



**THE CONTROL OF SMALL ARMS AND
LIGHT WEAPONS IN KOSOVO:
PROGRESS and CHALLENGES**

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Abbreviations

KIA	Kosovo Intelligence Agency
SAK	Statistical Agency of Kosovo
SALW	Small Arms and Light Weapons
AAED	The Arms, Ammunition and Explosive Division
DPS	Department of Public Safety
FS	Forum for Security
FSK/KSF	Kosovo Security Force
KFOR	Kosovo Force
KOSSAC	The Kosovo Small Arms Control Initiative
IMB	Integrated Management of Border
MIA	Ministry of Internal Affairs
KP	Kosovo Police
KUCC	Kosovo University Clinical Centre
UA/AI	Administrative Instruction
UNDP	United Nation Development Programme
UNMIK	United Nations Mission in Kosovo

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1. Introduction

The danger to the society from illegal possession of weapons, even after more than a decade from the end of the war, remains extremely high. Weapons on illegal possession of citizens that are circulating in Kosovo are the main cause of the majority of killings¹ and a series of other crimes. These weapons present also a risk for the security institutions including Kosovo Police (KP) and KFOR.² In 2011, the KP in an attempt to implement the reciprocity measures towards Serbia has encountered a resistance of armed criminal groups in north of Kosovo, and as a consequence o policeman of Special Unit ROSU 3 was killed. Besides endangering the state and international institutions, weapons on illegal possession pose an every day threat for common citizens from the usage of Small Arms and Light Weapons (SALW) for personal usage in different places, including parties, streets even in school institutions.⁴ Not seldom use of SALW in these cases has turned into tragedies.⁵ All these problems are a consequence of insufficient measures taken to impose a proper control over SALW in Kosovo. Thus, legal infrastructure and its implementation in practice is a precondition in the direction of putting SALW under control. During the 2009 and 2010, Kosovo has adopted the Law on Weapons and accompanying Administrative Instructions which specify every action and proceedings, which create proper space for its effective implementation. This law marks a significant progress in regulating the sphere of control of SALW in the sense of regulating of conditions “to purchase, possess, carry, maintain, produce, repair, disable, trade, sale, investigate, transport and import of weapons for common and legal persons within the territory of the Republic of Kosovo, as well as exporting from the Republic of Kosovo.”⁶ Moreover, the national Strategy on Weapon Control and Collection of SALWs also represents a significant progress in terms of policy making, which also, in order to succeed, first of all should be implemented and should achieve the defined outcomes of the strategy.

1 IKD interview with Mr. Baki Kelani, Kosovo Police spokesperson, February 2012.

2 Besim Abazi, “Two members of KFOR get wounded in North of Kosovo”, Voice of America, 28 November 2011, see <http://www.voanews.com/albanian/news/Alb-Kosova-KFOR-plagodje-2011-11-28-134584148.html> (last time accessed on 1 February 2012)

3 Besim Abazi, “Burial of policeman Enver Zymberi, killed during the operations in the north”, Voice of America, 27 July 2011, see <http://www.voanews.com/albanian/news/Varroset-Enver-Zymberi-polici-i-vrare-gjate-operacioneve-ne-veri-126265483.html> (last time access on 1 February 2012).

4 Here different cases are included which have happened during years including these cases: July 2010 in Kaçanik arms are confiscated during the search of a convoy of wedding ceremony vehicles, including besides other an AK-47, in July 2010 a child is hit on his hand on the road by a stray bullet; in September 2010, in Ferizaj three students get wounded by firearm inside their classroom; in February 2011, in a secondary school in Suharekë a pistol 9mm gets confiscated from a student; in May 2011 a woman gets killed with firearm by her ex-husband in the middle of the street in Prishtinë; also in October 2011 in his office gets killed with firearm the Director of Education of Prishtinë Municipality. Press Releases of Kosovo Police. Also Lirita Halili “Terror in the Classroom”, Express, 7 September 2010, see <http://72.10.37.79/?cid=1,16,37961> (last time accessed on 4 March 2012). Also, Anton Konushevi, “Director of education gets killed”, Radio Free Europe, 3 October 2011, see <http://www.evropaelire.org/content/article/24347396.html> (accessed last time on 4 March 2011).

5 Other included cases: Daily report 18 February 2010, a 43 years old killed and several others wounded by firearm in Ferizaj; Daily report 1 August 2010, a two years old child get wounded with firearm during a party in Mitrovicë; Daily report 20 August 2011, a 55 years old man get killed with firearm in Prishtinë; Daily report 15 August 2011, assassination attempt with firearm in Ferizaj; Daily report 16 February 2012, assassination attempt in Prishtinë; Daily report 12 January 2012, armed robbery in Prishtinë; daily reports of Kosovo Police for different incidents.

6 Law on Weapons, Law number 03/L-143, Article 1 on Aims and sphere of action, paragraph 1, Official Gazette of the Republic of Kosovo, 17 September 2009.

Establishment of a set of new mechanisms as obligations that derive from the Law on Weapons and the administrative instructions, lack of human and professional resources, and lack of experience in this field present serious challenges in implementation of this legal framework. Implementation of laws and strategies for firearms, in absence of the National Coordinator for the SALW compromises achievement of goals and establishment of an efficient control over the big number of SALW in illegal possession in Kosovo.⁷

The purpose of this research is to promote the impact of policy making and decision taking in empowerment of control over the Small Arms and Light Weapons (SALW) in Kosovo. The report "Control of Small Arms and Light Weapons" has analysed and evaluated the progress achieved in drafting of legal framework that regulates the control over SALW, by focusing on laws, strategies and drafted policies, increase of institutional capacities and mechanisms in order to ensure efficient control over SALW, implementation of laws and strategies, as well as the policy of punishments in cases of illegal possession of SALW.

In drafting of the report a mixed methodology of research was used, including secondary and primary research. Within the secondary research laws, administrative instructions court decisions on illegal possession of weapons, analyses and reports of different domestic and international organisations for Kosovo and other countries have been analysed as well as press releases and daily reports of the KP, reports of Kosovo Customs, and the statistics of the Statistical Agency of Kosovo (SAK). The primary research has included 19 half structured interviews with officials of governmental institutions, international organizations, courts, prosecutions, non-governmental organizations as well as private companies. During the analysing of this issue, challenge remains on collection of statistics and accuracy of the existing ones, whether they were in the judiciary, KP or in any other institution. Researchers have encountered a good cooperation with all institutions besides the KP where the Information Office hesitated to offer information and hesitated to initiate interviews with police officials.

This analyse starts with treating of the actions undertaken in the past related on control over SALW in Kosovo. Afterwards treats the progress achieved related to the legal framework on control over SALW, specifically during the period of time after the declaration of independence of Kosovo. In the spirit of analysis of law enforcement, the issue of institutional mechanisms, interinstitutional coordination and reduction of SALWs on illegal possession was treated. This publication contains main findings and recommendations which would assist in future institutional initiatives on control over SALWs in Kosovo.

⁷ In 2006, 33,949 firearms were in possession of individual citizens while 317,000 were in illegal possession. Research on Small Arms and Light Weapons (SALW) in Kosovë (Beograd: Clearinghouse of Southeastern and Eastern Europe for Control on Small Arms and Light Weapons - SEESAC, 24 August 2006), page. 3.

2. Background and Problems related to SALW

The 90s have brought wars in Balkans' in territories of ex-Yugoslavia and the transition from communism to democracy in countries deriving from ex-Yugoslavia as well as other countries, including Albania and Bulgaria. As a result many SALWs have ended up on hands of civilians, which have confounded the field of control over SALWs and have increased the criminality with SALWs in all those countries.⁸ As the National Strategy on Weapon Control and Collection of SALWs shows that the majority of different other crimes committed in Kosovo is a consequence of usage of firearms. Crimes committed by illegal possession of SALWs have tackled many spheres of society. Ever since the end of the war in 1999, KFOR in cooperation with the UNMIK Police have organised amnesties for firearms, which have never given even satisfactory expected results. By the end of 1999, KFOR had collected 9,978 firearms and 5 million peaces of ammunition, whereas during three other periods of amnesty they had gathered only 1,428 firearms and 90,200 pieces of ammunition.⁹

Lack of necessary adequate legal framework, unclear regulations and unsustainable policy making has brought many problems until 2009, when Law on Weapons was adopted and the initiatives for endorsement of administrative instructions. UNMIK Regulation 2001/7, has allowed issuance of permits for keeping firearms, including in cases of self-protection. Endangered persons, including judges, businessmen and witnesses on trial cases, were supplied with Authorized Cards for Carrying Firearms,¹⁰ which implicates permits to keep weapons. Lack of legal framework has disabled purchase of firearms legally,¹¹ by obliging all the actors to buy firearms in black market and later to register them.¹² This UNMIK policy was de-facto stimulating the black market of firearms.

Kosovo, unable to create conditions for a proper control over SALWs, has continually faced problems deriving exactly from the criminality with SALWs and illegal possession. In Kosovo the high number of killings after the war has dropped during the years, since during the first two years after the war there was a chaos for security, which had resulted with over 200 killings per year with half of these homicides were murders with firearms.¹³ Immediately after this period the number of homicides dropped significantly, by reaching up to the years 2007 to July 2011 in Kosovo there were 144 homicides in total,¹⁴ with the majority of these cases being done with

- 8 Clearinghouse of Southeast and Eastern Europe for Control on SALWs was established in 2002 as a consequence of a serious problem with SALWs that this part of Europe is facing. Here are some data which makes this issue to be considered so problematic. In Serbia and Monte Negro in 2005 it was estimated that civilians have over 1 million registered firearms, while 944,000 illegal firearms. In Albania in 1997 and in 1999, there were 47,85, respectively 20.42 homicides per 100,000 inhabitants. SEESAC, UNDP and the Stability Pact for South-eastern Europe, <http://www.seesac.org/new-about-seesac/1/> (last time accessed on 4 March 2012). Also, Z. Taylor, C. Phillips, S. Bogosavljevic, *Living with the Legacy – SALW Survey Republic of Serbia, (Serbia and Montenegro: UNDP, 25 March 2005)*, p. 10. Also, B. Petriani, *Set of data*, (Washington: World Bank January 2010).
- 9 Strategy and the National Action Plan of the Republic of Kosovo for Control and Collection of Small Arms and Light Weapons, Ministry of Internal Affairs, October 2009.
- 10 Research on Small Arms and Light Weapons (SALW) in Kosovo (Belgrade: Clearinghouse of Southeast and Eastern Europe on Control on Small Arms and Light Weapons - SEESAC, 24 August 2006), page 69.
- 11 Arm Trade has been forbidden for civilian persons. In 2002, Jahja Morina even though had received the permission from the municipal administrator for sale of hunting rifles, and for this purpose imported such weapons, his shops were, by the order of the UNMIK prosecutor, searched and his weapons and ammunitions were confiscated. Investigations were ceased without any indictment raised against Mr. Jahja Morina, only because his weapons had been confiscated. The decision 36/08 of the UNMIK Human Rights Advisory Panel, 16 December 2010.
- 12 Such purchase of firearms had occurred also in 2009, when Mr. Driton Muharremi, ex Judge had registered firearm in this form. IKD interview with Mr. Driton Muharremi ex judge in the Municipal Court in Prishtinë, March 2012.
- 13 Homicides done with firearms based on the statistics of UNMIK Police. Research on Small arms and Lights Weapons (SALW) in Kosovo (Belgrade: Clearinghouse of Southeast and Eastern Europe on Control on Small Arms and Light Weapons – (SEESAC), 24 August 2006), p. 22.
- 14 Causes of deaths in Kosovo 2006 and 2007 (Prishtinë: Statistical Office of Kosovo, September 2009), p. 56. Also, Statistics of deaths 2010 (Prishtinë: Statistical Office of Kosovo, July 2011), p. 18. Also, Causes of deaths in Kosovo 2008-2009 (Prishtinë: Statistical Office of Kosovo, 2011), p. 31 and 55. "During seven months, 30 homicides in Kosovo", Kosova Sot, see <http://www.kosova-sot.info/>

firearms.¹⁵ It is worth mentioning that in 2010, excluding two cases when a Kosovo Bosnian and a citizen of RAE nationality were killed, all the others were Albanians.¹⁶ Consequently the problem of weapon possession is more the problem of general public security than clearly inter-ethnic problem. The risk from firearms is multi-dimensional, where in Kosovo University Clinical Centre (KUCC) in 2009 there were 75 registered cases of wounds with firearms, in 2010 there were 105 wounded cases and six deaths caused with firearms, while in 2011 there were 142 registered cases of firearms.¹⁷ KUCC continuously informs the KP on cases which are related to firearms.¹⁸ On the other side, KP fails to include these cases in their database and all statistics related to homicides or cases of wounds with firearms is obliged to be manually extracted from the daily reports.¹⁹

The issue of illegal possession of arms presents a risk for marginalised groups of the society including women and youth. Women suffer with their lives from usage of firearms in cases of domestic violence, firearms thefts are occurring in the streets against women, and also girls are threatened by persons holding weapons.²⁰ Youth are also threatened since they do not feel safe in the environment where there are illegal SALWs.²¹ This is even more concerning when 27.4% of the youth expressed that they would carry a weapon.²² During 2011, actually in January and October, two videos were loaded on YouTube,²³ which were later on reported on national televisions, showed a big number of men are seen firing weapons. One of the videos shows young boys, mainly adolescents, who in the middle of the street and in front of a crowd of people are firing from different firearms, including long automatic rifles. On this case the police have immediately acted by detaining four persons,²⁴ who are being trialled on regular procedure. Such actions have a negative and multi dimensional impact, besides the general danger, uncertainty within the population is caused and the image of the country is damaged.

The issue of arms in Kosovo has been accompanied with major scandals, as in 2011 high officials of KP were arrested due to suspicious process of supply with firearms. All these issues are inevitably contributing to the damage of the Kosovo image, which creates difficulties to construct safe and high quality channels of legal supply with firearms and ammunitions.

After over a decade from the end of the war, Kosovo after the revision in 2009, has again started to revise its Strategy on Control and Collection of SALWs. Nowadays has adopted the legal basis for arms and based on best international practices, which represents a big step towards a safer Balkans and Euro-Atlantic integration.

te_tjera/kronika_e_zeze/per-shtate-muaj-30-vrasje-ne-kosove (last time accessed on 22 February 2012).

15 IKD interview with Mr. Baki Kelani, Kosovo Police Spokesperson, February 2012.

16 Statistical Agency of Kosovo. Report 2010.

17 Annual Report of KUCC for 2009, 2010, and 2011. IKD communication through emails with Mr. Shpend Fazliu, KUCC.

18 IKD interview with Dr. Mehmet Maxhuni, Director of Surgical Clinic in Kosovo University Clinical Centre, March 2012.

19 IKD interview with Mr. Baki Kelani, Kosovo Police Spokesperson, February 2012.

20 IKD interview with Mrs. Igaballe Rogova, Executive Director of Kosovo Women's Groups Network, March 2012.

21 Christine Bennett and Saferworld, Public Perceptions for the security in Kosovo: Time to Act (London: Saferworld, May 2012), p. 26.

22 In 2009, the percentage of those youth that would carry a weapon was only 17.8%. Right there.

23 See http://www.youtube.com/watch?v=c_C8uuFdPJU&feature=share (last time accessed on 3 March 2012). Also see <http://www.youtube.com/watch?v=uiIFJ6HfKk&feature=endscreen&NR=1> (last time accessed on 3 March 2012).

24 Press communiqué, Kosovo Police, 3 November 2011.

3. Legal Framework and the Strategy

Until 2009, with the endorsement of the Law on Weapons, Kosovo used to have in general a deficient legal infrastructure for weapons that used to favour an environment of illegal market of SALWs. Reduction of the number of illegal SALWs and control over SALWs for a long period of time was left only in hands of amnesties and routine confiscations conducted by the security institutions. Until entrance in force of the Law on Weapons, there were numerous abnormalities and ambiguities in regard to getting a license even for hunting. Arrangements in this field in legal aspect since 2009 onwards mark a significant progress in creation of proper mechanisms that facilitate legal firearms supply and at the same time establish conditions to minimise and prevent illegal possession of arms and its trade. The issue of arms control besides the Law on Weapons, is interlinked also with a series of other laws,²⁵ with one of them Law on Private Security Services. For implementation of the Law on Weapons, the Ministry of Internal Affairs (MIA) has issued 17 Administrative Instructions (AI), by completing the legal infrastructure in regard to possession and circulation of weapons.²⁶ The Laws jointly with the AI have given detailed explanation on every process and have left very little space for flexibility during interpretation which might confuse holders of these acts.²⁷ Despite interconnections with a big number of laws on control of weapons, up to now there were no major problems that emerged which would make real implementation of the law not to be implemented. Applicable laws have made it possible that every citizen above 21 years of age who has not violated the law could have the possibility to be supplied with a permit to carry a firearm, weapon collection, hunting or target shooting weapon as well as cold ancient weapons. Weapon possession is allowed only for employees of legal persons who operate in the field of security of persons, money security and other valuable items or those, who during their working hours carry weapons.²⁸ For the first time there is the opportunity to supply with permits to carry weapons for such a wide category. The Law has divided the weapons in four categories, and has forbidden permits for category A, since the weapons for this category are of larger calibres and simultaneously damages from this category from those weapons could be higher. We have into consideration that this Law forbids issuance of permits to all persons who used to have and have problems with the law. Weapons present a very high risk in cases of domestic violence,²⁹ which has been reflected in the law since involvement in domestic violence presents an obstacle for getting the permit to carry weapons.

25 Here the Penal Code of Kosovo is included, the Code of Penal Procedure, the Law on Police, Law on Execution of Penal Sanctions, Law on Kosovo Intelligence Agency, Penal Law on Minors, Code of Customs and Acise, Law on Hunting, Law on Kosovo security Force, Law on Civil Usage of Explosives, Law on Public Law and Order, Law on Foreigners, the Law on Protection of State Borders, and Law on Private Security Services..

26 IKD interview with Mr. Driton Gashi, Director of Department for Public Safety, MIA, February 2012.

27 IKD Interview with officials of MIA, UNDP and the Officials of Civil Shooting Polygon in Katana, February 2012.

28 Law no. 03/L-143 on weapons, Article 17, Assembly of the Republic of Kosovo, 17 September 2009.

29 IKD interview with Mrs. Igaballe Rogova, Executive Director of Kosovo Women's Groups Network, March 2012.

Besides the issue of getting the permit, the Law and legal acts have provided the right to import weapons for legal entities who import these weapons in order to supply private persons.³⁰ Whereas for import of weapons of category A, a very strict control has been foreseen, in this regard the Intelligence Agency of Kosovo (IAK)³¹ could be involved in supervision.

The Strategy on Weapon Control and Collection of SALWs drafted by MIA is a very advanced and comprehensive strategy. Whereas the Action Plan for this strategy specifies the responsibility of each actor and guarantees proper mechanisms for supervision of its implementation. The Law on Weapons was drafted with inclusion of domestic and international organizations, where the Forum for Citizen Initiatives and the Saferworld have organized public discussion with citizens and local institutions and have addressed these findings during drafting of the law.³² These organizations have also given a written contribution in regard to content of the law on weapons.³³ Despite avoiding of a legal collision, implementation of the legal framework as well as of the strategy was dragged out in practice, this was done mainly due to lack of the political will to put weapon control as a priority issue.³⁴ Moreover, institutions have not drafted periodical reports to evaluate implementation of the strategy.

30 Law no. 03/L-143 on weapons, Article 55, Assembly of the Republic of Kosovo, 17 September 2009.

31 Also there, IKD interview with Mr. Xhafer Gashi, official of Civil Shooting Polygon in Katana, February 2012.

32 IKD interview with Mr. Nazim Haliti, Deputy Director of the Forum for Citizen Initiatives, March 2012.

33 Also there.

34 Right there.

4. Institutional mechanisms

MIA has the main load in regard to the progress of the process of control on SALWs. The Department of Public Safety (DPA) became functional in June 2009 within the MIA. DPS from that time has served within MIA in order to advice on policies of public safety and law implementation, including those related to weapons and explosives. On the same year the Division for Weapons, Ammunition and Explosives (DWAE) was established as part of DPS. Since the beginning, DPS and DWAE were supported by UNDP through the project the Kosovo Small Arms Control Initiative (KOSSAC) in regard to the issue of control of SALWs in Kosovo. Moreover DPS has continuously been supported through the instrument TAIEX of the European Commission.³⁵ DPS has given a valuable contribution during these years of its existence in completing the legal framework and drafting of the Strategy for Control and Collection of SALWs. Moreover the DPS made a functional, safe and advanced network for preparation and issuance of permits for weapons and ammunitions to civil persons as well as supply to security institutions. DPS has also established a computer system that collects different data in regard to those that posses legally weapons and ammunitions in Kosovo, which connects this department with all the police stations.³⁶ Taking into consideration recent establishment of this institution and, after the war, first time implementation of the law on weapons and the strategy, the human and professional have challenges in institutional coordination, awareness raising of citizen as well as in drafting of efficient plans for legalization and amnesty.

The National Commission on SALW was established in 2007. On the other hand, the Strategy on Weapon Control and Collection of SALWs from 2009 had foreseen that this Commission would continue being operational through a decision of the government. However the Coordinator of National Commission was not elected³⁷ by dragging the process of supervision of implementation of the strategy and the law. In this form a key person was lacking to coordinate, delineate, monitor and report in regard to implementation of the policies, activities and actions related to the strategy. This undoubtedly had a negative impact in all the processes related to implementation of the strategy. Moreover, this has caused that the coordination of institutional mechanisms and other actors in the sphere of control and collection of SALWs is not on the appropriate level. Key actors such as judges, prosecutors, civil society, and the others have insufficient information for the strategy and its elements, specifically the role envisaged for these actors. Due to lack of mobilization of different stakeholders, key and updated data are missing, related to weapons and connected to drafting of proper policies. The database of KP contains general data, which are not categorized for the homicides with weapons, injuries with firearms of blank bullets, as well as cases of incidents with legal firearms. The most problematic issue remains lack of a joint database between Police, Prosecution and Courts. These three institutions have contradictory data which hinders drafting of sustainable policies which respond to the situation in the field. This disables the process of monitoring and evaluation of the progress of institution in implementation of the strategy.

35 KOSSAC programme of UNDP was implemented in there phases, in the first one was focused in capacity building for nationals in control of SALWs, in the second has supported the Commission for Control of SALWs as well as implementation of the action plan for SALWs and in the third phase has acted in support of DPS in order to complete the legal framework and has assisted in implementation of the strategy. On the other hand, DPS based on the needs has used the TAIEX instrument of the EC.

36 IKD interview with officials of MIA, February 2012.

37 IKD phone communication with Mr. Driton Gashi, Director of Department for Public Safety, MIA February 2012.

Entry in force of the law on weapons, has inevitably established new mechanisms that are carrying the process of legalization of weapons, issuance of permits and arms trade. In the process of issuance of permits different mechanisms are involved including the target shooting training centre, KP and MIA. A professional training centre was established by a private company, which was given on disposal to training of civil persons who aim to get a weapons permit. All police stations have been linked electronically with the verification centre of MIA, and the Commission for Evaluation was established, which represents the highest authority for issuance of weapons permits comprised of the Director of MIA Department, the legal officer and the representative of KP.³⁸ The responsibility of this Evaluation Commission is to ensure that person who receives the approval to buy weapons should have a clear past, be healthy, trained and other relevant issues. Up to now, only one training centre, for interested persons to use weapons, has been licensed and functionalized. Further, this remains the only training centre for handling with weapons as well as sale of weapons to civilians.³⁹ The target shooting centre has recruited professional human resources and constructed adequate facilities to conduct training for those who aim to get a permit to carry weapons. Police Stations are part of the bureaucracy through which documents of candidates to get weapons permit should pass. Simultaneously, this part of the chain presents the most problematic part since the police officials assigned to process documents filled to MIA are of older age and have not been able to get trained on using computers, despite the fact that this includes only simple scanning of documents.⁴⁰ Increase of human capacities is more than necessary to raise the efficiency in elimination of bureaucratic, unnecessary obstacles which could have a negative impact for citizens to be supplied with a legal weapon and permit. In case of increase of flux for candidates requesting permits, dragging getting the permit could damage the process of putting under control SALWs, since the bureaucracy shall have an effect that candidates will hesitate to respect the law.

Besides this, KP has quite a big responsibility in investigating, collecting of information as well as on preventing the illegal market. Investigation represents one of the key elements to be successful in decreasing in minimum illegal weapons market. The KP is responsible institution to conduct investigations. Despite this, even though the AI has entered in force in September 2010, until now capacities of KP remain poor and a necessity emerges to increase them.⁴¹ It remains on KP to show more dedications and commitment in putting under control weapons in Kosovo. Investigation represents the key activity in prevention and fighting of SALWs criminality especially when we deal with illegal production and cross border trafficking of SALWs. Stagnation in this direction presents a failure in a very important prevention segment to put under control weapons at any phase.

The Border Police has a task to manage entries and exits in every border crossing and throughout the border line so that it fights any kind of illegal trade including arms trade. In 2010 on the border crossing points, Kosovo Customs had confiscated 41 weapons and 14,500 pieces of ammunition. Whereas in 2011 the Kosovo Customs had confiscated 28 weapons and 22,776 pieces of ammunition. Cases of transport of weapons and ammunitions are not rare in the Kosovo-Albanian border.⁴² However north of Kosovo, remains the most challenging part to control, since in the absence of law enforcement and due to lack of possibility to increase

38 Administrative Instruction NO. 08/2010-MIA on Establishment of Reviewing Commission and Appeal Commission, Article 2, Ministry of Internal Affairs, May 2010.

39 Investigations to establish such a training centre and to create conditions of high security for the selling shop for weapons for civilians requires investments of several million Euros, which could present an initial barrier to start with such a business. IKD interview with Mr. Xhafer Gashi, official of the Civil Target Shooting in Katana, February 2012.

40 IKD interview with officers of Kosovo Police and officials of MIA, February 2012.

41 IKD interview with Mr. Driton Gashi, Director of Department for Public Safety, MIA, February 2012.

42 IKD interview with Mr. Sylë Hoxha, acting. Head Prosecutor of Prizren District Prosecution, Prizren, March 2012.

the capacities in that part of the country, this remains an easy road to be accessed by arm smugglers. In November 2011, some persons were arrested in Serbia who got supplied with weapons in order to bring them in the north of Kosovo.⁴³ In 2010, the Customs patrol in Mitrovica municipality had found 17 pistols and 9,640 bullets that were being transported from Sarajevo to Kosovo.⁴⁴ The Strategy for Integrated Management of the Border (IMB) has given its first results, since the coordination of activities between KP and Kosovo Customs has enabled joining of the resources as well as exchange of information.⁴⁵ Limited budgetary resources create the situation that, for key equipments that assist in fighting smuggling and for appropriate control of the borders, Police and Customs rely on donations from other countries.⁴⁶

Administering confiscated weapons has always presented a problem for law enforcement bodies, since the storehouses for keeping of these weapons and ammunitions were inappropriate.⁴⁷ Consequently, a need to establish a state storehouse emerged, which would have higher security standards, a project which started in October last year.⁴⁸ While for destruction of weapons and ammunitions, KP and Kosovo Security Force (KSF) have build sufficient capacities for this process to be developed without any dangers for public and this process is in accordance with required standards.

5. Interinstitutional coordination and reduction of SALWs on illegal possession

The process of policy making and its implementation in field of control of SALWs requires an accurate information on a number of issues, including risk threats from SALWs on illegal possession of citizens, illegal circulation within Kosovo as well as trafficking from other countries, which are factors that have an impact on increasing of the level of better control and reduction of illegal SALWs, and a set of other elements. Failure of a range of institutions⁴⁹ to coordinate activities and periodically exchange their information, challenges accurate information, development and implementation of polices in this field. This research reveals insufficient communication, lack of exchange of information and lack of will of different institutions to have a comprehensive approach towards this problem. The Strategy on Weapon Control and Collection of SALWs has foreseen an efficient function of cooperation between relevant institutions in exchange of information, with a particular emphasis on KP. Lack of progress of KP has resulted with decrease of trust of citizens for this institution from 76.8% in 2009 to 44.5% in

43 "The favourite person of internationals in north caught with an arsenal of weapons in Serbia", KohaNet, 17 November 2011, see <http://www.koha.net/arkiva/?page=1,4,77273> (last time accessed on 5 March 2012).

44 "Judgement for a case of weapons smuggling", Press Communiqué, Media and Public Information Office of EULEX-it, 20 February 2012.

45 Progress Report 2011, for Kosovo (Brussels: European Commission, 12 October 2011). Also, IKD interview with Mr. Bekim Mehmetaj, Head of IBC, Kosovo Customs, March 2012. Also, Lulzim Feta, Head of Anti-Smuggling, Kosovo Customs, March 2012.

46 Right there.

47 SALW_Survey_Kosovo.

48 IKD phone communication with Mr. Driton Gashi, Director of Department for Public Safety, MIA February 2012.

49 In this range the following institutions included: including the National Commission for SALW, National Coordinator, MIA, Kosovo Police, Ministry of Justice, Ministry of Economy, Ministry of Health, Ministry of Education, Ministry of Trade and Industry, Ministry of Local Government Administration, Office of Prosecutor, Kosovo Statistical Agency, Ministry of Kosovo Security Forces, Ministry of Foreign Affairs, Intelligence Agency of Kosovo, as well as Culture Youth and Sports.

2010.⁵⁰ Prolongation to appoint the National Coordinator for monitoring of implementation of the strategy has compromised creation of a unique platform of information and action. It has also had an influence that expiring of the Strategy finds it without a comprehensive analysis for the achieved results and identification of concrete challenges in the future.

Since entry in force in 2009, respectively 2010 of the basic law and the accompanying legal regulations as well as establishment of mechanisms of weapons permit supply, a result emerges that 299 persons have applied for weapon permits.⁵¹ Out of them 180 have received the approval to purchase weapons, which implies that they have passed the required criteria to be supplied with permits, whereas until now from this category 46 civil persons have purchased weapons and have been equipped with permits. This marks the beginning of implementation of the first cells of Law on Weapon's provisions in regard to permit supply.

	Have applied	Have received the approval	Have received the permit	Refused for verification
Civil persons	299	180	46	15

Table 1 – Process of issuance of permits for weapons after entry in force of the Law on Weapons

Creation of the legal framework and development of mechanisms for facilitation of getting weapons permits for Kosovo citizens has been foreseen to be accompanied with other activities including a more proactive approach of KP in confiscating of weapons on illegal possession, undertaking of actions of legalization and amnesty.

In regard to KP, no advancement is noticed from the aspect of work based on the intelligence or intensification of actions. KP continues to have reactive approach towards problems by hesitating to construct a sustainable communication with citizens and raise their trust.⁵² In the table below we notice that confiscation of SALWs in years has dropped. Confiscation of weapons depends utterly on intensity of KP actions.⁵³

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Confiscated	586	776	1127	1610	1515	1919	1754	1610	1613	1477	1613	1542	17142
Increase		32%	45%	43%	-6%	27%	-9%	-8%	0%	-8%	9%	-4%	
Confiscated during parties										128	157		

Table 2 – Confiscation of weapons by the Kosovo Police

Legalization of weapons of different categories is regulated with AI of MIA.⁵⁴ This process is seen as a form to decrease the number of SALWs on illegal possession so that the same are registered and are put on the list of weapons that there is a history in the database. Legalization gives an opportunity to all those that have inherited weapons or have become owners of one

50 Christine Bennet dhe Saferworld, "Public Perception for the security in Kosovo: Time to Act" (London: Saferworld, May 2011)

51 MIA database checked on 21 February 2012.

52 IKD interview with Mr. Mentor Vrajolli, Kosovo Centre for Security Studies, February 2012.

53 IKD interview with Mr. Isak Ademi, President of District Court of Prishtina, February 2012.

54 Administrative Instruction 15/2010 – MIA for legalization of firearms that belong to categories B, C and D1, Ministry of Internal Affairs, 12 May 2010.

or the other form, to be able to continue keeping the weapon but without violating the law.⁵⁵ In legalization weapons that belong to category A cannot be included,⁵⁶ firearms which have been used during a criminal offence or weapons that have been modified.⁵⁷ This is why, MIA through amnesties for the weapons that cannot be legalized, tries to offer the possibility to those who do not want to violate the law because of weapons or ammunitions that were left on their possession.

Both, legalization and amnesty, are very sensitive initiatives and require actions that are coordinated well and reconciliation of institutional activities. Moreover, a big role during these initiatives plays trust of citizens for security institutions. Decrease of citizen trust for security actors and institutions, especially police⁵⁸ is a very concerning sign for the wellbeing of process of legalization and amnesty whenever they are applied. During the past, failures of amnesties have brought valuable lessons in regard to planning of these initiatives and on the importance of social economic, political context as well as rule of law in the country.⁵⁹ Proper information of citizens and building of trust with citizens is key feature in successful conclusion of these initiatives. In this spirit, involvement of civil society is more than necessary so that sensibility campaigns could reach to the communities.⁶⁰ After the war there were some amnesty periods in Kosovo that have gradually suffered decrease of efficiency while in 2003, a failure when during one month only 155 firearms have been gathered. Also a challenge for such a processes, present legalization or collection points, which should be as near as possible to the citizen in order to avert any possible public risk. Consequently, the short deadline and locality, present key challenges in the future for success of legalization and later on also of the amnesty.⁶¹ Strategy on Weapon Control and Collection of SALWs 2010-2012, specifies clearly steps that should be followed in order to ensure full cooperation of citizens and offers a vision for simultaneously engagement in several directions. However, approach towards the north of Kosovo, an area that keeps refusing implementation of laws of the Republic of Kosovo, remains unclear and could have a negative impact on the whole process.

55 List of weapons of Category A is in the Law NO. 03/L-143 on Arms, Article 32, Assembly of the Republic of Kosovo, 17 October 2009.

56 Law number 03/L-143 on Weapons, Article 4, Assembly of the Republic of Kosovo, 17 September 2009.

57 Administrative Instruction 15/2010 – MIA on legalization of firearms which belong to categories B, C and D1, Article 4 Ministry of Internal Affairs 12 May 2010.

58 Trust for the Kosovo Police has dropped from 77% in 2009 to 44.5% in 2010. Christine Bennett and Saferworld, Public Perceptions for Security in Kosovo: Time to Act (London: Saferworld, May 2012), p. 7.

59 IKD interview with Mr. Nazim Haliti, Deputy Director of the Forum for Citizen Initiatives, March 2012.

60 Ready or not?: Searching for perspectives of collection of illegal small weapons and light arms in Kosovo (London: Saferworld, July 2009), p.10, 15.

61 IKD interview with Mr. Driton Gashi, Director of Department of Public Safety, MIA, February 2012.

6. Policy of punishments for illegal possession of weapons

Cases of illegal possession of firearms constitute 9% of received cases by District Courts.⁶² Efforts of prosecution bodies, KP and Prosecution, during detainment and indictment of persons who own illegal weapons, without getting a deserved punishment by courts appear to have failed. Retaining the ownership of illegal weapons presents a criminal act which is punished with a fine up to 7,500 Euro and with a sentence up to 8 years of imprisonment.⁶³ The biggest ineptitude of this provision lies in the fact that the primary punishment is a fine, while the amount of secondary punishment is eight years of imprisonment. The possibility of delivering both punishments is not harmonized with the riskiness of committing this criminal offence.

“Is the provision [article 328, PCK] the most absurd in the world where the secondary punishment is foreseen up to 8 years of prison, whereas the primary punishment is with a fine.”

Due to this provision and very soft punishments policies by judges, over 90% of illegal owners of weapons have been given punishments in fines, other punishments, or have been released. Fine punishments have been delivered in the legal minimum, with the majority of fines up to recently, has been from 200-300 Euro.⁶⁴ The policy of these punishments has only stimulated illegal market of weapons and has hampered prevention of illegal possession of weapons.⁶⁵ Moreover such a policy of punishments presents an essential problem for the success of Strategy on Weapon Control and Collection of SALWs 2010-2012 since it favours illegal possession of weapons against going through bureaucratic and legal procedures to be provided with legally with weapons.⁶⁶ Despite the high number of persons accused for illegal possession of weapons during 2010 and 2011, only 3-7% have served an effective imprisonment. In these cases of imprisonment, judges have delivered the legal minimum of effective imprisonment.

62 Statistics of Regular Courts, Annual Report 2010, (Prishtinë: Secretary of Kosovo Judicial Council, 2010)

63 Penal court of Kosovo, Article 328, Assembly of the Republic of Kosovo .

64 IKD interview with Mr. Fejzullah Hasani, President of Kosovo Supreme Court, February 2012. Also, IKD interview with Mr. Isak Ademi, President of District Court in Prishtina, February 2012. Also, IKD interview with Mr. Jusuf Mejzini, Prosecutor in State Prosecution, February 2012.

65 According to the Head Prosecutor of Prosecution of Prishtina District, also the Office of Prosecution which has the highest number with cases of illegal possession of weapons, declares that judgements with imprisonment would result with 70% decrease of these negative phenomena. IKD interview with Mr. Aleksandër Lumezi, Head Prosecutor of Prishtina District Prosecution, March 2012.

66 IKD interview with Mr. Driton Gashi, Director of the Department of Public Safety, MIA, February 2012, also supra note 22.

	2010		2011	
Cases inherited from the previous year	1,600		1,751	
Received cases	900		1037	
Solved cases	749		1051	
Court Judgement	720		997	
Imprisonment punishment	53	7.08%	35	3.33%
Punishment with fines	545	72.76%	847	80.59%
Suspended sentence	110	14.69%	115	10.94%
Other punishments	12	1.60%	0	0.00%
Acquittal verdict	9	1.20%	11	1.05%
Refusing judgement	12	1.60%		0.00%
Other ways	9	1.20%	30	2.85%
Unsolved cases	1,751		1,737	

Table 3 – Policy of punishment for illegal possession of weapons (article 328, PCK)

From table 3 we can notice that for cases of illegal possession of weapons, despite sufficient evidence to proceed only with the judgement, they have been turned into unsolved cases transferred from one year to another. In District Court of Prishtina, which at the same time has the highest number of cases, it is obvious that the policy of punishment in more than 90% of cases, is with fines or suspended sentences, where the amount of fines varies from 300 up to 1,000 Euro. Only in 1-3 cases we have punishment with imprisonment. Judges qualify illegal Possession of weapons as a minor offence act and not a criminal act as it is foreseen with the criminal cone.⁶⁷ The following table reflects the manner how received cases have been treated separately in 2010 and 2011. Extremely disturbing issue was presented for outdated cases which deal with illegal possession of weapons. Only during this period of 2012, in the Prosecution of District Court of Prizren 12 submitted cases have arrived, where as consequence of non-implementation of fines those responsible for committing these crimes have been amnestied.⁶⁸

Year	Received	Fine	Condition	Imprisonment	Overruling	Appeal	Un solved
2010	381	141	16	2	6	8	208
2011	467	57	10	2	0	3	395

Table 4 – Policy of punishment in the District Court of Prishtina (article 328, PCK)

Kosovo Supreme Court is the institution that does unification of punishment polices. The practice of soft punishments by District Courts, in recent years has started to coarsen by the Supreme Court which in 2011, has coarsened 23% of cases. During this year, the Supreme Court has raises for 100% fines imposed by District Courts. It is notable that the policy of punishment by Supreme Court has been coarsened and simultaneously going towards unification. Appeals from Prosecutors are submitted rarely for illegal possession of weapons and their requests for coarsening of punishments until now are considered by the Supreme Court as requests for

67 According to Mr. Isak Ademi, illegal possession of weapons has been minor offence, but due to polices of the pre war regime this has been transferred to criminal act. Interview with Mr. Isak Ademi, President of District Court in Prishtina, February 2012.

68 IKD Electronic communication with Mr. Sylë Hoxha, acting Head Prosecutor of Prizren district Prosecution, March 2012.

coarsening the punishments and not as transfer of a fine into an effective imprisonment.⁶⁹ However fines show that practice of punishments for illegal possession of weapons has been implemented as if the illegal possession was a minor offence and not a criminal act.

Cases in the Supreme Court				
	2010		2011	
Received	70		99	
Outdated	35	50%	46	46%
Changed				
<i>Coarsened punishment</i>	5	7%	23	23%
<i>Relief of punishment</i>	7	10%	2	2%
<i>Only changed</i>	0	0%	3	3%
Annulled	16	23%	9	9%
Other ways	7	10%	2	2%
Unsolved	0	0%	14	14%
TOTAL:	70		99	

Table 5 –Illegal weapon possession in the Kosovo Supreme Court

7. Main Findings

Security responsible institution of Kosovo have still not managed to significantly decrease a high number of SALWs that circulate in the territory of Kosovo in order to put them under control. Even after a decade SALWs present a danger and serious concern for the security and life of citizens on Kosovo. SALWs keep remaining the main cause of the majority of homicides and different incidents.

Kosovo has marked progress in legal aspect and in establishment of advanced polices drafted in paper through the Law on Weapons and the Strategy on Weapon Control and Collection of SALWs in Kosovo. The Law has been accompanied with adoption of 17 administrative instructions that very specifically regulate all the rights, obligations and procedures of issuing weapons permits, as well as the issue of arms trade.

Agencies of law implementation have not responded in regard to this complete legal framework on control of SALWs. Key position for fictionalization and implementation of the strategy has not been filled by MIA, since a National Coordinator for SALWs has not been appointed. This presents an institutional failure in direction of effective implementation of the MIA strategy.

A serious problem in effective implementation of law and strategy is lack of common database of three rings of justice institutions including KP, State Prosecutor and Kosovo Judicial Council. This problem affects primarily directly on policy making, since accurate evaluation of

⁶⁹ Approach of the Supreme Court on this kind of interpretation is opposed by the district prosecutors, since the coating of punishment does not limit coating of the fine but is rather a wider term which includes effective imprisonment. IKD interview with Mr. Fejzullah Hasani, President of Kosovo Supreme Court, February 2012. Also, IKD interview Mr. Aleksandër Lumezi, head Prosecutor of District Prosecution in Prishtinë, March 2012. Also, IKD interview with Mr. Sylë Hoxha, acting Head Prosecutor of Prizren District Prosecution, March 2012.

stagnations and challenges is not provided of what should be continuously treated. Moreover, statistical data from KUCC show exactly the number of wounded and killed with firearms, which is not automatically incorporated in database of KP, despite information of the police on every case.

KP is facing with the lack of significant efficiency in proceeding documents of applicants for weapons permits, by dragging the already overly bureaucratic process. Moreover KP besides the administrative matter in this process has also a big responsibility in investigating, gathering of information as well as prevention of illegal market. These capacities of KP, including investigations, are still insufficient and have not given any results until now, as foreseen with the strategy. KP remains an institution with reactive approach and in no way is adopting an intelligence based method.

Two very important processes that are expected to do a major progress in putting SALWs under control are the process of legalization and amnesty. Implementation of these initiatives, however, requires fulfilment of conditions which do not exist for the moment, such as citizen trust, a high level for these initiatives as well as close and easy access to the gathering points. Moreover, the issue of north of Kosovo, where its citizens refuse implementation of Kosovo Laws presents a challenge for the other parts of Kosovo.

The court and prosecution system in Kosovo continues to have unserious approach and inadequate punishment policy in regard to the problem of illegal SALWs. Punishments issued for illegal possession of weapons in over 90% of cases are punishments in fines and conditions, despite legal provisions, which enable punishments with effective imprisonments up to 8 years. The practice until now of judges regarding punishments shows that illegal possession in Kosovo is considered and judged as minor offence of lower level.

8. Recommendations

For Kosovo Government:

- All actors involved on implementation of the Law on Weapons and the Strategy on Weapon Control and Collection of SALWs, should be coordinated in order to implement effectively these acts that ensure fight, prevention and control over SALWs. In order to achieve this success, exchange of information is necessary within legal and periodical settings.

For the Ministry of Internal Affairs:

- A national Coordinator should be urgently appointed for implementations of Strategy for SALWs. Actors involved, with an emphasis on KP should respond to action plans for periodical reporting. These reports should, also, serve in order to have implementation of the strategy such as development of further polices for control of SALWs.
- Legalization and amnesty should be organized at the same time throughout Kosovo, by not making territorial nor ethnic divisions. Actions for these initiatives should be preceded with and analysis and awareness campaign for citizens and at the same time mobilization of a wide spectrum of activists and civil society organizations, in order to advocate in this direction. An initial well specified planning is needed, where it is absolutely needed to

involve different institutions, including educational ones, so that through coordination of activities to have a comprehensive approach for voluntary delivery or legalization of weapons. Moreover, gathering points and weapons legalization should be as near as possible to the citizens so that it could enable legalization and amnesty within a short period and to avoid a possible danger to public security. Eventually, the capacities of training centres for target shooting should be analysed, if they correspond with the flux of candidates who could request weapons permits.

- Civil society organizations should become a part of initiatives to review the Strategy on Weapon Control and Collection of SALWs, so that a more active and higher participation of social society is provided in formulation and successful implementation of this strategy.

To Kosovo Police:

- KP should change its approach by undertaking actions for confiscation of SALWs based on intelligence information. While, they should urgently increase capacities for investigation so that they prevent any kind of danger that trafficking of illegal SALWs present. In the sphere of anti-smuggling IMB plays a significant role in controlling the borders. As a consequence the financial support for purchase of technology and capital investments needed for implementation of IMB in Kosovo should result with efficient increase of the level of security in the country.

For Justice Institutions:

- Prosecutors should specify in their appeals, the request for coarsening of effective imprisonment. On the other hand, judges should evaluate the risks of illegal weapons and deliver punishments with effective imprisonments or fines that reach the legally allowed maximum. Final verdicts in cases of illegal possession of weapons should be treated with a priority in order to achieve the aim of delivering verdicts and not to allow in any way their absolute prescription