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# Kosovo

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**Strengthening Intelligence Governance in the  
Western Balkans**

# Intelligence Governance in Kosovo

Florian Qehaja



## Introduction<sup>1</sup>

The development of a domestic intelligence agency in Kosovo has been controversial for reasons that relate not only to the robust role of the secret police in the former Yugoslavia but also to the unique conditions that have obtained in Kosovo since the breakup of the Socialist Federal Republic of Yugoslavia (SFRY). In addition to that, no current assessment of the Kosovar security sector can be offered outside the context of the recent past, especially without mentioning the non-statutory intelligence services that operated for more than nine years in lieu of the state intelligence agency and serving the interest of political parties. The apprehensive public perception of the former intelligence structures and the fear of political affiliation of state intelligence agency is an additional issue of concern.

The current domestic intelligence service, established following Kosovo's declaration of independence in February 2008, is thus only a few years old and not yet fully operational. To date, one can applaud the moves made in the Kosovo Intelligence Agency (KIA) to embed aspects of good governance in its control mechanisms and the proactive approach exhibited thus far by the main parliamentary oversight committee, but the goal of cohesive and sustained democratic oversight has hardly been reached. Moreover, the roles played by civil society organisations, the media, independent state institutions, and the judiciary have been very limited.

This paper aims to evaluate critically the progress being made toward democratic intelligence oversight in Kosovo. It includes an analysis of the applicable legal framework and makes reference as necessary to the historical background and political context. The methodology used is predominantly qualitative, relying on interviews with stakeholders and independent experts as well as on the analysis of open sources.

This study is expected to serve as a resource for stakeholders in Kosovo as well as on the international level—especially members of the Kosovo Assembly, civil society organisations, the media, and academia. This paper may also serve as a relevant tool for intelligence service personnel, bearing in mind that to date hardly any studies have evaluated the role of the KIA from a non-governmental perspective.

The first section of this paper presents a brief overview of the recent history of intelligence activity in Kosovo. The second section recounts the key developments that led to the creation of

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<sup>1</sup> This study was drafted as part of a DCAF project on Strengthening Intelligence Oversight in the Western Balkans, which was made possible by the generous support of the Ministry of Foreign Affairs of the Netherlands. The text will be published as a chapter in the forthcoming edited volume: *Intelligence Governance in the Western Balkans*. The opinions expressed in this study are those of the author and do not necessarily reflect the views or institutional positions of either DCAF or the Ministry of Foreign Affairs of the Netherlands.

the current domestic intelligence service. The third section describes the various mechanisms established for the control and oversight of the service—including assessments of their effectiveness. The paper concludes with a set of recommendations for strengthening intelligence oversight.

## **Background**

The perception of the intelligence community in Kosovo may be compared with the other countries in the former Socialist bloc. The territory of Kosovo was part of the former SFRY which had a state-centric security system with a secret service known widely as the department of state security (UDBA<sup>2</sup>). This institution had a robust role within that system and served as the corner stone of the concept of Yugoslavia itself. However, its activities against the potential ‘enemies’ of the system especially after the demonstration of 1981 in Kosovo led to it being perceived as a violent institution, and the cause of insecurity and repression, especially among the Albanian population in Kosovo.

In 1989, after consolidating its power in Serbia, the nationalist regime of Slobodan Milosevic moved to abrogate Kosovo’s autonomy. At the same time, the Milosevic regime took control of the Yugoslav state security system and reorganised it to meet the demands of the new security situation—principally, the conflicts resulting from the breakup of the SFRY and the new political environment in Kosovo. Beginning in 1989 and continuing until 1999, the Milosevic regime in the new Federal Republic of Yugoslavia (FRY) used its secret service to repress Kosovo’s majority Albanian population.

Initially, Kosovo’s ethnic Albanian majority responded with a nonviolent movement. Hopes for an independent Kosovo were particularly high following the 1995 signing of the Dayton Peace Agreement ending the Bosnian War. But as the repressive policies of the Milosevic regime continued, the armed Kosovo Liberation Army (KLA) began to supplant the nonviolent resistance movement. One of the first specialised units created by the KLA was the Kosovo Information Service (SHIK<sup>3</sup>), which seems to have been established initially as a military intelligence service.<sup>4</sup>

In 1999, following the Milosevic regime’s rejection of the Rambouillet Agreement, elements of the KLA established the Provisional Government of Kosovo. Although this government, which operated during the North Atlantic Treaty Organization (NATO) air campaign and for several

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<sup>2</sup> Uprava državne bezbednosti

<sup>3</sup> Shërbimi Informativ i Kosovës

<sup>4</sup> Some sources suggest that SHIK was actually preceded by the KLA Intelligence and Counterintelligence Unit (Zbulim Kundër Zbulim)

months thereafter, never received international recognition, it did serve to legalise (in a way) the mandate and activities of SHIK.<sup>5</sup> The service's existence and the identities of its chief officers were publicly acknowledged, but details of its structure and financing were never revealed.

SHIK's purpose, according to former director Kadri Veseli, was to serve the "national and public good,"<sup>6</sup> yet SHIK was never given a legislative framework—nor was it ever clear how the service performed this function given the circumstances of its founding and existence. In fact, the presence of SHIK mirrored the overall inherited perception among the population that there is a secret type of organisation operating in a non-statutory manner in Kosovo.

On 15 June 2008, in a media broadcast, Veseli declared the "accomplishment" of SHIK's "mandate" and announced, unexpectedly, the disbanding of the agency.<sup>7</sup> Veseli's broadcast took place within the context of public discussions, begun three years earlier, concerning activities beyond intelligence collection in which SHIK may have been involved. These discussions focused on SHIK's close political affiliation with the Democratic Party of Kosovo (PDK<sup>8</sup>), whose leadership included many former KLA principals. Paradoxically, the debate over SHIK's activities only increased after the service's 2008 dissolution, at which point several opposition parties and civil society organisations accused the PDK of populating the government with former SHIK operatives. The debate became even more intense in late 2009, when Nazim Bllaca, identifying himself as a former SHIK agent, revealed his involvement in a campaign of political assassinations allegedly carried out by SHIK between 1999 and 2003 on the orders of PDK leaders.<sup>9</sup>

In the meantime, it was revealed that the Democratic League of Kosovo (LDK<sup>10</sup>), the second largest political party in Kosovo after the PDK, had its own illegal intelligence service, the Institute for Strategic Research of Public Opinion (IHSOP).<sup>11</sup> Like SHIK, IHSOP drew most of its agents from the ranks of former Kosovo War combatants; but some analysts have made an important distinction, observing that IHSOP probably chose its staff from older generations of Kosovars who may have served in the former security services of Yugoslavia.<sup>12</sup>

Because the political intelligence services operating in Kosovo prior to 2009 had no statutory basis, the government had no legal authority to institute oversight of their activities. As a result,

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<sup>5</sup> Kosovo Institute for Policy Research and Development (KIPRED), *Shërbimet në hije të inteligjencës në Kosovë: Shpërbërje, Shkriroje apo Integrim?* (Prishtina: KIPRED, 2006), page 7

<sup>6</sup> Interview with SHIK director Kadri Veseli, TV KLAN Kosova, 28 December 2009

<sup>7</sup> Statement of SHIK director Kadri Veseli, RTK Public Broadcast, 15 June 2008

<sup>8</sup> Partia Demokratike e Kosovës

<sup>9</sup> At the time of this writing, the Bllaca case remains under investigation.

<sup>10</sup> Lidhja Demokratike e Kosovës

<sup>11</sup> Instituti për Hulumtime Strategjike të Opinionit Publik

<sup>12</sup> Informal discussion with an independent expert, 14 March 2011

their unfettered operation undermined the democratic order and left the Kosovar population feeling ultimately insecure. Even when SHIK and IHSOP disbanded, the prominence of their former leaders and the networks of colleagues that they maintained perpetuated their influence.

## **Intelligence Sector**

On 10 June 1999, following the withdrawal of Serbian troops from Kosovo, the United Nations Security Council approved Resolution 1244, which placed Kosovo under the authority of the UN Interim Administration in Kosovo (UNMIK). The resolution also authorised a NATO-led peacekeeping force known as KFOR. Working together, UNMIK and KFOR assumed the primary responsibility for public safety in Kosovo in the aftermath of the war. As a matter of practice, however, during the nine years of international governance in Kosovo (1999–2008), domestic security structures evolved in an ad hoc manner to meet the public safety needs, especially through the consolidation of the police and civil emergency structures.<sup>13</sup>

Local authorities and civil society organisations in Kosovo called for the creation of a national intelligence agency that could collect information on national security threats; but UNMIK proved reluctant to authorise such an agency, justifying its position with a rather narrow interpretation of its mandate under Resolution 1244. Eventually, in 2005, UNMIK and the United Nations Development Programme (UNDP) initiated an Internal Security Sector Review (ISSR), the purpose of which was twofold: to assess the expansion of the security sector since 1999 and to make recommendations for a new security-sector architecture.<sup>14</sup> The ISSR report concluded that the Kosovar government indeed required a domestic security agency capable of collecting intelligence on national security matters and thereby addressing potential risks and threats to the population.

In May 2007, a domestic intelligence service for Kosovo moved closer to reality when UN Special Envoy for Kosovo Marti Ahtisaari included such an agency in a proposal that he presented during the unsuccessful 2006–2007 final status talks between Prishtina and Belgrade.<sup>15</sup> The Ahtisaari Package, as the proposal came to be known, contained recommendations to guide the Kosovar government following a declaration of independence.

On 17 February 2008, less than a year after Ahtisaari presented his proposal, the Kosovo Assembly declared independence and two months after that approved a new constitution. The

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<sup>13</sup> Kosovar Center for Security Studies (KCSS), *Context Analysis of the Security Sector Reform in Kosovo, 1999–2009* (Prishtina: KCSS, 2011)

<sup>14</sup> ISSR, *Kosovo Internal Security Sector Review* (Prishtina: ISSR, 2006)

<sup>15</sup> United Nations Office of the Special Envoy for **Kosovo**, *Final Comprehensive Proposal for a Kosovo Status Settlement* (May 2007)

constitution expressly created the Kosovo Intelligence Agency (KIA) to “identify, investigate, and monitor threats to security in the Republic of Kosovo.”<sup>16</sup> This language mirrored closely the text of the Ahtisaari Package, which proposed the creation of a domestic intelligence agency “to monitor threats to Kosovo’s internal security.”<sup>17</sup> Similarly, the constitutional language directing that KIA “shall be professional, politically impartial, multiethnic, and shall be subject to Assembly oversight”<sup>18</sup> was modelled on Ahtisaari’s recommendation that the agency “shall be professional, apolitical, multiethnic, and subject to parliamentary oversight.”<sup>19</sup>

In June 2008, the Assembly enacted the Law on the Kosovo Intelligence Agency (henceforth the Law on KIA), which provided a more specific mandate and expressed in detail regulations under which KIA would operate. Specific provisions in the law limited KIA’s executive powers—denying it the authority to use direct or indirect force, arrest citizens, or initiate criminal proceedings.<sup>20</sup>

Because the process of drafting the Law on KIA was less than transparent, it is difficult to know the identities of those involved. What is known is that the legislation was derived from the Ahtisaari Package and passed under Rule 61, an Assembly procedure (foreseen in the Ahtisaari Package) providing for the accelerated passage of legislation. Under Rule 61, the members of the Assembly were permitted just one day in session to consider the draft law, following prior review not by a permanent committee but by an ad hoc group specifically established to consider Rule 61 legislation.<sup>21</sup>

The expedited manner in which the Law on KIA was passed led many citizens to conclude that the legislation had been imposed on the country by the international community and thus might not adequately reflect local context. Some critics have argued that because the original law was written in English (a nonlocal language), the Law on KIA includes “chaotic content as the result of weak and illogical translation,”<sup>22</sup> which makes many of its provisions ambiguous and difficult to interpret (as is often the case with the Albanian language).

The Law on KIA’s accelerated passage—in particular, the absence of public debate—was somewhat justified by the need to pass in a timely manner the legal framework necessary for

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<sup>16</sup> Constitution of the Republic of Kosovo, Article 129.1

<sup>17</sup> United Nations Office of the Special Envoy for *Kosovo*, Final Comprehensive Proposal for a Kosovo Status Settlement (2007)

<sup>18</sup> Constitution of the Republic of Kosovo, Article 129.2

<sup>19</sup> United Nations Office of the Special Envoy for *Kosovo*, Final Comprehensive Proposal for a Kosovo Status Settlement (2007)

<sup>20</sup> Law on KIA, Article. 3.1

<sup>21</sup> Institute GAP Policy Brief, *Rule 61: Ahtisaari Laws—consequences and lessons derived from the approval of laws through an accelerated procedure* (December 2010), page 3, and author’s participant observations during the 27 January 2011 Institute GAP conference *Laws of the Ahtisaari Package—two years after their application*.

<sup>22</sup> Quoted from Abdullah Prapashtica, Lajme Dervina, [http://lajme.dervina.com/archive/arkivi\\_php?lajmi=4749-1596:489&printo=4749-1596:489](http://lajme.dervina.com/archive/arkivi_php?lajmi=4749-1596:489&printo=4749-1596:489)



the establishment of the new Kosovar state. The Law on KIA may still be amended, and legislators can now take into account the experience gained by agency officers and oversight bodies. But no such process has yet taken place.

From an operational point of view, KIA is still in its initial stage of development. For instance, it took the President and Prime Minister, who share the responsibility jointly,<sup>23</sup> nearly a year to appoint the first KIA director. The public was never informed of the reason for the delay, but it was widely assumed that the two leaders were vying for political control of the agency, especially considering the tendency of former members to influence the politically led intelligence services. The appointment of the Director was finally made in February 2009 as part of a deal that included the appointments of the Deputy Director and Inspector General, which had also been delayed.

Given the historical context—specifically, the roles played by the political party–led intelligence agencies that preceded KIA and the recent declaration of independence—the developmental arc that KIA has followed seems less surprising, especially in light of the major challenges it faces. One of these has been the construction of a public profile that differentiates KIA from the likes of SHIK or IHSOP. Negative perceptions of these former security services, especially following the allegations in the Bllaca case, have made the creation of a positive public image for KIA exceedingly difficult. Perhaps unfairly, many opposition parties and civil society organisations have warned of the potential inclusion of former SHIK agents to positions within KIA, arguing that such a practice undermines the agency’s legally mandated apolitical character. Public opinion, meanwhile, fears there may be a conspiracy between former SHIK members and the current KIA. Whether such worries are reasonable or groundless remains impossible to determine in view of KIA’s deliberately opaque organisational structure. Generally, the real profile of the KIA needs to, in the coming years, operate free of scandal and controversy in order to improve public opinion and increase public trust towards this institution

Similarly, there are concerns about the “politicization” of KIA, as well as its potential “policization,” (that is, the process of police practices becoming increasingly prevalent within the agency). Interviews with stakeholders have revealed a fear that a number of former police officers have been hired by KIA despite its explicitly non-police mandate.<sup>24</sup> Although one might consider the experience of former police officers valuable, police modes of operation and the police mindset might be incompatible with the manner of agency operation described in the Law on KIA.

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<sup>23</sup> Constitution of the Republic of Kosovo, Article 129.3

<sup>24</sup> Interview with an independent expert in Kosovo, 12 March 2011

Nevertheless, the author of this paper has been unable to determine the extent to which former police officers have been recruited into KIA.

Very little public information exists regarding the operational activities of KIA to date. The one notable exception is contained in the US State Department's annual *Country Reports on Terrorism* for 2009, which applauded the performance of the newly established KIA in identifying several potential Islamic terrorist cells in Kosovo. According to the report, KIA "suspected that some of the Islamic nongovernmental organisations were involved in suspicious activities in laundering money for future terrorist acts in the Middle East."<sup>25</sup> Yet without additional information, no comprehensive assessment of KIA effectiveness can be made.

The degree to which KIA follows the principles of good governance is another area of interest to researchers, especially among civil society organisations. The fact that KIA was being created from scratch increased the hope that the best practices of democratic governance would be applied to its development. Some lack of openness is to be expected, especially with regard to the so-called "grey zone" of intelligence work. But even this accommodation for the operational side of KIA activities does not explain the behaviour of the agency—which, in its complete opacity, blocks access even to data that should be transparent. KIA communicates with the public hardly at all, lacking even a web site. The agency's excessively closed nature thus makes it difficult to measure whether KIA is conducting its activities in accordance with relevant legislation and the rule of law.

### *Intelligence Cooperation on the Local and International Level*

Relevant law requires KIA to cooperate with other domestic security institutions—a relationship that appears to have been formalised in some cases. Media reports indicate that KIA has signed cooperation agreements with the police and the customs service, but there is no open-source information to indicate any similar arrangement with the Kosovo Security Force or other domestic security institutions. Nevertheless, de facto cooperation may be taking place.

Cooperation with foreign intelligence services is a different matter. The Law on KIA gives the Director the authority to liaise with other intelligence agencies, but no provision of the law places this cooperation under government or parliamentary control or oversight. The author of this paper could not identify any open sources of information relating to cooperation between KIA and other countries, but such cooperation almost certainly exists, especially with United States and European Union member states' intelligence services. The international presence in Kosovo is far too great to imagine that foreign intelligence services are not active in the country.

Moreover, the geographic commonality of risks and threats in the Balkans makes regional cooperation inevitable as well. Organised crime and terrorism impede the development of every

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<sup>25</sup> US State Department, *Country Reports on Terrorism 2009* (August 2010), page 89

nation in the area, but KIA must balance regional threats with Kosovo's delicate political situation—specifically, its struggle for recognition of its statehood. The Director has asserted publicly that sound cooperation exists between KIA and its regional counterparts, especially with the Albanian State Intelligence Service.<sup>26</sup> There is no open-source information by which to evaluate this statement, and it may well be true, but the author of this paper doubts that KIA cooperates with either Serbian or Bosnian services because their respective countries have refused to recognise the independence of Kosovo.

## **Oversight and Control**

Like the agency itself, the mechanisms for control and oversight of KIA are still in their early stages of development. To understand how these mechanisms function, one must first grasp the position of KIA within the vertical hierarchy of the Kosovar government. According to the agency's legal framework, KIA is an independent body reporting directly to the Prime Minister and the President. It does not belong to any ministry, nor is it part of the Office of the Prime Minister. In addition, the KIA director sits on the Kosovo Security Council in an advisory capacity.<sup>27</sup> Generally, there are actors supporting this type of structure responsible to the Prime Minister, and there are also those advocating for an agency under the umbrella of Ministries (either Ministry of Internal Affairs or Ministry of Foreign Affairs). However, a truly independent agency responsible to the Prime Minister shall be likely considered as the Ministry without portfolio.<sup>28</sup>

### *Internal Bodies*

KIA's internal control mechanisms reflect a desire to operate institutionally within a system of checks and balances. Chapter III of the Law on KIA describes in detail the powers and responsibilities of the Inspector General, who is appointed jointly by the President and Prime Minister.<sup>29</sup> The fact that the Inspector General is appointed directly by the President and Prime Minister provides him/her with strong powers and legitimacy to exercise internal control functions, which is not the case in other countries in the region. The term of office is four years, renewable once for another four years.<sup>30</sup> The mandate of the Inspector General is to report to the Prime Minister and to relevant parliamentary committees on the activities of KIA. In doing

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<sup>26</sup> Interview with KIA director Bashkim Smakaj, RTK Public Broadcast, January 2011

<sup>27</sup> Law on Kosovo Security Council, Article 3.4

<sup>28</sup> Interview with an official from an EU country, 3.03.2011

<sup>29</sup> Law on KIA, Article 9.1

<sup>30</sup> Ibid, Article 9.2

so, the Inspector General may initiate internal investigations, conduct financial audits, and recommend corrective actions.<sup>31</sup>

Delays in the development of KIA have also delayed the development of its internal controls. Until the first half of 2011, the agency's internal controls are said to be functioning only partially and without a full complement of personnel.<sup>32</sup> One problem has been that the procedures necessary to recruit and train qualified officers are complicated and quite sensitive. In the meantime, the Inspector General's operational capacity continues to grow.<sup>33</sup>

Among the challenges to the effective functioning of KIA's internal controls is a loophole in the Law on KIA that permits the Director to stop any investigation by the Inspector General if the Director determines that doing so is necessary to protect vital security interests.<sup>34</sup> This provision may be overly broad, given that KIA's mandate to gather information concerning vital security interests seems to qualify nearly all of its activities for this protection.<sup>35</sup> For this reason, the Law on KIA should be amended to avoid potential misuse of this provision.

### *Parliament*

Chapter VII of the Law on KIA requires the Assembly to establish a "parliamentary oversight body" whose primary mandate is to "oversee the legality of the work of KIA."<sup>36</sup> (The body's mandate also includes the review of reports on KIA operations and expenditures.) In accordance with this requirement, the Assembly established the Parliamentary Committee for the Supervision of KIA in November 2009.<sup>37</sup> The Law on KIA empowers the committee to initiate inquiries should it suspect that "KIA is performing its duties in an unlawful, inappropriate, or unprofessional manner."<sup>38</sup>

Information provided by committee staff indicates that the committee has taken a proactive approach to its responsibilities.<sup>39</sup> During its first year of operation, the committee met twelve times or about once per month. In the course of these meetings, members prepared the committee's annual report and raised thirty-nine issues for discussion, resulting in three decisions. Overall, this high level of activity suggests that the committee is, at present, one of the most important actors in Kosovo fostering democratic oversight of KIA. Although the frequent

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<sup>31</sup> Ibid, Articles 10.3–10.5

<sup>32</sup> Interview with KIA inspector general Agron Selimaj, 30 March 2011

<sup>33</sup> Ibid

<sup>34</sup> Law on KIA, Article 10.6

<sup>35</sup> KCSS, *Control Functions of Independent State Institutions in the Security Sector in Kosovo*, page 103

<sup>36</sup> Law on KIA, Article 36.6

<sup>37</sup> E-mail interview with Nur Çeku, Coordinator for the Parliamentary Committee for the Supervision of KIA, 31 January 2011

<sup>38</sup> Law on KIA, Article 37.1

<sup>39</sup> E-mail interview with Nur Çeku, Coordinator for the Parliamentary Committee for the Supervision of KIA, 31 January 2011

contact between members of the media and members of the committee has supported the oversight process, journalistic access has been limited by the need of the committee to hold closed sessions when considering confidential matters.

The committee is composed of nine members, a majority of whom typically belong to the governing coalition. The chairperson, however, may not be a member of the ruling coalition.<sup>40</sup> Yet this respect for minority rights does not extend to gender. At present, only one member of the committee is female, reflecting the limited interest the political parties have in assigning women to security-related committees (currently, women make up about one-third of the Kosovo Assembly).

In order to carry out their oversight functions, the members of the committee require access to information that is often classified. With the specific exceptions of the President, the Prime Minister, and the Chairperson of the Assembly, the Law on Classified Information and Security Clearances in Kosovo requires everyone, including members of the Assembly, to undergo a security check before being granted access to classified information. This leaves open the possibility that a member of the committee may be denied the necessary security clearance, but it was determined by those drafting the law that the protection of classified information outweighed the inconvenience to members of the Assembly and their potential exclusion from the work of the committee. The drafters had in mind, no doubt, the immaturity of the Kosovar democracy and its weak electoral system, which has allowed in some cases the election of Assembly members under suspicious circumstances. Furthermore, even after vetting, members of the committee can be denied classified information if “its disclosure would threaten vital national security interests linked to the protection of sources or methods in a specific case.”<sup>41</sup>

One of the major weaknesses of the committee has been a lack of consistency arising from many causes. The committee has taken a proactive approach thus far primarily because of the efforts of the chairperson, who is a member of the opposition; but relying on individual members of the committee to keep it moving forward begs inconsistency. Meanwhile, members of the committee from the ruling coalition tend to insert their political agendas into committee discussions in a manner that can sometimes shift the scope of oversight on a specific issue. To illustrate, the several month long focus on the issue of party intelligence services has taken the attention of the commission away from carrying out its mandate – oversight of the KIA.<sup>42</sup> In addition, quite apart from these political concerns, the committee has only two staff members to carry out all its administrative tasks and no professional staff to advise it. The rules of

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<sup>40</sup> Law on KIA, Article 36.2

<sup>41</sup> Ibid, Article 37.6

<sup>42</sup> Progress Report – Made in Kosova, p.31

confidentiality notwithstanding, the committee could certainly benefit from the availability of external expertise.

In addition to the Parliamentary Committee for the Supervision of KIA, other committees with KIA oversight responsibilities include the Parliamentary Committee on Budget and Finances, which approves KIA's annual budget; the Parliamentary Committee for Supervision of Public Finances, which reviews KIA's budgetary expenditures and audit reports; and the Parliamentary Committee on the Rights and Interest of Communities and Returns, whose mandate includes oversight of potential KIA abuse with regard to the rights of minority communities.

### *Media and Civil Society Organisations*

The roles played by civil society organisations and the media in KIA oversight have been relatively weak, likely because they are also in the early stages of their development. Few nongovernmental organisations research or otherwise monitor the performance of the agency, and these have so far issued but a few ad hoc reports evaluating the good governance aspects of KIA oversight.<sup>43</sup> The media, in comparison, has primarily focused on the institutional development of KIA. As discussed previously, media reports have raised concerns about inappropriate political influence within the agency and have also monitored both the level of KIA operability and the functioning of parliamentary oversight through interviews with Assembly members.<sup>44</sup> Yet this reporting would be even more informative and valuable were it not for KIA's resistance to increased transparency. Beyond a few brief statements to journalists, KIA has been silent, issuing no press releases and no reports.<sup>45</sup>

### *Independent State Bodies*

At present, independent state bodies play almost no role in KIA oversight. The Ombudsperson and the Auditor General have, respectively, the responsibility to monitor human rights abuses and to review the expenditure of public funds. To date, no cases of human rights abuse involving KIA have been reported to the Ombudsperson,<sup>46</sup> apparently due to the so-far limited practice of KIA. Of greater concern, however, is the failure so far of the Auditor General to conduct any audit of KIA funds,<sup>47</sup> despite the legal requirement that all allocated public funds be subject to external auditing. Although KIA might reasonably object to such auditing on the grounds of

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<sup>43</sup>The Kosovar Center for Security Studies (KCSS) is one of the most active think tanks assessing good governance in the security sector.

<sup>44</sup> Unlike the minutes of the meetings of other parliamentary committees, the minutes of the meetings of the Parliamentary Committee for the Supervision of KIA are not made available to the public.

<sup>45</sup> Interview with security sector communication specialist Abit Hoxha, 24 March 2011

<sup>46</sup> KCSS, *Control Functions of Independent State Institutions in the Security Sector in Kosovo*, page 34

<sup>47</sup> Ibid

confidentiality, workarounds could easily be developed, included the prior security vetting of auditors assigned to the task.

### *Judiciary*

Under normal circumstances, the judiciary would play an important role in ensuring the legality of intelligence agency operations. In Kosovo, however, where the judiciary remains weak, one cannot expect judges to exert control any time in the near future. The Law on KIA specifically requires the approval of a Supreme Court Judge before KIA can institute such special investigative measures as surveillance in non-public places and interception of telecommunications.<sup>48</sup> But it has been impossible to analyze the functioning of this provision because KIA admits to no operations that have required such measures.

## **Strengthening Oversight and Control**

Given the lack of information about KIA operations and the brief lifespan of the agency, one must be tentative in suggesting changes for the improvement of KIA oversight. Nevertheless, the following recommendations can be made confidently:

- The relevant parliamentary committees should focus on consistency as they carry out their oversight responsibilities.
- The Assembly should increase staff support for the relevant parliamentary committees, including the provision of civil society experts capable of advising the committees on the intricacies of intelligence work.
- Both the relevant parliamentary committees and especially KIA should be more transparent so that the public can be better informed. KIA should create a web site that presents key information about its mandate and operations to the public for the purpose of building public trust.
- The role of the Inspector General should be given more emphasis, and the legislative provision allowing the Director to halt investigations initiated by the Inspector General should be modified.
- KIA and civil society organisations should engage with one another over key developmental issues related to intelligence. Roundtable discussions involving KIA and

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<sup>48</sup> Law on KIA, Article 28.1

civil society representatives, as well as independent experts and academics, could also serve as effective platforms for communication.

- Communication between KIA and the media also needs to be improved so that, through greater access to information, the media can feel confident that it is adequately informing its audience. Specifically, KIA should create a communications office, or at least appoint a spokesperson, to transmit information to journalists and address their questions.
- The Auditor General should begin auditing the financial statements of KIA immediately or, if necessary, as soon as the assigned auditors receive the necessary security clearances.

## **Conclusion**

The limited activity of KIA to date makes understanding its functionality and the mechanisms for its oversight difficult. However, this absence of data does not make the KIA immune from analysis or criticism. The fear that the newly established KIA may inherit the failings of its political party-led predecessors is quite real, as is the concern that former SHIK and IHSOP operatives will dominate its personnel. These fears help to keep alive the perception that politicisation is the natural state of all intelligence services, and this adds the risk that the agency's public image might be compromised.

To counteract these views, the KIA needs to develop a public image that emphasises openness and professionalism rather than menace and secrecy. It could begin by adopting a more proactive attitude toward its relationships with the media and civil society organisations. In this way, KIA could make a clear break from feelings about past non-statutory services

The growth in influence of the relevant parliamentary committee is another avenue by which KIA oversight might be effectively fostered. But parliamentary control by itself is insufficient. Civil society organisations, the media and independent state institutions, too, must be included in the process if it is to be successful. Only when all of the parts work together as an integrated system can the goal of democratic oversight confidently be achieved. At the time of this writing, there still remains much work to be done.



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