



## The Legal Basis for the Use of Firearms by the Police of the Republic of Kosovo: A Comparative Analysis Between Kosovo, Albania, and EU Countries

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### **Abstract**

This study examines the legal standards and practices regarding the use of force by the police in Kosovo, Albania, and selected European Union countries. By analyzing national regulations and the jurisprudence of the European Court of Human Rights, the study emphasizes the importance of the principles of necessity and proportionality in the use of firearms by law enforcement authorities. Through a comparative analysis, key challenges and opportunities for harmonizing the legal framework with international standards are identified. The study provides concrete recommendations for improving police training, strengthening oversight mechanisms, and enhancing transparency in law enforcement while ensuring the protection of human rights and freedoms. Ultimately, it aims to contribute to the academic and professional debate on balancing public security and human rights by promoting reforms for a more effective and accountable approach in this field. In conclusion, this study seeks to contribute to academic and professional discussions on the need for a clear and harmonized legal framework for the strict use of firearms by the police, ensuring a balance between security and human rights.

**Keywords:** *Use of Force; Proportionality, Necessity; Police; Human Rights; Legislation; European Court of Human Rights; Transparency; Legal Reforms*

### **Introduction**

The use of firearms by the Kosovo Police is a crucial aspect of police operations and security institutions. While the primary goal of the Kosovo Police is to ensure public safety and maintain legal order, the use of force-particularly firearms-remains one of the most sensitive and debated measures in

law enforcement (Rks-gov.net, 2015). The police often face situations where the decision to use firearms must be made within seconds, taking into account the protection of their own lives, their colleagues, citizens, and even suspects against the presented threat. Such decisions can have serious consequences for both police officers and the public (Kim, 2018).

International standards, such as those established by the United Nations and the Council of Europe, require that the use of force and firearms by the police be restricted, proportional, and applied only as a last resort when all other alternatives have been exhausted. Therefore, the legal regulation of this aspect is essential to balance the need for security with the respect for human rights.

In many cases, the police face critical situations where the decision to use firearms must be made within seconds. This immense pressure makes it necessary to address this issue within a clear legal framework that provides law enforcement officers with precise guidelines on the use of firearms. For example, a police officer may find themselves in a direct confrontation with an armed suspect or dealing with an individual posing an immediate threat to civilian lives. In such circumstances, a swift response is essential, but it also carries significant legal, moral, and professional responsibilities to prevent and neutralize threats to public safety (Universal Declaration of Human Rights, 1998).

## **Ethical and Legal Dilemmas Related to the Use of Deadly Force**

Decision-Making in the Use of Force – Firearms by the Police: Ethical and Legal Dilemmas:

The decision to use force-especially firearms-by the police raises a series of ethical and legal dilemmas. Some of the key issues include:

Principle of Proportionality – When is the use of firearms justified?

Principle of Necessity – Were there alternative solutions available before resorting to the use of firearms?

Legal Responsibility and Accountability – How are cases of firearm misuse by law enforcement officers addressed?

Disciplinary Responsibility – The strict implementation of normative acts governing the use of firearms by police officers is crucial for improving lawful police actions.

Public Perception of Firearm Use by the Police – Does this practice foster trust or fear among citizens?

In many countries, excessive use of force has led to severe criticism of security institutions, while cases of abuse have resulted in the erosion of public trust in the police. This study aims to analyze how different countries regulate this issue to ensure a balance between the need for order and fundamental human rights.

## **Objective of the Study**

The main objective of this study is to analyze and compare the legal regulations on the use of firearms by the police in Kosovo, Albania, and selected European Union countries. This analysis aims to:

- Examine the legal framework governing the use of firearms by the police in each of these countries.
- Identify similarities and differences in legal approaches and enforcement practices.
- Assess whether these regulations comply with international human rights standards.
- Provide recommendations for improving the legal framework in the analyzed countries.

### **Research Methodology**

To achieve the study's objectives, the following research methods will be utilized:

**Legislative Analysis** – A review of laws and regulations governing the use of firearms by the police in Kosovo, Albania, and selected EU countries.

**Normative Comparison** – Identifying differences and consistencies between the legal frameworks of the analyzed countries and international standards (Morina, Curri, & Curri, Treatment Of Rape In Kosovo From 2019 -2021: Quality Assurance, Legal And Forensic Aspects, 2023).

**Case Study Analysis** – Examining specific cases where law enforcement officers have used deadly force to understand the practical application of legal provisions.

**Review of Academic Literature and International Reports** – Exploring scholarly research and global reports to assess the positive and negative effects, as well as the challenges, of police firearm use.

Additionally, this study will analyze real-world cases where police forces worldwide, including those in the Republic of Kosovo, have used firearms.

### **International Standards and Basic Principles**

The use of force by law enforcement officials is not only a national issue but also a topic of international importance. For this reason, various international organizations have established standards and protocols to ensure a balance between maintaining public order and respecting human rights.

One of the most important documents in this field is the Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in 1979. This document states that the use of force by the police must be limited and proportionate, being used only when absolutely necessary.

Similarly, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN-UNIVERSAL INSTRUMENT, 1990) set strict criteria for the use of firearms:

**Necessity** – Firearms should only be used when all other alternatives have failed and when there is a serious threat to life.

**Proportionality** – The force used must be proportional to the threat posed.

**Accountability and Transparency** – Every use of firearms must be reviewed and justified by the relevant institutions.

At the European level, the European Convention on Human Rights (Articles 2 and 3) sets limits on the use of lethal force, emphasizing that the police may not use firearms except in situations where it is necessary to protect life or to prevent a serious crime. The European Court of Human Rights has dealt with several cases where it examined whether the police used force in accordance with these standards (Lock, 2025).

### **Challenges and Problems in Practice**

Although clear regulations exist regarding the use of force, challenges in their implementation remain numerous. Some of the most prominent issues include:

- **Misuse of Force by Law Enforcement Officials** – In some cases, force has been used unjustifiably or disproportionately, causing serious consequences.
- **Lack of Specialized Training** – One of the key factors influencing how law enforcement officials use firearms is the level of training they receive. In some countries, the lack of advanced training for handling dangerous situations leads to poor decision-making (Moncrieff, 2023).
- **Impact on Public Perception** – When the police use lethal force, a public debate arises regarding the legitimacy of their actions. This can lead to a loss of public trust in the police, especially if cases of force use are not properly investigated.

### **The Use of Firearms in the Context of Modern Security**

In the modern era, the use of firearms by law enforcement officials has evolved due to changes in the nature of security threats. With the rise of terrorist attacks (Morina M. , Curri, Krasniqi, & Azemi, 2023), organized crime, and hostage situations, the police are facing new challenges. In some countries, the use of non-lethal weapons, such as electric stun guns (tasers), tear gas, and rubber bullets, has increased as a safer alternative to control dangerous situations without causing fatalities, achieving objectives efficiently and effectively.

Furthermore, the use of technology, such as body cameras, has helped enhance accountability and transparency. In many countries, the recording of police interventions has reduced complaints about the misuse of force and increased public trust in law enforcement.

### **Comparison of Legislation: Kosovo, Albania, and the European Union**

#### **Kosovo**

In Kosovo, the use of force by police officers is regulated by Law No. 04/L-076 on Police (Ligji NR. 04/L-076 për policinë, 2012) and Administrative Instruction No. 02/2012 on the Use of Force by Police Officers, as well as Administrative Instruction No. 03/2012 on the Use of Firearms by Police Officers. According to these acts, the use of force must be proportionate and necessary in relation to the given situation. The use of firearms is permitted only as a last resort, when all other non-aggressive methods have been exhausted and when it is absolutely necessary to protect the life of the officer or others from an immediate and unavoidable threat (Policia e Kosovës, 2012).

#### **Albania**

In Albania, the use of force by the police is regulated by Law No. 108/2014 "On the State Police." This law stipulates that the use of force must be proportional to the presented threat and should only be used when necessary. The use of firearms is permitted only in extreme circumstances, such as self-defense or the protection of citizens' lives, and only after all other possible means have been exhausted. (Ligji për Policinë e shtetit , 2014).

### **Legislation of the European Union Member States**

In EU countries, laws on the use of force by the police are based on the principles of necessity and proportionality, in accordance with international human rights standards. For example, in Germany, the use of force by the police is regulated by the public security laws of each federal state (Land), which specify that force must be used only when necessary and in a manner proportional to the threat presented. (ohne Autor, 2013). In France, the Internal Security Code stipulates that the use of force by law enforcement must be proportional to the risk and used only when necessary to protect public order or for self-defense (NCJRS Virtual Library, 1993).

## Case Study: Use of Firearms by The Kosovo Police

### Case 1: Use of Firearm in Self-Defense – Gjilan, 2019 (Media Fokus, 2021)

Description: On December 29, 2019, in Gjilan, police officer Vllaznim Hamdiu was involved in an incident where he used his service firearm, fatally shooting citizen Lulzim Spahiu. According to reports, the officer fired at the driver of a truck during a routine stop, claiming self-defense.

#### Analysis

**Legality:** The Basic Court in Gjilan sentenced Vllaznim Hamdiu to 25 years of imprisonment for the criminal offense of aggravated murder, concluding that the use of the firearm was unjustified and exceeded the limits of self-defense.

**Public Impact:** The case sparked widespread public debate on the use of force by the police and the need for more advanced training in managing tense situations.

### Case 2: Use of Firearm in Self-Defense – Gjilan, 2023

Description: On June 2, 2023, in Gjilan, a police officer used his firearm against a suspect who attempted to strike him while performing his duties. According to the police report, the officer fired the weapon in self-defense.

#### Analysis

**Legality:** The case was investigated by the relevant authorities to determine whether the use of the firearm was in accordance with standard procedures and whether the officer had acted in legitimate self-defense.

**Public Impact:** This incident brought to attention the importance of continuous training for police officers in managing dangerous situations and the proportional use of force.

These cases illustrate the challenges faced by police officers in Kosovo while carrying out their duties and the importance of adhering to protocols on the use of force to ensure public safety and the protection of human rights.

**Case 3: Use of Firearms –Istog 2018** (Rasti i grabitjes në Istog ku mbeti i vranë polici, njëri i akuzuar pranon se ndihmoi grabitësin, për tjetrin pushojnë hetimet, 2019)

On December 27, 2018, in the city of Istog, a tragic incident occurred during an armed robbery at the NLB bank branch. While attempting to stop the robber and protect the citizens and bank employees, police officer Izet Demaj, 42, was fatally shot by the robber Kamer Metaj. In this confrontation, the robber Metaj was also killed.

#### Analysis

**Legality:** Police officer Izet Demaj acted in accordance with his duties to protect the lives of citizens and prevent the crime. His use of the firearm was a response to the direct threat posed by the armed robber, encountering a situation where the robbery suspect fired at the officer. As a result, Officer Demaj tragically lost his life while carrying out his duty.

**Public Impact:** This incident shocked the public opinion in Kosovo and sparked discussions about the risks faced by police officers while performing their duties. In honor of his sacrifice, the

Government of Kosovo declared a day of mourning and allocated a symbolic sum of 15,000 euros to his family.

This case highlights the dangers and challenges faced by law enforcement officers in their efforts to protect the community and maintain public order.

### **Case Studies Addressed by the International Court of Human Rights**

#### **Case of Nachova and Others vs. Bulgaria (Bulgaria, 2002)**

**Facts:** In this case, two Roma individuals were shot and killed by Bulgarian police during an attempt to arrest them for desertion from the army.

**Main Issues:** The Court considered whether the use of deadly force was necessary and proportional, as well as whether there were elements of racial discrimination in the authorities' actions.

**Decision:** The Court found violations of Article 2 (Right to Life) and Article 14 (Prohibition of Discrimination) of the Convention. It noted that the use of deadly force was not absolutely necessary, and the authorities had failed to adequately investigate the possible racial motives behind the incident.

#### **Case of Makaratzis v.s Greece (CASE OF MAKARATZIS v. GREECE, 2004)**

**Facts:** The applicant, a Greek national, was involved in a police chase during which police officers fired at the victim, causing serious injuries.

**Main Issues:** The Court examined whether the use of force by the police was justified and in accordance with the standards of Article 2 of the Convention.

**Decision:** The Court found a violation of Article 2, arguing that the police had used excessive force and that there was no clear legal and procedural framework for the use of firearms by Greek police officers.

These cases underscore the importance of the proportional and necessary use of force by law enforcement authorities, as well as the need for effective investigations in cases involving the use of deadly force.

### ***Recommendations for Improvement***

All these laws share common principles regarding the use of force by the police: necessity, proportionality, and the use of firearms as a last resort. However, the practical implementation of these principles may vary.

To further improve legislation and practice in this area, the following recommendations are suggested:

**Continuous Training:** Police officers should receive regular training on the use of force and firearms, focusing on techniques for controlling situations and managing tense scenarios without resorting to force.

**Oversight and Accountability:** Establish independent mechanisms to oversee cases involving the use of force and ensure accountability in instances of abuse.

**Legislation Updates:** Conduct periodic reviews of legislation to ensure alignment with international standards and best practices.

**Incorporation of Technology:** Utilize devices such as body cameras to document police interactions with the public, enhancing transparency and trust.

Educational Lectures in Schools: Organize lectures in primary and secondary schools about the negative aspects of firearm use.

By following these recommendations, countries can achieve a better balance between maintaining public order and respecting human rights.

### Conclusion

The use of firearms by law enforcement officers is a critically important issue for public safety and the protection of human rights. While the use of force is often necessary to prevent significant risks, it must always be in compliance with legal, ethical, and professional standards.

International laws and regulations require that firearms be used only as a last resort and in a proportional manner. However, the challenges in enforcing these rules remain numerous and demand ongoing efforts to ensure that law enforcement officers are properly trained and held accountable for their actions.

In the continuation, a comparative analysis of legislation in Kosovo, Albania, and several EU countries will provide a clearer picture of how this issue is regulated in different countries and what can be improved in this regard.

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