

Policy Brief

The Development Context of the Strategic Security Sector Review

Civil society perspective

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Strategic and doctrine development context in Kosovo's security sector

Since 1999, the security sector in Kosovo has been both a reserved power and an exclusive decision making instrument of the international community, civil and military presence in Kosovo. Apart from the Kosovo Liberation Army (KLA) demilitarization process and the foundation of the Kosovo Protection Corps (KPC), which as such reported to and was supervised by UNMIK. The role of the local institutions in the development of security institutions in Kosovo was almost non-existent.

Local ownership in the security sector was not raised as an issue until 2004; similarly, UNMIK authorities showed little (if any) interest or readiness to transfer security sector powers to local institutions. In other words, there was little or no “local voice” in the security sector consolidation process in Kosovo.¹

The international community had been reluctant to efficiently transfer these powers to the locals due to, first and foremost, lack of trust in them. Later on it had to smoothly and rapidly establish a security sector based on “experiences and examples in other coun-

¹ KCSS- “Context Analysis of Security Sector Reform in Kosovo”- page 9 <http://www.qkss.org/repository/docs/KOS - KCSS_shqip_final_325152.pdf>

tries”, which were not always tailored to the local context, nor adequate to the level of democratization and the sensitivity of circumstances in Kosovo. Generally, there has been a lack of “local say-in” in security sector development.²

Unexpected and violent protests in March 2004 brought to the surface the limits of both UNMIK and KFOR's willingness and capacity to deal with violent protests, and the need to change the security architecture in Kosovo. Consequently, in 2005, UNMIK and the Kosovo Government jointly initiated the Internal Security Sector Review (ISSR) Paradoxically, though, March 2004 events have catalysed UNMIK-Government interactions, paving the way for a new development stage in the security sector. ISSR included senior UNMIK officials, the Kosovo Government, Kosovo political parties' representatives and community representatives. This was the first major activity in the security sector, where domestic institutions, albeit with minor powers in the security sector, were directly involved in the country's development of the security sector.

The ISSR aimed at a general assessment of challenges, threats and risks, either political or economic, faced in Kosovo, as well as the drafting of recommendations to address these challenges and risks as identified by the ISSR. The ISSR also forecasted an initial transfer of

²Ibid, page 10

security sector powers to the locals. The failure to transfer these powers from the international community to local institutions in a timely manner prevented Kosovo from properly developing relevant security sector institutions, thus causing a vacuum which had to be rashly filled with additional mandates and powers after Kosovo's Declaration of Independence. Consequently, the institutions were entirely unprepared to cope with situations such as combating organized crime, terrorism and human trafficking, areas which were exclusively under UNMIK Police. Furthermore, this approach of the international community also disabled the exercise of civil and democratic oversight of the security sector.

The need to amend legislation and change the security sector architecture was identified immediately after the Declaration of the Independence of Kosovo and the adoption of its new Constitution. These changes were also predicted by Ahtisaari's Comprehensive Status Proposal. According to the Constitution of Kosovo, the security sector of Kosovo consists of the Kosovo Security Forces (KSF), Kosovo Police (KP), Kosovo Intelligence Agency (KIA), Kosovo Security Council (KSC), and the Civil Emergency Sector. The latter continued to be overseen by the international

presences in Kosovo (KFOR, EULEX and ICO).³

The Kosovo Security Council, which is legally and constitutionally mandated to adopt all security policies in Kosovo, and also draft national security strategy, began preparations to draft the national security strategy by 2009. The KSC Secretariat coordinated all the drafting activities of the national security strategy, yet again the strategy working group lacked major representation of both the local institutions and foreign actors.⁴ The Working Group finalized a draft national security strategy, despite major involvement of the international presence in Kosovo. The document was later imposed on Kosovo, by the international community in Kosovo, namely the Security Advisory Team of the International Civilian Office (ICO)⁵, and as such did not reflect the real context of the country, thus failing to address the realistic security challenges faced by Kosovo. This Strategy was adopted by the Assembly without prior relevant pub-

³ Comprehensive Status Proposal of President Ahtisaari – Security Sector in Kosovo, page 48. <http://www.unosek.org/docref/Comprehensive_proposal-english.pdf>

⁴Florian Qehaja – Executive Director of the Kosovar Centre for Security Studies, involved in the Working Group for Drafting the National Security Strategy of Kosovo in 2009.

⁵The International Civilian Office (ICO) was mandated with supervision of Kosovo's independence, namely to ensure implementation of the Ahtisaari Proposal throughout the whole territory of Kosovo, and integration of the same in the legal system of the country.

lic or parliamentary debate. No national threats potentially faced by the country were foreseen, nor did the document appear to be a regular national security document.

Consequently, key elements in this process, including transparency and public debate, wide institutional involvement and groups of interest, and time duration failed to produce a proper process.

I. The Political and Constitutional basis to launch Strategic Security Sector Review

The Kosovo Government's Decision on March 21st, 2012 to adopt the initiative for the Strategic Security Sector Review (SSSR) was pursued by a series of developments affecting the legal grounds of SSSR, the local ownership, the transparency of process, and the (non) involvement of non-governmental actors. In an effort to accomplish several ambitious political and legal goals just four years after the Declaration of Kosovo's independence, the SSSR aimed primarily to amend the current mandate of the Kosovo Security Force (FSK) and the Ministry for the KSF – regardless of the fact that this goal was not directly reflected in this Government's decision due to international political sensitivity and the balance of forces between the NATO Member States and the status-neutrality

adopted since 2008.⁶ Nevertheless, the fact that this process was explicitly led by the KSF Minister⁷ shows the importance this process intended to give to the future of the KSF.

Foremost, it has to be emphasise that SSSR was initiated as a result of the necessity for the local security institutions to assume additional powers as derived by the Ahtisaari Plan to revise the KSF mandate,⁸ and the need to draft a new national security strategy replacing the Kosovo's Security Strategy from 2009. In parallel, Supervised Independence was concluded and the International Civilian Office (ICO) closed on September 10th, 2012, pursuant to the Ahtisaari Plan. Still, this decision of the Kosovo Assembly, in addition to creating a new affirmative political and constitutional reality, has introduced new dilemmas relating to the inability to terminate international and civilian military and civil presence in Kosovo, due to the UNSCR 1244 of the UN Security Council.

With the ICO exiting the institutional framework in Kosovo had no impact on KFOR's solid presence with 5000 troops in operation, nor on some executive powers of EULEX, having left the

⁶Ibid, items 1 to 1.8;

⁷Ibid, items 3 and 4.

⁸ Comprehensive Status Proposal by President Ahtisaari, Kosovo Security Sector, page 48. <http://www.unosek.org/docref/Comprehensive_proposal-english.pdf>

most delicate parts of full sovereignty in security and defence in the hands of international institutions such as NATO (KFOR) and EU (EULEX).⁹

The constitutional amendments¹⁰ leave Kosovo with further constitutional and legal dualisms in terms of provisions removed/omitted from the Constitution of Kosovo after the Decision of the Assembly, namely Article 153, Chapter on International Military Presence.¹¹ In a simple interpretation, the international presence currently finds no legal grounds in the Kosovo Constitution, as it had until September 7th, 2012. Currently, according to the Constitution, Kosovo only recognizes the following security institutions: KSF, Kosovo Police (KP), Kosovo Intelligence Agency (KIA), Kosovo

Security Council (KSC), and the Civil Emergency Sector.

In this constellation of SSSR developments, the year 2011 also coincided with technical talks and the initiation of high-level talks between the two Prime Ministers in Brussels, and the efforts of the Kosovo Government to begin gradual integration of northern municipalities by dissolving and transforming Serbian parallel and illegal security structures operating in the area as of 1999.

During 2013, the SSSR continued to be challenged mainly by the talks taking place in Brussels, and tendencies of the Serbian Government to not allow the presence of the KSF as its “heir” in the northern municipalities of Kosovo. The month of June 2013 did not bring an end to the process, as was demanded by item 2 of the Government Decision on SSSR, or the main objective – the revised mandate of the KSF. Apart from the confirmation from the North Atlantic Council on full operational capacity of the KSF in July – a decision expected, but delayed compared to the predicted pace. A preliminary SSSR report was not even produced, despite the statements of the KSF Minister in the meeting of the Parliamentary Committee for Internal Affairs.

⁹Correspondence between the President of Kosovo and EU High Representative for Foreign Policy and Security in 2012, around the EULEX Presence and its extended mandate until June 2014, only confirming and understanding that Kosovo agrees to cooperate with EULEX, despite the legal grounds deriving from UNSCR 1244.

¹⁰Item 1.7, Government Decision No. 09/67, requires amendment of the whole legal framework pursuant to the SSSR recommendations. The item fails to clarify whether this includes amendment of constitutional provisions on KSF, namely Article 126.

¹¹See dokument on amendments to the Constitution of the Republic of Kosovo on Ending International Supervision of Kosovo's Independence, published in the Official Gazette on 7 September 2012 http://www.md-ks.org/repository/docs/Ligji_per_amandamentimin_e_Kushtetutes_se_Republikes_s_e_Kosoves_%28shqip%29.pdf

II. The SSSR legal basis

It is worth mentioning that since the initiation of the process, the document to be published and accessible has been the Government Decision no. 09/67 from March 21st, 2012. This Decision, apart from the Steering Committee, also established an Inter-ministerial Coordination Group and a Coordinator, Working Groups in ministries/agencies involved in the process, the Secretariat and the Spokesperson. And, until now, no government official is known to have appeared making any statement on the process, apart from the KSF Minister. Therefore, the legal bases for SSSR are mainly built around a Government Decision, while the need to issue a new National Security Strategy, respectively item 1.6 of the Decision, remains under discussion. Specifically, this dilemma derives from the fact that the Constitution of Kosovo, Article 127, explicitly mandates the Kosovo Security Council (KSC) to draft the Strategy, in cooperation with the President and the Government.

The Kosovo Security Strategy is also a mandatory obligation required by the Law on Establishing the Kosovo Security Council, Article 2.1, which must then be submitted to the Kosovo Assembly for adoption. A special role in the process must be played by the KSC Secretariat, which, according to this law, is mandated to coordinate the Strategy and security policies' compilation in Kosovo. The deci-

sion of the Government of Kosovo, item 5.6, apart from making the KSC Secretariat an equal member of the Steering Committee,¹² gives a managing/coordinating and logistical role to the Secretariat, according to item 8.

III. Local ownership in the strategic development process

SSSR so far is almost an entirely different process, both in political decision-making and in its methodology and objectives, compared to the previous ones in 2006 and 2009. Yet, since 2012, the SSSR is being implemented by a strategic-level Advisory Team from the United States of America – DIRI (Defence Institute Reform Initiative), which was mandated to hold inter-institutional workshops and produce specific products for each stage of the process. Specifically, item 7.6 of the Government Decision on the Review Process “provides the involvement of an institute or a national or international organization on any certain matter, if deemed necessary.” Although it may be claimed that this requirement has been met as such, it is evident that there was a lack of procedural clarity on how this institute or organization

¹²Together with the Minister of Internal Affairs; Foreign Affairs; the Director of the Kosovo Intelligence Agency; the Security Advisor of the Prime Minister; KSF Commander; Director General of the Kosovo Police, and the Director of the Emergency Management Agency.

would be selected and involved. Paradoxically, item 8.3 of the Decision almost designates that the institute must be international, by providing that “it would be the responsible link between the Committee, the International Research Institute and Ministerial Working groups.”

Stated clearly, item 7.3 has not created competitive circumstances and processes, while priority is given only to internationals. The DIRI has acted through visiting missions, and a team mainly oriented towards state policy matters. So far, there has not been any serious effort of this institute to include include civil society perspectives and inputs into the SSSR.

IV. Process transparency and engagement of non-governmental actors

Along with the contents of the strategy, the legal basis, and the strategic development process, large importance is given to transparency of the drafting process as a whole, as well as wide involvement of non-governmental actors not enjoying direct access to central institutions. The more inclusive the strategy drafting process is the more transparent and applicable it will be. . A transparent process would also prevent individual interests of working group members, thereby underscoring the ob-

jective of the final product of the process.¹³

Knowing that the review process started with the adoption of the decision by the Government of Kosovo and the Kosovo Assembly in February 2012, the discussion over the process has only been focused on the meetings of the Committee for Internal Affairs, Security and Oversight of the KSF. By the end of 2012, the Minister of the Kosovo Security Force (KSF) reported before the relevant Committee on the achievements and activities of the KSF during 2012, and presented all objectives for 2013. First and foremost, the Minister underlined the preoccupation of the KSF with the SSSR in Kosovo, and its role in the process¹⁴.

Since the meetings of the Committee for Internal Affairs, Security and and KSF supervision, are open for interested parties, and reporting on the revision process is considered to have been transparent and publicly accessible. Nevertheless, the MKSF on the SSSR process has not produced any essential discussion or idea exchange. In fact, reporting on the review process has been part of the general reporting that the MKSF has had for its activities in 2012 before the Oversight Committee, which is mandated to exercise con-

¹³Security Forum, “Process of Drafting a New Strategy for Kosovo”, May2013.

¹⁴http://www.kuvendikosoves.org/common/docs/proc/proc_2013_03_26_10_4834_al.pdf

trol and democratic oversight over the security institutions. As a result, an open public discussion of the SSSR decisions has yet to occur.

The most transparent discussion is considered to be the organization of the Directorate for Policies and Plans of the MKSF, on the topic of *KSF Mission and Strategic Security Sector Review*, which involved senior MKSF representatives and representatives of foreign embassies in Prishtina, civil society representatives, and local and international security organizations¹⁵. Apart from many other topics, such as the mission and role of the KSF and regional collaboration, the SSSR process was one of the main and most discussed topics. The discussion was enriched by the experience and knowledge of civil society representatives. Nevertheless, the fact that the meeting had representatives of international presences and diplomatic missions did not make this meeting a discussion with civil society.

The second meeting in the same format was planned for June 2013, with the purpose of readdressing matters of relevance identified in the first forum. It failed, however, due to the absence of relevant invitees to the meeting. The meeting was only attended by two KCSS researchers.

The widest discussions related to the KSF were made during a conference held by the Kosovo Centre for Security Studies (KCSS) as part of the “Forum 2015” Platform, *What further with the KSF: Army or not?*¹⁶. The conference addressed the findings of a policy document compiled by the KCSS on the future of the KSF, presented in three possible scenarios¹⁷. The conference was attended by all relevant stakeholders in the country, from the governmental and the non-governmental sectors. In fact, this was the first conference to have opened the review process and KSF future before a wider audience, in which all actors from the civil society would be able to comment on issues of interest for security in Kosovo. The Conference was impactful as a result of media addresses by the KCSS staff on the SSSR, and the awareness raised on the matter in the public opinion.

Main challenges

The SSSR continues to be challenged by its dependence on the political agenda in the talks between Prishtina-Brussels-Belgrade, and the lack of clear timelines which would enable a clearer process. The failure to implement the Government Decision, changing institutional roles and responsibili-

¹⁵<http://mksf-ks.org/?page=1,24,652>

¹⁶<http://www.qkss.org/sq/Lajme/Konferencje-Cka-tutje-me-FSK-Ushtri-apo-jo-164>

¹⁷http://www.qkss.org/repository/docs/%C3%87ka_tutje_me_FSK-Ushtri_apo_je_445006.pdf

ties, and a weakened division of ministerial duties risk prolonging the strategic process even further.

Also, the lack of institutional expertise, especially in institutions indirectly related to the security sector within the SSSR, budget deficits (or the lack of a dedicated fund to the process per Government Decision, item 9), and lack of cooperation and efforts of line ministries, have seriously challenged the SRRR process. Furthermore, this process has not provided an inclusive and transparent approach, in which civil society, independent experts and media would be actively involved.