer.

19 The APR registers these companies under the umbrella category of “protective and investigative activity.” Within the subcategory “security system services” there are 449 companies, within the subcategory “private security activities” there are 119 companies and within the subcategory “investigative activities” there are only 11 companies. These figures should not be taken at face value because of wrongful registration is common. As stated by the Private Security Association at the Serbian Chamber of Commerce, “the number of companies (468) shown to offer security systems services is not precise because in 2011 the APR (in line with the new Law on Classification of Activities) incorrectly performed the automatic transfer of Physical-Technical Security companies from the old code, 74600, to the new code, 80.20 (mainly for services pertaining to security systems), and many of them are still not registered under the new codes, 80.10 (mainly provision of security personnel) or 80.30 (mainly private investigation and detective work).”

20 Vreme. “Privatizacija u Srbiji: Retki primeri uspeha” [Privatisation in Serbia: Rare Success Stories]. No. 1254. 13 November 2014.

21 For a more detailed account on this see the Section ‘Political Companies’ below. p. 97.

22 See Section ‘The State as the Main Client’, below. p. 91.



The only PSCs that registered a mild growth in recent years are two large companies that have held the dominant position in the market for the provision of security systems and personnel for a number of years and are both subsidiaries of two multinational companies – G4S Secure Solutions²³ and Securitas Services.²⁴ Both have captured the lion's share of the market by acquiring several local companies.²⁵

Currently, G4S and Securitas provide security for 17 buildings in Belgrade that house government bodies such as ministries, departments, directorates and inspectorates. They were awarded a two year contract via a public procurement process worth over RSD 110 million (approximately EUR 1 million) and in which they participated jointly. In 2014 these two companies generated an annual turnover of EUR 25 million. Securitas alone paid EUR 4 million in VAT.

Even though the larger companies – both Serbian and international – dominate the Serbian private security market overall, in the areas outside Belgrade, two or three smaller, local companies have often been able to make their mark.²⁶ Most local security companies offer security systems for buildings and property, as well as mobile patrols. Smaller companies remain competitive by maintaining a small number of employees in relation to the number of contracts they service.

Most companies registered as offering security services are actually sole trader companies and most of these are no longer active. These companies of questionable sustainability can re-register as detective agencies because if they were to offer manned security services they would need to have at least ten licensed employees – an unattainable goal for most.²⁷

In the public sector, security is primarily provided by the Security Administration of the Ministry of Internal Affairs, the Gendarmerie and Police Brigades. However, there are also instances when commercial security services are contracted by the state.

A specific phenomenon in the Serbian private security market is the state-owned company that offers commercial security services. These companies are the successors of the former in-house security services that operated within state-owned enterprises. The 2001 Law

23 G4S is a Serbian branch of the British company of the same name (G4S official website: <http://www.g4s.com>), one of the largest security companies in the world. G4S entered the Serbian market in 2007 by acquiring a local company, DMD System, and in 2008 G4S took over the then largest Serbian security company, PROGARD, for EUR 5.5 million.

According to the latest available Business Registers Agency data, in 2013 this company employed nearly 3,000 people and generated a net profit of almost RSD 60 million (EUR 0.5 million). The official company website states that, "in Serbia G4S currently employs more than 4,200 security officers to provide manned guarding services, or over 85% of the total number of workers in this sector" (G4S Serbia website on Manned Guarding: <http://www.g4s.rs/sr-Latn-RS/Content%20Pages/Manned%20Guarding/>). The company has registered 703 weapons with the Ministry of Internal Affairs and works with more than 150 clients.

24 Securitas Services is the largest private security company in Sweden (<http://www.securitas.com/en/About-Securitas/>) and it also entered the Serbian market by taking over local companies SCP International (in 2008), Gordon (in 2009) and, finally, at the time the largest Serbian security company, FTO (in 2011). In 2013 Securitas employed around 3,000 staff (according to information by the Business Registry Agency), and generated profits of around RSD 160 million (roughly EUR 1.5 million). It has 884 registered firearms and provides services to private companies and public institutions across Serbia.

25 See also Section 'Historical Background', above, for more information on the rise of G4S and Securitas in Serbia. p. 83.

26 In Novi Sad, for example, the noteworthy companies are Revnost and Štit SG (formerly Partol 021). In Niš the most prominent company is Nifon Security, a subsidiary of a Bulgarian company, Infokom. For years this company has had 59 employees with income exceeding RSD 50 million (approximately EUR 463,000) with contracts for the Čair Sports Centre, some city buildings, the Niš parking service and also some local schools.

27 An interesting address in Belgrade is number 16A Trgovačka, where four such companies (with different owners) are registered: Mondo FTO, Mondo Security, Mon-ce and Mondo Plus. Among these companies are two (now closed) companies owned by former paramilitary leaders. The Agency for Finding Missing Persons and VIP Protection was owned by Milika Ćeko Dačević while Siniša Vučinić owned Sina Security.



on Privatisation²⁸ introduced mandatory restructuring of state-owned conglomerates and smaller 'service companies', or subsidiaries, split from the main parent company. The subsidiaries are, however, still tied to their parent company through preferential agreements (usually for five years). Usually, state-owned subsidiaries offer a package of services to their parent company (and to other companies, including private companies), such as security, cleaning and maintenance. The security service contracts that the main company grants to the subsidiary can be very high-value and are officially awarded through a public procurement process. Private companies will not, however, be able to compete with the subsidiary in this process as they do not profit from the same preferential agreements. Even though these state-owned companies offer their services on the private market, they are often not successful since, compared with private security companies, they prove too expensive.

Box 2: State-owned PSCs

Telekom Srbija has its own subsidiary, Telus AD Beograd, which is awarded most of Telekom's contracts, but, as of recently also has contracts with the Serbian postal service. Telus is also one of the most successful state-owned commercial security companies, with 1,653 employees in 2013 and net profits of almost RSD 200 million (approximately EUR 1.8 million).

Kolubara Services is also the outcome of a demerger of the Kolubara coal mine, which secures all of the mines and plants of the country's largest coal mine. This company is wholly owned by the Serbian state and in 2013 had as many as 3,200 employees and net profits of around RSD 3.5 million (EUR 32,400). In 2012, it was awarded one of the highest-value public procurement contracts, worth almost RSD 5 billion (EUR 46.3 million), for providing security at the Kolubara basin.

A similar company is Kostolac Services, which was once part of Elektroprivreda Srbije (the state power distributor) and is today a state-owned commercial security company. In 2013 the company employed 360 people and achieved net profits of around RSD 2 million (EUR 18,500). Aside from its main client, Termoelektrane i kopovi Kostolac (Eng: Kostolac Power Stations and Pits), this company also offered its services to subsidiaries and suppliers within the Elektroprivreda Srbije system.

Many state institutions, such as the National Bank, have chosen to have their own security personnel, using private security services for only some few premises.

Unfair Competition – IT and Black-Market Security

There is unfair competition in the private security market. In terms of provision of security personnel, the greatest competition comes from those who are not employees of any (registered) company, the so-called 'black market' security. This part of the sector is most prevalent in providing security for cafés, bars and nightclubs where it generally does not overlap with registered companies. It may be that there is a nominal company that organ-

²⁸ Law on Privatisation, Official Gazette RS, No. 38/2001, 18/2003 i 45/2005, Art. 19–23.



ises security but which provides personnel that are not registered employees. For example, the company that provided security for the Saund club had two registered employees but twenty bouncers, several of whom were subsequently prosecuted for their involvement in the fatal brawl that led to the death of Fedor Frimerman.²⁹

Even though very few companies operate in this way, the black-market provision of security for clubs and bars is usually the focus of media attention due to the violence that occurs here. This kind of work is too risky for established companies as revenues are small (assuming the company pays taxes!). As a result, there are few registered companies doing this kind of work and the void is filled by criminal groups, hooligan organisations and even moonlighting police officers.³⁰

It is partially the responsibility of the Serbian Police that this sector is not brought in order, as they should regularly check businesses such as bars, which are known to hire unregistered security staff. However, this has not been the case so far. It is not a secret that policemen themselves often moonlight in such clubs, and their colleagues might be hesitant to investigate fellow policemen.^{31, 32}

Another kind of unfair competition appears in the provision of security systems and is more institutionalised. Companies other than those registered as private security companies compete to install security systems.³³ Here the client gets only the product itself without any security evaluation or optimised protection. In such cases, there have been instances where the systems installed have simply not worked³⁴. The most common systems are intruder alarms and CCTV. In both cases – the engagement of security personnel or security systems – the client purchases a product and not the services of a company, the quality of whose work can be monitored or controlled.

Profile of Private Security Employees

Private security employees are overwhelmingly men, aged between 18 and 35. Companies frequently employ retired individuals for whom they do not pay social contributions. Companies also look for workers through youth organisations.³⁵ Most companies do not make use of firearms or have only a small number of registered firearms. A precondition that employers have voluntarily imposed has been to not employ individuals who have a criminal

29 CINS. "Brate jesi li video kako sam mu skakao na grudima?" [Bruv, Did You See How I Jumped On His Chest?]. 23 July 2014. Available at: <http://www.cins.rs/mobile/srpski/news/article/brate-jesi-video-kako-sam-mu-skakao-na-grudima>.

30 However, even in neighbouring Croatia, now a European Union member state, where the private security sector has been regulated for a long time, the provision of security for clubs and bars is still largely a black market activity. (Interview, (M38)).

31 A respondent from the police union revealed that the direct superior (in the police) might or should know about his policemen's off work activities as private security. If moonlighting is still taking place then the superior is either getting a percentage of the moonlighting income; otherwise he/she could arrange day/night shifts in order to prevent his/her policemen getting involved in such activities. (Interview, (P6)).

32 The interviewee from the MoI Internal Control argued that moonlighting is not investigated or punished because the police has no instrument to prevent/punish such an activity, since a bylaw that lists incompatible police activities is missing. However, his conclusions seem to be contradicted by the case of a policeman who was moonlighting in a driving school, and was later punished for „incompatible activities“ – without a bylaw. (Interview, (P7)).

33 In accordance with the Law on Private Security (2013), Art. 9, even installations require licensed servicemen, which is often omitted.

34 Interview, (M14).

35 As we were told by a number of respondents: either for part time jobs or for protection of public/sport events, when they target sports clubs or youth organisations for recruitment. Additionally, the Belgrade Faculty of Security have long made it a mandatory practice to require students to work part-time in a PSC to receive study credits. This is often the case when a company is providing security at public events where they need female employees for searching females. (Interview, (E5)).



record or are currently involved in criminal proceedings. Still, investigations of violent incidents between security workers and members of the public³⁶ reveal that security personnel guilty of violent conduct often have already been convicted of similar offences.³⁷

Box 3: Profile of Security Employees

- Males between 18 and 35, including persons receiving pensions
- Most work for below minimum wage
- Around 23 percent of workers are on training contracts
- Part of the workforce is not registered – effectively black market workers
- Most are under-motivated
- Most change employer frequently

The level of education for security employees varies, from those with only primary education to those with university degrees³⁸. Today job advertisements offer placements to those with Level III professional training, or in other words, at least a secondary-level education. Work experience is, for the most part, not a criterion but applicants will have an advantage if they have certificates confirming that they have completed firearms and fire-safety training. When the new Law on Private Security (2013) is implemented all security workers, including those already employed in the industry, will have to be licensed, that means they will have to pass through rigorous training and schooling³⁹.

The State as the Main Client and Public Procurement Practices

It is estimated that just under half (45 percent) of the private security sector's contracts are with the public sector.⁴⁰ However, these numbers might not show the full picture. Unofficial estimates indicate that around 80 percent of security personnel are assigned to work on public sector contracts.⁴¹ Most public sector contracts are for securing state institutions such as ministries, agencies and the various governmental bodies based in Belgrade. These contracts often cover not only the buildings of these institutions in Belgrade but also those of the regional branches they have across Serbia. It might be more cost effective and even more efficient to hire local companies for the regional branches. However, the provisions in the Public Procurement Law stipulates, that when possible, large public procurements will be split into blocks to enable the participation of small and medium enterprises and other local companies.⁴² In practice most Ministries conduct centralised public procurements, but some institutions like schools often conduct their own separate public procurements.

36 Information regarding attacks by private security guards on members of the public is available at: <http://www.cins.rs/srpski/security>.

37 Cases of security workers with criminal records are available at the Serbian Centre for Investigative Reporting: <http://www.cins.rs/srpski/security>.

38 Several respondents (M1, M3, M4, M7, M11, M15, M16, M17), managers of PSCs, on the question of professional qualifications of their employees.

39 See Section 'Training', below. p.101.

40 Statement by interviewees, (M20, Ch3, M1). Recorded at a conference in Vrnjačka Banja, held on 2 September 2014; often repeated by a number of respondents.

41 Statement by several respondents, managers of PSCs (M1, M2, M20, Ch3, M9, M10).

42 Public Procurement Law, Official Gazette RS 116/2008, Art. 48. Hereafter: Law on Public Procurement (2008).



Smaller, local private security companies get hired on public sector contracts by local branches of national governmental institutions (as part of bigger public procurement)⁴³ as well as through public procurement organised by local government or by public sector companies. Local private security companies therefore usually secure municipality offices; sports and cultural centres; local branches of public companies; as well as schools and kindergartens. Security services provided to schools⁴⁴ are particularly interesting because these contracts are awarded by individual schools themselves, rather than by the Ministry of Education. It is often the case that schools lack sufficient funds to hire a security firm and that this service is funded through voluntary contributions by parents.⁴⁵

Contracts between state bodies and private security companies are made on the basis of the Public Procurement Law. Security services providers are selected according to two criteria: the lowest price and the most cost-effective offer. However, the public sector personnel responsible for awarding contracts often lack the expertise necessary to assess the quality of the services required.⁴⁶ Public or private clients of security services hardly ever employ trained security managers, who would professionally set out terms of a private security contract and control its proper implementation. Usually the bidding companies specify the personnel and equipment needed for the job; clients usually just accept these estimates as they lack the necessary expertise to critically assess them.⁴⁷

Most of our respondents agreed that the person tasked with awarding the contract hardly ever understands the finer differences between bids. This is confirmed by the fact that by-laws⁴⁸ and curricula⁴⁹ that specify training for public procurement officers do not have any guidelines on contracting private security services. Inquiring about security guards' wages or working conditions is a matter of the individual curiosity of public sector employees and is not part of a routine exercise in establishing the quality of services paid for by the tax payer.⁵⁰

43 Public Procurement Law, Official Gazette RS 124/2012 and 14/2015, Art. 49 and 68. Hereafter: Law on Public Procurement (2012).

44 Some (local) companies try to retain contracts with schools by selecting staff who will work in these jobs, giving an advantage to personnel who are married with children – as preferred by parents (who often pay for these services).

45 In at least one case the procurement was overturned because, not knowing what budget would be available for this service, the school in question had submitted a price range “from RSD 400,000 to RSD 3 million (roughly between EUR 3,700 and EUR 24,590) instead of a precise cost estimate. Decision of the Republican Commission for the Protection of Rights in Public Procurement, Solution no. 4-00-2616/2014, from 23 December 2014.

46 For a more detailed account on this see: Svet bezbednosti „Šta sve može, a ne mora - Neostvareni ciljevi javnih nabavki usluga obezbeđenja” [What Can and what Does Not Have to be Done? - Unrealised Objectives of Public Procurement of Security Services]. May 2015. Available at: <http://www.svet-bezbednosti.rs/sr/clanak/2015/5/sta-sve-moze-a-ne-mora,469,15406.html>.

47 A lack of security managers in public and state institutions is the main reason for this lack of accountability. Numerous interviewees focused on this issue. An example of such practice is evident in the purchase of CCTV cameras on a student campus in New Belgrade: on a 100m long fence, there are a dozen cameras installed instead of the two that would be sufficient.

48 Regulation on Manner and Professional Training Program and Method of Taking the Professional Exam for Procurement Officer, Official Gazette RS 77/14.

49 Public Procurement Department “Priručnik za obuku i polaganje ispita za sticanje sertifikata za službenika za javne nabavke” [A Training Manual and Exam for Acquiring Certificates for Public Procurement Officers]. pp. 178-181. Available at: http://www.ujn.gov.rs/download/Prirucnik_Javne%20nabavke_za%20web.pdf.

50 The lack of security managers and lack of procedures on how to control hired PSC services is illustrated in the following responses. At least three respondents with different backgrounds said: „there is no procedure in public enterprises on how to control it. I do it here regularly...” (bank security manager); „Once you get a contract for a public enterprise, you have no worries whatsoever for a period of one year. No one will control you. They certainly won't harass themselves with another public procurement. In private enterprises you should provide quality, as they always control you, and it is easy to lose that contract” (manager, small company, Belgrade) „we have selected them on the lowest price criteria. We only monitored whether they are on their places and if they are armed. We never asked them whether they receive salaries or whether they are moonlighting...” (public procurement officer in state administration).



Government bodies also seem to be unable to supervise the PSCs once the contract has been awarded. They tend to exercise poor to no control over the quality provided and hardly ever sanction contract breaches. As one private security manager confirmed, “The government pays late but, in the end, they always pay. What’s more, I can send the worst employees to secure government buildings.”⁵¹

In the previous Public Procurement Law⁵² a separate annex regulated the provision of security services and the selection of bids had to be conducted in the same manner as for small value procurement, from a choice of at least three bids. This led to numerous abuses as the procuring institution decided who would be invited to submit bids. Furthermore, according to the small value procurement procedure, the procurer was not required to announce the tender, and sometimes tenders were not made public. The new Public Procurement Law⁵³ was supposed to address these shortcomings but instead it introduced new challenges because it fails to make cost-effective selection criteria binding in the procurement of private security.

Differences in Working with Private Companies

While multinationals and large domestic private security companies tend to receive large government contracts, the majority of small firms (defined as having up to 100 employees) rely on working almost exclusively with the private sector. In some of the private security companies examined, the ratio was 70 to 30 in favour of the private sector.

Private sector clients require a different level of service, largely due to stricter quality control. Depending on procedures applied by clients, there are also differences in awarding contracts: from direct selection to selection from amongst three bids, as large corporations usually prefer. Contracts with private sector clients are usually higher-value but also entail greater responsibility because clients are more likely to terminate contracts for inadequate service.

Private sector clients usually look for two criteria when they hire private security companies: optimal use of invested resources and the quality of services provided. As a result, except for large corporations, private clients would not hire services that would involve large numbers of security personnel. They prefer technical security systems and a mobile team that can respond within a given timeframe.⁵⁴ This means that private security companies with a relatively small number of employees can have contracts with a large number of clients.

Because private clients usually look for the best price-quality ratio, it is advantageous for PSCs to offer not only low prices but also ensure quality, if they want to survive in this highly competitive market. This means that PSCs working for private clients are more likely to make sure their employees work according to the agreed standards. Private sector clients

51 Interview, (M20).

52 Law on Public Procurement (2008).

53 Law on Public Procurement (2012).

54 In eastern Serbia there are entire empty villages owned by members of the diaspora that are secured by one of the companies examined here. These companies use security systems (burglar and fire alarms, CCTV, etc.) in combination with a mobile team that patrols the area and keeps records of its patrols. Such companies might also offer additional services their clients such as collecting and taking care of the clients’ utility bills.



usually have a security manager who checks the quality of the services provided. As companies vie with one another to retain existing contracts and win new ones so the range of services they offer increases.

Unrealistically Low Prices Rife Throughout the Market

Compensation for security work varies with the content of the service provided and depends on the institution that issued the public procurement tender. According to available information, the price of a single hour of manned security for a public institution can vary between RSD 142 (EUR 1.2) (plus VAT), which is how much Dobergard is being paid by the Gavriilo Princip primary school and Semiotik by Belgrade's Twelfth Gymnasium, all the way to RSD 352 (EUR 2.9 per hour (plus VAT), which is how much the Obrenovac Municipality is paying Sion Gard. For comparison, a foreign bank pays RSD 268 (EUR 2.2 net) per hour for a man-hour.

Box 4: Example of bidding practices

State institutions often accept unrealistically low bids. An extreme example is a security service contract awarded by the Tax Authority, which amounted to RSD 158 (less than EUR 1.5) per hour per employee, making it very hard for the PSC to pay taxes and pay their employees while acquiring any profit.⁵⁵

The owners of private security companies consider it a major problem that it has not been possible yet to establish a minimum price for the sector, which, in some instances, would prevent cash-in-hand work and unfair competition. According to an analysis conducted by the Private Security Association at the Serbian Chamber of Commerce, "the cost of labour in the provision of security services on the Serbian market is the lowest in comparison with 34 European countries, which for employers in the field represents a risk of bankruptcy, lack of employee motivation, low quality services and increased vulnerability for protected facilities."⁵⁶

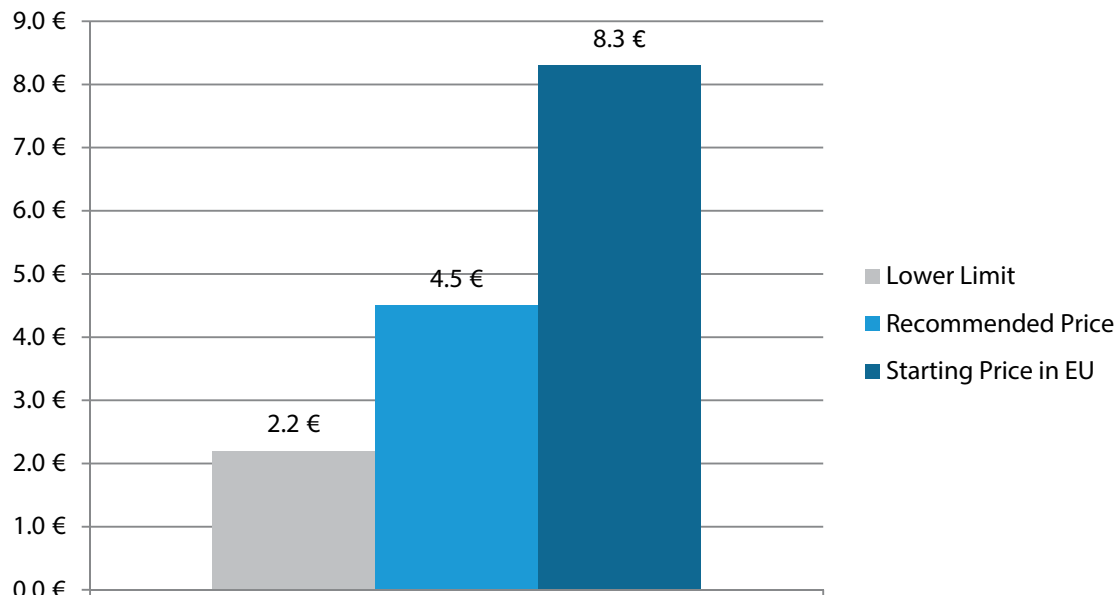
⁵⁵ Public Procurement of Security Personnel Services for Premises of the Tax Authority: Niš, Aleksinac, Vlasotince Branches and the Niš Regional Tax Police Office, No. JN 14-N/2014 [Javna nabavka usluga fizičkog obezbeđenja objekata Poreske uprave: filijale Niš, Aleksinac, Vlasotince i regionalna odeljenja poreske policije Niš, broj JN 14-N/2014].

⁵⁶ Private Security Association. "Analiza granice neuobičajno niske cene usluga fizičke zaštite objekata" [Analysis of the Limits of Unusually Low Price for Security Services]. 31 December 2014. Available at: <http://bit.ly/1ZcCmF>.



Figure 1: Comparison of Serbian vs EU man-hour prices
Limits of Unusually Low and Recommended Labour Costs for Security Personnel in Serbia

(1 Man-hour, EUR1 = RSD 119.45)



Source: Private Security Association "Analysis of the Limits of Unusually Low Price for Security Services".

Exploitative and Illegal Employment Practices

To increase their turnover, employers hire staff on professional development and training contracts.⁵⁷ In 2014 inspectors from the Ministry of Labour, Employment, Veteran and Social Policy carried out several inspections of private security companies to investigate possible illicit and illegal activities. After examining 28 employers and over 13,000 workers, the ministry concluded that around 23 percent of private security staff in these companies were employed on training contracts.⁵⁸ These practices are in contravention to the Serbian Labour Law⁵⁹ and the Law on Health and Safety at Work⁶⁰, and the inspectors filed dozens of misdemeanour charges against companies such as G4S Secure Solutions, Securitas Services⁶¹, Se-

57 These contracts are envisaged by the Labour Law, Art. 201, and their duration is defined by a contract between the employer and the 'employee'. The point of this being that an employer is required to provide 'remuneration', rather than earnings (i.e. there is no minimum wage), and is required only to pay for government health insurance to the tune of 20% of the contracted amount. In practice, these contracts run for "between six and nine months," but sometimes for longer periods. During their training, 'employees' must be under the supervision of more senior colleagues, which is often not the case. This is a fairly common way of employing workers and making a profit on lowest-bidder contracts won by offering an unrealistically low price.

58 Petrović, P. and M. Milošević, (eds.) (2015). "Novi-stari izazovi privatnog sektora bezbednosti u Srbiji" [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP. pp. 34-36.

59 Labour Law. Official Gazette RS 24/2005, 61/2005, 54/2009, 32/2013 and 75/2014.

60 Law on Health and Safety at Work. Official Gazette RS 101/2005.

61 According to the Chamber of Commerce, Securitas employs more than 2600 workers (available at: http://www.kombeg.org.rs/aktivnosti/udr_soc_delatnosti/Detaljnije.aspx?veza=1128), but the Pension and Disability Insurance Fund recorded only 1223 payments for employees of Securitas (Source: Request for information of public importance, Pension and Disability Insurance Fund, No 02/2, 181-712/15; 11 February 2015)



curity Novi Beograd, Protecta Group, Dobergard, Sectra Consulting, Pro-Tech Team, Stracon Security and NSS-ISA.⁶² Once the Law on Private Security starts being implemented these practices should decrease as PSCs will have to license all employees.

Another method for lowering prices and expenses, which is riskier because it is relatively easy to detect, is to hire employees that have not been vetted for private security service and who will work for a lower salary than professional private security personnel. This illegal practice can often be found in the provision of security in bars and clubs, but is not uncommon in registered PSCs. Some interviewees from PSCs claimed that “between 20 and 30 percent of employees were unregistered”.⁶³ During inspections conducted in October 2014, the Labour Inspectorate initiated proceedings against six out of 38 sampled private security companies,⁶⁴ which suggests that this practice is not as uncommon in registered companies.

In order to offer pay below the minimum wage, employers also turn to pensioners, whether civilians or former police officers or military service personnel who retire earlier. It is not unheard of for disabled workers⁶⁵ to also work for security companies (mostly fulfilling porter roles). One interviewee confirmed that the company he works for pays cash-in-hand, below minimum wage.⁶⁶

Some companies also try to save money by deducting fees and penalties from the wages of employees – penalties for untidy uniforms, rates for the purchase of a uniform or shirt, and so forth – that push the pay below the level of the minimum wage (e.g. from RSD 23,000 (EUR 200) to RSD 15,000 (EUR 130)). These practices are easily hidden.

Another method of exploitative employment in this sector is ‘workforce leasing’. This practice is strictly speaking not illegal but no law governs it.⁶⁷ A private security company enters into a contract with an employment agency (which formally employs workers, pays contributions and health insurance) and pays the agency an agreed price. The agency pays its client (here a security employee) a guaranteed sum and retains a commission. Considering the low cost of labour in this sector, this commission is probably very low. This practice has considerable benefits for private security companies. Once the job is completed, the company terminates its contract with the agency and the agency ends its contract with the employee and both companies avoid paying legally mandated severance pay, sick leave, etc.⁶⁸

Other illegal practices include employment of fewer guards than agreed upon in the con-

– this is an indicator of widespread practice of professional development and training contracts.

62 Answer from Court using Free access to information of public importance, published in Petrović, P. and M. Milošević (eds.) (2015). “Novi-stari izazovi privatnog sektora bezbednosti u Srbiji” [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP. p. 55.

63 Statement by manager, local company, city in north Serbia; similar comments were made by other respondents (M7, M8, M9, M26, M30).

64 Beta. “Inspekcija smanjila broj FTO radnika na crno” [Inspectorate Reduces Black Market Security Work]. 13 November 2014. Available at: <http://www.blic.rs/Vesti/Ekonomija/510951/Inspekcija-smanjila-broj-FTO-radnika-na-crno>.

65 The Law specifies physical conditions for performing security guard duties. This would probably affect the presence of disabled workers in this sector. The incentive for disabled workers contracting is that they already have disability pensions, so their contracts are taxed less, meaning that they are a „cheaper workforce”, thus able to fit into the lowest price contracts.

66 The contract signed with the company states an agreed net pay of RSD 115 (EUR 1) but the pay was verbally agreed at RSD 100 (approximately EUR 0.9) and a younger colleague receives RSD 90 (EUR 0.8). Of course, they both sign their payroll in accordance with the legal minimum wage but are paid a lower amount.

67 Politika. “Ljude na lizing novi Zakon o radu uopšte nije zaštitio” [New Labour Law Doesn’t Protect Leased People]. 24 July 2014. Available at: <http://www.politika.rs/rubrike/Ekonomija/Ljude-na-lizing-novi-Zakon-o-radu-uopste-nije-zastitio.sr.html>.

68 Vojinović, T. and I. Rizmal. “Bezbednost na lizing?” [Leasing Security?]. Svet bezbednosti, September 2014. pp. 11–14.



tract (one guard covers their own position and that of their absent colleague (if the positions are nearby) and avoidance of paying compensation for overtime or night work to employees (night work and overtime are charged as work during regular hours in order to make savings).

A legal gap that is often used, is visible in the so called “plus” companies. When company A stops paying its workers or accumulates debt, it simply registers company A PLUS that has a clean record and is able to further compete in public procurement tenders. Workers are offered contracts in company A PLUS provided they forfeit their unpaid salaries, which most of them do. Company A might shut down, or might remain operational, as those companies use the method of giving their employees a six month contracts in company A, then another such contract in company A PLUS.⁶⁹ After that period, they do not need to prolong the contract as the cycle of public procurement usually lasts for a year. Usually, such companies are located at the same address and have the same responsible person within a legal entity – namely a director/manager.⁷⁰

‘Political Companies’

Such under-bidding leading to contravention of labour laws is also facilitated by the political support that certain companies enjoy. In the past, Labour Inspectorate inquiries have bypassed companies known for violating workers’ rights and failing to pay employees because of their association with a governing party. Part of the problem is linked to the fact that the Labour Inspectorate will not investigate allegations of violations committed in the past. This makes it very easy for companies who are violating the law to go about their ‘grey market’ activities, for as long as they still enjoy protection from certain people in power.⁷¹ Meanwhile, according to data from the misdemeanour courts⁷², the companies that are sanctioned are those known to be close to the parties of the outgoing government.⁷³

Political relationships and connections have always been key to accomplishing ‘overnight’ business success in Serbia and the private security sector is no exception. It has been noted⁷⁴ that between 2002 and 2012 the security companies that were close to the ruling political parties expanded their operations further and faster than when those parties were

69 Case from the Pirot Misdemeanour court, obtained using the Law on Free Access to Information of Public Importance Prz 108/15, 3 August 2015.

70 Examples of several such companies : Dobergard/Dobergard plus, Ineximmoguard/Inex Plus, Mondo/Mondo Plus.

71 Petrović, P. and M. Milošević, (eds.) (2015). *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP. pp. 73-75.

72 Forty-four misdemeanour courts in Serbia were asked for data. The most illustrative response was given by the Belgrade Misdemeanour court (1/205-1669): two multinational companies have a total of five claims, two companies close to the current government have five claims, two companies close to the former ruling party have four, whereas two companies close to the opposition party have 71 and 16 claims, respectively.

73 Answers from courts using the Law on Free Access to Information of Public Importance, published in Petrović, P. and M. Milošević, (eds.) (2015). *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP. p. 55. The list includes multinational companies (treated as close to previous government) and party affiliated companies (DS, DSS). Our survey revealed that control by the Labour Inspectorate varied in zeal and thoroughness: companies from smaller towns mentioned it during interviews, whereas two companies close to the previous government were systematically inspected in each location in Serbia simultaneously. One of them was reprimanded for “improper illumination of manager’s office”. This also demonstrates that once they lose party protection, companies tend to obey the law “by the book”.

74 Centre for investigative journalism (CINS). “Ko obezbeđuje državne institucije” [Who is protecting state institutions]. 31 December 2014. Available at: <http://www.cins.rs/srpski/projects/article/ko-obezbedjuje-drzavne-institucije>. They list politically affiliated companies and correlate their business success with party patronage.



in opposition. It has also been noted that those same companies suddenly lost business when their parties lost power. A similar trend has been recorded since 2012, counter to the public pledges made by the ruling party, SNS, which promised a policy of zero-tolerance to corruption.

Box 5: Political ties in practice

Today a significant Serbian company on the market is Belgrade-based Dobergard⁷⁵, established in 2004. It is owned by Dušan Đukić, who also owns the security company Dobergard Plus and KNC Group, a technical testing and analysis company. Interestingly, Dobergard suddenly began to grow financially in 2012 and began to receive government contracts in 2013, just after the Serbian Progressive Party (SNS) became a major political force in the Government of Serbia as well as in Serbia as a whole. In 2014 the company had at least 50 contracts with various state institutions, from primary schools, health centres and museums, through to large institutional systems such as the Tax Authority, Elektroprivreda Srbije (the state power distributor) and the National Employment Service. Even though there is no evidence that Đukić is a member of SNS, the fact that the company suddenly started to expand its business just after SNS won the 2012 elections raises suspicions that political ties were crucial for business success, especially because other PSCs linked to ruling politicians followed the same success model in the previous years.

From 2006 to 2011, another big domestic company was FTO, owned by Milovan Milošević, who was, until October 2014, the Chairman of the Executive Committee of the Democratic Party of Serbia (DSS) and a big financial contributor to the party. According to Milošević, at its peak the company employed around 3,000 workers and held lucrative government contracts, such as provision of security for NIS (Naftna industrija Srbije – Serbian Oil Industry), Tax Administration branches across Serbia, Elektroprivreda Srbije, etc. The company began losing contracts in 2008, when DSS ceased to be part of the coalition government.

One consequence of the above is a reduction in state revenues, given the fact that these practices entail the non-payment of certain tax contributions. Thus, we arrive at the paradoxical situation of state institutions, in practice, valuing the profits of the owners of private companies over the opportunity to legally receive the best quality service for the money they have at their disposal. Hence “the state robs itself through political corruption.”⁷⁶ Ultimately this leads to significant anomalies in the private security sector as companies prosper not because they provide good quality services at reasonable prices but only because they have the right political connections.

Political connections are also important for companies doing business with private sector clients. Firstly, those companies that are successful are the companies that are close to the ruling parties, so it is important for other private security companies to work with them. In addition, it is much easier to do business with ‘party colleagues’, so companies associated with ruling parties employ one another. Interestingly, “there are people in political parties

⁷⁵ Dobergard official website: <http://www.dobergard.co.rs/AA%20Prva%20srpski.htm>.

⁷⁶ Interview, (M15).



who engage in 'headhunting': they insert loyal people into profitable companies in order to control them or racketeer them."⁷⁷ When asked about what political parties get from these practices, in most cases our interlocutors resignedly replied that they get, "some percentage of takings, some voters and the opportunity to find employment for their supporters."⁷⁸ Only a small number of companies openly support political parties.

Corruption is less prevalent in the private sector because many private companies, especially the larger and 'more serious' companies, want to receive quality service in return for their money. They do not hesitate, therefore, to oversee the work of security companies, aiming to determine whether they are providing what was agreed. In other words, private companies are "[...] constantly checking and reviewing. After all, they want quality service."⁷⁹

Fair Pricing, Fair Wages, Self-organisation and Public-Private Partnerships

The Private Security Association within the Serbian Chamber of Commerce has invested considerable efforts into reducing unfair competition by conducting a Study of Predatory Pricing that determined the lowest possible price at which services can be legally provided— i.e. the price at which companies can cover all relevant duties and taxes. This is not, however, a binding document and neither private security companies nor regulators are obliged to comply with it. Previously, in the early 2000s, a group composed of the larger private security companies tried to come to an agreement on the lowest possible price for their services but the Serbian Commission for Protection of Competition deemed this illegal and the agreement was withdrawn.

In order to establish the lowest possible price of security services, the association and private security companies tried to organise a public discussion with Serbian trade union leaders.⁸⁰ In so doing, they hoped to encourage trade unions and workers to support a minimum wage. Thus far, however, this has not yielded results. A few trade unions exist only within security companies, mostly in those that are state-owned. As one security guard put it: "When you work unregistered, illegally, it is impossible to organise or join a trade union."⁸¹ All the issues mentioned here block sector-wide labour organisation.

The private security industry has also been trying to soften the resistance of state institutions, and especially the Ministry of Interior (MoI), to establishing a public private partnership in security (3P). To this end, the Commission on Public Private Partnership in Security was established within the Chamber of Commerce. The Commission is very inclusive, gathering representatives of PSCs, CSOs, MoI, Office of the National Security Council and other competent state institutions. It has focused its activities on discussing a legal framework important for 3P in security and considering concrete areas of partnership in security. So far, it has managed to speed up the process of establishing an Expert Council for Public Private Partnership within the MoI.

⁷⁷ Interview, (C1).

⁷⁸ Statement by several security managers of local PSCs (M14, M18, M21). This attitude might reflect political influence at the local level.

⁷⁹ Statement by several security managers of PSCs (M1, M4, M7, M11, M20).

⁸⁰ Svet bezbednosti. "Socijalni dijalog u privatnom obezbedjenju" [Social Dialogue in Private Security]. 4 January 2015. Available at: <http://www.svet-bezbednosti.rs/en/news/socijalni-dijalog-u-privatnom-obezbedenju,16346.html>.

⁸¹ Interview, (E3).



Legal Framework

Research for this chapter was carried out at a time shortly after parliamentary approval of the Law on Private Security and before the Law has been implemented, and it will be left to future research to focus on the effects of the Law's eventual application.

Below, the main points of the Law are presented.

Security Services

For the first time security services that PSCs may provide are listed and described clearly in law. They are as follows:

1. Risk assessment in protection of businesses, properties and persons;
2. Physical and technical protection, as well as provision of protection in public events and sport events in the areas not covered by activities of the Mol;
3. Planning, design and supervision of security systems, installation, putting into operation and maintenance of security systems and training for users; and
4. Cash-in-transit in the areas not covered by Mol.⁸²

It is worth emphasising that the collection of debts is specifically prohibited for PSCs by this Law.⁸³

Licenses

There are two types of licenses – personal licenses for each security guard and licenses for companies. In order to obtain a personal licence⁸⁴, an aspiring security guard should pass the required training (meeting all the criteria of eligibility). Once their personnel have been approved for licensing, PSCs can start the process of obtaining a company licence. There are some additional conditions imposed for companies, such as the requirement of having ten employees, a monitoring centre and a three-person intervention unit on stand-by (tying those ten employees to these activities during 24 hours), along with premises for storing armament.⁸⁵

The Law recognises several different licenses for companies:

1. Risk assessment in protection of businesses, properties and persons;
2. Physical and technical protection, as well as provision of protection in public events and sport events;
3. Protection of cash in transit;
4. Planning of technical protection systems;

⁸² Law on Private Security (2013), Art. 6.

⁸³ *Ibid.*, Art. 7.

⁸⁴ Security guards can apply for several personal licenses: (1) Risk assessment in protection of businesses, properties and persons; (2) Physical and technical protection, as well as provision of protection in public events and sport events (3 subtypes); and (3) License for technical protection (3 subtypes).

The personal license is valid for five years and it attributed ad nominam. When they lose their job, employees should hand over their licence to the Mol until they take up employment again. This allows the Mol to have data on the current number of employed security guards and those currently unemployed. (*Ibid.*, Art. 63).

⁸⁵ *Ibid.*, Art. 10.



5. Design and supervision over the execution of technical protection systems; and
6. Installation, commissioning and maintenance of technical protection systems and training for users.

Potentially problematic are the requirements for an “adequate security check” that is a pre-requisite for obtaining both a personal licence and a licence for companies.⁸⁶ The Law on Private Security itself does not define the term “security checks” properly.⁸⁷ One therefore has to refer to the definition of “security check” described in the Law on Weapons and Ammunition⁸⁸, which states that no one with a criminal record or undergoing criminal investigation can be employed by a private security company.⁸⁹

The Law on Private Security also provides that each employee must submit to an annual medical examination.⁹⁰ Such medical checks are very expensive (they amount to almost half of a monthly salary of a security guard) and would impose a heavy burden on the company or the employee (it is not clear if this examination has to be paid by the company or the employee).

Training

The Law on Private Security introduces a number of conditions for becoming a private security guard that aim to ensure the professionalism of PSC staff. However, some of the conditions might turn out to be excessive and limit the access of some guards to employment.

According to the Law only private security guards that have passed standardised trainings can receive a licence. The training is standardised for all security guards in the domain of physical security.⁹¹ Whereas better training of staff will very likely lead to more professionalism in private security, there have been doubts about whether the training courses as set out in the relevant bylaw are not too long and expensive and put an undue burden on the staff. In addition eligible candidates must have a secondary school diploma⁹² and confirmation of a clean criminal record (in order to qualify for a weapons license), requirements that not all those currently working or wishing to work in the sector can fulfil.

The Mol was late in passing the relevant bylaws on training, so the Law was amended in May 2015 extending the deadlines until 1 January 2017.⁹³ In practice, initial interest by the employees for training has been very low.⁹⁴ One reason might be that private security employees might be unwilling or unable to pay for the training, which costs between RSD 15,000

86 Ibid., Art. 10 and 12.

87 The only reference to the use of weapons can be found in Article 24 of the Law on Private Security which states that a PSC “cannot possess more armament than half of its number of permanent employees”.

88 Law on Weapons and Ammunition, Official Gazette RS 20/15. Art. 11.

89 Ibid.

90 Law on Private Security (2013), Art. 12.

91 In Croatia, basic training is for non-armed security guard, with additional trainings offered for armed security guards and VIP security guards. With each new level of training, the employees will further specialise and can expect an increase in their salary.

92 Law on Private Security (2013), Art. 12.

93 Belgrade Centre for Security Policy. “Izmene Zakona o privatnom obezbeđenju – otaljavanje obuke?” [Amendments to the Law on Private Security - Just to Get the Training?]. April 2015. Available at: <http://www.bezbednost.org/Sve-publikacije/5794/Izmene-Zakona-o-privatnom-obezbedjenju.shtml>.

94 Managers who have conducted opinion surveys in their companies claim that around 30 percent of their employees do not want to undergo the training. The workers we interviewed believe that the percentage is even higher (cf. Petrović, P. and M. Milošević, (eds.) (2015). *Novi-stari izazovi privatnog sektora bezbednosti u Srbiji* [Old and New Challenges in the Serbian Private Security Sector]. Belgrade: BCBP. p. 24).



and RSD 22,000 (EUR 140 to EUR 200) and which they have to finance from their wages.⁹⁵

In addition, very few certified centres (6 out of 27) have already started to work and they are not functioning in full capacity. It is also very unlikely that an estimated 40,000 private security employees can complete the required training by the legally defined deadline of January 2017 (initially May 2015). An analysis conducted by the Serbian Chamber of Commerce, which looked into training capacities taking into account the numbers of training centres and personnel, shows a more realistic timetable (Table 2 below).

Table 2: Calculation of Training Completion Date⁹⁶

Number of accredited centers for training (CFT)	16	Each commission should have 5 members, they should examine 15 candidates per day, 30 minutes per candidate			
Number of simultaneous groups in CFTs	2				
Number of days for training	15				
Average number of candidates per group	25				
Number of candidates	20,000	30,000	40,000	50,000	60,000
Necessary days of teaching	427	640	853	1067	1280
Start date of training	01/03/2015	01/03/2015	01/03/2015	01/03/2015	01/03/2015
End date of training	17/10/2016	11/08/2017	06/06/2018	01/04/2019	24/01/2020
Working days of Commission	24	36	47	59	71
Number of examining commissions required	56	56	56	56	56

Use of Force

The Law has helped to better delineate the scope of action of the private security actors by defining the phrase ‘authorised use of force’ and imposing several limitations on the use of weapons.^{97, 98} The Law on Weapons and Ammunition, passed in early 2015, allows for the possession of the hitherto banned pepper sprays. Once this Law starts to be implemented, it will certainly have a profound effect on the PSC industry because it might further reduce the amount of armament in this sector. Conditions on the use of firearms are elaborated in the Law on Private Security⁹⁹, allowing for the gradual use of force (alert, physical force, trained dogs and firearms) in self-defence and conditions of extreme necessity.

The Main Gaps in the Law

The main shortcomings of the Law are related to issues of licensing and control. When applying for a company licence, the entrepreneur is not obliged to prove that the he/she and

⁹⁵ Another reason for the slow take-up of trainings might be that, as prices of trainings started to decrease due to high competition on the market, PSC employees have not yet started to attend trainings, expecting a further drop in prices.

⁹⁶ Svet Bezbednosti. “Proračun datuma za završetak obuke” [Calculation of the Training Completion Date]. No. 1, 2015. p. 29.

⁹⁷ Law on Private Security (2013), Art. 24.

⁹⁸ First, a limit on the quantity of armament is imposed to cover no more than half of the employees of a company. Second, the Law allows for semi-automatic pistols of 7,65 mm and 9 mm calibers, thus banning long barreled weapons previously used (rifles, automatic rifles, and shotguns).

⁹⁹ Law on Private Security (2013), Art. 46-56.



the unlimited liable partners have no tax liabilities or other pecuniary liabilities to the state, as is the obligation in Bulgaria, for instance.¹⁰⁰ Hence, it cannot be ascertained that the companies previously paid taxes and it makes it more difficult to single out those ‘rotten apples’ which have been and might also in the future be involved in black market activities.

Furthermore, no security checks are foreseen or standardised and owners and related parties are not subject to security checks. Those checks would have been a useful tool to make sure that the companies have no connections with organised crime, as has been the case in the past.¹⁰¹

Finally, the Law stipulates that policemen, soldiers, members of judiciary and intelligence services do not need to pass the training in order to be licensed. The assumption is that they have already received the necessary training in their previous jobs. However, one cannot categorically say that everybody who was previously employed in the state security or judiciary has necessarily received training or acquired the skills that are needed to work in private security. In fact, in other countries people who have previously worked in the police, army, intelligence services or the judiciary are actually banned from transferring to the private security sector for a certain number of years to avoid jeopardising ongoing investigations and prosecutions.

Moreover, the Law does not properly clarify how the Ministry of Interior will control the activities of private security companies. At the time of writing it was still unclear which sector in the Ministry (the internal control sector or the regional police department) would be tasked to perform this control function.¹⁰²

Conclusion

The Serbian private security sector is currently at an important crossroads. The global economic crisis, has seriously affected the Serbian economy. Private sector companies have suffered huge losses and are less willing to pay for private security services. The public sector has also had to make cuts, but overall still awards many high-value security service contracts and in fact accounts for the majority of contracts for private security services.

Having close ties with the political parties in power rather than providing quality services remain a very important factor in winning state-sector contracts. In addition, public procurement procedures are not adapted for the outsourcing of security and the quality of the service is not considered a decisive factor when state contracts are awarded. Instead, state bodies seek out the PSC offering services at the lowest price and thereby contribute to a ‘race to the bottom’. PSCs offer unrealistically low prices in order to survive in the crowded private security market. In order to recover some of their profit margin, many companies feel compelled to apply illegal means to save money such as tax evasion and illegal or ex-

100 As is, for instance, the case in Bulgaria, cf. Bulgarian Law for the Private Guarding Activity, Prom. SG. 15/24 Feb 2004, amend. SG. 105/29 Dec 2005, amend. SG. 30/11 Apr 2006, amend. SG. 34/25 Apr 2006, amend. SG. 82/10 Oct 2006, Art. 15.

101 CINS. “Kriminalci mogu biti vlasnici firmi za obezbedenje” [Criminals could own Private Security Companies]. 16 December 2013. Available at: http://www.cins.rs/srpski/research_stories/article/kriminalci-mogu-biti-vlasnici-firmi-za-obezbedjenje.

102 State Secretary of MoI statement on Incompatible Police Activities. 7 November 2013. Available at: <http://www.bezbednost.org/Bezbednost/5343/Nespojive-policijske-delatnosti-je-potrebno.shtml>.



exploitative employment methods. This state of affairs can hardly be expected to contribute to the professionalisation of the sector.

The Law on Private Security (2013), a result of the legislators' desire to better regulate the sector, defines the conditions that companies and their employees must meet to receive a company or a personal licence, respectively. However, because of the delayed implementation of the Law and poorly designed training plans, it is highly questionable whether this attempt at improving employees' professionalism will succeed. What is beyond doubt is that many private security companies, especially the smaller ones, will close down because they will be unable to meet the new statutory requirements in such an unfavourable economic climate. This, however, raises the question of what will happen should the two large multinational PSCs that currently dominate the market, G4S and Securitas, decide that it is no longer worthwhile to operate in the Serbian market and make the decision to withdraw. Who will fill the resulting gap in the market in such an adverse socio-economic environment?



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Understanding the Shared Context of Private Security Regulation

Nelleke van Amstel

Within the global debate on the role of the private security industry, the sector is not always regarded as a force for good. However, it is certainly a force that is here to stay. The contributions contained in this volume have shown that in Albania, Bulgaria, Kosovo and Serbia, the private security industry is large, and growing, with the ratio between private security and police often approaching or surpassing parity. Still, the provision of citizens' security is one of the most fundamental functions of the state. The democratic state has a duty to provide security that is effective, transparent and accountable to its citizens. The state is seen by most as the only legitimate provider of that security.

However, the extent to which private security is used, not just by private entities but also by the state itself, shows that the sector serves an important function. In the countries under research, states have, in the transition to market economy, gradually abandoned their previously absolute monopoly on security provision – leaving a gap for PSCs to fill. An important principle of human security states that the provision of security should be directly responsive to the needs of the people. The market which is created by a demand for security shows that there is a need which is not otherwise filled. PSCs can provide flexible, efficient and cost-effective security in instances where the state cannot. In theory, competition should ensure a good price-quality balance.

The private security industry may thus take up a role that contributes to public security, and thereby to overall safety. But within a democratic society, this can only be the case if the providers of private security are subject to adequate regulation, oversight and accountability from the State. Tasks should be clearly mandated, and companies should be licensed and subject to monitoring and control by state authorities, such as regulatory bodies, and by civil society. Implementation of the legislation by relevant authorities should in turn be overseen by parliament. As alluded to in the introduction of this publication, it is currently not completely clear what this oversight and governance framework should look like with



regards to the private security sector. However, certain key elements can be distilled from the good practices of the Montreux Document.¹

To a certain extent, these elements depend on which role the State plays: as a legislator, it needs to determine which rules apply to PSCs established and/or operating on its territory. Clear laws are needed on which services can be provided by private security and under what (licensing) conditions. In its role as executive, the contracting by the State of security, for its own security aims, should secure high standards that minimize the risk of human rights violations, for affected communities as well as the PSC personnel themselves. It should ensure a fair procedure for the allocation of public contracts. The judiciary has the duty to ensure access to independent and fair recourse should there be any alleged violation of the rules. Summarizing these good practices as described in the Montreux Document, they can be distilled into four main categories:

- I. Determining which services private security companies may or may not provide, and for which they may be contracted;
- II. Establishing an authorisation system for companies, including licensing procedures for specific requirements and establishing rules for the provision of private security services such as basic training and use of equipment;
- III. Monitoring compliance and ensuring accountability with authorizations, contracts and licenses; and
- IV. Establishing selection and contracting procedures, applying pre-determined criteria to the selection of companies, and providing clear terms of contracts.

A plethora of risks arises when a growing private security sector is not accompanied by a functioning democratic governance and oversight system. These risks may include: services which should be provided by the state, such as protection of critical infrastructure, being taken over by private actors; not having a clear picture of the number of companies and employees making up the sector; licenses being handed out without stringent criteria, focusing only on political links; and adverse effects of competition on quality of services and working conditions of PSC staff instead of improving the price-quality balance.

The previous chapters have provided an in-depth insight into the development and state of play of the private security sector in the target countries in Southeast Europe. Besides the historical developments that shaped the industry, and its particular characteristics, an overview of the unique legislative frameworks and regulatory systems was also given. These case studies have a number of similarities in terms of recent historical and political changes. At the same time, however, each has their own particularities due to a variety of factors relating to politics, war, or economic conjunctures. Each of these areas has been influenced by international presence in different ways. One country, Bulgaria, has joined the EU and absorbed its regulations, while others have not. In most cases, some of the risks accompanying the development of a private security industry without a strong regulatory framework have become apparent to varying extents. By comparing these challenges, as well as positive

¹ "The Montreux document - on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict" 17 December 2008, available at https://www.icrc.org/eng/assets/files/other/icrc_002_0996.pdf



steps that have been taken to overcome them, good practices and recommendations may be drawn from this research for developing private security sectors and their regulation for the future.

It should be noted that, as stated in the introduction, mapping out of the private security sector has not always been an easy task. It is a sector on which not all data is stored and accessible. In particular when it comes to links of companies with crime, corruption within the procurement system of the state and violations of labour rights, it is easy to see why transparency may be limited and sources can be hesitant to share information. Hence, not all of the same data is available for each country, and comparisons should be seen in that light.

Nevertheless, this chapter will make an attempt to compare some elements of the research, and identify the most apparent risks that arise when the framework for democratic governance is challenged by the swift development of a relatively new industry. It first sets the scene by drawing out the similar elements of the contexts in which the countries under research find themselves. Then, it distils from the research chapters above some specifics that stood out for each country, and which influenced the development of the industry. Finally, the chapter sets out some of the most striking parallels in the challenges encountered in PSC regulation between the countries under consideration, giving particular examples from the studies.

General Context

In all countries under examination, the private security industry has arisen relatively rapidly over a short period of time. Since the 1990s, the countries under discussion underwent major political reform and in some cases had to cope with the consequences of war. This means that each of the countries has only just recently been able to establish a democratic system, partnered with the rule of law and parliamentary oversight.

Besides the relatively new establishment of executive and legislative structures, the private security sector itself has also only started developing fairly recently. Prior to the transition from state-centric, socialist or communist regimes, private industries and a corporate culture were unable to exist. Provision of security in particular, possibly more so than any other sector, has, for decades, been a prerogative solely reserved for the state. The privatisation of companies and decentralisation of state services that took place in most areas during the 1990s allowed the private security industry to establish itself for the first time.

The combination of these two factors means that regulations, legislation and oversight of the industry, as appropriate for democratic societies, have had to keep pace with these developments, and in many cases have struggled to do so. This, coupled with the particular environment created by societies moving rapidly from state-owned (under a socialist order) to privatised business sectors, has resulted in certain shortfalls within the control of the private security sector and allowed opportunities for corruption and evasion of regulation to appear. In post-conflict contexts, the influx of demobilised combatants searching for new opportunities, or contrarily an international presence, may create a demand for PSCs but also imposes certain constraints on the sector (such as proscribing weapons use by local



actors). This has added complications to the rapidly developing sector.

In more recent history, these trends were in turn followed by economic growth and rising crime rates; as such, companies were in need of security and willing and able to pay for it. As the latest element in today's outlook of the private security industry in the cases under examination, the global economic crisis comes into play. In a newly established and quickly growing industry, facing sudden downsizing, price drops and a shrinking market, have left their mark on the companies that have been reviewed. Company mergers, allocating insufficient personnel to contracts to cut costs, overwork leaning towards extortion, and extremely low wages are but a few of the results. These trends will be examined in each country in more detail below, in order to highlight the developments which have made a mark on the sector.

Country- specific Overview

In **Albania**, an almost complete legal vacuum was inherited from the communist regime. The private security industry could only gradually transition, as at first, security services were de facto still provided by the state throughout the 1990s, albeit under private contracts. This delivering of private security by public forces continued until the Law of 2001 allowed for a private security sector to emerge. Only by virtue of the new Law of 2014 (Law on Private Physical Security Service) has the market become fully free and fair by removing the required police force/private security employees ratio in each region, and ending the limit on the total of employees per PSC. The downsizing of the Albanian State Police (ASP) has created room for commercially offered services, and currently the number of police and number of PSC guards are equal (excluding the grey market).

A particular feature of the 2014 Law is that it includes a ban on subcontracting. Subcontracting was a common practice in Albania when PSCs were only allowed to employ a limited number of employees. Considering that the ban on subcontracting came at the same time as the removal of the limit on employees, the Albanian market is now seeing the merging of many PSCs with their former subcontractors. For now, most companies have remained relatively small which should be viewed as a consequence of the previous law, but individual owners often own three or four different companies. It is expected that these companies will continue to merge.

Public contracts in Albania form a relatively small part of the market, amounting to one quarter of all PSC contracts. Therefore, procurement processes have less of an influence on the market than in the other cases discussed. As technological developments are making electronic surveillance more affordable, the clientele of PSCs is shifting slightly to include private residences and smaller companies. Nevertheless, procurement policies are still perceived to have an influence on shaping the market and also cater a way for the state to set standards. Bids are judged solely on lowest price with no quality criteria; at the same time there are complaints of a lack of transparency in the process, which implies nepotism. To be able to make very cheap bids, PSCs make bids cheaper by not paying their employees overtime compensation, or by failing to cover their social security and insurance contributions.



Bulgaria saw a quick downsizing of the state security forces in the 1990s and PSCs started filling this security vacuum. The research finds that a rise in crime rates due to that downsizing of police, and the fact that a variety of previously state-owned (and protected) companies lacked security, further created demand for a larger private security industry. In the initial period, the industry was marked by its links to organised crime. To resolve this, a law was issued to prohibit the participation in private security provision of owners or employees who have criminal records. Rather than leading to a regulation of the industry, this provision resulted in many companies rebranding themselves as insurance companies to avoid controls. This meant that the market was pushed further to the edges of legality. Efforts to clean up the sector, leading to the 2004 Law, have marked the start of a more professionalised and organised industry, further influenced by Bulgaria's accession to the EU in 2007, after which the Law was further amended.

An important feature of the Bulgarian market is that it serves the social function of a reservoir of employment, in particular for former police and military. It provides work opportunities for low skilled workers, especially in smaller villages, which authorities are aware of. This work, however, remains paid according to minimum wage only, is usually undeclared, and often evades taxes, hence contributing to a large grey market, which the authorities may be hesitant to tackle.

A particularly unique situation can be seen in **Kosovo**, where the period following independence was marked by a heavy international presence and post-war dynamics, which in turn have shaped the PSC market. On the one hand, the international presence created a demand for PSCs, called on to protect missions and aid workers in an unstable environment. On the other hand, the opening up to international presence brought with it many international PSCs who aimed for shares of the market. The post-war dynamics resulted in certain rules being imposed on the industry. As local actors could not carry arms, international companies could establish themselves as the largest players in the market. A discrepancy between the international and local companies has thereby developed, leaving many local PSCs bidding for a small number of less profitable contracts. At the same time, Kosovo has had to cope with the demobilisation of the Kosovo Liberation Army, producing large number of former combatants, all of whom could not be absorbed by the state security forces, and who therefore tried to move into the private security market. The 2010 Law changed this by strictly regulating arms possession and use for all PSCs. Licenses to carry weapons are granted very sparsely.

The implementation of the Law also generated practical difficulties. Separate licenses are required for each of the different services offered. The law also requires a vetting process for personnel to operate as a security worker. The vetting process proves complicated in practice: interviewees explained that the lack of a streamlined database where information on the status of the applicants is assembled makes the process of controlling and renewing licenses difficult. Verification from a wide array of institutions is needed for the license, and therefore becomes a convoluted bureaucratic process which takes time.

An observation only mentioned in the Kosovo context, but possibly also important for the



other countries, is the lack of security managers in relation to guards, meaning that there is little management and oversight within the company structure, which makes clear government instruction and subsequent adherence even more important.

In **Serbia**, the first wave of privatisation of security services and resulting influx of PSCs started after the collapse of the socialist regime, but this development was put on hold by the war. Afterwards, the arrival of international companies had a considerable influence on the subsequent shape and form of the private security market. For one, their arrival provided a market and contracts for their protection. International clients also tended to require PSCs to adhere to some level of professionalism. International PSCs also entered the Serbian market and introduced new quality standards. Besides the market of multinationals, Serbian PSCs also have to face competition from state-owned PSCs, which receive preferential treatment in the award for public sector contracts. Since almost half of the contracts on the market are public contracts, this is an important factor influencing the industry.

The Serbian market has been highly influenced by the global economic crisis. PSCs, due to the difficulty in maintaining a viable business with the low prices paid for their services, have sometimes engaged in very different kinds of services on the side. Side activities are as diverse as accounting, catering and care for the elderly.

A specific law on PSCs took a while to develop, and while it has been adopted it has yet to be implemented. Its implementation may mean additional cost burdens for the PSCs, as training and licensing in accordance with the new rules is expensive. The particular, and costly, demands of the new Law, combined with the economic crisis and thus the difficult financial times for smaller companies in particular, will make survival difficult for many PSCs in the coming years.

Common Challenges to Effective PSC Regulation

Besides the contextual similarities discussed above, the research has revealed some striking similarities in the challenges that have arisen in regulating the private security sector. When it comes to the security sector, it is possibly even more important that various forms of transparency and accountability, designed to verify adherence to the mandates given to actors and their modes of operation, are clearly issued. These governance gaps can be grouped by the elements that were set out above.

I. Determining which services private security companies may or may not provide.

Although all the national laws regarding private security companies in the target countries list which services may be provided by PSCs and under what kind of licenses, in practice the research shows that the definitions within these laws are insufficiently clear. In particular, the definition of what constitutes a PSC and which entities are therefore covered by existing laws leaves room for interpretation. This allows certain security services to operate outside the legal frameworks or makes it easier to avoid the rules. Consequences of this include that private companies are mandated to perform tasks which may not be suitable for out-



sourcing, such as the protection of certain critical infrastructure. The security of such items could arguably be considered an inherent state responsibility, seeing their importance to the population. This problem was particularly apparent in Bulgaria, where definitions in the 2004 Law were found to be insufficiently detailed and incoherent.

II. Establishing an authorisation system for companies, including procedures and rules on performance.

Licensing, contracting and authorisation bodies should be equipped with adequate resources and trained personnel in order to carry out their responsibilities diligently.² In a transparent process, the competent authority should examine past conduct of the PSC and of its personnel, and consider whether the company's structure and capacities enable the company to meet all requirements set out for obtaining authorisation.³ This system should include quality standards and rules for PSCs in order for them to be allowed to perform security services. These standards and rules should include basic training in human rights and use of force, control of equipment -- in particular weapons -- and vetting procedures for staff. It is clear that a system in which the authorising authority is not fully independent and where conflicts of interest exist, could compromise the effectiveness of this system.

Indeed, basic training is compulsory for a license in all territories under consideration, and specialised training is required by law for certain services. However, problems have been identified concerning the implementation of this requirement, either due to a lack of capacity, or to the fact that mandatory training is very short and superficial. This means that additional training by the company itself is crucial; however, the researchers found that in most cases this was not a priority for the PSCs or employees due to a lack of incentive.

In Kosovo, it was found that while the obligatory training curriculum was in itself good, the training facilities lacked the resources to implement it properly. Also, the human rights component within the training was found to be lacking in depth.

In Albania, improvement of basic training was a focus of the 2014 Law. By increasing state control over the training and allowing for private education centres, it was hoped that the quality of training would improve. Even though undergoing training is a prerequisite for a license, the research found that the PSCs regard the basic training imposed by law as a mere formality, and training by the PSCs on the job, seen as having a much more crucial role, depends strongly on the size of the company, and how the company perceives the value of investing in training.

Regarding equipment, in particular firearms, it is even more important that training is given and limitations on the use of arms are laid down in licensing and regulations. In all the contexts, the use of weapons by private security was allowed, though in Serbia the industry was found to operate mostly unarmed, and in Kosovo the restrictions on the use of arms were found particularly stringent.

² Montreux Document, good practice paras. 3, 26-27 and 54; 58.

³ Montreux Document, good practice paras. 28-29 and 57-59. Similar action is recommended for States when hiring a PSC, see Montreux Document, good practice paras. 2-4.



III. Monitoring compliance and ensuring accountability with authorizations, contracts and licenses.

A system is needed that ensures effective monitoring and control, usually by the executive branch of the government. Monitoring and accountability have two interlinked components, a penal and an administrative one. Sanctions for violations may include administrative sanctions and suspension of licenses; the authority to do so may lay with the executive, penalties from the judiciary, or both. States are encouraged to establish and ensure adequate resources for a monitoring authority to which the civilian population and state authorities can report alleged wrongdoings. This authority should be able to investigate incident reports and offer PSCs a fair opportunity to respond to allegations.⁴ In many instances it was found that the existence of a PSC law was not paired with sufficient resources to implement an oversight mechanism. This could manifest itself mostly in a lack of manpower for oversight bodies, which may indicate that private security regulation is not high on the political agenda. In other instances, the monitoring body did not give the perception of independence.

In Bulgaria, the Directorate of the Ministry of Foreign Affairs and the Labour Inspectorate have the most important oversight roles. But oversight and state control of the PSC industry in Bulgaria are influenced by two main factors. First, up until 2013, the Ministry of Interior had its own, state-owned security, meaning it was both the entity responsible for licensing and monitoring, as well as a competitor. Second, there is a distinct lack of coordination between the Labour Inspectorate and the Mol, which, according to interviewees, do not share information. This bias within the authority and lack of clear institutional roles provides opportunities for grey market practices to grow.

In several contexts, the lack of resources for a control mechanism was indicated as one of the main challenges to the regulatory system, including in Kosovo, where only three staff and a Director were found to be manning the institution responsible for issuing, controlling, and revoking licences.

IV. Establishing selection and contracting procedures; applying pre-determined criteria to the selection of companies; providing clear terms of contracts.

In new democracies, particularly those transitioning from a socialist system, political links may still be extremely important for success in the private sector. When an important part of the market is made up of government contracts, this risk is especially acute. Moreover, the security sector has particularly strong links with public bodies or officials, such as the police force and the military. The risk of favouritism and corruption in public contracting must therefore be offset by strict selection procedures, with pre-determined criteria, to ensure that a fair procurement process is conducted. At the same time, the criteria as well as the contracts should include clear quality standards so that performance is evaluated for each company in a similar manner and the State sets the right example of what standards of

⁴ Montreux Document good practices, paras. 21, 46-47 and 68.



performance should be. However, this is the area where the countries under research have demonstrated most problems.

When selecting companies, there are various quality criteria which should be considered,⁵ such as clean criminal records, proof of weapons training, adequate insurance, ensuring the safety and wellbeing for personnel. In the countries under research, there were a few particular aspects that reoccurred often and therefore are the focus here. These aspects can be summarized roughly into these categories: a) transparency and relationships with governments; b) low standards of procurement, and c) double role of the state.

- Transparency and relationships with governments

Regulatory systems in each of the countries researched are heavily influenced by previous state-ownership of all security services. In many cases it has been declared by sources interviewed, and confirmed by research into the ownership of companies, that links between political protagonists and company ownership still exist. This may be because the PSC has links to a political party, and therefore has more chance to be awarded state contracts. Moreover, many other types of companies were not privatized, and in these companies appointment of management remains politicized. Contracts these state owned companies (such as telecoms, energy, mining etc.) award are more likely driven by criteria of political favouritism than those of cost/quality of service. PSCs invest in fostering political links, aware that these connections influence contracting. Often PSC management consists of former members of the Ministry of Interior, Ministry of Defence, or public security forces. These links may lead to an environment where unfair competition and corruption can flourish. This also leads to the provision of lower quality services, given that contracts are awarded to favoured contacts and not the most qualified company. Conflict of interest policies and anti-corruption regulation between those contracting or responsible for procurement bids and the PSCs applying should be drawn up.

- Low standards of procurement

Procurement policies in each of the countries under examination seem to focus on low prices rather than quality. This forces PSCs to issue unrealistically low bids, the consequences of which trickle down to wages. If this practice takes place in a context where rules on minimum wages are either non-existent or not implemented, it may lead to extremely low wages. In practice, the researchers found that a variety of side-effects can be observed when forging extremely low bids to win contracts. For one, PSCs may try to avoid paying social security, insurance, or the official minimum wage (if applicable). This is achieved by avoiding the registration of personnel, or by hiring fewer personnel but demanding overtime without pay for more hours than those for which the employee is registered and allowed to perform based on the labour laws. Alternatively, the company bidding for the contract ensures that it is properly registered as a company, but uses unregistered personnel, or hires personnel based on recruiting ads for tasks which fall under different types of labour contracts, ones that allow for lower wages or are subject to few rules.

⁵ Montreux Document good practices, paras. 5 - 13



Hence, the quality of PSC operations when winning public contracts is undermined by preferences for lowest price and favouritism over quality. This focus on the lowest bid or nepotism, instead of quality, may lead to a lack of professionalism, and often induces the practices described above.

- Double-role of the State

In many instances, the state in fact provides commercially contracted security through state-owned security services, which compete for public contracts (in one case, this practice occurred directly under the auspices of same institutional entity which decides on PSC regulation and licensing). In some instances, this means that contracts are not advertised for bidding, while in others, they are advertised but unavoidably go to the PSC which is state-owned. At the same time, the State is supposed to play an oversight role, ensuring fair procurement procedures, and in handing out licences and registrations in a non-discriminatory fashion. The existence of state security functions which provide services under commercial contracts harms the perception of neutrality and may mean that certain companies obtain contracts unfairly. Conflict of interest policies and anti-corruption regulations governing the relationships between those contracting or responsible for procurement bids and the PSCs applying should be drawn up.

In Serbia, public security forces contracting commercially are also competing for many public contracts, which are often granted to them through preferential contracts. This means that some high-value contracts never make it to the market, even if they go through a biased procurement process. This makes the state both a regulator and a competitor. Since almost half of the contracts on the market in Serbia are public contracts, this is an important factor influencing the industry.

V. Other Factors of Importance.

Industry organization: When associations made up of a number of companies or personnel are formed, a stronger position is created to lobby for higher minimum wages, improved quality standards or even the adoption of new laws. In Albania, the sector was directly involved in the drafting of the 2014 Law and this also created an incentive for PSCs to organise even more. In Serbia, the lack of legislation has prompted the industry to move ahead of the legislative attempts of the government. The private security association within the chamber of commerce was not only a driver behind the creation of the Law, but also, in the meantime, developed its own rules and a code of conduct. In most cases, the private security industry has taken the initiative to start organising itself, with more or less success, in order to urge policy makers to properly regulate the sector and increase its professionalism. The Albanian private security sector has had to cope for a long time with a prohibition against forming an association. Even after the ban on associations was abolished, the industry took a long time to get organised as many companies did not see the advantage of industry associations. In an atmosphere of political corruption using political ties seemed a surer way of getting their demands met than through collective action. Nevertheless, some associations



exist now, sparked, inter alia, by the issuance of the 2014 Law. One umbrella association is attempting to unify existing ones, as too many different associations may lead to unnecessary competition between them.

Coordination with the public security forces: The lack of a holistic approach to and coordination among different actors in the broader security sector can undermine the long-term sustainability of reform. Therefore, the relationship with the public security forces is crucial. In Bulgaria, the level of cooperation between the police and private security, and within the PSC sector, seems to be more formalised than in any of the other countries. The cooperation with the police was established in a Memorandum of Cooperation, concerning collaboration with regards to crime detection and exchange of information, among other things. However, in practice cooperation here also seems to be more informal and ad hoc.

Labour rights: Overall, the most prominent problem with the regulation of the private security sectors in the countries under research seems to be the weak position of labour rights. There is often a lack of implementation of existing laws. For example, in Kosovo, the PSC Law does not regulate the labour rights of employees of PSCs, even though local PSCs lobbied for this during the drafting of the current Law. Research found this to be problematic, since the general labour laws in Kosovo do not seem sufficient to effect change in the procurement practices that undermine labour rights by looking only at the lowest price.

A clear side effect is that in the absence of a minimum wage, free market competition, which should improve the market, instead draws wages and standards down to unsustainable levels in order to compete for contracts.

In addressing the challenges to private security regulation the states examined here do not stand alone. In a recent report about the implementation of the Montreux Document among participant states, the main challenges to national legislative systems included sufficient resources and functioning of the monitoring system. Better knowledge of the size, nature and shape of the PSC market is always the first step to its improved oversight and accountability. It is hoped that the contributions to this volume and the wider objectives of the Private Security Research Collaboration project can further contribute to that aim in the future.



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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.

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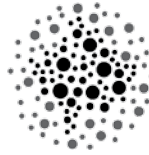


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