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# Security Vetting System in Kosovo: Challenges and Opportunities

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An Honors Society Project

By

Rita Ejupi

In Partial Fulfillment of the Requirements for Membership in the Honors Society of RIT Kosovo

Supervisor Venera Demukaj, Ph.D

August, 2019

**Table of Contents**

**Acknowledgements** .....4

**List of Abbreviations** .....5

**List of Figures**.....6

**Abstract**.....7

**I. Introduction**.....8

    Statement of the Problem.....8

**II. Literature Review** .....11

    Security Sector in Kosovo .....11

    Context of Security Vetting and its Purpose .....13

    Security Vetting in Kosovo .....15

    The process of Security Clearances in Kosovo.....18

    Main challenges of the Security Clearance in Kosovo .....23

    Supervision of Legality.....25

    Draft Law on Protection of Classified Information .....28

**III. Methodology** .....29

    Secondary Data Collection.....30

    Primary Data Collection.....31

        Qualitative in-depth Interviews .....31

        Small-scale surveys.....31

        Limitations .....32

**IV. Results and Analysis** .....33

    Secondary Data .....33

    Primary Data .....35

        In-depth Interview Results .....35

        Survey Results .....39

        Summary of findings.....46

**V. Recommendations** .....47

**VI. Conclusion** .....49

**VII. Bibliography** .....51

**VIII. Appendices**.....54

Appendix A: Graphs and Charts .....54

Appendix B: Consent Form .....57

Appendix C: Interview Questions.....58

Appendix D: Survey Questions .....59

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This one is for all of you.

Thank you!

## List of Abbreviations

<b>ACIP</b>	Agency for Protection of Classified Information
<b>CRDP</b>	Center for Research, Development, and Publications
<b>EU</b>	European Union
<b>KCSS</b>	Kosovar Centre for Security Studies
<b>KIA</b>	Kosovo Intelligence Agency
<b>KP</b>	Kosovo Police
<b>KSF</b>	Kosovo Security Force
<b>MPs</b>	Members of the Parliament
<b>NATO</b>	North Atlantic Treaty Organization
<b>POC</b>	Parliamentary Oversight Committee on KIA
<b>SSR</b>	Security Sector Reform
<b>TJ</b>	Transitional Justice
<b>TS</b>	Top Secret

## List of Figures

Figure 1: Organization of the Security Sector

Figure 2: Mapping of the Security Sector in Kosovo

Figure 3: Overview of the vetting system based on Law No. 03/L-178 2010 on the Classification of Information and Security Clearances in Kosovo

Figure 4: Citizens' trust towards KIA (Kosovo Security Barometer: Seventh Edition)

Figure 5: Survey Question- Age of respondents

Figure 6: Survey Question- Level of Education

Figure 7: Survey Question- Respondents' opinion regarding the effectiveness of security vetting in Kosovo

Figure 8: Survey Question- Respondents' opinion regarding the role of the intelligent service.

Figure 8.1: Survey Question - Respondents' opinion regarding the role of the intelligent service.

Figure 9: Survey Question- Determinants of a successful and trustworthy Intelligence Service

Figure 10, 11: Survey Question - Respondents' opinion regarding security clearances

Figure 12: Survey Question- Respondents' opinion regarding the Draft Law on Protection of the classified information

Figure 13: Survey Question- Respondents' opinion regarding the Agency for Protection of Classified Information (APCI)

## Abstract

The purpose of this Honors project is to provide insights into the current condition of Kosovo's vetting system, highlight its major drawbacks, and provide recommendations on how to overcome them. This paper discloses that the vetting system, despite being recently established, remains greatly challenged by political implications and the clannish and/or individual decisions to issue or deny security clearances for civil servants, intelligence and police personnel. The study emphasizes that an oversight in the development of the vetting process may come associated with political and material costs, thus, putting the integrity and objectivity of the whole security system in question. This study uses a mixed-method approach that relies on both primary and secondary data, namely desk research, literature review, small-scale surveys and semi-structured interviews.



## I. Introduction

### i. Statement of the Problem

Kosovo, as a post-war country, represents a sensitive case due to its numerous complexities in relation to the Security Sector Reform (SSR). The transitional phase of the country began in 1999 with the termination of ongoing conflicts, and the period immediately after the hostilities was devoted to peace and recovery. Different from the security sectors of Western Balkan countries, Kosovo's security sector has not undergone any reforms, in contrast, it has been newly constructed with the help and supervision of the international community<sup>1</sup>. During the UNMIK presence in Kosovo, there were two primary security institutions, namely the Kosovo Police Service (KPS), and Kosovo Protection Corps (KPC)<sup>2</sup>. Whereas, the period after the country's independence in 2008 involves a new security architecture designed according to the Ahtisaari proposal.

Up to date, among the vital criteria for Kosovo's path towards the European Union Integration is the governance and democratic oversight of the security sector<sup>3</sup>. The key measurement instrument of Kosovo's progression towards meeting the EU requirements is the European Union Annual Progress Report<sup>4</sup>. This report has continually shown over the years that the overall performance of Kosovo's security sector has been hindered mainly by the development of the security clearance system, highlighting the system's key role in the security sector. The report has repeatedly identified the security clearance system in Kosovo among the most concerning dimensions. The concerns were furthermore confirmed as the public discourse dilemmas vigorously increased, indicating possible misuse of the system for numerous purposes.

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<sup>1</sup> (CRDP) Center for Research, Documentation and Publication (2015). "Kosovo's Security Vetting: A Case for Further Reform", Paulina Nowak. Available at <https://crdp-ks.org/wp-content/uploads/2015/04/KOSOVOS-VETTING-SYSTEM-CRDP.pdf>. Web. 24 Jan. 2019.

<sup>2</sup> Ibid.

<sup>3</sup> EU Commission. "Progress Report on Kosovo" (2018). Available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>. Web. 21 Jan. 2019.

<sup>4</sup> Ibid.

In post-conflict countries, Transitional Justice (TJ) measures are perceived to have a large impact in state-building and democratization processes<sup>5</sup>. During the last few years, these measures have become a major topic of academic debates across countries, suggesting that they cannot be self-sufficient in lack of an environment that supports an inclusive understanding of transitional justice. TJ measures do, however, yield successful results in countries where government transparency, political accountability, healthy security and economic sectors exist<sup>6</sup>. This scenario remains far from reality in Kosovo as many of these measures are yet to be attained. In the security sector, more specifically, vetting, a fundamental procedure in the security field, is tied to concepts such as political corruption and clientelism, hampering the civilian oversight. The institution that accommodates the vetting authority, the Kosovo Intelligence Agency (KIA) is linked with numerous scandals made public by the media, increasing furthermore the perception of an inadequate security clearance system.

The security clearance can be identified as a somewhat new process in Kosovo as it emerged simultaneously with the establishment of the security institutions<sup>7</sup>. More precisely, the final completion of the legal framework on the security sector occurred in parallel with the 2008 adoption of the Law on Classified Information and Security Clearance regulating the vetting system. (KFOS)<sup>8</sup>.

Security Clearance is granted to a person allowing them access to classified documents or confidential areas after having undergone a background check through security vetting<sup>9</sup>. Four types of security clearances for national security positions exist, namely Restricted, Confidential, Secret, and Top secret (TS)<sup>10</sup>. Security Vetting can be defined as an evaluation method which

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<sup>5</sup> (CRDP) Center for Research, Documentation and Publication (2015). "Kosovo's Security Vetting: A Case for Further Reform", Paulina Nowak. Available at <https://crdp-ks.org/wp-content/uploads/2015/04/KOSOVOS-VETTING-SYSTEM-CRDP.pdf>. Web. 24 Jan. 2019.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>9</sup> (KFOS) Kosovo Foundation for Open Society. "Progress on Security Sector Governance: Vetting and Integrated Border Management" (2014). Available at <http://kfos.org/wp-content/uploads/2015/03/Progress-on-Security-Sector-Governance.pdf>. Web. 21 Jan. 2019.

<sup>10</sup> US Department of State (2019). "All about security clearances". <https://www.state.gov/m/ds/clearances/c10978.htm>. Web. 25 Jan. 2019.

confirms whether an individual is a possible risk to the state and its public order. In the scenario where security clearance is granted to individuals who are considered to poses risk or threat, they automatically become dangerous not only to the security sector, but also to Kosovo's interests. Hence, the security vetting system plays a fundamental role in the security sector. Yet, there is ample room for misuse of the security vetting procedure either for personal gain or elimination of political opponents<sup>11</sup>.

An oversight in the development of the vetting procedure may come associated with detrimental costs (both material and political), questioning the objectivity and the integrity of the whole security system. Consequently, the possibility that the process may furthermore be misused by the officials to fulfill other personal or political preferences (e.g. to bring inadequate individuals into the security sector) must not be overseen<sup>12</sup>. Hence, to ensure an adequate procedure, it is of immense importance that the individuals that manage the vetting process are professionally qualified officials with high moral integrity.

Having pinpointed security vetting as a procedure which requires immediate attention for the betterment of the security sector in Kosovo, this project provides a detailed overview on the current situation of Kosovo's vetting system and its major drawbacks by analyzing current and past practices that are detrimental to the vetting system, namely, Transitional Justice and Security Sector Reform. Furthermore, this document aims to provide helpful insights into the context of security clearances, as well as the up to date performance of the vetting procedure in the Kosovo's security sector. Using a mixed-method approach that relies on both primary and secondary data, namely desk research, literature review, small-scale surveys and in-depth semi-structured interviews, this analysis will be qualitative in nature.

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<sup>11</sup> (KCSS) Kosovo Center for Security Studies. "A Short Policies Document: Security Vetting" (2015). Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan. 2019.

<sup>12</sup> Ibid.

## II. Literature Review

### i. Security Sector in Kosovo

Kosovo’s security sector is comprised of various institutions and mechanisms. Their powers and competencies are set forth in the country’s constitution and supported by regulations and laws. The government (Prime minister and other ministries), the President, the Parliament, the Kosovo Security Council, Kosovo Police, Kosovo Security Force, and the Kosovo Intelligence Agency make up the most important bodies and mechanisms of the country<sup>13</sup>.

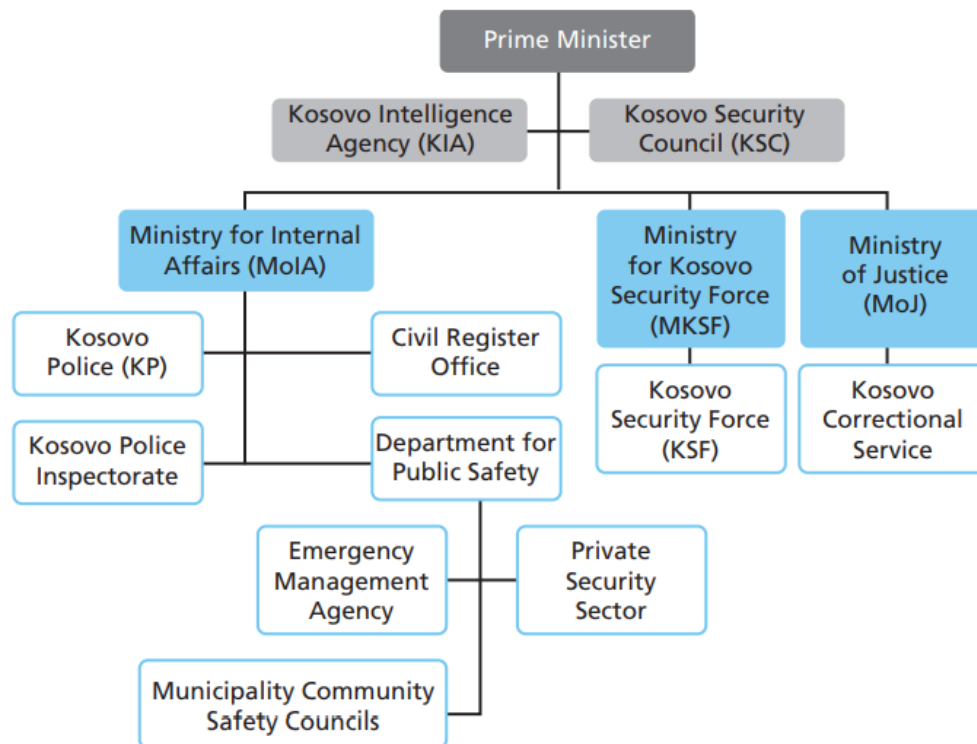


Figure 1. Organization of the Security Sector<sup>14</sup>

However, not all of the abovementioned security institutions have the power to use force or retain an executive mandate. Currently, among other local security institutions, Kosovo Police is the only body that is empowered to use any physical force, thus, being the most important

<sup>13</sup> (DCAF) Center for Security, Development, and the Rule of Law (2012). “Almanac on Security Sector Oversight in the Western Balkans”. The Belgrade Centre for Security Policy and Geneva Centre for the Democratic Control of Armed Forces. Baka, Bogdanovski, et al. Available at <http://www.bezbednost.org/upload/document/almanac.pdf>

<sup>14</sup> Ibid.

security institution of the country<sup>15</sup>. Whereas, the intelligence sector, represented by the Kosovo Intelligence Agency, represents the last phase of a country’s security sector reform and democratization processes. The rule of law and democratic governance, as demonstrated in many established democracies, are known to reach the intelligence sector only after having been well established in other areas of one state<sup>16</sup>.

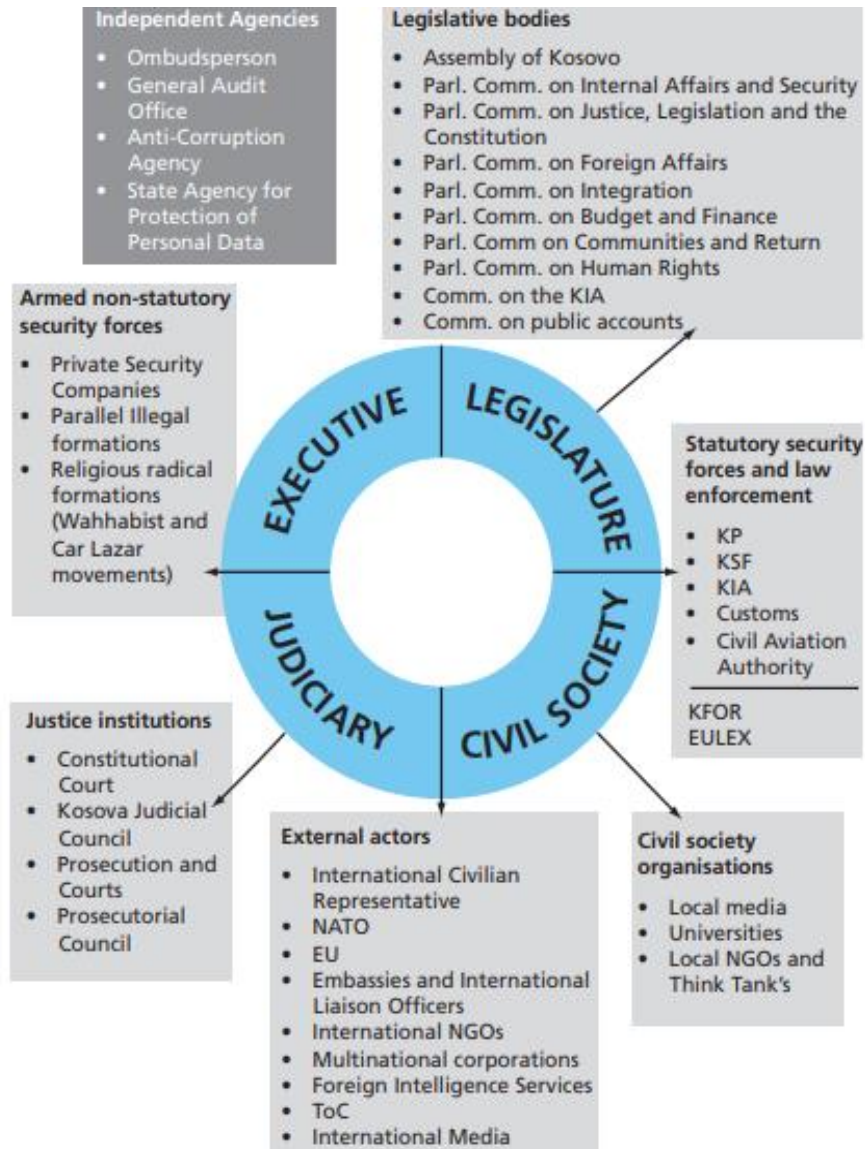


Figure 2. Mapping of the Security Sector in Kosovo<sup>17</sup>

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

## ii. Context of Security Vetting and its Purpose

Vetting is the investigation process of personnel in state institutions, businesses, and any other positions which have access to confidential data<sup>18</sup>. The purpose of vetting is to confirm whether an individual is of integrity to execute a sensitive activity. One's obedience to the laws and the state constitution can be measured through the integrity and trustworthiness of the individual<sup>19</sup>. Those who have had a dubious past e.g. engagement in organized crime, terrorist activities, or corruption, will not pass the vetting test and therefore, will fail to fulfill the position at stake. Positions which require screening of personnel are found in the security institutions (e.g. police, military, or intelligence agencies), in the executive branch, and Non-Governmental Organizations responsible for dealing with sensitive data<sup>20</sup>. The vetting system differs across states, ranging from a centralized model in which only one chief agency is in charge of conducting vetting for all the other institutions, to a decentralized model in which each body has its own vetting units where private contractors carry out the vetting process<sup>21</sup>. Even though the techniques used in a vetting process differ from one country's model to another, common procedures include standard forms to be filled which require the input of personal information, face to face interviews, electronic checks that reveal financial, criminal, and medical records, and reference confirmation<sup>22</sup>.

Despite the critical role vetting plays in ensuring trustworthiness and integrity of an individual to conduct important activities and positions, the procedure also serves as a transformative tool of the institutional setting in post-war countries<sup>23</sup>. As such, an adequate vetting system would be able to transform the institutions that have failed to develop and maintain trust with their citizens in the past. In light of these facts, vetting does not only

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<sup>18</sup> (CRDP) Center for Research, Documentation and Publication (2015). "Kosovo's Security Vetting: A Case for Further Reform", Paulina Nowak. Available at <https://crdp-ks.org/wp-content/uploads/2015/04/KOSOVOS-VETTING-SYSTEM-CRDP.pdf>. Web. 24 Jan. 2019

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> DCAF 2006a: Vetting and the Security Sector, DCAF Backgrounder

<sup>22</sup> Ibid.

<sup>23</sup> EU Commission. "Progress Report on Kosovo" (2018). Available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>. Web. 21 Jan. 2019.

contribute towards legitimacy of the public institutions, but it does provide larger implications for the government reform. However, under the scenario of a flawed vetting system, which is often present in post-conflict countries that lack strong policy and legal frameworks, well-functioning institutions, or economic stability, the vetting procedure will not be able to positively contribute to government reform and institutional trust<sup>24</sup>. Nevertheless, the possibility that the vetting system may become a victim of corruption and misconduct must not be excluded.

A study conducted by the Center for Research, Documentation and Publication in Kosovo shows that there are two main issues when introducing a vetting procedure in post-war countries, namely employment restrictions (e.g. lack of qualified staff) and post-vetting reintegration<sup>25</sup>. Keeping in mind that qualified personnel is very hard to find in post-conflict countries, the vetting system must not be introduced immediately but rather gradually to ensure that institutions are adequately staffed<sup>26</sup>. Furthermore, the process must ensure reintegration of the staff that has been hired prior to the conflict, even for those who have failed to become part of the personnel of the newly established order<sup>27</sup>.

As previously mentioned, vetting involves oversight of security institutions including the intelligence agencies<sup>28</sup>. This process is usually done by the judiciary, the Members of the Assembly, or other responsible public units which are to collect data, communicate them with the intelligence agency, and together come up with conclusions and recommendations<sup>29</sup>. However, in Kosovo's case, vetting is the responsibility of the Kosovo Intelligence Agency itself.

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<sup>24</sup> (CRDP) Center for Research, Documentation and Publication (2015). "Kosovo's Security Vetting: A Case for Further Reform", Paulina Nowak. Available at <https://crdp-ks.org/wp-content/uploads/2015/04/KOSOVOS-VETTING-SYSTEM-CRDP.pdf>. Web. 24 Jan. 2019

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> US Department of State (2019). "All about security clearances". <https://www.state.gov/m/ds/clearances/c10978.htm>. Web. 25 Jan. 2019.

<sup>29</sup> Ibid.

### iii. Security Vetting in Kosovo

Introduced by the international community, the vetting system in Kosovo is based on two laws: Law No. 03/L-178 2010 on the Classification of Information and Security Clearances and Law No. 03/L-063 2008 on the Kosovo Intelligence Agency<sup>30</sup>. The purpose of the first law is to establish an inclusive system for classifying data related to Kosovo's security and for the security clearances that are issued to individuals who have access to it. The law is composed of eight chapters, namely the general provisions, classification of information, personnel security, files and data protection, industrial security, administration of the classification and security clearance system, and the final provisions. Its articles mainly focus on the purpose and scope of security vetting, the classifying information criteria, classification levels, and the process of establishing a vetting authority. The law also highlights that classified information must involve issues of foreign relations, state security, intelligence activities, or any other information that concerns Kosovo's security interests.

Under the Law No. 03/L-178 2010 on the Classification of Information and Security Clearances, information can be classified in four different levels: "top secret", "secret", "confidential", and "restricted"<sup>31</sup>. Top secret information, being the highest level of classification, can only be granted to the following actors: "the President of Kosovo, the President of the Assembly of Kosovo, the Prime Minister; the Chair of the Kosovo Security Council, the Director of the Kosovo Intelligence Agency, the Director General of the Kosovo Police (KP), and the Commander of the Kosovo Security Force (KSF)".<sup>32</sup> Meanwhile, "Secret", "Confidential" and "Restricted" original classification authority may be exercised only by

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<sup>30</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>31</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>32</sup> Katy A. Crossley-Frolick & Oya Dursun-Ozkanca (2012). "Security Sector Reform and Transitional Justice in Kosovo: Comparing the Kosovo Security Force and Police Reform Processes, *Journal of Intervention and State Building*", 6:2, 121-143, DOI: 10.1080/17502977.2012.655595



Permanent Secretaries, Chief Executive Officers or Executive Directors of public authorities and other equivalent senior positions<sup>33</sup>.

Under Article 24 of this law, the vetting authority belongs to the Kosovo Intelligence Agency responsible for issuing security clearance. In order to obtain security clearance, the request must be sent by the public institution that seeks the issue for their employees<sup>34</sup>.

To oversee the activities of KIA and ensure a lawful vetting procedure, a special unit has been established under the name of Parliamentary Oversight Committee (POC)<sup>35</sup>. The mandate of the POC is highlighted under Chapter VIII of the Law No. 03/L-063 2008 on the Kosovo Intelligence Agency, whose main responsibilities include: (i) overseeing the activities of KIA and ensuring legality of these processes; (ii) reviewing Prime Minister's reports regarding the issue at stake; (iii) reviewing KIA Director's reports regarding the expenses and activities performed by the intelligence institution; (iv) reviewing reports sent by the Inspector General; (v) reviewing KIA's budget proposal and providing feedback opinion; and (vi) conducting investigations regarding the operations, responsibilities, and employee behaviors of the KIA.<sup>36</sup> A better understanding of the vetting system based on Law No. 03/L-178 2010 on the Classification of Information and Security Clearances in Kosovo can be provided through the organigram published by the Centre for Research, Development and Publications in 2015<sup>37</sup>.

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<sup>33</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Kosovo Intelligence Agency. "The Law on the Kosovo Intelligence Agency" (2010). Available at [http://aki-rks.org/HTML\\_ENG/2008\\_03-L063\\_en.pdf](http://aki-rks.org/HTML_ENG/2008_03-L063_en.pdf). Web. 21 Jan. 2019.

<sup>37</sup> Ibid,

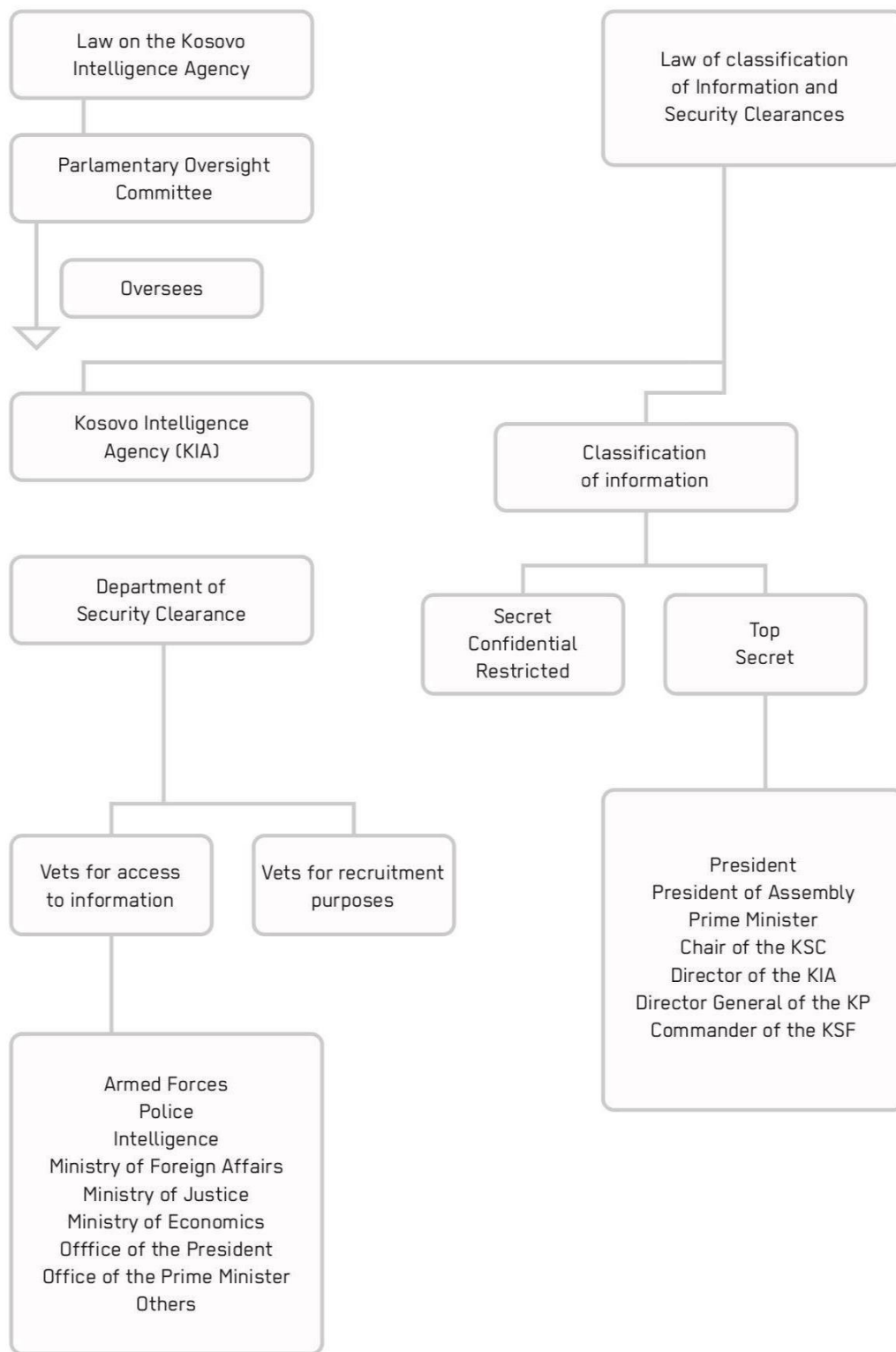


Figure 3. Overview of the vetting system based on Law No. 03/L-178 2010 on the Classification of Information and Security Clearances in Kosovo

#### iv. The Process of Security Clearance in Kosovo

Given the fact that the process of security clearance has emerged at the same time with the establishment of the security institutions, it can be said that this process is a novel one for Kosovo. Indeed, the completion of the legal framework on the security sector happened around the same time as the Law on Classified Information and Security Clearance was adopted- the Law regulating the vetting system in Kosovo<sup>38</sup>. Therefore, the law drafting process of the vetting system in Kosovo was sponsored by the government and was initiated during 2008 while most of the security institutions in Kosovo were newly established e.g. the Kosovo Intelligence Agency (KIA), and the Kosovo Security Force (KSF). The law was drafted by a team composed of national and international experts who were engaged in examining models of security clearance applied by other countries while striving to match these already introduced practices to Kosovo's context.

The main issue that emerged during the process of law-drafting was to determine in which of the proposed institutions the central authority for implementation of the law is to be positioned. The team of experts came up with the decision that the vetting authority would have to be situated at the newly established institution, namely the Kosovo Intelligence Agency (KIA), under the assumption that the other already operating security institutions are politicized<sup>39</sup>. The law was proposed in 2010 to the Kosovo Assembly and was adopted during the same year. The law highlighted the fact that the Department for Security Clearance- the authority in charge of vetting, even though being structurally part of the KIA, would be autonomous from the other departments and the Director of KIA<sup>40</sup>. However, since its establishment in 2010, the Department for Security Clearance started misusing its authority<sup>41</sup>. While being part of the structure of KIA, the department soon began acting the same way as the other units of the agency, thus becoming completely non- transparent to the public<sup>42</sup>.

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<sup>38</sup> (KCSS) Kosovo Center for Security Studies. "A Short Policies Document: Security Vetting" (2015). Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan. 2019.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

In this respect, in 2013, media reported potential unlawful actions of the Department for Security Clearance, where people were granted non-merit-based security clearance certificates on the basis of personal or group interest<sup>43</sup>. These practices raised concerns not only among officials but also among public opinion regarding the professionalism of the vetting authority. That the Department was facing serious problems became further apparent by the beginning of 2014, when the Kosovo Police arrested one of the Departments' senior officers for fraud under the suspicion that the individual had allegedly falsified secondary school diploma<sup>44</sup>. This event furthermore contributed towards weakening of the credibility of the vetting system in Kosovo.

In order to avoid the occurrence of such cases, the role of the Department for Security Vetting within the KIA has been defined exclusively to prevent the security system from any personal, political, or administrative influence. As such, the legislators have purposely regulated the role of the Department for Security Vetting, giving it the right to act as an administrative unit with legal functional autonomy.<sup>45</sup> The head of a public institution is to send a written request with a specific classification level (confidential, secret, or top secret) to the head of the Department for Security Vetting. The whole idea of the lawmakers was to disengage the Director of the KIA from the process entirely, hoping that a minimal involvement of the director would minimize any possible outside influence.

While the intention of legislators was to separate the activity of the Department for Security Vetting from that of KIA, the law specifies that only KIA is the responsible authority for conducting security vetting. Hence, indicating that the Department for Security Vetting is only one of the other units within the KIA. As such, this department would have to function under the Law on the KIA and the other internal KIA regulations. While the aim of the lawmakers was to authorize KIA as the main authority for conducting Security vetting, by simultaneously giving power to the Department for Security Vetting, the law failed to properly function in practice. Due to conceptual ambiguity, the Vetting procedure remains far from perfect, thus, it should either be KIA who conducts the security vetting or another institution,

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

independent from KIA. It is not appropriate to ask KIA to be the vetting authority while simultaneously asking it not to fulfill these duties. A process as such, not only weakens the functioning of the security vetting, but it also further complicates the role of the Department for Security Vetting inside the KIA.

A person is issued a Security Certificate by the Kosovo Intelligence Agency only after having passed the Security Vetting procedure. As the law points out, the person issued a security certificate must be perceived an acceptable security risk<sup>46</sup>. The security clearance will automatically be denied if a person is considered an unacceptable risk. An individual that poses unacceptable risk is one who:

- Is disloyal to the Republic of Kosovo, its Constitution and its laws and orders
- Can easily be influenced, manipulated, or blackmailed to help an individual, a certain group, an institution, or a foreign government whose intentions are to act against the security interests of the Republic of Kosovo
- Perform actions that show signs of mental, personality, or emotional disorder, lack of self-control, lack of judgement, lack of will to obey orders, insincerity, and any other behaviors that raise suspicion regarding his/her condition, loyalty, and the capability to not disclose any classified information<sup>47</sup>

After having conducted the Security Vetting Procedure and an individual has proven to be an unacceptable risk for the security sector of the Republic of Kosovo, the KIA must continue monitoring the individual in general while also evaluating the information about his/her behaviors based on the following factors:

- The nature of the behavior
- The conditions that follow that specific behavior
- The latest occurrence of the behavior and its frequency

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<sup>46</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>47</sup> Ibid.

- The current age and maturity level of the individual during the performance of the behavior
- The extent to which his/her will contributed to such behavior
- The motive behind the behavior
- Potential for being used, forced, pressured, or threatened
- Likelihood for repetition of such behavior <sup>48</sup>

Having identified the abovementioned criteria, it becomes apparent that the Security Vetting procedure is a very complicated and sensitive process. The purpose of the process must be to come up with a thorough evaluation of an individual, and the importance of the procedure appears fully only when the evaluation deems a person as an unacceptable risk for the Republic of Kosovo. Being denied the security clearance or being forced to move out of a current job position is not as equally important as the official qualification of a person as a non- acceptable risk for the country. A qualification as such is very harsh, and it encompasses moral consequences which are beyond worse than just a simple denial of a security clearance certificate. In order to qualify a person as disloyal to the Republic of Kosovo, the evaluation method must be based on facts and unbiased judgement. If the Security Vetting Procedure proves categorizes a person an unacceptable risk, the latter has the right to contest the decision<sup>49</sup>. Under this scenario, to ensure the protection of the rights and interests of privacy of that person, a hearing procedure might be carried out. However, under certain cases e.g. when the security or political interests of the Republic of Kosovo might be threatened or challenged, the hearing procedure might not be held at all.

Practically, most of the intelligence agencies use the justification that the hearing procedure might be in contradiction with the protection of secret and public interest, hence, completely avoiding the hearing procedure. While this justification might sound right, neglecting a hearing procedure by the intelligence agency raises questions about the objectivity of this decision and the possibility of misuse of the argument. Having highlighted this fact, then the

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<sup>48</sup> (KCSS) Kosovo Center for Security Studies. "A Short Policies Document: Security Vetting" (2015). Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan. 2019.

judicial protection comes into question, considering that hearing the party is a fundamental human right, the judicial must be capable of revising the decision of the agency in charge that has denied the right to hearing of an individual. However, the scenario of a weak judicial protection indicates potential for misuse of the power by the intelligence agency. In other words, weak judicial protection gives executive power to the intelligence agency who may use the argument of protecting state secret and public interest to violate the rights of an individual. After the Security Vetting Procedure deemed a person as an unacceptable security risk, the person will be receiving a written decision that he/she has been denied the security clearance certificate<sup>50</sup>. If the individual wants to appeal this decision, he/she can do so within fifteen (15) days upon receipt of the written decision. The appeal used to be submitted to the Inspector General of the Kosovo Intelligence Agency, however, the procedure has now changed according to the Government Regulation no. 37/ 2012<sup>51</sup>. Following the new procedure, the appeal is now addressed to the Director of the KIA, whereas the decision for denying the security clearance of an individual is taken by the Security Vetting Department<sup>52</sup>. The purpose behind this change was to avoid any inconveniences since the inspector general of the KIA is not a body of the second grade, hereby, not suitable to report to the Prime Minister and the President of the State. If the general was to report, then their rank with the director of the KIA would be the same.<sup>53</sup> However, even the new regulation still raises dilemmas (both political and judicial) considering the fact that the Security Vetting process is not only conducted for the KIA officials but also for other significant institutions such as the Kosovo Police, the Ministry of Kosovo Security Force, the Ministry of Justice, etc<sup>54</sup>. Regardless of the fact that the officials of the aforementioned institutions might be refused by the Inspector General or the Director of the KIA, the refusal would still come from the same institution, the KIA.

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

## v. Main Challenges of the Security Clearance in Kosovo

Under the Law on Classified Information and Security Clearance, the Kosovo Intelligence Agency is responsible for both vetting for access to sensitive data and the vetting conducted for recruiting security employees in other public institutions<sup>55</sup>. That means that the Kosovo Intelligence Agency is mandated to conduct vetting for the other horizontally equal security institutions such as the Kosovo Police, or the Armed Forces<sup>56</sup>. Consequently, the first challenge facing the security vetting in Kosovo has to do with the dominant authority of the KIA over the other security institutions. The issue has been raised when the Intelligence Agency became responsible for conducting vetting for the recruitment level of the other public institutions, becoming a far advanced and higher authority institution compared to other security units<sup>57</sup>. Not only does this procedure make KIA a dominant authority towards other security institutions, but also towards the Kosovo Assembly.

According to the aforementioned law, only the President, the Prime Minister, and the Chair of the Assembly have access to all the levels of sensitive information, meaning that, the Members of the Parliament of the Kosovo Assembly are not exempted from the vetting procedure conducted by the KIA<sup>58</sup>. In other words, this responsibility makes KIA an executive body with authoritative position towards the MPs of the Kosovo Assembly, excluding the President of the Assembly. That is, in order to have access to classified information, all the MPs of the Kosovo Assembly must be issued security clearance by the KIA. This issue has received special attention prior to May 2014 when the KIA provided no security clearance to the MPs of the oversight committee who were responsible to specifically oversee the activities and overall performance of the KIA. This procedure, where a legislative body requests security clearance by an executive body was not initiated at all by the person in charge, the President of the Assembly,

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<sup>55</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>56</sup> (KFOS) Kosovo Foundation for Open Society. "Progress on Security Sector Governance: Vetting and Integrated Border Management" (2014). Available at <http://kfos.org/wp-content/uploads/2015/03/Progress-on-Security-Sector-Governance.pdf>. Web. 21 Jan. 2019

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.



who did not make the request under the assumption that such a procedure is not logical. Since the Kosovo Assembly MPs did not have access to classified information, the overall performance and efficiency of the Kosovo Assembly was impacted. A procedure as such which involved vetting of the overseers by the KIA, has generated dissatisfaction which then led to conflict of interest among the public institutions.

Apart from the highlighted challenges facing the security system in Kosovo, another particularly concerning issue appears to be the existing appeal system. Under the Law of the Kosovo Intelligence Agency Nr.37/2012, individuals who undergo the vetting process and fail to pass the security clearance have the right to appeal<sup>59</sup>. The right to appeal is based on the internal regulation of KIA responsible for regulating the complaint procedures of all the individuals who complain on the decision of the Kosovo Intelligence Agency. The first step is to direct the complaint to the Inspector General of KIA, who is responsible for responding within a timeframe of 30 days. In case of a failed attempt, where the Inspector General rejects the complaint, the last step involves the Basic Court.

The members of the Kosovo Police (KP) and the Kosovo Correctional Service (KCP) has undergone the process of security vetting by the KIA during the years 2013-2014. Resultantly, a large number of these members, including senior officials failed to pass the security clearance process. The number of officials that were rejected the security clearance certificate was more than 50, all of whom made complaints regarding the vetting process conducted by KIA. The current appeal system is faced with two significant challenges: (1) the individuals rejected the security clearance certificate are instructed to submit their complaints within the KIA (supposedly the complaints should be submitted at another independent authority), and (2) the last means to bring the case of security clearance denial to court has become troublesome for the judiciary since none of aforementioned cases has followed the existing appeal cycle<sup>60</sup>.

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<sup>59</sup> Kosovo Intelligence Agency. "The Law on the Kosovo Intelligence Agency" (2010). Available at [http://aki-rks.org/HTML\\_ENG/2008\\_03-L063\\_en.pdf](http://aki-rks.org/HTML_ENG/2008_03-L063_en.pdf). Web. 21 Jan. 2019.

<sup>60</sup> (KFOS) Kosovo Foundation for Open Society. "Progress on Security Sector Governance: Vetting and Integrated Border Management" (2014). Available at <http://kfos.org/wp-content/uploads/2015/03/Progress-on-Security-Sector-Governance.pdf>. Web. 21 Jan. 2019

<sup>60</sup> Ibid.

## vi. Supervision of Legality

An institution is supervised both legally and politically. At the political level, the KIA is supervised by the Parliamentary Committee on the Supervision of the Kosovo Intelligence Agency<sup>61</sup>. However, the mere fact that the Members of the Committee on Supervision of the KIA lack the security clearance, has hugely impacted the democratic control and the mandate of supervision of the KIA<sup>62</sup>. The Security Vetting Process has not been initiated for the Members of the Parliamentary Committee because the Assembly of Kosovo has never filed a request to the KIA for initiating the process. This, for the sole reason that the Committee itself performs under the KIA. Several international organizations together with the Assembly of Kosovo has brought to light the issue that the executive branch cannot exercise the security vetting authority for the legislative branch. Assembly of Kosovo argued that the vetting process of the Members of the Parliament will not be unbiased and/or objective. However, the reason why the members of the Committee on the Supervision of the KIA still do not have Security Clearance is due to the conflict of interest between the KIA that is responsible for conducting the vetting and the MPs who would supervise it<sup>63</sup>.

All these inconsistencies diminish the credibility of the vetting process, thus, pointing to the idea that the executive branch can indeed influence the legislative branch through the security vetting procedure. One way of influencing could be manifested through the denial of security clearance, where one would discriminate between the MPs who are “wanted” and those who are “unwanted” to have access to classified data<sup>64</sup>. The vetting procedure of MPs requires the executive branch, more specifically the KIA, to create a database consisting of files on MPs, their past, their families, their wealth, social ties, etc<sup>65</sup>. The access to such data furthermore leaves room for misuse of the process by the executive branch.

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<sup>61</sup> (KCSS) Kosovo Center for Security Studies. “A Short Policies Document: Security Vetting” (2015). Robert Muharremi. Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan.

<sup>62</sup> Ibid.

<sup>63</sup> DCAF 2006b: Parliamentary Oversight of Intelligence Services, DCAF Backgrounder

<sup>64</sup> KCSS) Kosovo Center for Security Studies. “A Short Policies Document: Security Vetting” (2015). Robert Muharremi. Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan. 2019.

<sup>65</sup> DCAF 2006b: Parliamentary Oversight of Intelligence Services, DCAF Backgrounder

A considerable number of complaints who have not passed the vetting procedure of the KIA has been received by the Committee on the Supervision of the Kosovo Intelligence Agency<sup>66</sup>. The cases of the individuals who have failed the vetting process were investigated by the officials of KIA and the Committee, cooperatively<sup>67</sup>. Despite the fact that several MPs were not issued security clearances, the KIA granted the members of the MP and the members of the Committees on Supervision of KIA access to classified data of the individuals who have failed to pass the vetting procedure<sup>68</sup>. A large number of appeals mainly coming from the Kosovo Police was received by the Committee on the Supervision of the KIA. Most of the individuals who were denied the security clearances belonged to the “Confidential” level of classified information<sup>69</sup>.

The aforementioned facts draw attention to three significant problems regarding the supervision of legality. The first one being that the Parliamentary Committee was engaged in the process of reviewing the complaints of individuals who have been denied their security clearances when the Committee has no legal authorization whatsoever. In fact, the appeals process is regulated by the regulation 37/012 after which procedure the complaining party can directly address the issue to court.

The second problem concerns the role of the Judicial Branch on the overall procedure of the security vetting. Up to date, the security vetting procedure has not been conducted on judges yet, a scenario which contradicts with the rule that the judges who deal with appeals against KIA are supposed to have passed the whole vetting procedure successfully themselves. The judges justify their actions by hiding behind the argument that the Executive branch has no power over the judicial branch, that is, KIA does not have authority to conduct the vetting of the judges. Nevertheless, a rule as such has never been stated anywhere in the Law on the Classification of Information and Security Vetting, factually, paragraph No.2 of the Article 22, highlights that only the President, the Prime Minister, and the Assembly of Kosovo Speaker are excluded from

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<sup>66</sup> (KFOS) Kosovo Foundation for Open Society. “*Progress on Security Sector Governance: Vetting and Integrated Border Management*” (2014). Available at <http://kfos.org/wp-content/uploads/2015/03/Progress-on-Security-Sector-Governance.pdf>. Web. 21 Jan. 2019.

<sup>67</sup> (CRDP) Center for Research, Documentation and Publication (2015). “Kosovo’s Security Vetting: A Case for Further Reform”, Paulina Nowak. Available at <https://crdp-ks.org/wp-content/uploads/2015/04/KOSOVOS-VETTING-SYSTEM-CRDP.pdf>. Web. 24 Jan. 2019.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

the vetting procedure<sup>70</sup>. This activity of the judicial branch leaves room for a lot of misinterpretation such as the idea that the judges are not given access to sensitive data so that they cannot impede the court decisions against the KIA either. In addition, the independency of the Judicial Branch under this scenario also denies the right of the aggravated party to have legal protection, a case which does not align with the Constitution of the Republic of Kosovo.

Last, there are problems concerning the implementation of decisions by the KIA, more specifically, decisions of the KIA that have not been implemented by the Kosovo Police regarding the refusal of security clearances of numerous Kosovo Police Members. That there is lack of cooperation between the KIA and the Kosovo Police became furthermore apparent by the act that the Kosovo Police did not implement the decision of the KIA without getting approval to do so by the final court<sup>71</sup>. This act of the Kosovo Police puts the objectivity of the KIA furthermore in question.

Having introduced significant processes of the vetting system in Kosovo, this section is finalized by briefly presenting the draft law on Protection of Classified Information which was drafted especially for the purpose of overcoming the current obstacles facing the system. The importance of this draft law will become apparent especially in the results section of this research paper, as it provides useful insights into the future of the vetting system in Kosovo.

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<sup>70</sup> Assembly of Republic of Kosovo. "Law on Classification of Information and Security Clearances" (2010). Available at <http://www.assembly-kosova.org/common/docs/ligjet/2010-178-eng.pdf>. Web. 17 Jan. 2019.

<sup>71</sup> KCSS) Kosovo Center for Security Studies. "A Short Policies Document: Security Vetting" (2015). Robert Muharremi. Available at [http://www.qkss.org/repository/docs/Security\\_Vetting\\_405656.pdf](http://www.qkss.org/repository/docs/Security_Vetting_405656.pdf). Web. 18 Jan. 2019.  
[kosovo.rit.edu](http://kosovo.rit.edu)

## vii. Draft Law on Protection of Classified Information

Pursuant to Article 65 (1) of the Constitution of the Republic of Kosovo, the Assembly of the Republic of Kosovo approved the Law on Protection of Classified Information<sup>72</sup>. The purpose of this Law is to protect the interests of the Republic of Kosovo by improving the system for protection of classified information. In order to establish a unique system which is completely free of biases and/or any subjectivity, this draft law establishes a new Intelligence Agency, namely the Agency for Protection of Classified Information (APCI), whereby carefully highlighting its role, mission, functioning, structure, duties and responsibilities.

The agency shall be established as a national security agency which will serve to all the public institutions of the Republic of Kosovo and their contractors related. APCI is to be a central authority located in Prishtina with a fully professional, politically impartial, non-judgmental, and law-abiding personnel. Regarding the transitional and final provisions, according to this law, the Verification Department together with the files it has access to, shall be relocated to the new agency under the commencement of the procedures by the Director of APCI in cooperation with the Director of the existing agency, KIA. Whereas, current personnel of the former agency KIA will have the opportunity to voluntarily choose through a declaration whether they want to work for the APCI or to remain within the former agency's structures-KIA. As per the assets of the KIA, the law highlights that the Directors of the two agencies, namely that of APCI and of KIA will have to agree with one another so as to use the KIA's assets until the completion of APCI staff.

Finally, upon entry into force of the Law on Protection of Classified Data, any term KIA that is used in the context of the Vetting Authority in any provisions of the laws and sub-legal acts, shall be replaced with the new term APCI.

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<sup>72</sup> Government of Kosovo, Office of the Prime Minister. "Draft Law on Protection of Classified Information" (2018). Available at <http://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=40477>

### III. Methodology

This investigation is based on the findings and the extensive research conducted in the period over one year 2018-2019. Due to its secretive nature, the research on the security and the intelligence sector, more specifically, on the security vetting was challenging due to several obstacles. Besides the informative documents posted by the KCSS that provided extensive research on the topic of security vetting in Kosovo, as well as the CRDP publication that focuses mainly on secondary data, the field of vetting in Kosovo remains largely unexplored.

Driven by this fact, I found it interesting to challenge myself with the topic of security clearances. Even though the research process resulted to be much more challenging than initially predicted, this paper aims to bring to light a comprehensive understanding of the vetting system in Kosovo. The methodology used to gather information for this project is separated in two main categories. The first one is focused extensively on desk research and literature review mainly based on publications from KCSS and CRDP. Whereas, the second phase of research explores the current vetting practices and personal perceptions of both the insiders of the vetting system and the individuals subject to security vetting using small-scale surveys and semi-structured interviews.

#### a. Secondary Data Collection

This phase of the investigation involved the process of researching the existing literature and studies on security vetting in Kosovo. Keeping in mind that the vetting system is a very sensitive topic to be explored, the information available on the ground was neither sufficient nor satisfactory. To achieve the intended results, I mainly focused on two most relevant documents “Security Vetting: A short policies document”, and “Kosovo’s Vetting System: A Case for Further Reform”, published by the Kosovar Center for the Security Studies and Center for Research, Documentation, and Publication, respectively. To get a better view of the vetting system and the context of security clearances, I also consulted experts from both local and international universities and organizations who have dealt with such practices. The webpage of the government of the Republic of Kosovo was a useful source to retrieve information on necessary laws and publications- needed for the purpose of this research.

## b. Primary Data Collection

### Part 1: Semi-structured interviews

I have completed an extensive qualitative analysis on the ground by conducting 12 semi-structured interviews with scholars who have done work on Kosovo's security sector or are members of the public institutions who either conduct security oversight or are subjects of classified information. Due to anonymity principle of conducting research more detailed information about the interviewees nor the institutions they represent is not disclosed. The process of reaching the individuals at stake was very lengthy and stressful because of their unwillingness to disclose relevant information. The interview requests were sent via email to 22 different individuals and institutions, however, only 5 of them responded and became part of the sample. Ten of the interviews were conducted in-person, whereas only two were conducted via email. The interviews were scheduled across 2 months due to the difficulties in reaching the interviewees. Each interviewee was provided a consent form, while the permission to record the interview was obtained only from five of the interviewees. The interviews were structured so as to get insights into various aspects of the security vetting in Kosovo, its challenges and opportunities, the Laws in force and the required amendments, the activities of the current Intelligence Agency, and the draft law on Protection of Classified Information.

### Part 2: Surveys

This research phase consisted of surveys designed to measure the familiarity of the respondents with the security vetting system in Kosovo, the laws regulating this activity and the agency who conducts the vetting, namely KIA. Security clearance remains a very sensitive topic to be discussed especially in a developing country like Kosovo where a considerable portion of the population remains unemployed and uneducated, and thus uninformed about such topics. With that in mind, the sample could not involve many respondents, in contrast, it was only focused towards a certain group of individuals who were in the position to give answer to the sample questions; hence, a snowball sampling technique was used. The sample targeted Civil Society representatives, government representatives, members of the Parliament, Representatives of key security institutions (KP, KSF, and KIA), and independent experts. Considering the fact

that the survey was targeted only to a limited number of respondents with specific backgrounds, the surveys were distributed both via email and in-person. The sample was distributed across different genders, age groups, and backgrounds, however, one thing they share in common is that all of them have at least a bachelor's degree. The sample was purposely targeted to individuals with higher level of education so as to generate data regarding their familiarity with the topic, as well as their opinions regarding the recommendations and reforms needed to alter the existing condition of the vetting system in Kosovo.

### c. Limitations

Due to the secretive nature of this paper, the research on security vetting in Kosovo faces several obstacles such as unavailability or lack of access to relevant documents, unwillingness of members of the public institutions to cooperate and disclose any information for the purpose of this research, and inaccuracy of information received by the interviewees. The topic restricted targeting larger groups of the population, therefore making the research process even more challenging. The unresponsiveness of officials from different institutions (e.g. government, security institutions, independent organizations and researchers), as well as their unwillingness to participate in this project can also be highlighted as a limitation for gaining the most accurate results. However, considering the lack of data on the topic up to date, 12 interview participants and 37 survey respondents, all being individually targeted and having relevant knowledge to the topic, indicate that this paper might serve as a good reference and basis for further investigation.



## IV. Results and Analysis

### 1. Secondary Data

According to the Kosovo Security Barometer which measures the trust of Kosovo citizens towards the country's main security institutions, namely the Kosovo Police (KP), the Kosovo Security Force (KSF) and the Kosovo Intelligence Agency (KIA), the KIA has been ranked as the least trusted security institution<sup>73</sup>. Not only is KIA the least trusted institution, but the barometer has shown a constant decrease of the citizens trust from one year to another, so, while in the year 2017 there was a percentage as high as 37 of people who trusted KIA, it has significantly decreased to only 20% citizens who trust KIA in the year 2018, a fact which furthermore illustrates citizens' dissatisfaction with the existing agency<sup>74</sup>. To this end, I have provided a chart which graphically shows the results of the KCSS Barometer.

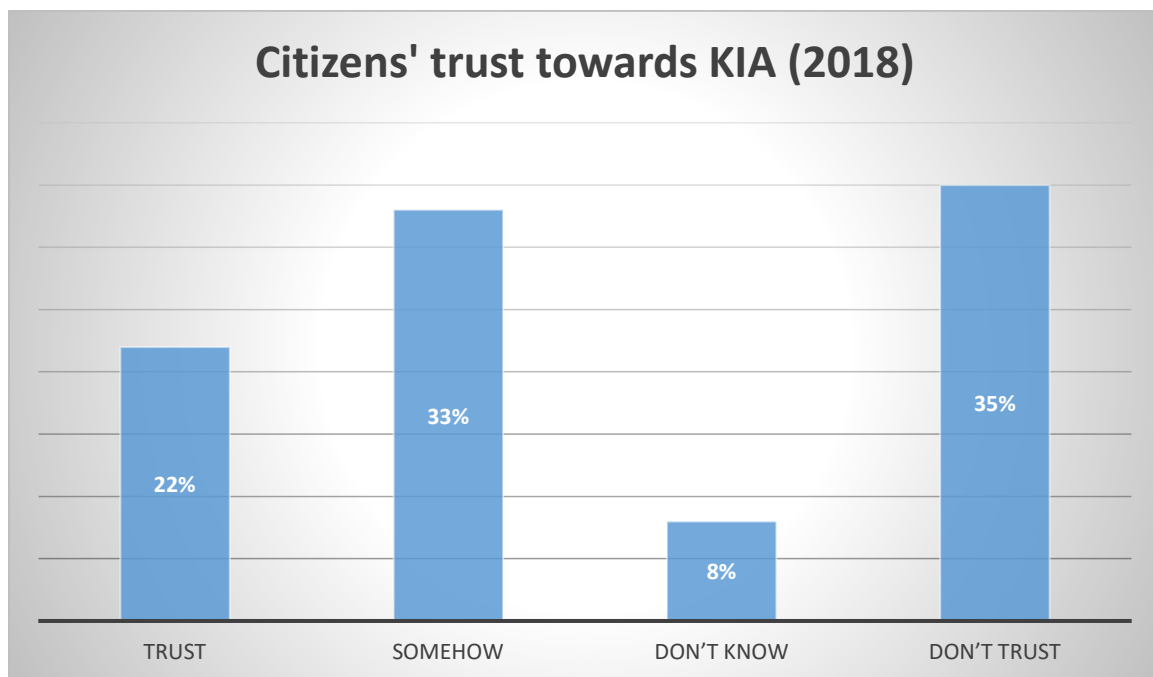


Figure 4. Citizens' trust towards KIA (Kosovo Security Barometer: Seventh Edition)

<sup>73</sup> (KCSS) Kosovo Center for Security Studies. "Kosovo Security Barometer: Seventh Edition" (2018). Available at [https://www.academia.edu/35850975/Kosovo\\_Security\\_Barometer\\_-\\_Seventh\\_Edition](https://www.academia.edu/35850975/Kosovo_Security_Barometer_-_Seventh_Edition). Web. 18 Jan. 2019.

<sup>74</sup> Ibid.

As it could be inferred throughout the literature review of this research paper, the security vetting system in Kosovo is highly, if not, solely dependent on the Law on Classified Information and Security Clearance and the activities of the Kosovo Intelligence Agency. Undoubtedly, the law in practice together with the activities of the agency over years have not contributed towards the betterment of the security vetting system in any sense. As such, the Law on Classified Information and Security Clearance needs to be amended in order for the Department of Classified Information to depart from the authority and structure of KIA. According to the documents published by the Kosovo Center for Security Studies and the Center for Research, Publication and Development, a completely new law or the amendment of the current law would bring two significant changes: (1) improve the oversight of the security sector and (2) foster the democratic governance. One unquestionable result would be the removal of the conflict of interest between the intelligence agency and parliamentary committee.

## 2. Primary Data

### I. In-depth Interviews

In order to get a comprehensive view of the most prevalent issues present in the security vetting system in Kosovo, I have classified the findings from the in-depth interviews into four areas, namely institutional, procedural, legal, and political flaws:

#### *Institutional Flaws*

The majority of the interviewees pointed out the fact that KIA presides over the vetting authority of Kosovo. They furthermore criticized this arrangement by stating that KIA is not in the position to exercise this authority, thus, jeopardizing the vetting system. The interviewees viewed KIA's 'secretiveness' as one of the most concerning issues regarding the security sector. While they were aware of the fact that secretiveness is a prerogative of every intelligence agency, they claimed that allowing a certain degree of accessibility would be crucial for effective public oversight. This scenario, however, is inexistent in KIA considering the fact that there is no accessibility whatsoever. The KIA does not have an informative website nor an effective complaint mechanism. As such, information regarding highly relevant topics to Kosovo's security can only be received from legal regulations. Throughout this research process, it was also proven that getting hold of the KIA employees is a very difficult task; access was possible only through contacts e.g. phone calls or emails which were left unanswered the first time.

*"It is easier to reach someone in a rocket space in NASA rather than an employee of the Kosovo Intelligence Agency"*

- Interviewee 2

One other important point that was raised by 6 interviewees was that the activities of KIA can be closely related with terms of nepotism and clientelism. They shed light to the past practices of the agency (e.g. vetting holdouts for political revenge) which were made public by

the media, discrediting not only the members of the KIA but the whole security vetting procedure.

*Legal Flaws*

As previously disclosed in this paper, under the current law, the vetting regulations pose a conflict of interest. In other words, there is a large room for misuse of power when the vetting authority is installed in an institution such as KIA that is horizontally equal to the other institutions. For instance, an illustrative example of this conflict is the vetting of the members of the Parliamentary Oversight Committee on KIA (POC). In order to carry out their duties, MAs

*“Security Clearances are the foundation of a country’s Security Sector”*  
 - Interviewee 3

must be equipped with security clearances, however, in reality, it remains at the KIA’s discretion to issue them the certificate or not. This scenario, as previously highlighted, leads to a subordination of a legislative body to an executive body, thus, disempowering the executive body of its oversight power. Some of the interviewees who have been familiar with the topic provided some interesting insights into the matter by bringing to fore the case of security clearances of the POC, which had to be officially requested by the head

of the entity. However, the KIA’s superior position made the process undemocratic, thus, making the security clearances of members of POC worthless. Resultantly, none of the members of the POC has been vetted and therefore none of them was able to access confidential data crucial to their oversight job.

The same conflict was seen in the case of vetting of judges. The KIA is empowered to conduct vetting for judges, whose task is to sue any of the KIA members in case of misconduct. This fact once more points out to legal flaws as KIA is given authority over the judicial branch. The interviewees state that the POC has very little if no

*“It is an unreliable system with practice of no trust”*  
 - Interviewee 6

access to relevant information of KIA, thus, the cooperation between the POC and KIA rather than being a matter of course regulated by the laws in force, remains solely dependent on individual groupings.

### *Procedural Flaws*

Weak enforceability of law that leads to procedural flaws was one of the other findings revealed by the interviewees. One of the reasons that the law remains poorly implemented is that certain institutions of the country refuse to accept the fact that KIA is responsible for conducting the vetting authority, hereby, refusing to accept the agency's results. Two of the interviewees stated "*Among the institutions who adhere to the law are the Ministry of Justice and the National Security Council*", while the others refuse to do so. Employees that are denied their security clearance make use of their right to appeal against a failed vetting process. As introduced in the literature review of this document, the appeals should be submitted to the court. However, the majority of the appeals remain unprocessed due to the overload of courts with cases. As such, many of the individuals who fail the vetting test refuse to leave their positions waiting for their appeals to be processed by the court. The overload of court fundamentally affects the vetting system and puts more pressure to the POC since all the complaints become directed to them. Considering the fact that members of the POC do not have security clearances or insights over the criteria used by the KIA, the law does not allow the POC to process the appeals. The majority of the interviewees support the claim that that the appealing system is dysfunctional. Some even stated that it would not be wrong to assume that there is no vetting system in Kosovo at all.

*"It should be stated  
in the law how to  
defend the  
principles of security  
clearance  
procedures"*

- Interviewee 4

*Political Flaws*

*"A professional vetting system is one which is depoliticized"*

- Interviewee 7

Lack of trust and lack of cooperation between institutions in Kosovo creates a hazardous environment in which establishing a functional vetting system becomes impossible. Even though these problems were present before the vetting system was introduced, the current security clearance regulations provides potential for further distrust. The distrust comes as a result of the power distribution between the vetting authority (KIA) and its oversight bodies. Misuse of vetting creates an

atmosphere where individuals and institutions no longer believe in the integrity of the vetting authority nor in the validity of the vetting results.

One of the interviewees pointed out the fact that the consequences of vetting misuse may have direct effects on the whole state-building process. The past scandals of the KIA, namely blackmailing and clientelist practices were continually brought up throughout the interview process by many of the participants. Even though these practices happened in the past, and the people affiliated with such scandals have been discharged of their positions, the interviewees remarked that the consequences and the culture of distrust can still be felt.

*"Security clearances should not be considered as imposition but rather as a tool to achieve cooperation, transparency, integrity and accountability."*

- Interviewee 11

Another point made by the interviewees was that aggravated relationship between the KIA and other security institutions, namely KP and KSF is detrimental to effective vetting system.

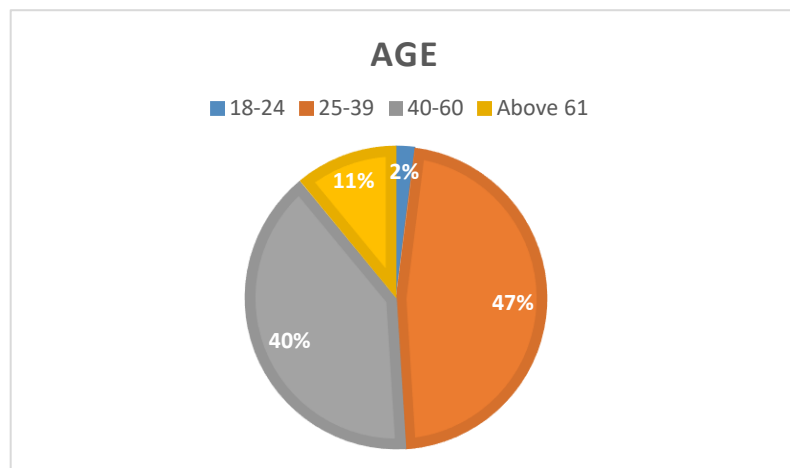
## II. Surveys

The findings of the quantitative part of this research project, which takes the form of a survey conducted with individuals from different profiles relevant to the topic, provide helpful insights into the role of the security vetting system through the respondents' lenses. The survey findings mainly complement the points made in the part of qualitative research and the results of the secondary data so as to get a clearer picture of the main challenges that the vetting system in Kosovo faces. The findings that emerged from this investigation are broken down and analyzed in the section below.

### 1. Demographic Analysis of the Results

The respondents had to be 18+ years and with prior knowledge to the topic. As illustrated in figure 5 the sample was not very diverse with regard to age; only 2% belonged to 18-24 age group, 47% were 25-39 years old, 40% were 40-60 years of age, and the additional 11% were above 61 years.

Figure 5. Age of respondents



That the majority would fall between the age of 25-39 and 40-60 was rather expected considering the fact that the respondents were selected based on their knowledge to the topic and their working positions held, an indicator that they had to be of middle age.

The level of education of the respondents of the survey is highly important to our analysis considering the quality of information required. Since we are dealing with a topic of secretive

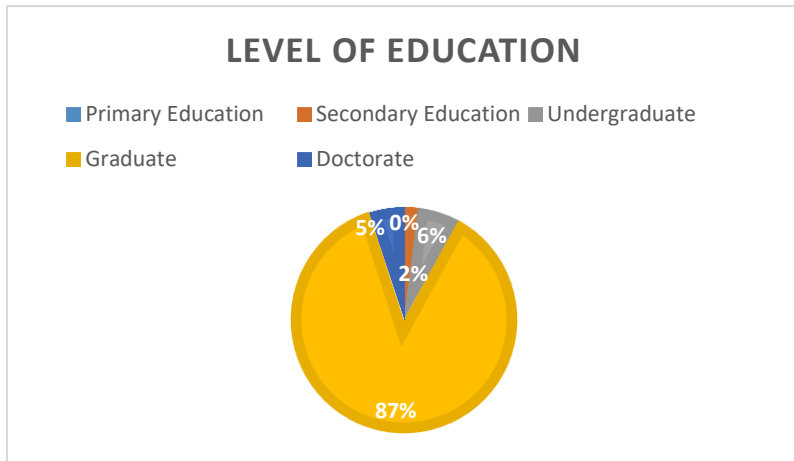


Figure 6. Level of Education

nature, respondents were expected to have finished at least their undergraduate studies. As the graph shows, none of the respondents have finished only their primary education, 2% of the respondents have finished their primary and secondary education, 6% of the respondents have finished their primary,

secondary, and undergraduate studies, 87% of the respondents have finished their primary, secondary, undergraduate, and graduate studies, whereas only 5% have finished their doctorate studies in addition to the others. The largest group of the sample falls within the “graduate studies” category, meaning that their information regarding the topic is to be taken in account and to serve as a means for bringing in different insights.

**Profession:** The professions of the respondents varied showing their different professional background, such as: Professor, Researcher, Lecturer of Legal and Political Subjects, Lecturer of International Relations subjects, Police Investigative Officer, Strategy and Doctrine Officer, Security and Intelligence Analyst, Sector Coordinator for Public Opinion Research, Security Expert, Director, Prosecutor.



2. Respondents’ opinion regarding the effectiveness of security vetting in Kosovo

The outcomes generated from this question generally matched the results presented in the literature review of this paper, meaning that the people’s opinion regarding Kosovo’s security system effectiveness have not drastically changed over years, in contrast, their concern regarding this sector continues to be relatively high. When asked whether they agree with the following statement “Kosovo has an effective security vetting system”, only 10% agreed with the statement as opposed to 47% and 22% of the respondents who respectively, “don’t agree” and “strongly disagree” with this statement.

Figure 7. Respondents’ opinion regarding the effectiveness of security vetting in Kosovo

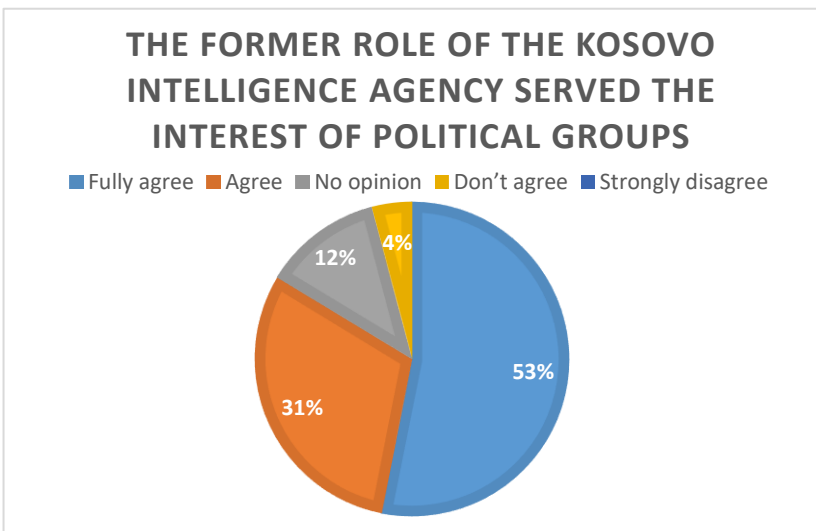


Statistically speaking, there is a general dissatisfaction of the people who are familiar with the system. A

percentage as high as 47 of the people who strongly disagree with the system’s effectiveness in Kosovo leaves room for many interpretations. As highlighted earlier throughout this project, lack of trust in institutions, lack of cooperation between security entities, and the accumulation of cases of misconduct of the Kosovo Intelligence Agency have all devaluated the vetting process.

1. Respondents’ opinion regarding the role of the intelligent service

By analyzing the people’s opinion regarding the intelligence services both in the past and present, I tried to come up with the relationship that the system and the agency have with one another. As the graph below shows, the majority of the respondents believe that the former role of intelligent services served the interest of political groups, indicating that the party who

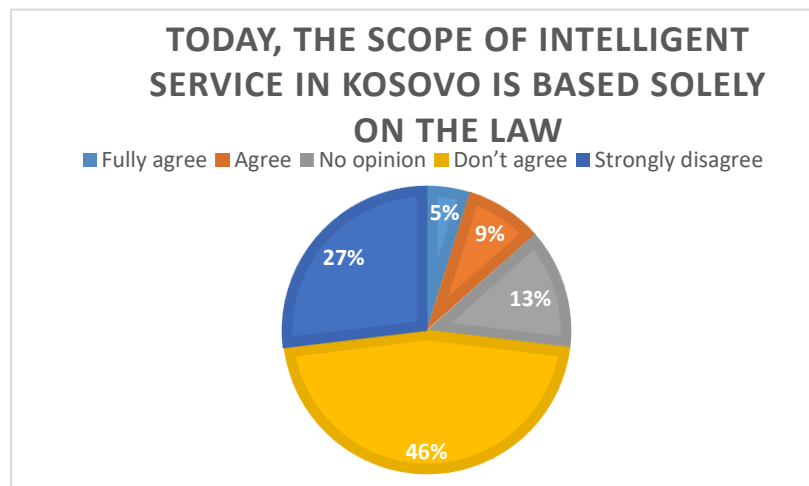


controlled the intelligent service controlled the whole vetting system. This result is also supported by the material presented in the literature review section of this project as well as the results of the interviews presented in the primary data section.

Figure 8. Respondents’ opinion

regarding the role of the intelligent service.

While 4% of the respondents did not agree that the former role of the intelligent services served the interest of political groups, 12% had no opinion on the matter. In contrast, there was a high share of people who agreed and fully agreed to the statement (31% and 53%, respectively), an indicator that intelligence services were involved in clientelist practices which have indeed

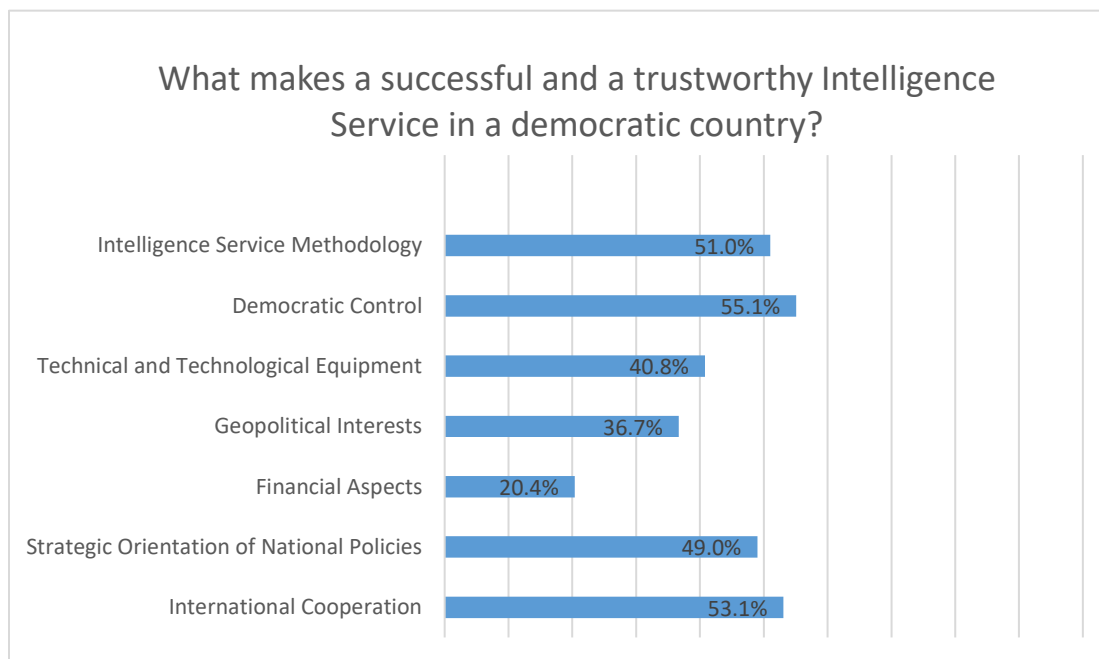


hindered the role of the vetting system in Kosovo.

The next question focused on the role of the KIA in the present, aiming to get a better view of the respondents’

Figure 8.1. Respondents’ opinion regarding the role of the intelligent service

opinion regarding agency's adherence to the law. The results gathered from this question supported the arguments presented on the secondary data section of this project as both scholars and the respondents believe that the activities of the KIA are not solely based on the law. As the graph above shows, only 5% of the respondents fully agreed that the scope of the intelligence service in Kosovo is based solely on the law, while 9% agreed, 13% did not have an opinion on the matter, 46% did not agree, and 27% strongly disagreed. These results serve as an indicator that even though the activities of the KIA are regulated by the law, law inconsistencies continue to prevail.



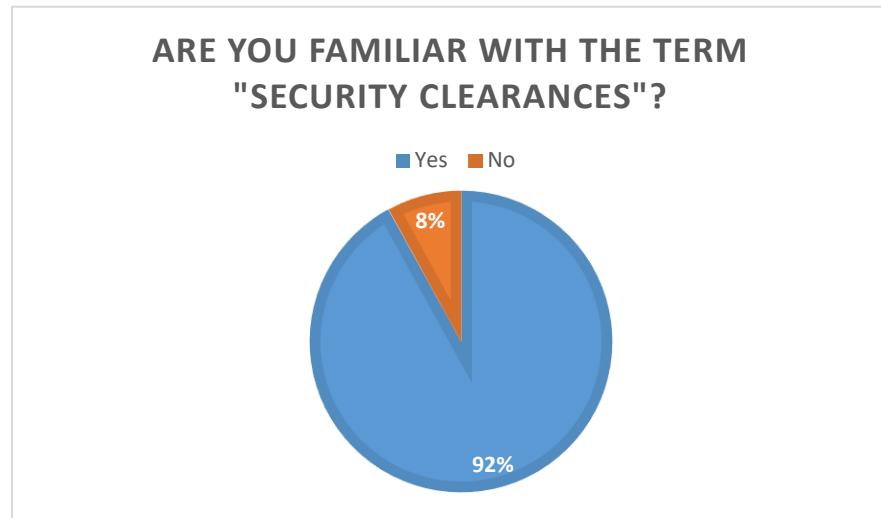
*Figure 9. Determinants of a successful and trustworthy Intelligence Service*

Having generated information regarding the current vetting system in Kosovo, the role of the intelligence agency in the past, and the law inconsistencies seen in the present, I will now explore the respondent's view on what makes a successful and trustworthy Intelligence Service in a democratic country. The next question, different from the others, aims to provide some helpful recommendations on the topic rather than explain what the current situation of the vetting system is. The respondents were asked to choose one or more options that they believe make a successful and trustworthy Intelligence Service in a democratic country like Kosovo. As shown

in Figure 9, Democratic Control, the Intelligence Service Methodology, and the International Cooperation are three most important determinants of a successful intelligence agency according to our survey.

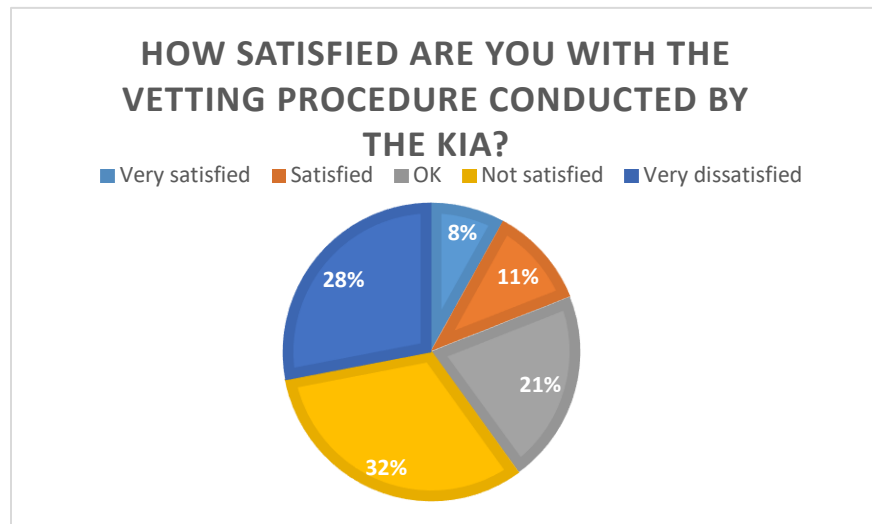
*1. Respondents’ opinion regarding security clearances*

This section of the results will explore the familiarity of the respondents with security clearances, their experience with such practices, and their opinion regarding KIA’s performance in this matter. Considering that this survey targeted individuals with relevant positions and prior knowledge to the topic, it is expected that the majority of the respondents would be familiar with the term “security clearances”. The following question asked the respondents whether they have ever requested security clearance. The results showed that 68% of the respondents were in job positions that required



*Figure 10. Respondents’ opinion regarding security clearances*

access to classified information of different levels, whereas the remaining 38% have not. The



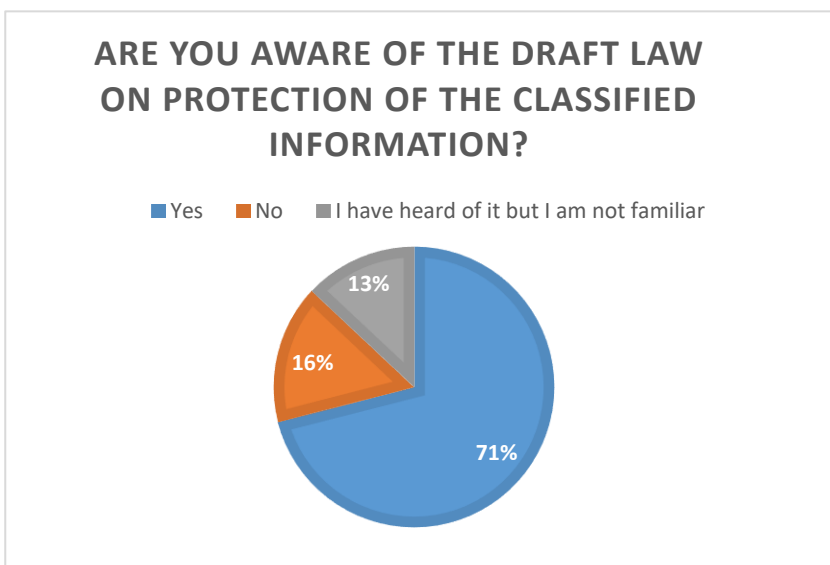
number of respondents who have requested security clearance certificates is quite important since it leads us to the other question of the survey. The number of respondents who answered

*Figure 11.*

yes to this question were quite satisfactory since the survey tried to reveal more information of the process of security clearances. The following question asked those respondents who have requested access to classified information whether they have been issued or denied their certificates. The results of these questions showed that 76% of the participants were issued the security clearances certificate while the remaining 24% were not. Lastly, the respondents were asked about their satisfaction regarding the vetting procedure conducted by the KIA. While 8% answered to be very satisfied with the vetting process conducted by the KIA, 11% were satisfied, 21% were OK, 32% were dissatisfied, and the remaining 28% were very dissatisfied. These results suggest that regardless of the fact that the majority of the respondents, specifically 76% were issued their security clearance certificates, their satisfaction regarding the vetting procedure remained relatively low. The results revealed from the small-scale survey generally matched the scholars’ view on the topic who have highlighted that the vetting procedure of KIA is very untrustworthy and biased, hence, unsatisfactory.

2. *Respondents’ opinion regarding the Draft Law on Protection of the classified information and the Agency for Protection of Classified Information (APCI)*

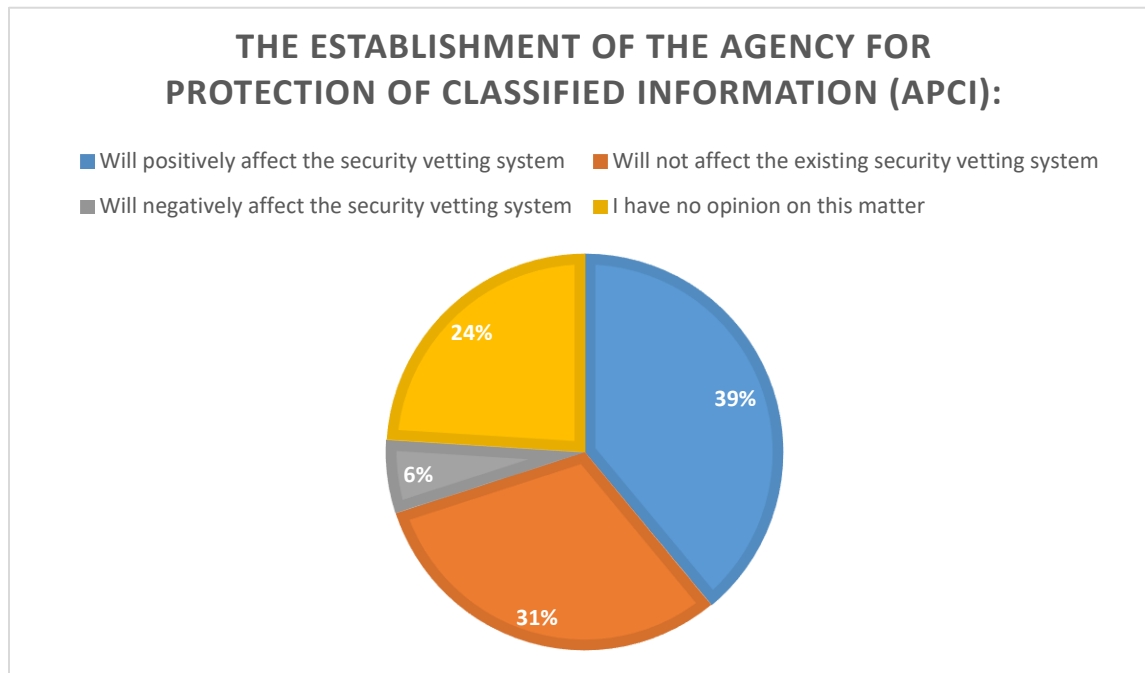
This section analyzes respondents’ opinion on the draft law on protection of the classified information and the new intelligence agency that is to be established under this law. As previously disclosed in the literature review section of this project, the purpose of this draft law



is to protect the interests of the Republic of Kosovo by establishing a well-functioning agency which will resultantly bring a free-biased vetting system. To explore whether the respondents shared the same opinion regarding the benefits that this draft law will bring, I have posed two questions.

Figure 12.

The first question, as illustrated in figure 12, asked the respondents how the establishment of the agency for protection of classified information (APCI) would affect the security vetting system on its totality.



*Figure 13.*

The results of the second question, as illustrated in the graph above, showed that respondents are quite reluctant regarding any improvements this agency could bring. While 39% believed that establishing APCI would positively affect the security vetting system in Kosovo, 6% believed the opposite, 31% believed that no changes to the current condition would be brought, whereas the remaining 24% did not want to share their opinions on this matter. The percentage of respondents who believed that the agency would not affect the existing security vetting system, more specifically, 31, is quite worrying in the sense that people have lost faith in transparency and effectiveness of intelligence services in Kosovo mainly due to past clientelist practices of the former agency.

## V. Summary of Findings

Having introduced the results generated from the conducted interviews and surveys, this section pinpoint some of the most important findings that help us summarize the challenges of the security vetting system in Kosovo. The reasons why there are inadequacies in vetting are tied to bigger concepts such as weak law enforcement, corruption, weak cooperation between security institutions, and general misconceptions about the role and function of security clearances. The following are primary source findings which support the data presented in the literature review section of this project.

- The findings suggest that the current vetting system is characterized with poor law implementation, dysfunctional appealing system, and weak oversight.
- All interviewees and respondents agree that there is an immediate need to reform the current vetting system.
- The majority of the interviewees and survey respondents' believe that a legal reform would contribute towards an effective and transparent vetting system.
- Many of our interviewees and survey respondents' indicated a need for legal reform that would lead towards a more regulated and trustful vetting system.
- Findings shed light to the idea that the law on security clearances remains dysfunctional mainly due to the reason that the law was based on models that operate in other contexts dissimilar to that of Kosovo.
- The majority of the interviewees agreed with the claim that effective security vetting has many positive aspects on the state-building process.
- The majority of the interviewees believe that an efficient vetting system can largely relieve the judicial sector, while six others do not see any positive relationship between vetting system and the judiciary.

## VI. Recommendations

Regardless of the fact that Kosovo is dealing with a new system of verification, this paper discloses that the system is greatly challenged due to political implications and the clannish and/or individual decisions to issue or deny the security clearance for police body, intelligence personnel and civil servants. As such, the system needs improvements in the following areas:

### Short Term Goals:

- **Strengthen the Parliamentary Oversight**

Transparency and accountability are the fundamentals of a democratic government, as such, the primary responsibility falls completely on the shoulders of parliament. Considering that the system of security vetting in Kosovo lacks adequate parliamentary oversight, the measurements to be taken towards improving the current condition must start with the strengthening of the parliamentary oversight.

- **Ensure a system of checks and balances between the security institutions**

To prevent the concentration of authorization within one security entity, there should be check and balances between all the security institutions in Kosovo. The concentration of power and authority in the Kosovo Intelligence Agency (an institution horizontally equal with the other security institutions) has become one of the main topic discussions in the security sector. KIA's responsibility as an executive body makes it a "super-institution", disfavoring furthermore the other security institution and hindering the vetting process. To avoid this from happening, a new system of checks and balances must be introduced so that all the security institutions have the same authority over one another.

- **Restructure the appealing system**

As highlighted in this research study, one of the drawbacks of the current system of security clearances is the appealing system. Not only is there a backload of cases of people who have been denied their security clearance certificates, but there are many more who have appealed to the agency's decision regarding the denial of their certificates. As pinpointed in the literature review section, one of the major debates between two security institutions namely KIA and KP, [kosovo.rit.edu](http://kosovo.rit.edu)



has revolved around the denial of security clearances of numerous police officers. The appealing system for the cases of the Police personnel was not in accordance with the Law on Classified Information and Security Clearances but rather served the interest of the KIA. As appealing system is crucial to establishing a reliable and accountable security vetting system, restructuring it is a necessity.

- **Awareness raising on the importance of vetting**

As it was continually stated throughout this project, conducting research on the field of security vetting was a difficult challenge mainly due to the nature of the topic and the unfamiliarity of citizens with the topic. Had the population been more aware of the activities of the Intelligence Agency and the vetting system as a whole, the surveys could disclose much more accurate data and therefore provide much helpful insights into the topic of security clearances. Educating civil society, public officials and other staff about the purpose and benefits of vetting would ensure a more trustworthy process.

Along with the goals that can be achieved in the short term, institutions should also address long term goals as listed below:

Long Term Goals:

- **Restructure of personnel**
- **Independent Expertise**
- **Reduce political and personal influence**
- **International Cooperation**
- **Creation of a political and institutional culture**

## VII. Conclusion

The aim of this Honors Project was to provide insights into the current condition of Kosovo's vetting system, highlight its drawbacks, and provide recommendations on how to overcome them. The results of primary and secondary data confirmed that while security vetting system in Kosovo has been recently established, it remains greatly challenged by political implications and the clannish and/or individual decisions to issue or to deny security clearance certificates. This study reveals that Kosovo's current system of security vetting requires immediate reform in several aspects.

The literature review section of this project provided a comprehensive view on the topic by explaining in detail the current vetting system in Kosovo, the process of security clearances, as well as the agency who exercises vetting authority. Next, two main laws regulating the vetting system in Kosovo: Law No. 03/L-178 2010 on the Classification of Information and Security Clearances and Law No. 03/L-063 2008 on the Kosovo Intelligence Agency provided the framework for analyzing current condition and potential challenges of the system. Next, three problems with regards to supervision of legality were identified. And finally, the literature review presented the Draft Law on Protection of Classified Information according to which the new intelligence agency is to be established. This section provided necessary information to help the readers understand the obstacles that the verification of security system is facing.

The analysis of the secondary data suggested that (1) Citizens' trust towards the Kosovo Intelligence Agency has been decreasing over years; (2) There is an immediate need for reform on the vetting process in Kosovo; (3) A law amendment could improve the oversight of the security sector as well as foster democratic governance, and (4) A new legal framework would remove the conflict of interest between the intelligence agency and parliamentary committee.

Findings from the semi-structured in-depth interviews held with 12 different participants were grouped into four main categories: institutional, political, legal, and procedural flaws. Whereas, findings of the quantitative part of this research project, namely surveys conducted with 37 individuals from different profiles relevant to the topic were grouped into five categories: (1) Demographics, (2) Respondents' opinion regarding the effectiveness of security

vetting in Kosovo, (3) Respondents' opinion regarding the role of the intelligent service, (4) Respondents' opinion regarding security clearances, and (5) Respondents' opinion regarding the Draft Law on Protection of the classified information and the Agency for Protection of Classified Information (APCI). Interview and survey results came up with a helpful conclusion which suggests that the current vetting system in Kosovo is characterized with poor law implementation, dysfunctional appealing system, and weak oversight.

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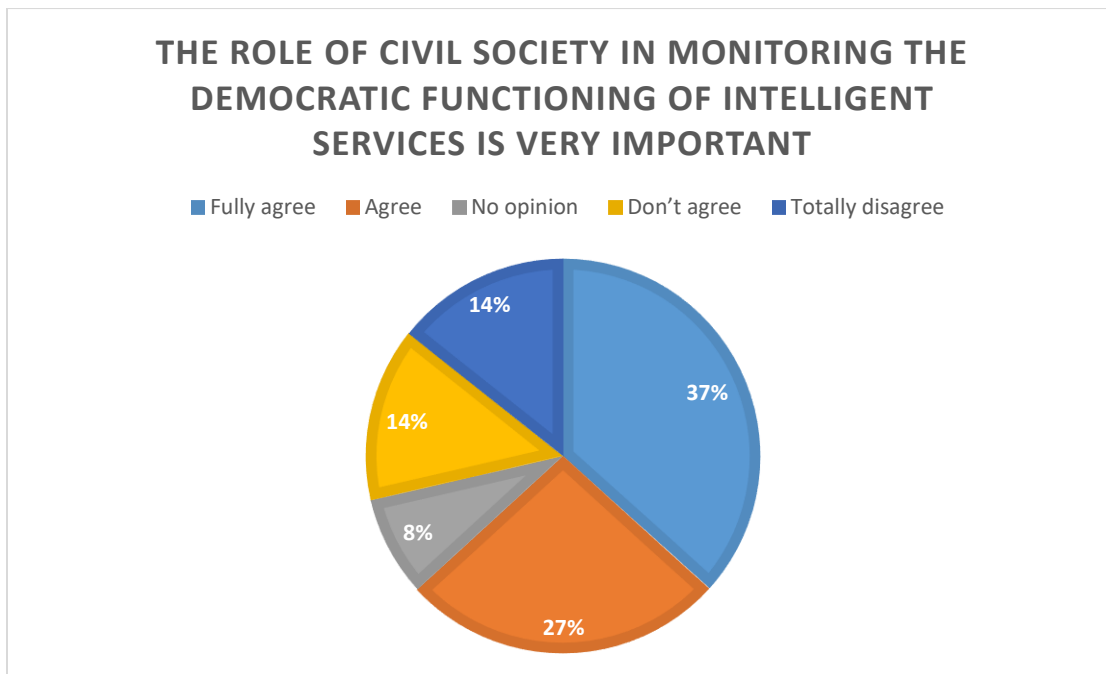
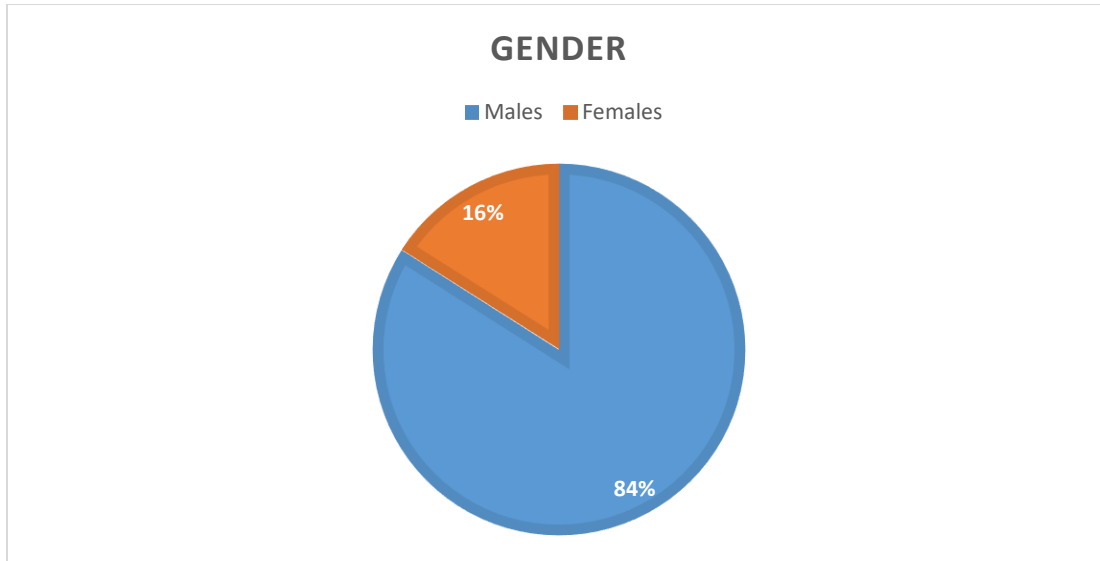
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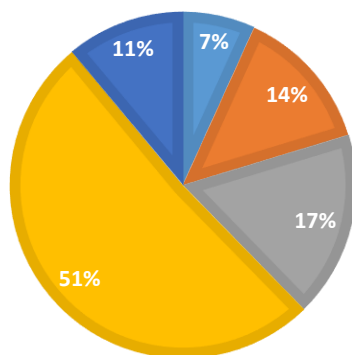
## IX. Appendices

### A. Graphs and Charts



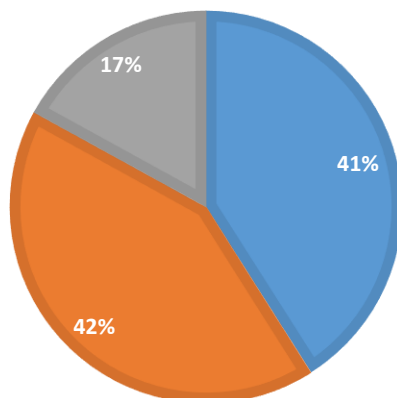
**KOSOVO'S LEGAL BASIS IS IN HARMONIZATION WITH  
LEGISLATION OF THE EU REQUIRED FOR WELL-  
FUNCTIONING OF SECURITY POLICIES AND PRACTICES  
OF INTELLIGENCE SERVICES.**

■ I fully agree ■ I agree ■ I don't have an opinion ■ I disagree ■ I strongly disagree

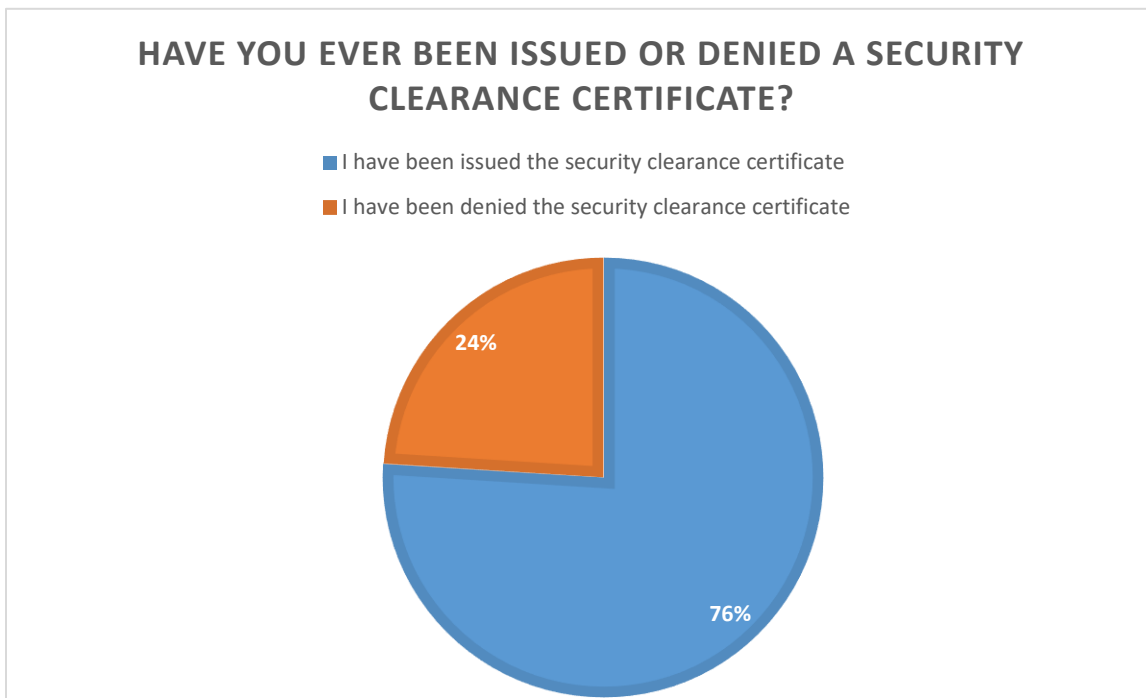
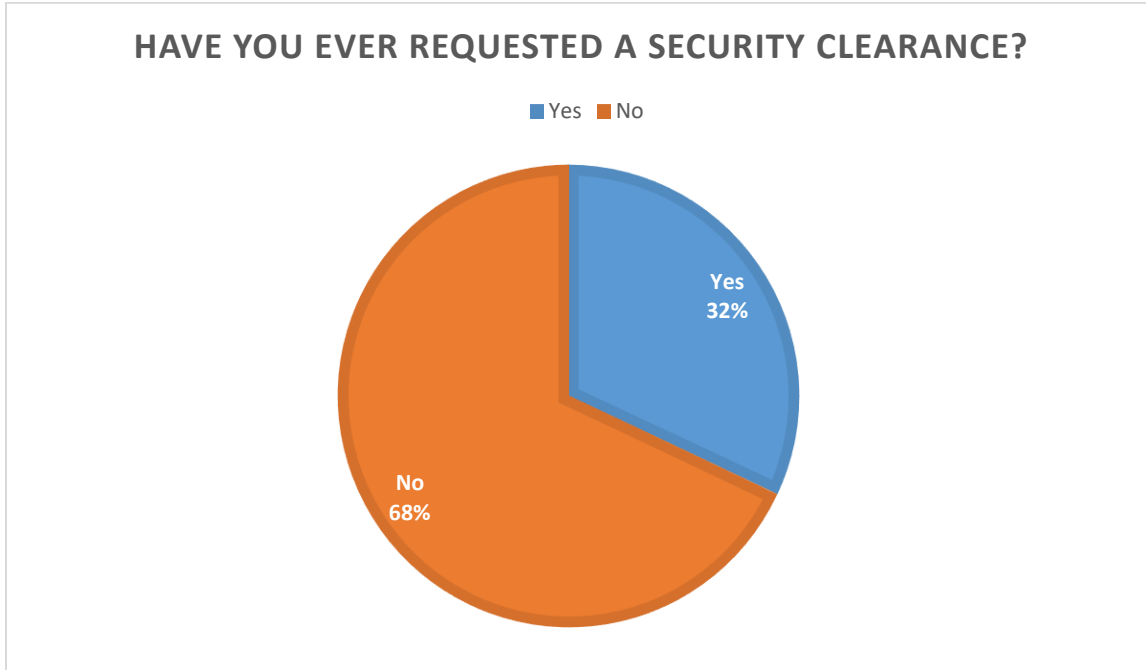


**KIA'S ACTIVITIES HAVE BEEN IN ACCORDANCE WITH  
THE LAW NO.03/L –178 ON CLASSIFICATION OF  
INFORMATION AND SECURITY CLEARANCES**

■ Yes ■ No ■ Only partly ■







**B. Consent Form**

**Informed Consent Form for Social Science Research**

**RIT Kosovo**

**Title of Project:**

**Principal Investigator:** Rita Ejupi, RIT Kosovo student

21, Sejdi Kryeziu, Prishtine

045-344-001; ritae@auk.org

1. **Purpose of the Study:** The purpose of this research study is to explore the challenges and opportunities of the security vetting system in Kosovo.
2. **Procedures to be followed:** You will be asked to answer 11 questions during this interview.
3. **Duration:** It will take about 25 minutes to complete the interview.
4. **Statement of Confidentiality:** Your participation in this research is confidential. The data will be used only for qualitative insights into the usage of social media marketing among Kosovar businesses.
5. **Voluntary Participation:** Your decision to be in this research is voluntary. You can stop at any time. You do not have to answer any questions you do not want to answer.

You must be 18 years of age or older to take part in this research study. If you agree to take part in this research study and the information outlined above, please sign your name and indicate the date below.

You will be given a copy of this form for your records.

\_\_\_\_\_  
Participant Signature Date

\_\_\_\_\_  
Person Obtaining Consent Date

### C. Interview Questions

1. In what ways do you believe that effective vetting can have positive effects in state building processes?
2. Do you believe that our institutions are aware of the vetting system and its law in Kosovo?
3. Do you believe that efficient vetting system can relieve the judicial sector? If yes, in what sense?
4. Do you believe that KP and KSF contribute to jeopardizing the vetting system considering that these institutions don't have good relations with one another?
5. Do you view KIA's secretiveness as an obstacle for effective public oversight?
6. What is your opinion regarding the appealing system?
7. Do you see legal inconsistencies that lead to oversight obstacles?
8. At which point of the current vetting system do you see the greatest reform need?
9. Do you believe that KIA should no longer have vetting authority?
10. Do you believe that the new body should be incorporated into another body e.g. the Prime Minister's office *or* that it should be administratively and politically independent?
11. What challenges do you see in regard to the acceptance of vetting as part of a broader Transitional Justice strategy?

## D. Survey Questions

1. What is your age?
  - a) 18-24
  - b) 25-39
  - c) 40-60
  - d) Above 61
  
2. What is your gender?
  - a) Male
  - b) Female
  
3. What is your highest level of education?
  - a) Primary Education
  - b) Secondary Education
  - c) Undergraduate
  - d) Graduate
  - e) Doctorate
  
4. What is your profession?  
Please enter your answer
  
5. Kosovo's legal basis is in harmonization with legislation of the European Union required for the functioning of security policies and practices of intelligence services
  - a) I fully agree
  - b) I agree
  - c) I don't have an opinion
  - d) I disagree
  - e) I strongly disagree
  
6. Do you agree with the following statement: "*Kosovo has an effective security vetting system*".
  - a) I fully agree
  - b) I agree
  - c) I don't have an opinion
  - d) I don't agree
  - e) I strongly disagree
  
7. The former role of the Kosovo Intelligence Agency served the interest of political groups
  - a) I fully agree
  - b) I agree

- c) I don't have an opinion
  - d) I don't agree
  - e) I strongly disagree
8. Today, the scope of intelligent service in Kosovo is based solely on the law
- f) I fully agree
  - g) I agree
  - h) I don't have an opinion
  - i) I don't agree
  - j) I strongly disagree
9. The role of Civil Society in monitoring the democratic functioning of Intelligent Services is very important
- a) I fully agree
  - b) I agree
  - c) I don't have an opinion
  - d) I don't agree
  - e) I strongly disagree
10. What makes a successful and a trustworthy Intelligence Service in a democratic country?
- a) Intelligent Service Methodology
  - b) Democratic Control
  - c) Technical and Technological Equipment
  - d) Geopolitical Interests
  - e) Financial Aspects
  - f) Strategic Orientation of National Security Policies
  - g) International Cooperation
11. Are you familiar with the term Security Clearances?
- a) Yes
  - b) No
12. Have you ever requested a security clearance?
- a) Yes
  - b) No
13. Have you ever been issued or denied a security clearance?
- a) Yes
  - b) No

If yes, from 1 to 5 how satisfied are you with the vetting procedure conducted by the Kosovo Intelligence Agency?

- a) Very Satisfied
- b) Satisfied
- c) OK
- d) Unsatisfied
- e) Unsatisfied

14. Do you believe that KIA's activities have been in accordance with the Law No.03/L –178 on Classification of Information and Security Clearances?

- a) Yes
- b) No
- c) Only partly

15. Are you aware of the Draft Law on Protection of the Classified Information?

- a) Yes
- b) No
- c) I have heard of it but I am not familiar

16. According to the Draft law on Protection of the Classified Information, the security vetting authority shall pass from Kosovo Intelligence Agency to the newly established Agency for Protection of Classified Information. The process will: (Question with more than one answer)

- a) Improve the oversight of the security sector
- b) Foster the democratic governance
- c) Remove the conflict of interest between the intelligence agency and the parliamentary oversight committee
- d) Increase transparency of the vetting process
- e) All of the above

17. The establishment of the Agency for Protection of Classified Information (APCI):

- a) Will positively affect the security vetting system
- b) Will not affect the existing security vetting system
- c) Will negatively affect the security vetting system
- d) I have no opinion on this matter