

# **An outlook on the Albanian private security market since adoption of the law on Private Physical Security Services in 2014**

*(Discussion Paper)<sup>1</sup>*

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*May 2017*

## **1. Executive Summary**

In 2010 the Albanian parliament adopted a new law on private physical security services. The aim of the law is to regulate the activity of the private security companies (PSCs) by providing for (1) the vetting and licensing of PSCs and their personnel, (2) the rules of conduct of the PSCs, their contractual obligations and the control and oversight provisions (3) and the administrative and legal obligations, training and use of weapons and force.

The law abrogated the existing law adopted in 2001 with the aim to reflect the developments and dynamics in the legal and market spheres but also to provide for a better regulatory framework for a continuously growing market but which growth hadn't been accompanied by a growing quality of service provision.

In order to create the conditions for a more vibrant private security market the law removed a number of existing legal barriers that undermined competition and prevented the PSCs from growing and investing as well as opened the Albanian market to international operators. In addition, as a means to improve the quality of services by allowing the PSCs to recruit and maintain a more qualitative and motivated workforce, the law provided for a minimum wage of 50% higher than the national minimum wage for the private security guards. The law was adopted as part of a broader police and administrative reforms aimed to improving public safety and ensure a better control of the territory.

However, in the period of two and half years since the adoption of the law there have been no major changes or improvements in the almost none of the areas the law sought to address.

In the area of training and certification of the personnel there has been no progress at all. The private training canters have not started to function yet blocking thus the way for the certification of 8000 employees.

Similarly the law has not led to any visible improvement of the workforce and its motivation as shown from a number of major incidents in which the private security guards have done little to fulfil their professional obligation and prevent the incidents from happening. Although these cases may not be necessarily represent the entire workforce of employed in the private security

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<sup>1</sup> Paper presented at the roundtable discussion “*Law 75/2014 on Private Security Services and its Impact on the Private Security Market*”, organised by the IDM on May 17, 2017.

market the fact that the law in overall has failed to lead to an improvement of the payment and working conditions of the private security guards. The Interior Minister has recently admitted that the private security guards receive only about the half of the salary that they should receive and resemble to ‘an army of slaves’.

The law has also failed produced an improved competition and ultimately improved services. The problems with the public procurements show that the PSCs resort almost solely to the continuous lowering of prices for their services while facing an almost impossible task to fulfil the contractual obligations after winning the tenders without resorting to breaches of the labour law and standards.

This climate of uncertainty has precluded serious investments in human resources, infrastructures and logistics which as the series of incidents have shown undermines their performance and the trust of customers and the public.

Against this setting, a serious discussion is needed in order to better understand the causes of such trends and with the participation and involvement of all the concerned institutions and stakeholders to work for an improved situation.

## **2. Introduction**

This paper analyses the trends in the Albanian private security market since the adoption of the Law on Private Physical Security in 2014.<sup>2</sup>

The aim of this paper is to provide a platform for discussion among the private security companies and the institutions in charge of their control and oversight as well as other stakeholders and interested parties such as customers who purchase security services, donors, media and civil society organisations.

The paper focuses mainly on the analysis of the Law 75/2014 and its policy objective and on analysis of data that reflect allow for a gauging of its implementation collected from the relevant institutions and from the media.

The paper is structured as following. The next section provides a brief overview of the context in which the new law was adopted, its policy objectives and the legal means to achieve these objectives. The following section analyses the implementation of the law so far and the extent to which it has achieved the stated objectives. The last section provides some concluding remarks and recommendations.

The paper is a contribution in the framework of the project Private Security Research Collaboration Southeast Europe, which has as an objective to identify gaps and challenges in the regulatory framework, raise awareness of the shortcomings and problems identified and engage

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<sup>2</sup> Henceforth Law 75/2014

in informed discussions on how to better respond in order to address these shortcomings and problems.<sup>3</sup>

### **3. The Law 75/2014 and its policy objectives**

The Law on ‘On Private Physical Security Services’ was adopted in 2104, in the framework of broader reform initiated by a new government that came to power a year earlier, which aimed to establish a better control of the territory and to improving public safety and security.

More specifically, the Law 75/2014 sought to reflect the demands stemming from a the implementation of a new law on Police;<sup>4</sup> the need to harmonise the law with the changes occurred in legislation environment over the period since 2001 when the existing law on physical security services was adopted,<sup>5</sup> including the approximation with the EU law; and more the improvement of the quality of services.<sup>6</sup>

In order to meet the stated policy objectives the Law 75/2014 provided for a number of provisions, among others:

- Improvement of the criteria and standards regarding professional skills to be met by applicants (companies, administrators, technical directors, guards) for license;
- Improvement of vetting procedures for the PSCs’ personnel, including access to physical and electronic records held by all state institutions;
- Licensing of private training centres for private security guards and personnel
- The obligation to pay the private security guards and personnel a minimum salary 50% more than the official national minimum salary
- The banning of outsourcing of services from one company to another with the aim of ensuring better control and liability for the fulfilment of the obligations deriving from contracts;
- The improvement of procedures on ownership and use of weapons and force during their activities;
- The provision of criteria and conditions for the obligatory establishment of the command and control centres;
- The improvement of criteria, conditions and technical specifications for the ownership, licensing and use of armoured vehicles;
- The right of foreign citizens to establish a PSC in Albania and be employed in the Albanian private security sector;

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<sup>3</sup> See for more on this project at: <http://www.ppps.dcaf.ch/en/private-security-research-collaboration-southeast-europe-2014-2017>

<sup>4</sup> Law Nr. 108/2014, dated 31.7.2014, On the State Police

<sup>5</sup> Law 8770, date 19.4.2001, On guarding and physical security services (Henceforth Law 8770/2001)

<sup>6</sup> Albanian Parliament. “Rationalization on the draft law on Private Physical Security Services”. [https://www.parlament.al/wp-content/uploads/2015/11/rel\\_sig\\_fizike\\_17460\\_1.pdf](https://www.parlament.al/wp-content/uploads/2015/11/rel_sig_fizike_17460_1.pdf).

- The establishment of Complaints and Review Commissions.<sup>7</sup>

In addition, in order to increase competition and improve the quality of services the Law 75/2014 removed of the restrictions on the area of operation (within the district where the company was licensed) and on the number of employees and weapons.<sup>8</sup>

## 4. The implementation of the law: outcomes and issues

### 4.1 *The impact of the law on the structure of the market*

Despite the overall development of the private security market in Albania, since the establishment of the free market economy in 1991, the PSCs remained generally small, up to 200 employees, and had difficulties to make long term investment plans in human resources, infrastructures and logistics. This was mainly due to legal restrictions on the area of operation, the number of employees and weapons.<sup>9</sup>

The adoption of the law was accompanied by an increase of tariffs, by the double or the triple of the existing ones, for the licences issued to the companies, the technical directors, the employees and the armoured vehicles as well as the training tariffs.<sup>10</sup>

The removal of the legal barriers and the imposition of higher tariffs were expected to alter the structure of the market by removing the less competitive companies and by allowing those better performing ones to expand.

In fact there have been very minor changes in terms of number of PSCs operating in the market and the number of employees. Currently there are 236 registered PSCs in Albania. Of these, 22 PSCs provide both static physical security services and secure transportation of cash and valuables. The sector has 8934 employees (Graph 1), and provides physical security services to 2721 public and private entities.<sup>11</sup>

The graph shows that there have been only minor shifts in the number of PSCs and employees, over the period since the adoption of the law, which means that the impact of the law with regard to the market structure has been insignificant.

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<sup>7</sup> Albanian Parliament. “Rationalization on the draft law on Private Physical Security Services”. [https://www.parlament.al/wp-content/uploads/2015/11/rel\\_sig\\_fizike\\_17460\\_1.pdf](https://www.parlament.al/wp-content/uploads/2015/11/rel_sig_fizike_17460_1.pdf).

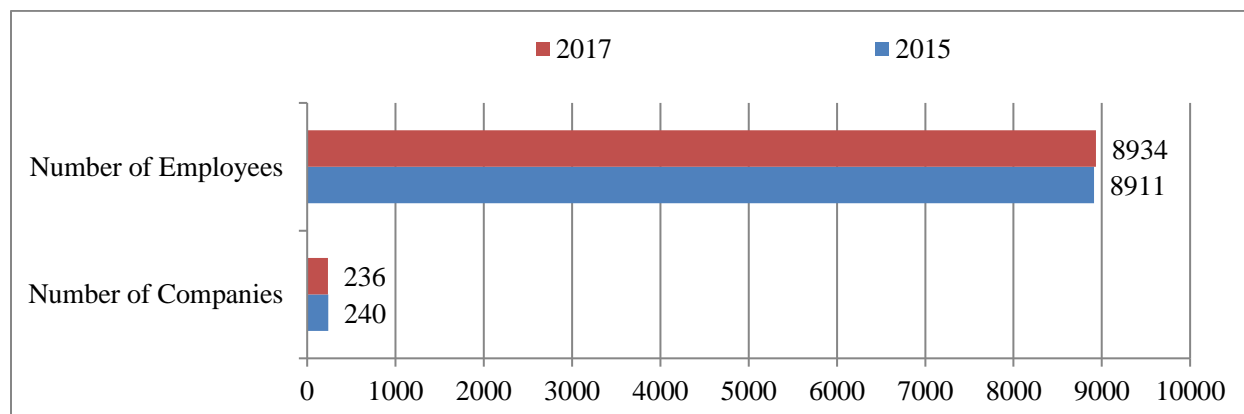
<sup>8</sup> Arjan Dymishi and Gentiola Madhi. “Albania”, in Franziska Klopfer and Nelleke van Amstel (Eds.) ‘Private Security in Practice: Case studies from Southeast Europe’. DCAF, Belgrade/Geneva 2015

<sup>9</sup> Arjan Dymishi and Gentiola Madhi. “Albania”, in Franziska Klopfer and Nelleke van Amstel (Eds.) ‘Private Security in Practice: Case studies from Southeast Europe’. DCAF, Belgrade/Geneva 2015

<sup>10</sup> Udhëzim i përbashkët i ministrit të Punëve të Brendshme dhe ministrit të Financave nr. 345, datë 24.6.2015. “Për masën, kriteret dhe procedurat për tarifatat financiare për veprimtarinë e shërbimit privat të sigurisë fizike”

<sup>11</sup> Data provided in written for the purpose of this study by the Albanian State Police on 16 March 2017.

However these figures may not represent the full picture because a number of companies that are not participating so actively in the market. Currently there are companies that continue survive by providing services to only one contractor or companies that are kept officially operational with the sole aim of using the licence to maintain the legal right to own weapons.<sup>12</sup>



Graph 1. The number of Private Security Companies and the number of employees in 2015 and 2017<sup>13</sup>

## 4.2 Training and certification

One of the novelties of the Law 75/2014 was the decentralisation of the training, which until 2014 has been a monopoly of the State, by providing for the establishment of private training centres based on guidelines issued by the Ministry of Interior and the Ministry of Education. The law limits the role of the State Police Academy to the approval of the programs to be taught by the private training centres as well as inspection and control functions.

In practice, although the law provided for training in the private training centres to start six months after the entering into force of the law, no progress has been with the licensing and functioning of these training centres due to the lack of harmonisation of the Law 75/2014 with the bylaws on licensing and permissions.<sup>14</sup>

As a result, in the period since the adoption of the law only 900 new employees have been licensed by the Police Academy, while the certification process of the remainder 8000 employees

<sup>12</sup> Ministry of Interior. “Siguria publike: 1 muaj afat për standarde sigurie të Policisë Private, nisur nga burimet njerëzore”. 8 February 2017. <http://www.punetebrendshme.gov.al/al/te-rejat/lajme/siguria-publike-1-muaj-afat-per-standarde-sigurie-te-policise-private-nisur-nga-burimet-njerezore>

<sup>13</sup> The graph has been compiled with data provided in written for the purpose of this study by the Albanian State Police on 16 March 2017 and the publication “A force for Good? Mapping of private security landscape in Southeast Europe”, DCAF 2015

<sup>14</sup> Data provided in written for the purpose of this study by the Albanian State Police on 16 March 2017.

has not started yet.<sup>15</sup> According to the Interior Minister there are cases where private guards do not even meet the criteria for being employed.<sup>16</sup>

### *4.3 Wages and labour rights*

Another important novelty of the Law 75/2014 was mandatory increase the wages of the private security guards by 50% of the official national minimum wage. According to this provision no private security guard should receive less than 31,500 ALL per month. With the objective to improving the quality of services, this provision seeks to make this sector more attractive for a better qualified and motivated workforce.

However in practice the implementation of this clause has emerged as one of the main problems of the law so far. In the initial phase of the implementation of the law it was unclear for the control authorities how to treat the contracts that were concluded before the adoption of the law. The ambiguity in the legal interpretation of this clause led to an increased number of complaints by the sector's employees and a large number were fired following labour disputes.<sup>17</sup> But the situation was not improved in the later phase. The salary paid to private security guards have been paid 20,000 – 22,000 ALL, which is close to the minimum salary without the 50% on top of it, or even less 15,000 – 18,000 ALL, according to the Ministry of in Interior.<sup>18</sup>

In a meeting with owners and administrators of PSCs the Interior Minister pointed out that as a result of inadequate payments and decent treatment of the workforce the services provided by the private security sector have deteriorated.<sup>19</sup> The Minister admitted to the media that the private guards resemble to an 'army of slaves' that are being paid ridiculous wages at only 40% of the declared salary and without being paid for the holidays and vacations.<sup>20</sup>

The implementation of the clause on minimum wage has been identified as one of the main problems by the Albanian State Police during their controls and inspections.<sup>21</sup> Similarly there have been continued problems with the implementation of the labour law also. According to the

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<sup>15</sup> Data provided in written for the purpose of this study by the Albanian State Police on 16 March 2017.

<sup>16</sup> Ministry of Interior. "Siguria publike: 1 muaj afat për standarde sigurie të Policisë Private, nisur nga burimet njerëzore". 8 February 2017. <http://www.punetebrendshme.gov.al/al/te-rejat/lajme/siguria-publike-1-muaj-afat-per-standarde-sigurie-te-policise-private-nisur-nga-burimet-njerezore>

<sup>17</sup> Data provided in written for the purpose of this study by the State Labour and Social Inspectorate on 7 March 2017.

<sup>18</sup> Ministry of Interior. "Për një Shqipëri më të sigurt, të cilën e bëjmë të gjithë bashkë". 17 February 2017 <http://www.punetebrendshme.gov.al/al/newsroom/lajme/per-nje-shqiperi-me-te-sigurt-te-cilen-e-bejme-te-gjithe-bashke&page=2>

<sup>19</sup> Ministry of Interior. "Siguria publike: 1 muaj afat për standarde sigurie të Policisë Private, nisur nga burimet njerëzore". 8 February 2017. <http://www.punetebrendshme.gov.al/al/te-rejat/lajme/siguria-publike-1-muaj-afat-per-standarde-sigurie-te-policise-private-nisur-nga-burimet-njerezore>

<sup>20</sup> Ministry of Interior. "Siguria publike: 1 muaj afat për standarde sigurie të Policisë Private, nisur nga burimet njerëzore". 8 February 2017. <http://www.punetebrendshme.gov.al/al/te-rejat/lajme/siguria-publike-1-muaj-afat-per-standarde-sigurie-te-policise-private-nisur-nga-burimet-njerezore>

<sup>21</sup> Data provided in written for the purpose of this study by the Albanian State Police on 16 March 2017.

Albania's labour law, for the work performed between 19.00 and 22.00 hours companies should pay not less than 20% more per hour, and for the work performed between 22.00 and 6.00 hours companies should pay not less than 50% more per hour. For the work performed during banking holidays companies should pay not less 25% more per hour.<sup>22</sup>

Given that to a large extent the private security guards work during evening and night shifts the payment they receive is much less than 40%, if the omissions derived by the rights provided in the Labour Code are included into the calculation. According to the law the private security guards should work 174 hours monthly.

#### ***4.4 Public procurements***

Despite the efforts to improve procedures and practices for the public procurement of security services the system continues to be plagued by numerous problems that have led to a further undermining of trust into the system.

In order to help addressing this issue the Public Procurement Agency (PPA) and the Public Procurement Commission (PPC) adopted a joint recommendation in 2015 which sought to provide the contracting authorities with a practical guide on how to calculate the limit fund based on the monthly calculation of factors such as minimum wage, security and social insurance, holidays and vacations, the daily hours of service provision.<sup>23</sup>

Given that the provision of guarding services is largely based on human resources, the basic components used for the calculation of the limit fund allocated for the procurement of security services include the wages and social and health insurance. Given that the prices for these items are provided in the legislation through fixed tariffs, they cannot be modified by the procurement entities or the bidding PSCs.

As a result all the bidding PSCs tend provide similar or very approximate offers that often vary only in a matter of a few cents or even decimal values. In many cases there is more than one winner so the procurement entities have to resort to the use of draw procedure in order to determine the winner. As a rule the losing PSCs file a complaint, which takes time to be completed and creates a gap between the termination of the existing contract and the new contract.

In order to address this problem the procurement entities have increasingly resorted to the use of the negotiation procedure. Instead of contributing to solve the problem, the increased number of procurement by negotiation procedure has led to further dissatisfaction and increased number of complaints by the PSCs that view such procedure as prone to corruption.

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<sup>22</sup> Albanian Labour Code. May 2016. Article 81.

<sup>23</sup> Public Procurement Agency and Public Procurement Commission. "Recommendations on the mode of procurement of private physical security services". Dated 01.04.2015.



The huge numbers of complaints and the minor differences among the offers presented by the PSCs make the deliberation and ruling by the Public Procurement Commission complicated and subject to further distrust by the loosing companies.

During the January - December 2016 period the PPC has registered and processed 1393 complaints related to public procurements. Of these complaints, 844, or 60.5% of the total number of complaints, have been filed by the PSCs.<sup>24</sup>

Faced with this situation and given that the joint 2015 recommendation didn't serve to resolve the problems PPA and PPC abrogated it and issued another recommendation in February 2017. The new recommendation seeks to address the problem of the lack competition and the downward spiralling of offers by the PSCs by recommending the contracting authorities to demand to the PSCs to provide written justifications for offers that the contracting authorities will consider 'abnormally low'.<sup>25</sup> The recommendation provides that an offer is 'abnormally low' when it is 25% lower than the limit fund.

It remains to be seen whether this recommendation will produce any improvement but given that the origin of the lack of trust lies with the contracting authorities themselves and with the way they interpret or bend the rules in order to make the procedure fit with the profile of a certain PSC the chances are rather slim.

From the PSCs perspective the problem with public procurement are the lack of ranking system that would give best performing companies bonus points and a better chance to win the tender.

Another solution is the extension of the contracts. Currently the contracts last from 6 months or 1 year at maximum while the PSCs consider that the contracts should be at least of 2 or 3 years in order to allow the companies to better plan human resources development and investments.<sup>26</sup>

### **Box 1. Major incidents involving PSCs since 2015**

Since 2015, which coincides with the beginning of the implementation of the new law there have been four major incidents involving four different PSCs in which nearly 13 million Euros have been lost.

1. February 2015 – 3.2 million Euros have been taken away from the private security company “Eurogijci Security” when the private guards were loading the cash from the bank onto the armoured vehicles to transport it to another location.
2. December 2015 – 3.8 million Euros have been taken away from a convoy operated by the private security company “Rogat Security” on the way to the Tirana International Airport.

<sup>24</sup> Data provided in written for the purpose of this study by the Public Procurement Commission on 10 March 2017.

<sup>25</sup> Public Procurement Commission. “Recommendations on the mode of procurement of private physical security services”. Number 183, date 06.02.2017.

<sup>26</sup> Blerina Hoxha. “Epoka e (pa)sigurisë”. Revista Monitor 18 July 2016. <http://www.monitor.al/epoka-e-pasigurise-2/>



3. June 2016 – 3 million Euros have been taken away from a convoy operated by the private security company “Nazeri 2000” by robbers who attacked the convoy within the secured perimeter Tirana International Airport.
4. February 2017 – 2.8 million Euros have been taken away from a convoy operated by the private security company “Jaguar Security” on the way to the Tirana International Airport.

#### *4.5 Improvement of technology and logistics*

In addition to the improvement of human resources and capacities through improved training, vetting and remuneration, encouraging investments in technology and logistics as a means to improvement of the services provides by the PSCs is another objective of the Law 75/2014.

However, as in the case of human resources the investments in logistics and materiel have been insufficient. The investigations on the PSCs that have failed to protect their cargo resulting to the loss of millions of Euros has shown that they use old models of armoured vehicles and with limited protection to the extent that the robbers were able to break the windows of the van by using a hammer. Moreover all four companies involved in the incidents are considered to be among the best in the country.

From the PSCs perspective the short contracts and the lowering of prices due to the increased competition provide for uncertainties that discourage the companies from investing based on long term business plans.<sup>27</sup>

The police investigations following the February 2017 incident showed a number of omissions related to the adequacy of the logistics but also a number of failures stemming from poor security practices.

According to the State Police the PSC involved in the loss of the cash had violated eight standard procedure rules, which included:

- Inadequate armoured vehicles;
- Untrained driver for armoured vehicles;
- Escort cars with no logo of the security company;
- No camera surveillance;
- Faulty procedures in placing the tracking devices;
- Failure of the private security guards to alert the police in time;
- Failure of the command and control centre of the PSC
- Failure to use the weapons by private guards, although their use would have been legitimate.<sup>28</sup>

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<sup>27</sup> Blerina Hoxha. “Epoka e (pa)sigurisë”. Revista Monitor, 18 July 2016. <http://www.monitor.al/epoka-e-pasigurise-2/>

## 4.6 Control and oversight

The Law 75/2014 places a particular emphasis on the control of the PSCs by the State Police which is responsible to ensure that the PSCs deliver their services in accordance with the contractual and legal obligations.<sup>29</sup>

The systematic failure of the PSCs to adhere fully to the requirements of the law, as shown by nature of violations identified in the aftermath of the incidents produced over the last two years, show that the State Police has also failed to ensure the implementation of the law fully.

Such failures have been routinized to the extent that the day after the incident the same PSC was called by the bank to transport cash again.<sup>30</sup>

The December 2015 robbery also, that occurred within the perimeter of the Tirana International Airport, showed a poor interaction between the ASP and the PSCs. The robbers were able to break the airport security that was under the protection of the Airport's private security, overpower the PSC that was transporting the cash and run away without the ASP being warned in time to intervene.

## 5. Conclusions and Recommendations

It is obvious that the adoption of the Law 75/2014 has not contributed in improving the overall situation in the private security market.

The failures are either inherent to the legal provisions, namely the introduction of certain provisions and deadlines in the law with no sound analysis of their implementability and outcome, or stem from the poor administrative capacities, lack of coordination among the different institutions and agencies and almost an inexistent oversight.

The State Police, which has most of the controlling competences on PSCs, has only around 50 people in charge performing a range of tasks such as licensing of personnel, of weapons, of transportation means, vetting, control of implementation of contractual obligations, and so on, of 2721 contracts. The situation with the Labour and Social Inspectorate is somewhat better as this agency has around 150 people directly involved in the performance of inspection tasks. However this has not contributed to having an improved situation with regards to fulfilling payment obligations and labour rights. More importantly there seems to be no coordination between the

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<sup>28</sup> Albanian State Police. "Konferenca për shtyp: Drejtori i Përgjithshëm për Sigurinë Publike, Drejtues i Lartë Altin Qato. 10 February 2017. <https://asp.gov.al/index.php/2014-09-22-09-11-14/drejtori-i-policise-se-shtetit/275-slideshow-home/10852-konferenca-per-shtyp-drejtori-i-pergjithshem-per-sigurine-publike-drejtues-i-larte-altin-qato>

<sup>29</sup> Law 75/2014, Articles 18, 19, 20

<sup>30</sup> Albanian State Police. "Konferenca për shtyp: Drejtori i Përgjithshëm për Sigurinë Publike, Drejtues i Lartë Altin Qato. 10 February 2017. <https://asp.gov.al/index.php/2014-09-22-09-11-14/drejtori-i-policise-se-shtetit/275-slideshow-home/10852-konferenca-per-shtyp-drejtori-i-pergjithshem-per-sigurine-publike-drejtues-i-larte-altin-qato>

State Police and the Labour and Social Inspectorate while such cooperation would help complement their separate efforts and yield better outcomes.

Cooperation is lacking, or it is not satisfactory even among the State Police, the PSCs and their major contractor, the banking sector. The Albanian Association of Banks has called for better such cooperation as a means to make security measures more effective.<sup>31</sup>

Another important factor that has inhibited the better implementation of the law and reversal of negative trends discussed above is the inability of the PSCs to get organised in active and effective associations. Issues such as corruption and negative competition, in which the success of one company depends entirely on the failure of the other involved company, more evident in the public procurement but also in other areas, could be better tackled in the PSCs were organised and pursued their interested in a collective manner.

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<sup>31</sup> Etleva Xhajanka. “Sfidat e sigurisë fizike në banka, AAB apelon për më shumë bashkëpunim”. Albanian Telegraphic Agency. 21 September 2016 <https://www.ata.gov.al/sfidat-e-sigurise-fizike-ne-banka-aab-apelon-per-me-shume-bashkepunim/>

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