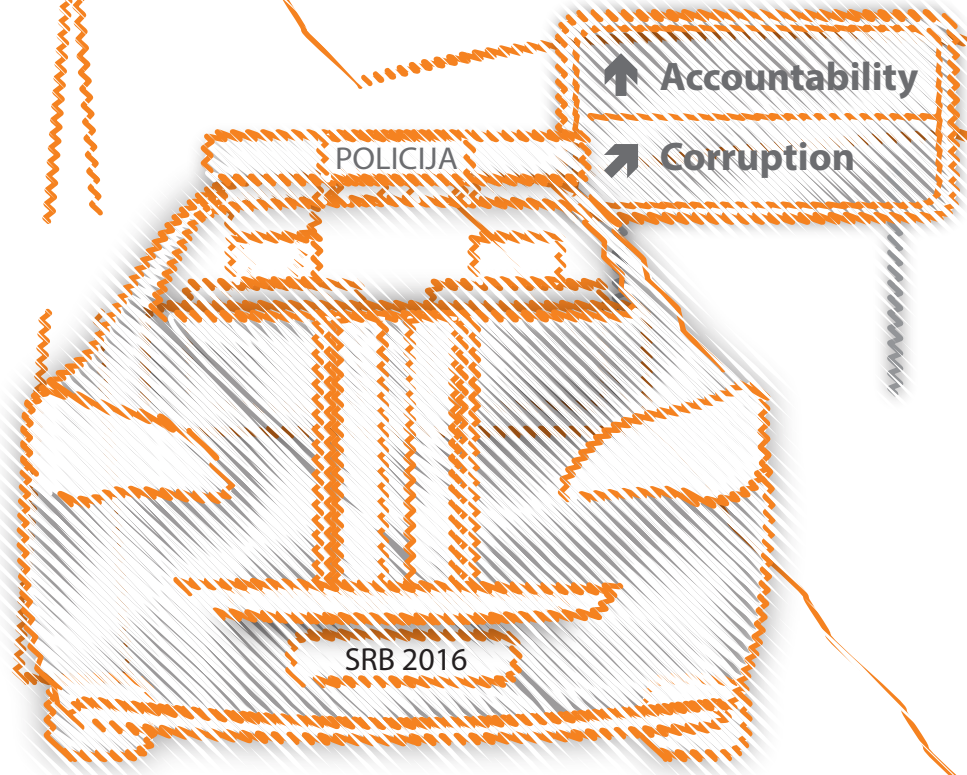


The European Union's "Civil Society Facility" program  
for civil society organizations associations



# ASSESSMENT OF POLICE INTEGRITY IN SERBIA



The publication is  
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**POINTPULSE**   
WESTERN BALKANS PULSE FOR POLICE INTEGRITY AND TRUST



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# **ASSESSMENT OF POLICE INTEGRITY IN SERBIA**

## **ASSESSMENT OF POLICE INTEGRITY IN SERBIA**

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### **About the Report**

The Report is published as part of the Action “Western Balkans Pulse for Police Integrity and Trust: POINTPULSE”. The Action is supported by the European Union through the program “Civil Society Facility” under the Instrument for Pre-Accession Assistance (IPA). The contents of the Report are the sole responsibility of the Belgrade Centre for Security Policy and views expressed in this document are not necessarily those of the European Union.

### **About the POINTPULSE**

The POINTPULSE aim to contribute to increased trust in the law enforcement agencies in the Western Balkans by promoting police integrity. Seven civil society organizations are members of the POINTPULSE: Analytica, Belgrade Centre for Security Policy, Balkan Investigative Reporting Network, Centre for Security Studies, Institute Alternative, Institute for Democracy and Mediation and Kosovo Centre for Security Studies.

Belgrade, 2016

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# LIST OF ABBREVIATIONS

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Agency	Anti-Corruption Agency
BCSP	Belgrade Centre for Security Policy
Commissioner	Commissioner for Information of Public Importance and Personal Data Protection
CPA	The Academy of Criminalistic and Police Studies
CPC	Criminal Procedure Code
EU	European Union
ICS	Internal Control Sector
Mol	Ministry of Interior
MPs	Members of the Parliament
RS	Republic of Serbia
SAI	State Audit Institution

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# INTRODUCTION

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The fourth assessment of the police integrity in Serbia covers the period from December 2015 to December 2016. To ensure the basic role of the police – maintenance and improvement of the safety of citizens – the Belgrade Centre for Security Policy has been regularly examining the integrity of the police since 2012. In addition to the above, the police are legally obliged to fight corruption, among other things, and they cannot successfully perform this task if they do not have the integrity necessary to prevent their own personnel from becoming susceptible to corrupt behaviour.

The integrity assessment opens up a discussion of the abuse of police powers, corruption in the police force, and misconduct of police officers. Studies conducted in various democratic countries show that management of the police and police culture are the most important factors that influence the officers' behaviour. Therefore, the focus of this study is to assess the institutional integrity of the police, i.e. the effectiveness of the reform and managerial moves in the police aimed at making it an accountable and transparent service oriented towards the citizens. We did not analyse whether the reforms at the organisational level have produced effects at the level of individuals, or if they have changed the police culture, as we have not had access to data required for this level of analysis.

The research methodology was improved, compared to the last year's study. Two areas – transparency and management – which have been studied in detail in 2015<sup>1</sup> now represent integral parts of each field of integrity observation. Within them, we analysed the steps forward as well as the problems, in both legal and practical terms. Based on this methodology we have identified five areas of integrity observation: 1) external oversight, 2) police accountability, 3) human resources management, 4) financial management, and 5) criminal accountability. The last area is completely new and it served to assess a formal possibility for criminal prosecution of members of the police force for their corruption activities.

The research was conducted based on the content analysis of regulations, reports of various state bodies, international organisations and police unions, public opinion poll,<sup>2</sup> and on the basis of public information obtained from the institutions of the criminal justice system in Serbia. We also used different media content. Unlike last

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1 Bojan Elek, Dunja Tasić, Saša Djordjević. 2015. *Integrity Assessment of the Police Force in Serbia*. Belgrade: Belgrade Centre for Security Policy. <<https://goo.gl/4nfrlh>>.

2 Aurelija Djan. 2016. *The Citizens' Opinion of the Police Force - Results of a Public Opinion Survey Conducted in Serbia*. Belgrade: Belgrade Centre for Security Policy. <<https://goo.gl/n262Ew>>.



year, no consultations were held with representatives of the Ministry of Interior in this round of research, as the Cabinet of the Minister did not approve our request. This fact indicates a reduced willingness of the Ministry to participate in a dialogue with civil society organisations on the topics of accountability and improving the fight against corruption. By using many diverse data sources, the research team tried to provide the best possible assessment of the integrity of the police force. The report includes 24 recommendations to strengthen the integrity of the police.

The Report was produced as part of the project titled “Western Balkans Pulse of Police Integrity and Trust: POINTPULSE.” The project is supported by the European Union through the program "Civil Society Facility" for the network of civil society organisations under the Instrument for Pre-Accession Assistance (IPA). The contents of the Report are the sole responsibility of the Belgrade Centre for Security Policy and views expressed in this document are not necessarily those of the European Union.



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## SUMMARY

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The integrity of the police force in Serbia has weakened. Only three percent of the citizens of Serbia believe that there are no corrupt officers, and seven out of ten feel that corruption in the police does exist. Since 2008, the Internal Control Sector has been filing an average of 130 criminal charges against police officers annually. A steady increase in the number of filed criminal charges is a good development, but what is worrisome is the fact that this number is still small compared to the citizens' high perception of police corruption. Inability to find out the court epilogue of the criminal charges filed is an even bigger problem.

The adoption of the new Law on Police was the main reform step in 2016. The legal framework for human resources management and parliamentary control of the police has been improved, but the system of internal control is still lacking. The principles of operational independence of the police are only formally promoted in the introduction to the Law, while numerous possibilities that remained in the rest of it allow the political leadership to exert influence on the actions of the police. New anti-corruption measures have been introduced, such as the integrity test and verification of financial status, but these have not been prescribed with precision. The deadline for the adoption of dozens of by-laws to ensure full implementation of the Law expires in February 2017.

The vast majority of citizens (76%) believe that the work of the police is politicised. Politicians are revealing details of pending investigations. The fact that the police failed - as a result of orders from the top - to respond to the calls from citizens during the demolition of buildings in the Belgrade neighbourhood of Savamala, and that this case has not yet been resolved, shows that not everyone in the police force is resistant to crime and politics. For this reason, one should not be surprised by the attitude of the European Union, which is requesting detailed steps that will ensure operational independence of the police.

The study has identified five main groups of findings. Parliamentary oversight of the police is not effective despite the adoption of the new Law on Police, which has improved the solutions in this area by enabling members of the Parliament to, inter alia, monitor the legality of special investigative measures such as wiretapping. The impact of independent state institutions, which are not able to influence the implementation of their recommendations by the police, has been limited. The level of cooperation between the Ombudsman and the Ministry of Interior has been reduced.



The first comprehensive report on the work of the Internal Control Sector which included information on the number of applied special investigative measures has been published, which is a precedent in Serbia. Still, the internal police control system has not been established in a satisfactory manner. Competencies of the five different internal police controllers have not been delimited, and there are no clear coordination paths. Statutory, organisational and resource assumptions that would make the Internal Control Sector independent in its actions are still missing.

The initial requirements for human resources management in the police force have been met. The Human Resources Sector has begun to operate and the new Law on Police has largely prescribed the rules of hiring and promotion. Still, major decisions are made by the Minister of Interior. The appointment of the new Director of Police has been delayed, while the old one was dismissed under unclear circumstances. The process of reducing the number of employees in the MoI was completed quickly, randomly and without a plan.

Improvement of public safety is uncertain, as the MoI budget has a social character and its assets were often used for other purposes over the course of the year. The costs of fines and penalties based on court decisions taken in labour disputes are growing, and not enough attention is paid to the quality of purchased goods. The Republic Prosecutor's Office does not keep separate statistics on the number of criminal charges filed against police officers, and it is therefore impossible to know how the judiciary resolves cases of police corruption since there are no publicly available data on the number and ranks of officials against whom criminal reports have been filed, the nature of the offences, or the outcome of the proceedings.

There are three key recommendations that need to be implemented to improve the integrity of the police in the upcoming period. Police operations must be implemented without political influence and internal control of the police must be independent in its work. Changes to human resource management must be introduced transparently and interference of the political leadership must be reduced.



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# EXTERNAL OVERSIGHT

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*Author: Bojan Elek*

Parliamentary oversight of the police is not effective despite the adoption of the new Law on Police which prescribed greater powers of MPs. The effect of independent state institutions is limited because they are unable to affect the implementation of their recommendations in the Mol.

External control and oversight of the police is the key feature of democratic societies. It serves to prevent abuse and strengthen the integrity of the police. External oversight and control of the police – the way they are discussed in this report – include activities carried out by the National Assembly primarily through the Committee on Defence and Internal Affairs (hereinafter referred to as: the Committee). They also encompass the control and oversight roles played by independent state institutions, first and foremost the Ombudsman, but also the Commissioner for Information of Public Importance and Personal Data Protection (Commissioner), the State Audit Institution (SAI), and the Anti-Corruption Agency (Agency).

## **Parliamentary control exists only “on paper”**

After the early elections in April 2016, MPs who entered the National Assembly came from a much greater number of parties than was the case in the previous composition, and it was expected that this would strengthen the oversight role of the Parliament and encourage discussion of important topics. This, however, did not happen. The role of the Parliament has been reduced to the enactment of laws, most often by way of emergency procedure,<sup>3</sup> and the acclamation of proposals coming from the executive branch. This was not the case with the Law on Police, which was the subject of five public debates in 2015 and the interested public was able to submit their comments on the Draft Law electronically. However, its adoption has been promised to the public four times in the course of 2015.

The institute of parliamentary questions is not used frequently. The Rules of Procedure provide that parliamentary questions may be posed every last Thursday of the month from 4:00 to 7:00pm, during a regular session of the Parliament and if there is a session scheduled on that day.<sup>4</sup> This allows the Speaker of the Assembly to avoid questions

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3 “Most laws are enacted by urgent procedure,” 30 December 2016, < <https://goo.gl/PdGFBF> >.

4 Article 205, Rules of Procedure of the National Assembly, “Official Gazette of the RS” No. 20/2012 - consolidated text.



posed to the Government by never scheduling a session on the last Thursday of the month. This practice has been in use for several years now.<sup>5</sup> Under the current parliamentary convocation the Government has responded to MPs' questions only once, and only three times in two years under the previous composition.

In October 2016, nine MPs seized the opportunity to use the institution of parliamentary questions.<sup>6</sup> The subject of the questions was police work, but mostly from the perspective of daily events. One of the questions posed, for example, concerned the arrest of an employee of the Criminal Police for disclosing information to foreign services, while the other addressed the willingness of the police to solve the problem of sports hooliganism in Serbia.

The parliamentary majority avoids discussing sensitive topics by outvoting the opposition MPs. A good example of this is the refusal to include in the Parliament's agenda the item in the context of which it was proposed to establish a committee to explore the events related to the Savamala case.<sup>7</sup> Additionally, the good practice of appointing MPs belonging to opposition parties as heads of Committees has been abandoned.

The new Law on Police, adopted in late January 2016, vested the Committee on Defence and Internal Affairs with new powers and the ability to exercise effective control of police work. The Committee can now oversee the legality of the special investigative measures defined in the Criminal Procedure Code, the measure of targeted search and the integrity test. This is a significant improvement, considering that earlier competencies of the Committee – according to Committee members – significantly limited its control function.<sup>8</sup> However, although new possibilities do exist, they are not applied in practice and the role of the Committee is primarily reduced to the consideration of draft laws and periodical reviewing of MoI reports.

#### Box 1: New competencies of the National Assembly of the Republic of Serbia

The National Assembly oversees the work of the Ministry directly and through the competent Committee in charge of internal affairs. The Committee, in particular: reviews semi-annual and special reports on the security situation in the Republic of Serbia; reviews regular and special reports on the work of the Ministry; reviews annual reports on the work of the Internal Control Sector; oversees the legality of spending of budget and other

5 Vladimir Erceg. 2014. *Parliamentary questions as a mechanism for parliamentary control of the security sector*. Belgrade: Belgrade Centre for Security Policy, pp. 10-11.

6 "Parliamentary questions in October," 27 October 2016, <<https://goo.gl/tckBF3>>.

7 For more information on the "Savamala" case, see Box 2.

8 Bojan Elek, Dunja Tasić, Saša Djordjević. 2015. *Integrity Assessment of the Police Force in Serbia*. Belgrade: Belgrade Centre for Security Policy, pp. 41-42. <<https://goo.gl/4nfrih>>.



resources; oversees the legality of the implementation of special investigative measures defined in the Criminal Procedure Code, the measure of targeted search and the integrity test; oversees the respect of political, ideological and interest neutrality in the work of the police; establishes the facts of the illegalities or irregularities identified in the work of the Ministry and adopts appropriate conclusions; reports to the National Assembly on its conclusions and suggestions. The Minister, or a person authorised by him, submits to the Committee a semi-annual report on the security situation in the Republic of Serbia, as well as a regular report on the work of the Ministry. When necessary or at the request of the Committee, the Ministry also submits special reports to the Committee.

In 2016 the Committee held a total of 12 meetings: 8 in the first quarter, one in May when the Committee considered the Government's Negotiating Position for Chapter 24, and only three during the current convocation of the Parliament. At the third meeting, held on 31 October 2016, the Committee jointly considered the quarterly information on the work of the Ministry of Interior for the period from January to September that year. At this meeting the opposition MPs expressed their dissatisfaction with the fact that the information did not contain anything about the case of Savamala;<sup>9</sup> still, said information were adopted by majority vote.

The reports presented by the Ministry of Interior at Committee meetings are not available to the public, which prevents the general public from becoming acquainted with the results of the work of the Ministry of Interior and hinders systemic performance monitoring. Under the new Law on Police (Article 6) the Ministry of Interior is obliged to publish on its website quarterly information on its work, as adopted by the competent Committee. However, these reports are not available on the Internet. It is commendable that it is possible to follow the meetings through the website of the National Assembly,<sup>10</sup> and that the major decisions and the minutes are available on the website of the Open Parliament.<sup>11</sup>

In October 2016 the BCSP submitted to MoI a request for access to public information, in which it sought insight into the quarterly information for 2014, 2015 and 2016. In the reply it was stated that “we do not possess a document that has been adopted by said body and we are thus informing you that you may contact the competent committee concerning the requested information.”<sup>12</sup> Based on such a response it is not possible to understand how the MoI plans to fulfil its statutory obligation which requires it to publish quarterly reports prepared for 2016 on its website.

9 “Not a single word on the demolitions in Savamala in the MoI report,” 31 October 2016, <<https://goo.gl/v4ekYC>>.

10 See: <<https://goo.gl/zw74GQ>>.

11 See: <<https://goo.gl/sORCXN>>.

12 MoI's response, 02/5 number: 1152/16-5 of 14 November 2016.



## A decline of cooperation with the Ombudsman

The new Law on Police missed the opportunity to explicitly list the Ombudsman as an external control body, although it did so with some other institutions.<sup>13</sup> Although failure to mention the Ombudsman has no influence on his powers as they are guaranteed by the Constitution and other laws, such a solution may adversely affect his preventive and control function.

In his regular annual report, the Ombudsman stated that out of the total of 1,497 complaints filed in 2015 concerning the work of the Ministry, 551 i.e. one third (36.81%) referred to the MoI. This is simultaneously a significant increase (67%) compared to the previous year, when there were 330. Of the complaints received in 2015, 188 referred to police work and 113 to administrative tasks. In the same period, the Ombudsman conducted 40 visits to police departments, found shortcomings on five occasions and submitted four recommendations to MoI.<sup>14</sup> The Ombudsman also controlled police work in 2016, and the case of Savamala<sup>15</sup> and the result of failure of the police department in Novi Pazar to act in connection with the demolition of an illegally constructed building<sup>16</sup> are both worth a closer look.

### Box 2: The Savamala case

Although seven months have passed, the Ministry of Interior has yet to act on recommendations of the Ombudsman in connection with the case of the demolition of buildings in the Belgrade neighbourhood of Savamala. This represents a violation of the Law on the Ombudsman. The Ministry was obliged to either notify the Ombudsman as to whether it had complied with the recommendation and eliminated the identified irregularity, or inform him of the reasons why it had not acted in accordance with the recommendation, no later than 60 days after receiving it.<sup>17</sup>

The Savamala case concerns an incident that occurred on the night of the elections, in the early hours of 25 April in the homonymous part of Belgrade. A group of about 30 masked men occupied Hercegovačka Street, unlawfully and using force and threats arrested several individuals who were present at the location, confiscated their mobile telephones and prevented their movement. During that time excavators levelled private, mostly office, buildings in the street. Despite the fact that several people called the police and

13 "Opinion on the Draft Law on Police ref. No. 1153," 8 January 2016, <<https://goo.gl/xCrgp9>>.

14 Ombudsman. 2016. *Annual Report of the Ombudsman for 2015*. Belgrade: Ombudsman.

15 "Report based on the procedure of controlling the legality and regularity of the work of Ministry of Interior, ref. No. 17008", 9 May 2016, <<https://goo.gl/KaFXr8>>.

16 "Jankovic: The law should apply equally to all citizens," 16 November 2016, <<https://goo.gl/RuHb1Y>>.

17 Article 31, Law on the Ombudsman. "Official Gazette of RS," No. 79/2005 and 54/2007.





reported the case, the police did not intervene and police officers on duty, on orders “from the top” kept referring the citizens to the Police.

Having carried out the control procedure, the Ombudsman found that “shortcomings in the work of the police officers and the institution itself were not the result of failure of an individual, but have apparently been organised and carried out based on a previously prepared plan and previously issued orders,” and that the issue at hand represented an organised violation of citizens' rights which was coordinated at several levels among the state and non-state actors. The fact that certain senior officers gave false statements during the control process and that not all the information and documents were made available for inspection is particularly worrisome, suggesting an attempt to cover up the truth about this case. The Ombudsman submitted recommendations requesting, among other things, that the MoI take action to identify the perpetrators as soon as possible, and that it initiate a process of internal control to determine the failures in the work of the police. The report and recommendations were published on 9 May 2016.

The fact that the entire case is still in the pre-investigative stage at the Prosecutor's Office, and that the Internal Control Sector did not perform control to identify the failures in the work of the police happens to be additionally defeating. Attempts to establish a parliamentary inquiry committee to deal with this case have been prevented by the parliamentary majority's refusal to include this question in the agenda. Representatives of the executive are continuing to relativise the case, and there have been some sharp attacks on individuals or organisations that have commented about this case to the public, including the activists of the initiative 'Let Us Not Drown Belgrade,' representatives of the OSCE mission in Serbia, and Head of EU Delegation in Serbia.

There are quite a few problems that affect the effectiveness of the control exercised by the Ombudsman over the police.

First of all, a mechanism to ensure implementation of the recommendations has yet to be established. Recommendations are binding, but are impossible to enforce without the active support of the Government. Although the Government is obliged to report to the National Assembly on the fulfilment of the recommendations once every six months, it does not do it. In 2015 the Ombudsman and the Prime Minister used to hold regular monthly meetings, but this year such practice was discontinued.

Also, effective control of the police by the Ombudsman is based on the assumption of cooperation with the MoI, which has been estimated as very good in 2014;<sup>18</sup> however, first signs of its deterioration were noted in the following year.<sup>19</sup> It seems that cooper-

18 “Regular Annual Report of the Ombudsman for 2014,” 14 March 2015, p. 17, <<https://goo.gl/wllFrg>>.

19 “Regular Annual Report of the Ombudsman for 2015,” 15 March 2016, p. 274, <<https://goo.gl/j9Fx3y>>.



ation further deteriorated in 2016, since effort was made to hide certain information concerning the Savamala case during the related control process.<sup>20</sup>

Finally, treatment of the Ombudsman by certain tabloid media is also a problem; such treatment influences the creation of a bad image of the Ombudsman in the public, which may negatively affect this institution's control function. Insinuations that the Ombudsman has a criminal past and that his conclusions are politically coloured undermine his integrity in public, thus preventing control of legality and assessment of integrity in police work. Frequent verbal attacks of the ruling majority MPs,<sup>21</sup> the initiative to reduce the Ombudsman's salary,<sup>22</sup> attribution of affairs, and presentation of the Ombudsman as a person serving foreign interests<sup>23</sup> are just a few examples. The National Assembly did not consider the annual reports of the Ombudsman for 2014 and 2015.

### Good cooperation with the Commissioner

Control of the work of the MoI performed by the Commissioner refers to two areas: free access to information of public importance and personal data protection. Free access to information is one of the main instruments that allow for greater transparency of the institution, and it is considered the best preventive mechanism against corruption. Protection of personal data is important for the integrity of the police, as disclosure of personal information in the possession of the police could jeopardise the presumption of innocence. It can also jeopardise the reputation of individuals or give them unfair advantage, or even weaken an investigation in the event of information leakage.

As regards access to information of public importance, in 2015 the MoI received a total of 3,020 requests, which makes up one-third of the requests submitted to all the ministries. The Ministry of Interior is traditionally also the institution that receives the most requests, with the trend of steady growth. At the same time, 254 appeals have been filed against the MoI, which is significantly less (18%) in comparison to the previous year when there were 310 such appeals.<sup>24</sup> Assuming that an appeal has been

20 "Report based on the procedure of controlling the legality and regularity of the work of Ministry of Interior, ref. No. 17008", 9 May 2016, p. 3, <<https://goo.gl/KaFXr8>>.

21 "SNS: Janković is a ward heeler and a fake Ombudsman," 14 December 2016, <<https://goo.gl/oQm-l6g>>.

22 "Djukanović is advocating a reduction of Ombudsman's salary," 5 December 2016, <<https://goo.gl/GNa3jH>>.

23 "It is now clear to everyone that Janković is a ward heeler who is abusing public office," 26 November 2016, <<https://goo.gl/4MkSV6>>.

24 Commissioner. 2016. *Regular Annual Report for 2015*. Belgrade: Commissioner for Information of Public Importance and Personal Data Protection.



filed in each case when there has been no response to a request, it can be concluded that efficiency has increased. The new Act on the Systemisation of Job Positions in the MoI of August 2015 envisaged hiring additional staff in the Information of Public Importance and Personal Data Protection Department, which has been suffering from a lack of human resources. However, during our research we were unable to find out whether new staff has been employed and thus infer that this must have been what caused greater efficiency, as expert consultations with the MoI that serve to verify such findings were never held.

**Table 1: Status of requests for access to information of public importance received by MoI**

Year	2012	2013	2014	2015
Number of requests	1769	1867	2561	3020
Increase compared to the previous year (%)	33	5,5	37,18	18
Number of Commissioner’s appeals	46	237	310	254

Although the MoI received the Commissioner’s award for the best Information Booklet<sup>25</sup> for the second time, much can still be done to improve the transparency of work. For example, proactive disclosure of documents and reports containing statistical information on performance results would significantly contribute to transparency and better inform the public, but there is also the assumption that it would reduce the number of requests for access to information. As the MoI already produces some of these documents, this would require almost no additional costs or effort on its part.

As regards protection of personal data, the situation is still not satisfactory regardless of the fact that cooperation with the MoI is adequate and that they comply with the Commissioner’s recommendations. A total of 39 appeals have been filed against the MoI in 2015. The number represents 13% of the total appeals received and is by a quarter less than the previous year. However, when compared with other ministries, the appeals filed against the MoI are more numerous than all the others combined. This is not surprising given that the MoI is one of the authorities that keep a large number of records containing citizens’ personal data that can be abused in many different ways.<sup>26</sup>

The situation in the field of personal data protection is generally unsatisfactory; public institutions treat such data casually and the situation in the police is no different. For example, in the current year the Commissioner issued a warning to the MoI on the account of its unlawful disclosure of personal data of citizens to unauthorised persons through its review titled “Daily Events.”<sup>27</sup> This has been going on for years now.

25 “MoI awarded for best Information Bulletin,” 28 September 2016, <<https://goo.gl/VXpVLT>>.

26 See: <<https://goo.gl/x6TWZT>>.

27 See: <<https://goo.gl/bh5qze>>.



On the other hand, the fact that the MoI has acted upon the recommendations of the Commissioner after four months<sup>28</sup> is commendable. The bylaw enacted by the MoI to regulate the area of security checks, which prescribed the modes and purposes of personal data processing, represents another example. The Commissioner has initiated the procedure for assessing the constitutionality of this bylaw, as this area can be regulated only by a law.

### **Poor implementation of the Anti-Corruption Strategy**

The role of the Anti-Corruption Agency in external control is to oversee, in cooperation with the Internal Control Sector, the implementation of the National Anti-Corruption Strategy and its Action Plan, as well as the implementation of the Integrity Plan. In addition, in 2015 the Agency received 27 submissions in which the applicants complained of corruption among the employees in the MoI. This represents just 3% of the applications received.<sup>29</sup>

When it comes to the implementation of the Anti-Corruption Strategy in the field of police, the situation is highly unsatisfactory. Only three out of 29 activities envisaged in the Action Plan have been realised during the period December 2014 - January 2016. Half were not implemented at all, and the third activity is still in the process of being implemented. The deadlines defined in the Action Plan have not been complied with in almost 90% of the cases.<sup>30</sup>

### **Recommendations**

- ▶ It is essential that members of the Committee on Defence and Internal Affairs use their new powers to control the work of the MoI in accordance with the Law on Police. It is particularly important to do this in the area of control of compliance with the political, ideological and interest neutrality of police work, as well as when establishing the facts of the irregularities observed in the work of the MoI.
- ▶ It is necessary to ensure compliance with the binding recommendations of the Ombudsman and the decisions of the Commissioner. This is particularly important with regard to the recommendations arising from the process of control of

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28 See: <<https://goo.gl/m3ljDS>>.

29 Anti-Corruption Agency. 2016. *Annual Report of the Anti-Corruption Agency for 2015*. Belgrade: Anti-Corruption Agency.

30 For more on the implementation of anti-corruption strategy see: Marina Matić, Saša Djordjević, Dunja Tasić, Tanja Maksić. 2016. *Alternative Report on the Implementation of the National Anti-Corruption Strategy*. Belgrade: Belgrade Center for Security Policy, Association of Public Prosecutors and Deputy Public Prosecutors, Balkan Investigative Reporting Network Serbia.



police work in the “Savamala” case, considering that serious, systemic omissions and irregularities have been established while other mechanisms of control have failed to respond adequately.

- ▶ It is necessary that the MoI proactively publishes information and reports that can be in the public interest, such as regular quarterly information provided to the Committee.



## POLICE ACCOUNTABILITY

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The internal control system of the police has not been established in a satisfactory manner. Therefore, we should not be surprised by the fact that 90% of the complaints filed against police work end with the conclusion that there had been no violations of the rights. New anti-corruption measures are being introduced, although they have not been precisely regulated by the Law on Police.

In the area of police accountability, we have analysed the functioning of the internal control system and the process through which police officers can be held accountable for unlawful conduct.

### **Vague and unclear procedure for the submission of complaints**

The procedure for submitting a complaint against the work of the police, stipulated in the 2016 Law on Police, is one of the three procedures for holding police officers accountable for their unlawful conduct. The other two are the process led by the Internal Control Sector (ICS) and the disciplinary action. However, the rules relating to the procedure of filing complaints against police officers are unclear and unavailable, and as such deter citizens from filing complaints. As a result, 90% of the filed complaints are resolved by a conclusion that there had been no violation of the citizens' rights.

A complaint against the police may be submitted by any citizen who believes that an action or inaction of an employee in the performance of official duties had violated his/her human and minority rights and freedoms, within 30 days from the date on which such action/inaction occurred (Article 234).<sup>31</sup> The process then proceeds in two phases: the first phase involves proceedings before the head of the organisational unit in which the MoI employee works, while the second takes place before the Complaints Commission.

Proceedings conducted before the head of the organisational unit imply “harmonisation of positions with the complainant,” and if such harmonisation cannot be achieved the procedure is continued before the Complaints Commission (Article 235).<sup>32</sup> In this way, a person whose rights have been allegedly violated finds him/herself in a situation where s/he has to further substantiate the allegations from the complaint before the

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31 Law on Police, “Official Gazette of RS” No. 6/2016.

32 Ibid.



police employee's superior, in an attempt to harmonise positions with him in relation to the person whose conduct had caused the complaint. There are indications that the real purpose of this process is to persuade the citizen that his/her rights had not actually been violated. This conclusion can be reached based on two factors.

The first is the term “harmonisation.” Violation of the rights is not something that two sides can negotiate or agree upon; the person who decides on the violation of rights (in this case, the head of the MoI unit) can only establish whether a right has been violated or not. This formulation indicates the existence of two opposing positions that need to be aligned - one is the position of the citizen who has complained about the actions of the police and the other is that of the head of the MoI unit, which is contrary to the claim of the citizen.

The other factor that indicates that the current solution has been formulated for the purpose of setting up obstacles to citizens in filing complaints against police work is the fact that, if the citizens fails to appear at the “harmonisation of positions” and fails to specifically request that the Complaints Commission decide on the complaint in regular procedure, it is deemed that the complaint has been withdrawn by operation of law. Such practice in handling the citizens' complaints against the police can only create a distorted picture of the actual number of citizens' rights that have been violated by police officers.

Also, the appellate process could be clearer, simpler and more accessible. Namely, the time period set forth for reporting a violation of rights is 30 days (Article 234 paragraph 1),<sup>33</sup> while another paragraph of the same Article also provides that complaints will be decided upon outside of this period as well, but only in summary procedure (before the Head of the MoI). This raises the question of the purpose of prescribing such a short period of time, as it can be exceeded, but with consequences that will certainly affect the outcome of the proceedings.

### Box 3: Unavailability of the explanation of the complaints procedure

The new MoI website does not provide an explanation of the complaints procedure: easily visible information, documents that are available for downloading, and searchable content. It would be logical if the section titled “Citizens” contained an explanation of the procedure concerning submission of praises or complaints.<sup>34</sup> This, however, is not the case. Even the part of the presentation that explains the work of the Complaints Department

33 Ibid.

34 See: <<https://goo.gl/gzHGpl>>, accessed on 12 December 2016.



does not include an explanation of the complaints procedure.<sup>35</sup> The presentation has a section titled “Frequently Asked Questions,” which also contains no advice on how to complain about or praise the work of police officers.<sup>36</sup> If words “complaint” or “appeal” are typed in the box used to search the website, what appears is a reply that no results for said terms have been found.<sup>37</sup> Rules that govern the process of filing complaints are also not available on the list of regulations published on the website of the MoI or in the “Quick Links” section.<sup>38</sup> Information about filing complaints against the work of the police can be found on the Internal Control Sector’s archive page. This practice is not in line with those of police forces of democratic countries, where content leading to the explanation of the complaint procedure is presented on the front page and in a prominent place.<sup>39</sup>

The complaints process is not sufficiently different from the control exercised by ICS, regarding which Article 227 paragraph 1 stipulates that it shall act on its own initiative, at the request of the public prosecutor, based on collected notifications and other information, written communication of police officers and other employees of the Ministry, but also based on complaints of natural persons and legal entities.<sup>40</sup> If ICS acts upon complaints of citizens (without a specifically defined time period), the existence of special organisational units and the process to resolve complaints is unnecessary.

**Chart 1: Number of complaints and other documents received by the Internal Control Sector\***



\* Data for 2016 refer to the period ending on 30 June 2016

35 See: <<https://goo.gl/8hFtVn>>, accessed on 12 December 2016.

36 See: <<https://goo.gl/bWxNCi>>, accessed on 12 December 2016.

37 See: <<https://goo.gl/l75Fqp>>, accessed on 12 December 2016.

38 See: <<https://goo.gl/SIJuil>>, accessed on 12 December 2016.

39 See: <https://www.ipcc.gov.uk/complaints> or <https://www.police.wa.gov.au/Police-Direct>.

40 Ibid.

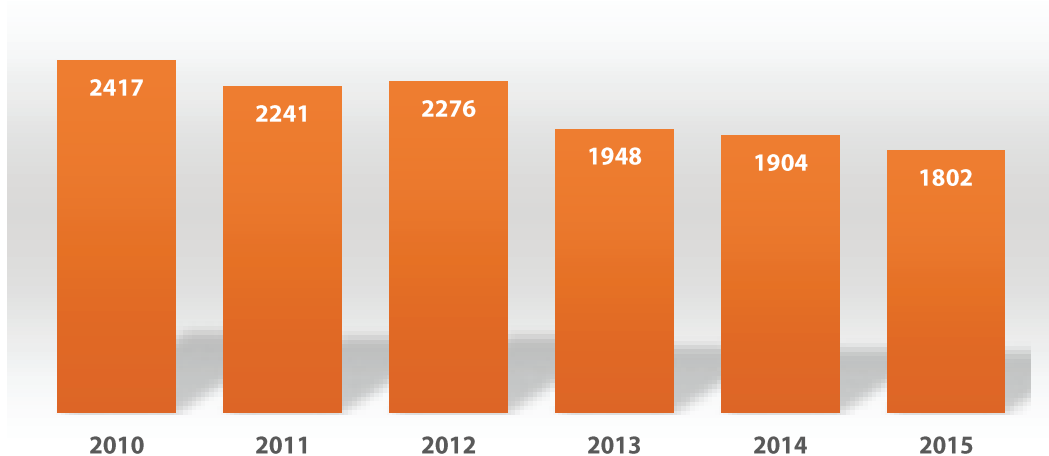




The Internal Control Sector acts in the same cases in material terms as well – it monitors the respect and protection of human and minority rights and freedoms in the performance of official duties and the exercise of police powers. Thus, this Sector could collect all information concerning unlawful conduct of the police from the citizens and further handle them in disciplinary, misdemeanour or criminal proceedings, depending on the specifics of each case. This would be fair also because ICS should be independent from other organisational units of the police in its decision-making. As regards the availability of information on how to file a complaint, they are not clearly visible and available on the website of the MoI or in police departments and stations.

Information from the Report on the Resolution of Complaints in the Ministry of Interior in 2015 showed that a total of 1,802 complaints have been submitted against MoI employees,<sup>41</sup> which accounts for about 2.5% of the total number of employees. Out of this number, 183 complaints (15%) were rejected or the process was terminated due to withdrawal of the complaint, while the remaining 990 cases were resolved in the first instance, before a head of MoI unit. Out of the last 990 cases, no fault was established in 92% of the cases, while the opposite was found in only 8%.

**Chart 2: The total number of complaints submitted concerning the work of the police**



The report specifically states that in the 990 cases in which it has not been found that MoI employees had violated the citizens' rights, the citizens have actually agreed with the views of the head of the organisational unit. This suggests that officials openly and in advance take the side of their employees, which is unacceptable practice if MoI

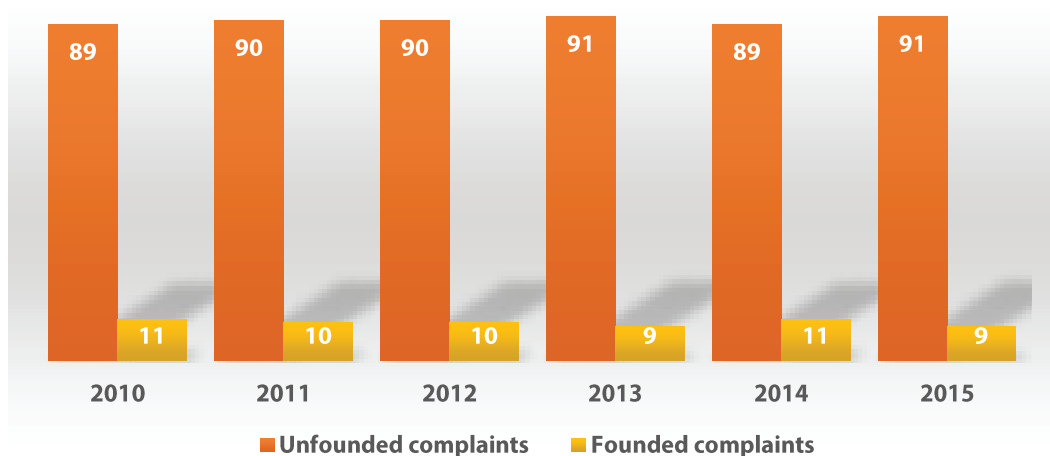
41 "Report on the Resolution of Complaints at the Ministry of Interior in 2015," 2016, <<https://goo.gl/BQdd6k>>.



wishes to have a functioning system to protect citizens from unlawful police conduct. 549 cases were resolved in the second instance (before the Complaints Commission), of which 28 were rejected or the proceedings were previously terminated. Looking at the cases that remained, no fault was established in 91% of the cases, while the opposite was found in only 9% - much like in the first instance.

The report, however, contains no information on what the citizens most frequently complained about, or what the reasons were for the high number of rejected complaints, especially in the first instance. Also, if we look at the total number of resolved complaints, all 68% of them were resolved using the simplified, first instance proceedings. Out of that percentage, 92% of the cases were resolved through the “harmonisation of positions,” which should be a cause for concern.

**Chart 3: The ratio of founded and unfounded complaints filed against the police (in %)**



If we take a look at the total number of complaints filed in the period from 2010 to the present (regardless of how the proceedings have ended),<sup>42</sup> there is a tendency of submitting a similar number of complaints, with minor fluctuations, which is especially noticeable in the year 2012. The same applies to the overall ratio between the founded and unfounded complaints, which has remained nearly unchanged in the entire five-year period (10% founded, compared to 90% unfounded complaints). The total number of complaints filed during the years observed is not significant compared to the total number of MoI employees; this number should, however, be viewed also from the standpoint of the availability of information on complaints, as well as from the standpoint of the rules of procedure – which has been discussed earlier. It is possible that

42 See: <<https://goo.gl/U4CuKo>>.



a simpler, more accessible procedure, one that would allow for impartial decisions, would provide a more realistic picture of the number of citizens who would be willing to report their violated rights.

#### Box 4: Internal Control Sector's unlawful orders and failure to act

In addition to failure to establish responsibility for the lack of police action in the case of "Savamala," two additional cases of issuance of illegal orders and police failure have occurred during the reporting period. One was the refusal of the police to secure the demolition of a building owned by the MP of the ruling majority, Muamer Zukorlić "for security reasons."<sup>43</sup> The decision not to act – as stated in the decision of the MoI – has been taken in consultation with the Police Directorate and the Police Administration, and backed up, to a certain extent, by the Prime Minister when he said that "he does not want any heads cracked open," and "someone shooting at police officers,"<sup>44</sup> and the Minister of Interior who said that the case could have involved "loss of human life."<sup>45</sup>

The other case we would like to mention is the case of Ksenija Radovanović, an activist with the initiative "Let Us Not Drown Belgrade" to whom two persons falsely presented themselves as police officers at a public gathering and tried to arrest her.<sup>46</sup> One person had been identified, and it was established that said person was not a policeman. However, we have found from the official note of a member of the MoI who was present on the spot that the top echelons of the Police Administration Belgrade, more specifically the Deputy Chief of Administration, had issued an order that the person who falsely represented himself and tried to arrest Ksenija Radovanović be allowed to leave, without any consequences at the time or in the future (for example, filing of charges for misrepresentation).<sup>47</sup>

All three similar cases from 2016 that indicate that top police officials had issued unlawful orders have remained without an epilogue and no proceedings were ever initiated by the Internal Control Sector to establish liability.

43 "Stefanović: There would have been more damage had the police come to Pazar," 24 November 2016, <<https://goo.gl/HYoepk>>.

44 "Vučić: I don't want to see any heads cracked open in Sandžak," 18 November 2016, <<https://goo.gl/vkiAcY>>.

45 "Stefanović: Illegally constructed buildings are not more important than loss of life," 24 November 2016, <<https://goo.gl/ZPTlol>>.

46 "SIA has no right to film the protests of Initiative," 14 November 2016, <<https://goo.gl/3FealU>>.

47 Official note No. 03/16/23 of 25 June 2016.



## The first comprehensive report on the work of the Internal Control Sector is now available

The comprehensive report on the work of the Internal Control Sector for 2015 has been published for the first time in March 2016.<sup>48</sup> In the last ten years, only basic information had been published concerning the number of criminal charges filed against police officers and the number of submissions filed with the Sector, accompanied by a brief summary of ongoing activities. The content of the new report is better and more concrete compared to the previous period. In addition to data on criminal charges filed, it also contains data and information on the number of special investigative measures that have been applied in 2015, which is a precedent in Serbia. So far, no state institution that applies “secret” methods of collecting evidence has published, on its own initiative, data on the type and number of special investigative measures taken.

The public nature of the report is a good signal as it increases transparency, simultaneously raising public knowledge of what ICS does, as citizens are not quite sure what the job of the Sector really is. Citizens who have heard of ICS (48%) have no clear view of what it is exactly their job. Opinions are divided when it comes to the its competencies in the areas of protection of citizens' rights and fight against crime; approximately half of the citizens believe that ICS has certain powers in these areas, while the other half believe that it does not.<sup>49</sup>

The special value of the report is the identification of problems in the work of the ICS. The Sector's cooperation with regional police administrations in Serbia is poor, which is why the largest number of criminal charges have been filed as a result of the Sector's independent work. This is not good, as strengthening the integrity of the police is the task of all the employees in the MoI. It is clear that there are still no sufficient capacities for the implementation of special investigative measures such as wiretapping. The Sector borrows equipment from the criminalist police, which in turn uses the capacities of the Security-Information Agency (BIA), which should be avoided because ICS must be independent in its attempts to combat corruption more efficiently and eliminate the risks of information leaks.

The number of employees has been reduces by 12, which is bad, as 82 people cannot possibly control more than 40,000 employees, particularly given their poor cooperation with regional police departments. The “blue wall of silence” remains a problem

48 See: <<https://goo.gl/CJSqoo>>.

49 Bojan Elek, Dunja Tasić, Saša Djordjević, Vojislav Mihailović. 2015. *The Citizens' Opinion of the Police Force - Results of a Public Opinion Survey Conducted in Serbia*. Belgrade: Belgrade Centre for Security Policy, p. 28.



because the ICS receives most of the information about the unlawful behaviour of police officers from citizens, and it is well known that the most useful information about corruption comes from police officers themselves.

## **There has been no debate on the bylaws governing the work of internal control**

The new Law on Police was adopted on 26 January 2016, after four failed attempts. Its enactment was announced on four occasions in 2015, although the Action Plan to implement the Anti-Corruption Strategy envisaged it for October 2014. The Law has come into effect on 6 February 2016. It was designed as a framework that will, among other things, strengthen internal control of the police.<sup>50</sup>

### **Box 5: There have been no debates on regulations that govern the details of the internal control of the police**

The ICS has prepared the working versions of all the bylaws in accordance with the new competencies under the new Law on Police.<sup>51</sup> On 14 April 2016 the Belgrade Centre for Security Policy (BCSP) submitted a request for access to public information to the Mol seeking insight into the copies of the working versions of the bylaws in electronic form, for the purpose of encouraging a public debate and as a result of the fact that Mol employees had been submitting inquiries to BCSP about the anticipated new anti-corruption measures.

Within a very short period of time – only four days – BCSP received a reply stating that ICS did not have the requested documents in its possession.<sup>52</sup> BCSP then submitted a supplement to the request, explaining that it is written on page 12 of a publicly available document titled “Report on the Internal Control Sector for 2015” that ICS had developed the working versions of said documents, and requesting a re-examination of their availability. The Ministry again responded that it did not have these documents in its possession, because they were legally invalid and their preparation was still under way.<sup>53</sup>

These were the only documents that the Ministry of Interior was not willing to provide. Two other documents were also sought in the above request: the analysis of the current legislative framework and the capacities of the Internal Control Sector, and the Internal Control Sector’s Action Plan. The BCSP research team did not receive these documents

50 Law on Police, “Official Gazette of RS,” No. 6/2016.

51 Council for the Implementation of the Action Plan for Chapter 23, 2016. *The first report on the implementation of the Action Plan for Chapter 23 of 1 February 2016*, p. 110; Internal Control Sector. 2016. *Report on the work of the Internal Control Sector for 2015*, p. 12.

52 Mol reply 06/3 number: 2690/16 of 18 April 2016.

53 Mol reply 06/3 number: 2771/16 of 25 April 2016.



either, even though it is stated in publicly available documents that they have been created. The actual existence of the documents and the working versions of bylaws is thus impossible to verify, and a public debate on their quality cannot be encouraged.

Implementation of the new Law on Police will be challenging. To make the law fully applicable in practice, the Government and the Minister of Interior must pass more than 40 bylaws by 6 February 2017. The following acts pertain to internal control: Rulebook on the Method and Forms of Internal Control; Rulebook on How to Conduct an Integrity Test in the Ministry of Interior; Rulebook on Keeping Records of Property Cards and the Verification of Changes in the Financial Status of Employees of the Ministry of Interior; Instruction on the Implementation of Corruption Risk Analysis in the Ministry of Interior; and the Rulebook on the Operation of the Internal Control Sector of the Ministry of Interior.

Not a single one of these has been adopted yet, even though the set deadline will expire in two months. Moreover, there was no public or expert debate of these acts, apart from that on the integrity test upon the initiative of the Office of the Council of Europe in Belgrade.

#### Box 6: Availability of data relating to pre-accession negotiations

In the course of the reporting period (June 2016) the Government of Serbia adopted two bylaws that allow state administration data to be classified as “official business” [confidential], contrary to the constitutional and legal provisions on data confidentiality.

During the reporting period, by the Government's decision, the Ministry of Interior has classified the Negotiating Position for Chapter 24 (Justice, Freedom and Security) as “official business.” This designation means that certain information are: available only on a need-to-know basis; are not available to the public; recipients of information contained in the negotiating positions are allowed continue to further disseminate said information “if necessary and on a need-to-know basis only,” taking into consideration that the negotiating positions are not available to the public outside the competent bodies and organisations and that they cannot be published in either hardcopy or electronic form.

### **The new Law on Police has not established the internal control system**

Pursuant to the Law on Police (Article 224), internal control of police officers and other employees of the MoI is performed by the Internal Control Sector.<sup>54</sup> The Law now allows ICS to fight corruption in the entire Ministry, not just the Police Directorate as

54 Law on Police, “Official Gazette of RS,” No. 6/2016.



was the case until February 2016. This is a good solution. However, the Law does not stipulate the independence of ICS as an organisational unit of the MoI, which is essential for the development of police integrity and reducing corruption.

The new Law on Police does not mention any organisational unit responsible for internal control other than the Sector. It is thus logical to conclude that only the Sector will be tasked with performing internal control. Things are however different in practice, as there are five other organisational units, established under the bylaws or internal regulations, that deal with the same or similar issues. Namely, the Law did not demarcate the competencies of the Internal Control Sector, the Department for Control of Legality in the Operation of the Police Department Belgrade and the Police Administration, and those of the Department for Control of the Legality in the Gendarmerie, the Complaints Department, and the newly established Department for Data Security and Protection, which did not exist prior to the restructuring of the Ministry in early 2016. There is not a single provision that governs coordination between these organisational units.<sup>55</sup> This does not solve the problem of overlapping competencies.<sup>56</sup> It remains to be seen whether the bylaw governing the internal organisation of the MoI will regulate this area.

#### Box 7: The fifth internal controller in the police

The Department for Data Security and Protection is responsible for the collection, processing, analysis and exchange of operational information, as well as handling and exchange of classified information with the aim to prevent the outflow of information marked by some degree of confidentiality at all levels of the Ministry.<sup>57</sup> There are two facts that are problematic, though, although at first glance it seems that the leaders of the MoI have finally decided to end information leakage from the police.

The Department for Data Security and Protection can hardly prevent political abuse of police information. Organisationally, the Department is directly subordinated to the Minister of Interior, who is a representative of the executive power and most commonly a member of the ruling political party. Chief of the Department is accountable only to the Minister of Police. There is no other instance between the Chief of the Department and the Minister, as for example in the case of the Department for Combating Organised Crime which operates within the Criminal Police Directorate. In this way, the Department

55 Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p. 65.

56 Bogoljub Milosavljević, Saša Djordjević. 2013. "Corruption in the Security Sector: Internal Control," *Corruption in the Security Sector*, ed. Predrag Petrović, pp. 90-105. Belgrade: Belgrade Centre for Security Policy.

57 Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p. 65.



loses its independence, which is essential for effective control and prevention of political abuse of police information.

The creation of the Department for Data Security and Protection will further complicate the internal control of MoI. The Department is the fifth organisational unit in charge of internal control in the MoI. The Law on Police (Article 225) clearly specifies that it is the Internal Control Sector that controls the legality of the work of MoI employees, and that this is not the job of other parts of the Ministry. It would be logical and in accordance with the law to charge the Internal Control Sector with the prevention of leakage of information from the police - as grave breach of duty under the Law on Police (Article 207) - and not the part of the Ministry which is fully under the control of the Minister.

Action Plan for the implementation of the Anti-Corruption Strategy envisages normative and operational integration of the control of legality of the work of the police and other organisational units in the Internal Control Sector. However, the acts that should consolidate the process of internal control of the police have not been adopted. The deadline had expired in March 2014. The adoption of these acts would serve to achieve the major institutional change planned in the Anti-Corruption Strategy which should reduce corruption in the police: a merger of the Department for Control of the Legality of Work with the Internal Control Sector. Since the mechanisms of horizontal coordination between the internal controllers in the MoI have not been established, this change could partly reduce corruption in the police. However, it was noted that representatives of the ICS did not approve of the consolidation of all internal controllers of the police because of the different nature of their respective work.<sup>58</sup>

#### Box 8: Independence of the work of the Internal Control Sector is in danger

The new Law on Police has not completely eliminated the possibility for the Minister of Interior to affect the operation of ICS. It is commendable that the Law has eliminated the possibility for the Minister of the Interior to prevent an ICS investigation by assigning it to another organisational unit of the police, thus jeopardising the independence of the work of the Sector. However, the new Law on Police allows the Minister to provide ICS with guidelines and mandatory instructions for work, except when it comes to actions taken in preliminary and investigative proceedings at the request of the Public Prosecutor (Article 233). In this way, the Minister has been given the power to influence the operation of the Sector. This influence is limited, but there is still plenty of room for the Minister to instruct ICS not to act upon certain information, thus preventing the case from ever reaching the prosecutor's office. For example, after the media reported that the Chief of the Novi

58 Marina Matić, Saša Djordjević, Vladimir Erceg. 2015. *Alternative Report on the Implementation of the National Anti-Corruption Strategy*. Belgrade: Belgrade Center for Security Policy, Association of Public Prosecutors and Deputy Public Prosecutors, p. 59.





Sad Police was involved in arms smuggling in Serbia, Minister of Interior said that these allegations ought to be investigated, but that he is nevertheless certain that the Chief 'was not a part of it'.<sup>59</sup> In this way it was prejudiced, even before the start of the investigation that no one should act and investigate on their own initiative, which is what ICS is obliged to do.

## **The new anti-corruption measures have not been regulated in detail**

The new anti-corruption measures (preventive control, integrity test, analysis of the risk of corruption, verification of the changes in the financial status) provided by the Law on Police (Article 230) have not been satisfactorily and accurately specified.<sup>60</sup>

The Law on Police describes the application of the integrity test too generally, causing the most dilemmas. The whole matter is to be regulated by a separate bylaw, which should be passed by the Minister within a year following the coming into force of the Law on Police. This is not a good solution for several reasons. No protective mechanisms have been set up to prevent abuse in practice. Also, this matter should be regulated by law, not a bylaw. The integrity test should be carried out by a body with unquestioned institutional integrity and independence, which is not the case with ICS in Serbia. Also, ICS has no technical capacity to implement this measure.

Integrity tests will be conducted on the basis of circumstantial evidence that a police officer or an employee of the Ministry is corrupt. It was originally planned that the application of the integrity test be part of the Criminal Procedure Code, but it was decided – for now – to include a general provision in the new Law on Police, and to specify the details of the application in a bylaw. The dilemma whether to use integrity testing exclusively for intelligence purposes, or also for data collection or as evidence, has yet to be resolved.<sup>61</sup>

Control of the financial status and verification of assets, as a new anti-corruption measure, will be linked to the employees of the Ministry that hold management positions (heads of departments, administrations, services). It is essentially a financial investigation, which is why it will be necessary to improve the capacity of ICS in the future.

The obligation of ICS to prepare an analysis of corruption risks in cooperation with the Anti-Corruption Agency has been introduced. A risk analysis involves identification

59 "Stefanović speaks about the exclusive findings of 'Blic': Investigate the allegations of arms smuggling," 30 November 2016. <<https://goo.gl/xdq5Zy>>.

60 Law on Police, "Official Gazette of RS," No. 6/2016.

61 Sofija Mandić, Saša Djordjević. 2016. *Testing the Integrity of Police Officers*. Belgrade: Belgrade Center for Security Policy.



of the risk of corruption, creation of the risks register, and plans involving preventive measures to eliminate them. It is unclear whether the risk analysis relates to the entire Ministry or just the Police Directorate.

The Action Plan for Chapter 23 (measure 2.2.10.24) envisages the preparation of the analysis of the risk of corruption for each job position in the police force. In contrast, the Law on Police provides for the implementation of the risk analysis in the Ministry. To reduce corruption in the police, it is important that the risk analysis covers both the Police Directorate and the Ministry, i.e. that it be comprehensive.

#### Box 9: The technical agreement between the MoI and the Anti-Corruption Agency

Technical and professional cooperation between two state bodies, the Ministry of Interior and the Anti-Corruption Agency, has been established at the end of December 2015.

<sup>62</sup>Although it seems unusual for state administration bodies from the same country to have to establish business relations in order to exchange data, this type of document could improve institutional communication and coordination.

Technical and professional communication means that the Ministry of Interior will provide data from the records it keeps at the request of the Anti-Corruption Agency, and vice versa, pursuant to the Law (Article 3). Cooperation can also take place through the implementation of project activities (Article 6). The exchange of data will be done electronically, which could further accelerate communication, and action upon a submitted request will be taken within a period not exceeding 15 days (Article 9).

The Law on Police stipulates that ICS will be able to investigate the financial status of officials and people who work in positions in the Ministry that carry high risks of corruption, which will be determined by a prior corruption risk analysis. Officials are required to report changes in their financial situation to the competent organisational unit. This anti-corruption measure will also be further regulated in a bylaw, which is not a good solution. It is not clear what information will be included in an asset declaration form or how this information will be used, as it could become the target of various forms of abuse.

This will be particularly problematic if a bylaw provides that data will not be fully public, or that it will be public only in part (this is still unknown at the moment). The new Law on Police stipulates that personal property cards (Article 230) will be kept in accordance with the regulation governing records and data processing in the field of

62 Agreement on Professional and Technical Cooperation of 30 December 2015. Filed at the Ministry of Interior under the number 10363 / 2015-5 and at the Anti-Corruption Agency under the number 021-00-0231/2015-01.



internal affairs. Currently there are no indications as to when the Law on Records and Data Processing in the Field of Internal Affairs will be adopted.

### **Activities incompatible with police work are still not regulated**

Engagement in activities incompatible with police work has yet to be regulated, and the new rules on collection of property data and assessment of job positions in the police concerning the risk of corruption have not been implemented. The police is sometimes, directly or indirectly, still used to protect an individual and not the public interest.

Commitment of the police to prevent conflicts of interest and corruption can be found in the new Law on Police, which *inter alia* lists professionalism, depoliticisation, efficiency and legality of work as the main principles. Police work can thus be defined only by the need to protect the rights and freedoms of citizens. This is in line with the constitutional definition of the prohibition of conflict of interest, which stipulates that no one can perform a state or public function that is in conflict with his/her other functions, jobs or private interests.

Police employees may not be members of political parties, may not organise or act politically, and may not attend partisan or other political gatherings wearing a uniform (unless officially engaged).<sup>63</sup> However, the participation of uniformed officers in the pre-election video of the Serbian Progressive Party,<sup>64</sup> filmed in the building of the Belgrade Police, remained without a serious response in the one-year period observed for the purpose of this report. The Minister of Interior, who comes from the Serbian Progressive Party, believes that this case did not constitute conflict of interest between the public function of the police and the interests of a political party, and that it was nothing but a “promotion of the values of the Serbian Progressive Party – in this case the fight against corruption and crime.”<sup>65</sup>

The new Law on Police regulates the issue of collection of data relating to the changes to the financial status of officials and those whose positions carry the highest risk of corruption,<sup>66</sup> and this is a step forward compared to the previous reporting period. In that period, only nominated, appointed and elected officials had the obligation to report their property under the Law on Anti-Corruption Agency. Collection of data provided by the new Law may indicate existence of conflict of interest of officials and

63 Article 169, Law on Police, “Official Gazette of RS: No. 6/2016.

64 Saša Djordjević. 2016. “Political abuse of police,” *Peščanik*, <<https://goo.gl/Ajmrvb>>.

65 See: <<https://goo.gl/ijRTAV>>.

66 Article 230, Law on Police.



those in the riskiest positions when it comes to corruption. However, the details of these two issues are not regulated by law, and the Ministry's bylaws necessary for their implementation have not yet been adopted.

A law regulating the collection of information on the records and data processing in the field of internal affairs has not been enacted either, even though it, too, is required for the implementation of new anti-corruption measures in the police. Also, the legal solution indicates that property status data will not be publicly available – as suggested by the formulation that “changes to the property status shall be recorded in the personal asset card to be deposited in the competent organisational unit.” It will be very harmful if these data are not made available to the public; they should be available the same way as data concerning the property of officials in the registers of the Anti-Corruption Agency.

The key rules on conflicts of interest in the police have been regulated by way of prescribing the incompatible activities in the Law on Police (Article 168). Activities that are incompatible with police duties are primarily those that commercialise knowledge and skills that have been acquired working in the MoI. It is also stipulated that employees of the Ministry may not perform activities that are incompatible with official duties, that is, those that could create a conflict of interest or affect the impartiality of their work.

This definition of incompatible activities establishes the basic principles of incompatibility very well. We know that commercialisation of police knowledge is completely prohibited (for example, work in the private security sector), while other activities are potentially prohibited, that is, only if they affect police work. The problem lies in the fact that the list of prohibited activities and the criteria for assessing incompatibility are not even partially governed by law; they are regulated by the Minister instead. Also, a bylaw to regulate the list of activities incompatible with police work has not been adopted until today, which leaves room for uncertainty among the members of the police force, as they do not know which behaviour is allowed and which is not. Such information is a prerequisite for the prevention of conflict of interest. Likewise, the failure to adopt the list of incompatible activities essentially allows police officers to engage in incompatible activities. This is also caused by the lack of practice, i.e. the lack of data on how many proceedings have been carried out in the cases of incompatible jobs and activities most frequently performed by the members of the MoI, and what is the most frequent disciplinary penal policy in such cases.



## Recommendations

- ▶ Amend the complaints process to make the Internal Control Sector its carrier, and abandon the concept of harmonisation of positions of heads of MoI and the citizens; the existence or non-existence of violation of the rights should be decided upon impartially.
- ▶ The complaints procedure should be clear, simple and accessible to every citizen; it is important to collect and make publicly available the rights whose violation citizens have complained about, i.e. the reasons for their submission of complaints.
- ▶ Legally regulate the relations between the various internal controllers in the Ministry, or instead consolidate all the internal control competencies in one organisational unit, including keeping the central register of complaints and petitions received concerning the work of all the employees of the Ministry.
- ▶ Initiate a public debate during the drafting and adoption of bylaws that govern the forms and method of integrity testing, risk analysis implementation and control of changes to the property status.
- ▶ Enact a law and bylaws necessary for the implementation of the measure to collect data on the property of MoI officials, and make this information publicly available.
- ▶ Adopt regulations necessary for sanctioning performance of incompatible activities, collect information on the proceedings and make them available to the public.



## HUMAN RESOURCES MANAGEMENT

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The initial prerequisites for human resources management in the police force have been met. The Human Resources Sector has begun to operate, while the new Law on Police largely prescribed the rules for hiring and promotion. However, major decisions are made by the Minister of Interior.

Human resources management involves a strategic approach to managing the processes of target recruitment, selection, classification, hiring, training, job placement, evaluation, motivation, leadership, promotion and dismissal of employees.

When it comes to the number of employees, the Ministry of Interior is one of the biggest ministries in the state. It is estimated that it employs almost 6% of the people who work in the public sector.<sup>67</sup> According to data from September 2016, the MoI employs 42,817 persons; 14,551 are not in uniform, while 28,266 are uniformed police officers.<sup>68</sup>

The following text presents the main developments and problems of human resource management in the MoI.

### **The Human Resources Sector has begun to operate**

The beginning of operation of the Human Resources Sector fulfilled a major organisational prerequisite for the planning of human resources as an activity that serves as a basis for other activities in the field of human resources management: planning, recruitment, selection, promotion, training and termination.<sup>69</sup>

The Sector began operating in early 2016, following the establishment of the organisational structure and a wide range of tasks performed by this organisational unit. It is prescribed that the Human Resources Sector designs and implements the policy of human resource management; ensures the legality of work in the field of labour and

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67 According to the data of the Ministry of Finance from 2014, the total number of employees is approximately 780,000.

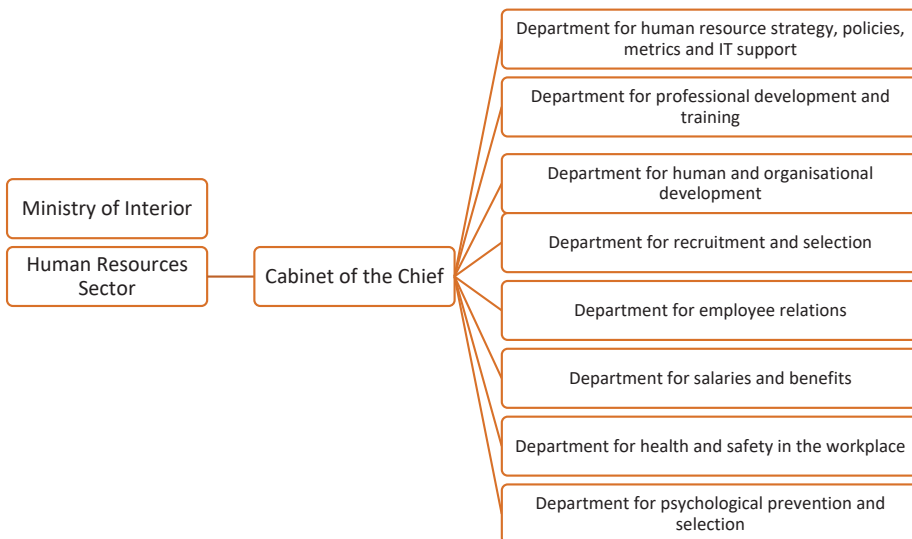
68 Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p.68.

69 Dejan Ječmenica, Lidija Barjaktarević. 2011. "Human resource planning," *Operations management to facilitate sustainable economic growth and development of Serbia*, Konstantin Kostić, ed. Belgrade: Faculty of Organisational Sciences, Centre for Operations Management, Serbian Chamber of Commerce, pp. 154-160.



employment relations; plans human and financial resources required to manage the human resources; proposes organisational changes in the Ministry of Interior; conducts internal and public job competitions; tests competences required for effective performance in the vacant job positions; deals with the training and professional development of employees; carries out performance evaluations of employees and determines salary policy; analyses and designs all the operations and develops job descriptions; establishes the policy of employee benefits and participates in collective negotiations with police unions.<sup>70</sup>

**Chart 4: Organisational structure of the Human Resources Sector**



The organisational structure of the Human Resources Sector was largely covered in the conclusion of the analysis of the situation in the MoI conducted in 2014. Namely, eight departments cover the activities in the field of human resources that had not been carried out by the Ministry of Interior prior to the formation of the Sector. These are: 1) analysis and creation of jobs; 2) planning the organisational development; 3) human resource planning; 4) management of the salary system; 5) taking care of employees' safety; 6) career management; 7) performance management; 8) creation of policies in the field of human resources management.

Activity groups six and eight are causing the most dilemmas because of the two solutions contained in the new Law on Police that may affect the decision-making autonomy of the Human Resources Sector and allow politicisation. Minister of Interior passes

70 Article 129, Law on Police, "Official Gazette of RS" No. 6/2016; Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p. 59.



acts that should precisely and additionally regulate the tasks performed by the human resources in the Ministry (Article 129 paragraph 3). Given that these documents – such as the Act on the Systematisation of Job Positions – are internal, i.e. confidential, discretionary powers allow the Minister to influence the management of human resources.

Furthermore, the Minister is vested with the discretionary power to decide on the assignment and dismissal of heads of the Police Directorate at the strategic and high-level (Article 150, paragraph 2) based on internal job competition, which enables the influence of the political, executive level of power on operational police work as the Minister is not obliged to choose the top ranking candidates.

The acting head of the Human Resources Sector was appointed for a period of six months in late February 2016,<sup>71</sup> and his term of office was extended for another three months in September 2016 without an open job competition.<sup>72</sup> This certainly was not a good solution, as it sent out a bad message – that rules of merit-based recruitment and promotion will not apply to all in the MoI – which can discourage potential candidates from applying, believing that they will have no chance without political connections.

#### Box 10: The first Head of the Human Resources Department

Until now, the head of the newly formed Human Resources Sector never worked on issues related to the police or human resources. Katarina Tomašević's career began in the Zemun post office in 2000. She later progressed from Head of Postal Network Service to the position of Chief of the Directorate of Postal Traffic in the sector in charge of the quality of postal services. She came to the MoI following the positions of Director of the Letter Services Directorate and Deputy Director of Service Functions in the Serbian Post. She graduated from the Faculty of Law and obtained a Master's degree from the Faculty of Organisational Sciences, where the topic of her final paper was improvement of postal services to increase customer satisfaction.

A public competition<sup>73</sup> for the position of Chief of Human Resources Sector was announced in late October 2016, representing the first step towards the abandonment of bad practice of appointing acting heads to high positions in the MoI.<sup>74</sup> However,

71 Decision on the appointment of Acting Assistant Minister of Interior, "Official Gazette of RS," No. 15/2016.

72 Decision on the appointment of Acting Assistant Minister of Interior, "Official Gazette of RS," No. 77/2016.

73 See: <<https://goo.gl/B2QwXT>>.

74 Saša Djordjević. 2016. "Ministry of Interior Should Depoliticise Serbia." *BCSP Analysis*. Belgrade: Belgrade Centre for Security Policy. <<https://goo.gl/ZGTSSe>>





in the part of the competition which describes the requirements it was not stated that the candidate must have work experience in human resources management or any experience related to the job description; it was only pointed out that the candidate must have at least nine years of professional experience. Such a formulation is not sufficiently precise. Usually, a candidate for a senior position in the public administration must have at least two years of experience in performing tasks similar or identical to those of the job described in the competition.

### **Political influence on staffing has been curtailed**

It is good that criteria for promotion have been enumerated and that security checks are planned also during the work in the police, not only at the time of hiring. Moreover, the Internal Control Sector will be responsible for carrying out the vetting of police officers in high positions, which is also commendable. However, there are problems as to who will be responsible for the appointment and dismissal.

The fact that the Minister still appoints and dismisses heads of regional police departments and heads of organisational units in the Police Directorate is not a good solution, as it represents a way for politicians to influence the operational work of the police. True, room for political influence in the selection of officials at the strategic and high level in the Police Directorate is limited as a result of announcing internal competitions, but it is still there. Also, the possibility for the Minister to seek suggestions concerning job placement or dismissal of officials means that the function of human resources planning and improvement based on internal job competitions will not take root.

The problem is in the fact that the new Law does not clearly define the persons performing special duties, or the so-called other internal duties directly related to police work. In addition, persons performing special duties will have the status of police employees but will not be required to have completed basic police training. This raises a logical question: how will these persons be able to carry out their tasks – closely related to police work – without previous training?

### **A job competition is mandatory for employment in the police**

Employment in the Ministry of Interior now requires a job competition, which was not the case in the previous Law (Article 135). However, the types of competition – public or internal – have not been precisely defined, although they are later mentioned in the Law. Graduates of the Academy of Criminalistic and Police Studies (CPA) who concluded a contract with the Ministry of the Interior for each school year, and whose



tuition fees have been financed from the budget, will be exempt from competition although this is not explicitly stated in the Law. This is a good solution, but it is important that the Human Resources Sector, when developing a staffing plan, calculate how many new students the MoI really needs, and for which job positions.

Special requirements are envisaged for the commencement of work in the MoI (Articles 137 and 138). The most important requirements are: that a candidate is mentally and physically fit, that there are no criminal proceedings pending against him/her, and that s/he has never been sentenced to a term of imprisonment of more than six months. Certain positions, which are not defined in the Law, also require a mandatory polygraph test (Article 142). This is not a good solution because it is not clear what happens if a candidate refuses to take the polygraph, considering that it is a police technique applied on a voluntary basis.

The fact that the Law does not list the job positions that require a polygraph test allows for the use of said police technique for a great number of job positions, which renders its use meaningless.

### **Acts governing job competitions in the police have been adopted**

The introduction of job competitions for employment in the MoI is the biggest novelty of the ongoing human resources reform. The procedure and manner of conducting a public job competition are prescribed by the Government (Article 135), while internal competitions are prescribed by the Minister of Interior (Article 129).

The procedure and manner of conducting a public competition to fill a position in the MoI is governed by the Government Regulation of September 2016.<sup>75</sup> Right at the beginning it has been pointed out that an open competition was to be announced for the position of Director of Police and the job positions not filled by internal competition, which is a good solution that is in line with the principle of career progression on which the reform of human resources management in the MoI is based.

The head of an organisational unit submits a motion to the Human Resources Sector to fill a job position, except in the case of Director of Police who is nominated by the Minister of Interior to the Government. What is problematic is that the Minister gets to decide whether there is a need to fill a certain job position and how this will be done (Article 4 paragraph 2).<sup>76</sup> As has been noted in practice, this gives the Minister a

75 Regulation on the Implementation of Public Job Competitions in the Ministry of Interior, "Official Gazette of RS" No. 72/2016.

76 Ibid.



discretionary power at the expense of the Human Resources Sector. In October 2010, the Government Human Resources Management Service announced four job competitions; three were internal<sup>77</sup> and one was public.<sup>78</sup>

It is unclear based on what criteria the Minister of Interior decided to announce public competitions for the positions of Assistant Minister and Chief of the Human Resource Sector and internal competitions for the other three positions (Assistant Minister and Chief of the Internal Control Sector, Assistant Minister and Chief of the Sector for Analysis, Telecommunications and Information Technologies and Secretary of the Ministry). The decision to announce different competitions for job positions of equal rank, i.e. those of Assistant Minister, is particularly interesting. Competitions for the same positions were public in 2010.<sup>79</sup>

The selection process in a public competition is conducted by the Commission whose members are appointed by the Minister of Interior (Article 5 paragraph 1).<sup>80</sup> The problem is that the criteria for appointment of members of the Commission are not known, and the only obligation arising from the legal framework is that one member of the Commission must be from the Human Resources Sector. In this case also, the Minister of Interior has a discretionary power to choose the members of the Competition Commission, which is not a good solution. For example, it is not clear why the Deputy Chief of Human Resources Sector, Gordana Jeković, Deputy Chief of Cabinet of the Minister, Svetozar Radić, and Chief of Police Administration, Zoran Alimpić, are members of the Commission in charge of appointing the Director of Police.<sup>81</sup> A positive decision, despite the unclear criteria for appointment of Director of Police, refers to the fact that Deputy Chief of Human Resources Sector happens to be President of the Competition Commission. It is the responsibility of the President to represent the Commission, convene and preside at meetings of the Commission, sign the acts of the Commission, and ensure that tasks carried out by the Commission comply with the regulations.<sup>82</sup> The above competencies of the President of the Commission to a certain extent prevent political influence on the appointment to senior job positions in the Ministry of Interior, but it is nowhere pointed out explicitly that the Commission President should be from the Human Resources Sector, and it should be.

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77 See: <<https://goo.gl/FOi9Yd>>.

78 See: <<https://goo.gl/B2QwXT>>.

79 See: <<https://goo.gl/tqeu8N>>.

80 Regulation on the Implementation of Public Job Competitions in the Ministry of Interior, "Official Gazette of RS" No. 72/2016.

81 Decision 01 number: 7338/2016-4 of 1 September 2016.

82 Article 4, Rulebook on the Work of the Commission for Job Competition to Fill the Job Position of Director of Police, No. 264/16 of 1 September 2016.



The process of conducting the public job competition, which is implemented in several stages, is well regulated in the 4th section: 1) announcement of the competition; 2) receipt of applications; 3) selection procedure in which candidates are informed that the process of selection had started, followed by the verification of fulfilment of formal and legal requirements, technical and basic competence, medical examination, interview, security check; 4) preparation of the final ranking list, to be submitted to the Minister for a decision. Decision on employment is taken by the Minister (Article 23 paragraph 1).<sup>83</sup> The procedure of appeal against the decision of the Minister has not been defined in the Regulation on the Implementation of Open Competitions in the MoI.

The procedure and manner of conducting an internal competition at the MoI is regulated by the Rulebook of the Minister of Internal Affairs, which was adopted at the end of August 2016.<sup>84</sup> The selection procedure is similar to that of the open competition. The head of the organisational unit submits to the Human Resources Sector a reasoned motion to fill a job position by way of an internal competition. Head of the Human Resources Sector verifies the fulfilment of requirements for the job position, while the Minister has the discretion to decide on the need for said position and how to fill it (Article 3).<sup>85</sup>

Unlike an open competition, where the members of the Competition Commission are selected by the Minister of Interior, in the case of internal competition this is done by the Chief of the Human Resources Sector, for the lower positions, i.e. for the administrative job positions and those of operating and mid-level management. Minister of Interior appoints members of the Commission which carries out the selection process for the higher positions in the MoI (those of high and strategic levels). The criteria for the selection of members of the Commission are not known. One member of the Commission must be from the Human Resources Sector – the same as in the open competition.

The selection process in an internal competition is made up of several stages: 1) announcement of the internal competition; 2) receipt of applications; 3) creation of a list of candidates; 4) testing and evaluation of candidates; 5) creation of a ranking list and selection of the candidate. The head of the organisational unit who submitted the motion to fill the job position makes the final decision on the transfer or job placement based on the ranking list. The question here is: why does not the Human Resources Sector do this, in consultation with the head who had proposed the candidate? In the

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83 Regulation on the Implementation of Public Job Competitions in the Ministry of Interior, "Official Gazette of RS" No. 72/2016.

84 Rulebook on the Implementation of Internal Competitions among the Employees of the MoI, "Official Gazette of RS" No. 73/2016.

85 Ibid.



event of failure of the internal competition, the Minister of Interior determines the manner in which the job position will be filled.

As the application of the Rulebook on the Implementation of the Internal Competition among the Employees of the Ministry of Interior is to begin on 1 January 2017 (Article 22),<sup>86</sup> so far no internal competitions have been announced within the MoI.

## **Competences of the employees are known**

In June 2016, the Ministry of Interior prescribed the competences very well, for the first time, although the adoption of this bylaw was three months late. Namely, according to the new Law on Police (Article 196, paragraph 3), the Rulebook on the Competences of MoI Employees should have been adopted by 6 March this year.

Competences are a set of related knowledge, skills, abilities and characteristics that relate to the practical execution of professional tasks necessary for success in a particular job or profession.<sup>87</sup> Based on competences it is possible to find out what is expected of an employee, and they improve recruitment, selection and employee performance evaluation, as well as the assessment of training needs and professional development of employees. Good, clear and standardised competence indicators greatly facilitate monitoring, measurement and performance evaluation of employees.<sup>88</sup>

According to the Rulebook on the Competences of Employees of the MoI, competences are defined as a set of knowledge and skills, personality traits and abilities that shape the behaviour of an employee and are conducive to the achievement of expected results in the workplace.<sup>89</sup> The Rulebook provides for two types of competences that should be part of the job description for any job position in the Interior Ministry that is the process of being created. Technical competences that pertain to specific knowledge and skills required to perform duties are of technical nature, and they are not described in the Rulebook. Basic competences are: overall behaviour, personality traits and skills necessary for the realisation of professional tasks.

The Ministry of Interior has six prescribed basic competences: 1) service to citizens; 2) change management; 3) performance management; 4) personal effectiveness; 5) decision making; 6) work with others and leadership. The indicators are divided into those

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86 Ibid.

87 Human Resources Professionals Association. 2014. *Human Resources Professional Competency Framework*. Toronto: HRP.

88 Ibid.

89 Article 2, Rulebook on the Competences of Employees in the Ministry of Interior, "Official Gazette of RS" No. 52/2016.



that apply to executors and those that apply to those in the managing positions in the MoI. Thus, for example, an executor's behavioural indicators within the competence 'service to citizens', on the basis of which it is determined whether the employee has or does not have the required competence, are the following: 1) understand the importance of his/her work for the benefit of citizens and colleagues; 2) recognises the needs of citizens and employees; 3) verifies, by asking questions, whether s/he properly understood the citizens and employees; 4) applies plans and objectives within his/her purview in accordance with the needs of citizens; 5) contributes to public trust and confidence in police work by setting a personal example.

**Table 2: Competences in the Ministry of Interior**

<b>Competence</b>	<b>Definition</b>	<b>Purpose</b>
Serving the citizens	Potential to understand the needs of the citizens (and the public) and the employees in the Ministry (and the organisation).	Generating trust and confidence in police work
Change management	Gradually planned effort in accepting innovations.	Positive and constructive response to changes and new requests.
Performance management	Continuous monitoring of work achievements.	Improving processes and outputs.
Personal effectiveness	Harmonisation of own competences with the professional and ethical requirements of the job position.	Professionalism (high level of performance) in the workplace.
Decision making	Constructive response after considering all relevant information.	Functioning and improvement of the system.

### **Criminalists are still without jobs in the police**

The opportunity to regulate the status of CPA graduates in the new Law on Police has been missed, given that CPA is largely financed, according to its Articles of Association (Article 38), from the budget of the Ministry of Interior.<sup>90</sup> Moreover, the entire programme of the MoI budget is dedicated to higher education, despite the fact that there is no direct link anywhere between this programme and the strategic priorities of

90 Criminalist Police Academy. *Articles of Association of the Criminalist Police Academy (number 72/4 3-2014)*. Belgrade, April 2014.



the MoI.<sup>91</sup> It is known, however, that graduates of the CPA that remained ‘on budget’<sup>92</sup> each academic year will not have to undergo a job competition (Article 135).

For many years now the Ministry of Interior has been allocating approximately EUR 3 million to finance the CPA – the institution that educates criminal investigators and forensic and IT experts.<sup>93</sup> However, only a small number of CPA graduates end up getting a job on the force.

In February 2015, the Minister of Interior announced that CPA graduates whose studies were financed from the budget and who have concluded an agreement with the Ministry of Interior for each academic year will start to work for the police by the end of February or March 2016.<sup>94</sup> The promise was kept after a delay of six months, i.e. at the end of October this year, when 203 decisions on permanent employment were handed out to graduates of the Centre for Basic Police Training and the CPA.<sup>95</sup> Unofficially, only 25 of the 203 decisions refer to the graduates of the CPA.<sup>96</sup> Essentially, many graduates will not be able to get a job in the police force.

All this indicates that the situation has not changed over the past year. There are three problems. First, the money of Serbian taxpayers is spent in vain because not all graduates whose education has been paid from the budget can be police officers and work on maintaining and improving safety. Second, it is not clear why the MoI cannot employ all the graduates with whom it had signed contracts, regardless of whether it is obliged to do so or not. Third, there is the question of quality of the studies; namely, lacking police experience, CPA graduates have been offered only positions of regular patrol officer.<sup>97</sup>

### **Almost a year has passed without a Police Director appointed following a public competition**

Almost a year has passed since the former Chief of Traffic Police, Vladimir Rebić, was appointed as Acting Director of Police under unclear circumstances. The real reasons

91 Compare the Law on Budget of the Republic of Serbia for 2016, “Official Gazette of RS” No. 103/2) with the strategic priorities of the MoI, available at: <<http://goo.gl/8W1JNx>>.

92 Translator’s *nota bene*: A student whose grades are good enough to merit state financing.

93 Darko Stojković. 2016. *Ministry of Interior is financing the Criminalist Police Academy but it is not employing its graduates*. Belgrade: Belgrade Centre for Security Policy.

94 See TV program „Panorama”, Studio B, 4 February 2015. Available at: <<https://goo.gl/FpOsCx>>.

95 “Stefanović handed out decisions on permanent employment” <<https://goo.gl/rba4Sa>>.

96 Interview with a representative of the Ministry of Interior, 14 November 2016. Identity known to authors.

97 Bojan Elek, Dunja Tasić, Saša Djordjević. 2015. *Integrity Assessment of the Police Force in Serbia*. Belgrade: Belgrade Centre for Security Policy, pp. 26-28.





for the dismissal of the former Police Director, Milorad Veljović, who later became an adviser to the Prime Minister, remained unknown to the public.<sup>98</sup>

Under the Law on Civil Servants, the deadline for the announcement of an internal or open competition to fill a position currently headed by an acting official is 30 days from the date of appointment of said acting official (Article 67a paragraph 3). However, in the decision of the Government on the appointment of Vladimir Rebić it was not specified how long he was to remain the Acting Director of Police.<sup>99</sup> The question why such a decision was taken seems logical, especially if one takes into account the fact that in the case of previous appointments of acting officials the period of their appointment has been determined very precisely – they were to remain in the position for three or six months.

Minister of Interior had promised a competition for the position of Director of Police immediately after the adoption of the Law on Police,<sup>100</sup> and it was conducted in late January 2016. Thus, having announced a public competition for the Director of Police nine months late, the MoI failed to comply with statutory procedure. The appointment of Director of Police thus became a political issue once again, just like in 2012 when the citizens of Serbia had to wait for more than a year for a competition.<sup>101</sup> However, unlike four years ago, things went without intensive presentation of unofficial statements about which candidates were the political parties' favourites, which is good.

The competition for the position of Director of Police was finally announced on 2 September 2016.<sup>102</sup> Ten candidates applied and two are currently shortlisted for the position. Acting Police Director Vladimir Rebić and the former Chief of Police in Užice, Dragica Jevtović, have passed all the stages of verification in the race for the position of Director of Police. Since the beginning, the two of them were the only ones who passed all the stages of the selection process governed by the Regulation on the Implementation of Open Competitions in the Ministry of Interior.<sup>103</sup> The selection process, consisting of six phases, began following the establishment of the Competition Commission in September 2016:<sup>104</sup> (1) verification of compliance with formal legal requirements; (2) verification of basic competences; (3) medical examination; (4) interview;

98 Saša Djordjević. 2016. "The New Year's police magic," *Peščanik*. <<https://goo.gl/QciwIz>>

99 Decision on the appointment of Acting Director of Police, "Official Gazette of RS" No. 119-14330/2015.

100 Danijela Vukosavljević. 2016. "No criminal group can endanger the safety of Serbia," *Politika*. <<https://goo.gl/CNE6AY>>

101 Saša Djordjević. 2012. "I'm letting it be known that I want control," *Peščanik*. <<https://goo.gl/kmKPNX>>.

102 See: <<https://goo.gl/dij3D8>>.

103 "Official Gazette of RS" No. 72/2016.

104 Decision 01 number: 7338/2016-4 of 1 September 2016.





(5) security check; (6) ranking of candidates. The selection process was completed on 22 November 2016 when the Competition Commission made the final ranking list based on the assessment and forwarded it to the Minister of Interior. Vladimir Rebić and Dragica Jevtović have passed the final stage of the appointment process.

The process of selecting the Director of Police is partially transparent.<sup>105</sup> The fact that information that allows citizens to understand how the selection process works was published for the first time is a positive step forward, but documents used by the Competition Commission to assess potential candidates are not publicly available.

### **Dramatic downsizing of the police force**

The process of reducing the number of employees in the MoI was completed quickly, randomly and without a plan. As a result of implementation of the Law on the Method of Determination of the Maximum Number of Employees in the Public Sector, the Ministry of Interior had to let go 1,696 of its employees.<sup>106</sup> The process began as required by law. The Rulebook on Internal Organisation and Systemisation of Job Positions in the MoI was amended in early December 2015. The Human Resources Sector submitted to all the regional police administrations a request to provide lists of police officers whose services were no longer needed. At the same time, one of the tabloids published an article on great purges in the police. No one else published this information before they did, and the Rulebook was marked confidential. A bit later the Police Union of Serbia announced that the MoI had completed the lists of employees who should be let go due to security risk or at the sole discretion of superior officers.

Such action resulted in two problems. Processing of personal data as part of the process of establishing a security risk is not appropriately regulated by the applicable Law on Police. Types of data to be processed are not properly prescribed, and neither is the following: who should process them, how data are to be collected and kept, and for how long they can be kept and used. The MoI was aware of the problem, and has adopted the regulation establishing the existence of a security risk three days before the Act on the Systematisation of Job Positions was amended.<sup>107</sup> The Commissioner for Information of Public Importance and Personal Data Protection initiated the procedure of control *ex officio*, as processing of personal data is not allowed to be regulated in a bylaw. The Rulebook was later repealed.

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105 See: <<https://goo.gl/dij3D8>>.

106 "Official Gazette of RS" No. 68/2015 and 81/2016 – decision of the Constitutional Court.

107 Rulebook on the Security Verification Process and the Content of the Questionnaire, "Official Gazette of RS" No. 97/2015.



Personal discretion of a superior officer cannot serve as grounds for termination of employment. Moreover, police officers also say that the persons in charge of drawing up the list were “blackmailed” and at risk of losing their jobs if they failed to name names. The downsizing process would be clearer if criteria for termination were known. In his New Year’s interview to “Politika,” the Minister of Interior did not answer the question on the criteria used, explaining instead the reason for the downsizing: “Certain organisational units within certain sectors will no longer exist.”

Termination lists were compiled and hundreds of decisions were handed out, transferring officers to job positions that do not exist: coordination of risk analysis tasks, senior level risk analysis tasks, independent risk analysis tasks, risk analysis. They will all lead to employment termination. Not everyone will be terminated, however, since a Commission was formed to determine who will no longer work in the police. Assistant Director of Police is President of the Commission comprised of 13 additional members, including four envoys of representative police unions – the Police Union of Serbia and the Independent Police Union. Police unions were admitted to the Commission after the talks with the Prime Minister. The Police Union of Serbia was not allowed to participate in the work of the Commission; it was instead recommended that they submit their comments and suggestions to the representative unions.

The Commission has processed 696 appeals, which is 47% of the total number of delivered decisions on job transfer. Only the appeals submitted to the Commission through representative police unions were considered. Hence, the logical question is: why were not all the appeals considered, considering that the decision on the establishment of the Commission did not explicitly state that the Commission would consider only appeals submitted to representative police unions? Meanwhile, the Independent Police Union of Serbia has criticised the MoI for issuing decisions on job transfer to pregnant women, new mothers, war veterans and people who were ill. Ministry of Interior has denied such allegations. Then, the Independent Police Union of Serbia and the Ministry of Interior organised press conferences on the same day and at the same time. One served to announce a protest, the other to conclude that Serbia is a safe country.

It has been established in the Decision on the Maximum Number of Employees in the MoI that the correct number is 42,850.<sup>108</sup> As the MoI currently employs 42,817 persons, it follows that the Ministry is now 33 persons short. All employees who have been transferred to the “risk analysis” tasks were returned to their original job positions.<sup>109</sup> The process of downsizing has been carried out without clear criteria, and we

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108 Law on Police, “Official Gazette of RS” No. 101/2015.

109 Interview with a representative of the Ministry of Interior, 18 September 2016. Identity known to authors.



should therefore not be surprised by the decision of the MoI to envisage in its draft budget for 2017 almost twice more money for fines and penalties based on court decisions than it did in 2016. In the draft budget for 2017 expenditures amount to RSD 1.2 billion, compared to RSD 670 million that was set aside for 2016.

## **Recommendations**

- ▶ It is necessary to ensure transparency and a commitment to continue the reforms in human resources management through further definition of public policies, procedures and bylaws, and their implementation in practice.
- ▶ The Human Resources Sector should have a formal power to make decisions during the recruitment, hiring, promotion and employment termination in the police and the Ministry, without interference by the Minister of Interior and his cabinet.
- ▶ Adopt an alternative plan to finance the reform of human resource management in the MoI which will not be solely based on the support from international development assistance.
- ▶ It is necessary to adopt the MoI staffing plan with a clearly assessed and identified number and profiles of CPA graduates required by the Ministry.
- ▶ It is necessary to stop the practice of appointing acting officials to key positions in the Ministry of Interior, such as Director of Police or chiefs of individual sectors in the Ministry.



## FINANCIAL MANAGEMENT

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*Author: Vladimir Erceg*

Improvement of public safety is uncertain as the MoI budget has a pronounced social character. Expenditures related to fines and penalties based on court decisions are high and increasing. Not enough attention is paid to the quality of procured goods.

As the Ministry of Interior is one of the largest direct budget users, with over half a billion euros made available to it, it is extremely important to ensure transparency and accountability in spending the taxpayers' money. This part of the report deals with the analysis of financial management within the MoI. Special emphasis is placed on budget spending and implementation of public procurement, as well as the control mechanisms that exist to ensure meaningful spending of limited funds.

### **Budgeting is social, not developmental**

As a result of implemented austerity measures, in 2016 the MoI had at his disposal RSD 2 billion less than in the “restrictive” year 2015 when the MOI budget was reduced by as much as RSD 6.5 billion.<sup>110</sup> Due to the efforts to minimise the impact on employees' salaries, these measures primarily negatively impacted investment in development and capital projects.

The objectives of public safety policies has been much more difficult to achieve in this period because many projects, such as the project of improving the video surveillance of traffic or purchase of new patrol cars, were never realised although they had been included in the budget. Reports on budget execution show that, in the course of a year, funds from these projects are often used for salaries and compensation of employees.

The main obstacle to achieving the objectives of public safety policies and improving the working conditions of employees in the MoI is the social nature of this Ministry's budget. More than 83% of the 2016 budget (RSD 51.5 billion) went to pay the salaries, social benefits and compensation of MoI employees, while only 2.3% (RSD 1.4 billion) was used for investment in the development, equipment and capital expenditures.<sup>111</sup>

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110 Law on Budget of the Republic of Serbia for 2016, “Official Gazette of RS” No. 103/2015; Law on Budget of the Republic of Serbia for 2015 “Official Gazette of RS” No. 142/2014 and 94/2015.

111 Ibid.



**Table 3: Overview of the MoI budget, by year (in billions of RSD)**

Year	2013	2014	2015	2016	2017
Total budget	69,2	70,3	63,8	61,7	66
Salaries	85%	84%	83%	83%	82%
Maintenance	14%	14%	14%	14%	14%
Investments	1%	2%	2%	2%	4%
Nominal change in relation to the previous year	- 0,1	+ 1,1	- 6,5	- 2,0	+ 4,3

Despite the percentage of the MoI budget that is allocated for salaries of employees, many police unions say that they are not satisfied with either the salaries or conditions at work – the quantity and quality of equipment, uniforms, official vehicles, or the state of official buildings. Due to the lack of budget funds for development and equipment, problems concerning the quality of purchased goods, services and works are becoming more and more important, further damaging the public interest and the interests of the Ministry.

Budget execution further confirms problems that have been already identified – the MoI budget for 2015 was exceeded by approximately RSD 2 billion, without a revision. With the help of external sources and reallocations within the budget, salaries have been increased by RSD 2.5 billion, primarily at the expense of investment in the development and equipment, which was reduced from RSD 1.2 billion to RSD 0.4 billion.<sup>112</sup>

### **There is not much “programming” in the budget of MoI**

The obligation of preparing a program budget was introduced in 2015 for all budget users. Program budgets oblige users of public funds to seek funds in accordance with the objectives they are trying to achieve. In order to assess whether set objectives have indeed been achieved, in the reasoning of the budget the budget users must present the indicators of effects expected after the implementation of budgeted activities. One gets the impression that the criteria (indicators) of MoI program activities provided as reasoning for the budgets for 2015, 2016 and 2017 were of purely formal nature. Projected progress from one year to the next is often presented using an unspecified value - “increase,” which could mean both a considerable and a slight increase. Of particular concern is the fact that the values of the criteria are simply copied from one year to another.

This could mean two things; either that no progress is being achieved or that the values are not being measured at all. If no progress is being made, it is reasonable to ask: why

112 “Expenditures overview for 2015,” 31 December 2015, <<https://goo.gl/QfqVye>>.



continue to invest in said program activities? If the values are not measured, then they are presented in the budget reasoning for purely formal reasons.

**Table 4: Example of the “copying” of criteria in the budgets of the MoI for 2015, 2016 and 2017**

Name of indicator	Unit	Base value	Target value in 2015	Target value in 2016	Target value in 2017
Number of committed criminal offences*	Number of criminal offences	100.000	98.000	96.000	95.000
*Reasoning that accompanied the Law on Budget 2015					
Name of indicator	Unit	Base value	Target value in 2016	Target value in 2017	Target value in 2018
Number of committed criminal offences*	Number of criminal offences	100.000	98.000	96.000	95.000
*Reasoning that accompanied the Law on Budget 2016					
Name of indicator	Unit	Base value	Target value in 2017	Target value in 2018	Target value in 2019
Number of committed criminal offences*	Number of criminal offences	100.000	98.000	96.000	95.000
*Reasoning that accompanied the Law on Budget 2017					

Lack of experience with the implementation of the program budget, which applies to all the budget beneficiaries, can partly explain certain omissions but if we take a look at the MOI budgets for the previous three years, the prevailing impression is that there is no serious political will to abandon line-thinking when it comes to the budget. Spending is not sufficiently guided by achieving set objectives, and is subject to short-term needs of the Ministry.

**Box 11: A reform of the salary system has been announced**

The proposed salary reform provides for the creation of a uniform salary framework for all MoI employees. This includes the introduction of a uniform base, and uniform salary elements at the level of the entire Ministry. The reform of the salary system also provides for the creation of a new job nomenclature and job descriptions, and equalisation of

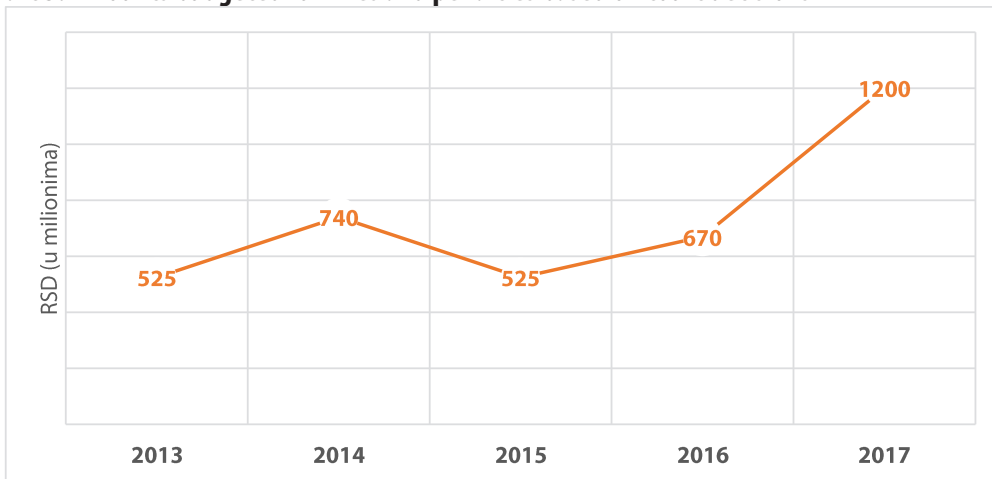


salaries, status and benefits acquired performing the same or similar tasks or working in the same or similar job positions. The fact that the reform includes auditing a required number of employees in the organisational units of MoI to achieve optimal performance is especially commendable. The deadline for the implementation of this reform is not known.<sup>113</sup>

## Unplanned expenditure

When we observe the trends in the expenditure of MoI, the fact that enormous funds are allocated for the payment of fines and penalties based on court decisions is particularly worrisome. In the 2015 budget this amount was RSD 525 million; in 2016 – RSD 670 million, while in the draft budget for 2017 all of RSD 1.2 billion has been allocated for this purpose. The situation is even worse when one looks at expenditure reports.

**Chart 5: Amounts budgeted for fines and penalties based on court decisions**



In 2015, despite the sum of RSD 525 million budgeted for these expenditures, MoI actually spent as much as RSD 1.4 billion.<sup>114</sup> Data for 2016 indicate that RSD 1,064 million has already been paid on this basis by September 2016.<sup>115</sup> It is enough to point out the fact that these amounts are equal to or greater than the annual investment in equipment and development projects of the MoI. There is no answer to the questions why the costs of fines and penalties based on court decisions are this high or whether enough effort is made to reduce these harmful expenditures. These should certainly be the main questions for the relevant parliamentary committees and the MoI Internal Audit Service. Projects concerning the procurement of patrol cars and vehicles for the

113 See: <<https://goo.gl/SnS8uz>>.

114 "Expenditure overview for 2015," 31 December 2015, <<https://goo.gl/QfqVye>>.

115 Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p. 65.



traffic police and the introduction of modern video surveillance used to improve road safety have not been realised in 2015. The amounts envisaged for these projects in 2016 have not been spent by 1 September 2016; they have been copied into the budget proposal for 2017 and it is therefore unlikely that they will be realised by the end of 2016.

Based on the 2015 budget execution it can be concluded that large amounts of funds are reallocated, each year, with additional funding approved by the Government and without a revision of the budget, to cover the employees' compensation and social benefits, at the expense of funds allocated for equipment and development projects. The fact that, after two years of reductions, the total amount allocated for salaries and benefits has increased in 2017 by 5.5% i.e. 2.8 billion compared to 2016 is commendable. Still, the budget would have to be increased by RSD 4.9 billion just to return the salaries to their nominal level from 2014.

That fact that an increase - in comparison with 2016 - of as much as 79% or RSD 1.1 billion was allocated for investment in machinery, equipment and capital maintenance, and construction of buildings is also commendable. Of course, despite this notable increase over the previous year, the share of investment in the total MoI budget is still extremely low: 3.81% (it was 2.27% in 2016). However, if we take a closer look at expenditures in this category, it is noticeable that 60% of this increase consists of allocations for just one project.

It is the Project 5007 - "Modernisation of the Car Park of the Ministry of Interior" and it will take as much as RSD 700 million. Since the budget, in addition to this project, also involves Project 5001 - "Purchase of Necessary Equipment (Patrol Cars)" worth RSD 30 million and Project 5004 - "Strengthening of Material and Technical Capacities Required for the Work of the Traffic Police," worth RSD 75 million, which envisages the purchase of patrol vehicles and vehicles for the traffic police, one question remains: what vehicles are going to be purchased with RSD 700 million from Project 5007? This amount could certainly be used to significantly improve the very poor state of vehicles used by members of the police force. However, imprecise description of this Project in the budget reasoning leaves room for funds to be spent on needs of a lesser priority.<sup>116</sup>

### **The effects of work of the Internal Audit are not known to the public**

The MoI Internal Audit Service in an independent service that seeks to improve and enhance the performance of individual organisational units by auditing the work of

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116 Law on the Budget of the Republic of Serbia for 2017, "Official Gazette of RS" No. 99/2016; Law on the Budget of the Republic of Serbia for 2016, "Official Gazette of RS" No. 103/2015; Law on the Budget of the Republic of Serbia for 2015, "Official Gazette of RS" No. 142/2014 and 94/2015.





the Ministry. The position of the Internal Audit Service is regulated by the Act on Internal Organisation of the MoI, while its work and competencies are governed by the Rulebook on the Common Organisational Criteria and the Standards and Methodological Guidelines for Operation and Reporting of Internal Auditors in the Public Sector,<sup>117</sup> and the internal act “Instructions and Procedures for Conducting Audits in the Ministry of Interior.”

In order for the Internal Audit Service to function as an independent body with wide powers, it is necessary to satisfy certain prerequisites. Normative assumptions are solid – the above Rulebook gives sufficient authority for effective auditing. Still, if the Service does not have sufficient human and material resources, if there are obstacles or omissions in the selection of the object/subject of audit, or if the recommendations of the internal audit are not implemented by the audited entities or political decision-makers, then all the efforts of the Service are brought under question.

The Internal Audit Service still does not have a sufficient number of auditors. The latest data show that the Service employs 9 persons even though there are 13 systematised job positions. There are no independent and publicly available assessments whether even 13 would be enough, especially if one takes into account the fact that the competencies of the Service have been extended by the provisions in the MoI Plan for the Prevention of Corruption in Public Procurement Procedures of January 2016 to include control of public procurement.<sup>118</sup>

The Internal Audit Service operates on the basis of the strategic (three-year) plan and the annual work plan. These plans are created based on a risk assessment. It is not known whether such a risk assessment exists in the MoI, or who performs it. Above all, it is not known what criteria are used to prioritise the selection of audit subjects and whether certain “politically sensitive” aspects of the work of the Ministry remain out of reach of the audit. The situation involving many years of increased expenditures for fines and penalties based on court decisions is certainly a cause for suspicion, as one can assume that improved work would cause a reduction, not an increase, of such costs.

Even a best organised and equipped internal audit service cannot achieve its purpose if its recommendations are not implemented. The situation in the MoI has not changed in this regard in 2016. There is no will among the management of this Ministry to implement the recommendations of the internal audit.

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117 “Official Gazette of RS” No. 99/2011 and 106/2013.

118 Mol Plan for the Prevention of Corruption in Public Procurement Procedures, January 2016. <<https://goo.gl/VOiPMu>>.



Since the content of the documents relating to the audits (Service's work plans, reports on conducted audits, risk assessments, reports on the implementation of the Service's recommendations) are of internal character, it would certainly be necessary that an independent and authorised external control instance – such as a competent committee of the National Assembly or the State Audit Institution – implement a procedure that would be able to answer to what extent the Internal Audit Service is allowed to operate efficiently. The answer should then be presented to the public, in an appropriate form.

Positive progress has been made when the Internal Audit Service and the MoI Internal Control Sector signed a memorandum of cooperation that involves two-way communication for the purpose of alerting each other on matters that fall within the purview of both departments. This cooperation was also formalised in the new Rulebook on Internal Organisation and Systemisation of Job Positions. It is not known whether there has been any specific communication and data exchange since the establishment of cooperation.

The State Audit Institution did not conduct any audits relating to operations of the MoI since 2012. Still, the report on the expediency audit, focused on the justification of the establishment of committees and other permanent and temporary working bodies in the public sector, stated that the MoI had spent RSD 7.5 million on the work of such committees in 2014.<sup>119</sup> Among the 16 reviewed ministries, the Ministry of Interior was ranked 8th, belonging to the group of 10 ministries that spent less than RSD 10 million for these purposes.

### **As funds are scarce, it is necessary to be more careful with public procurement**

The last two years have brought a more restrictive MoI budget that negatively impacted mostly the investment in fixed assets. As members of the police force are poorly equipped and the budget for new investments is small, quality implementation of procurement procedures is crucial. According to the reports of the Public Procurement Office<sup>120</sup> and the reports on individual procurements conducted in the MoI,<sup>121</sup> the problem of the quality of purchased goods, services and works is quite evident.

119 Expediency audit report- justification of establishment of committees and other permanent and ad hoc working bodies in the public sector," 13 July 2016, <<https://goo.gl/lubVfl>>.

120 "Report of the Public Procurement Office for 2015," 31 March 2016, <<https://goo.gl/Y7LtJp>>.

121 See: Nenad Radojčić, Zoran Bašić. 2016. *Combat sneakers without a battle*. Belgrade. Belgrade Centre for Security Policy; Milan Stefanović. 2016. *The police are printing like crazy*. Belgrade. Belgrade Centre for Security Policy; Dejan Škorić. 2016. *Coerced procurement: how local governments unlawfully equip firefighters*; Ana Aćimov. 2016. *Traffic safety: Prioritised or neglected?* Belgrade. Belgrade Centre for Security Policy.



The case of harmful purchase of 14,000 pairs of combat boots for police officers of 2014 became public knowledge in 2016 when it was discovered that the quality control of ordered goods at the MoI had seriously failed, and that purchased footwear was completely unfit for the officers' regular duties. Because of the irregularities in the procurement of footwear, the Internal Control Sector filed charges against the responsible officials in the MoI. The outcome of the criminal proceedings is still unknown.

The other problem consists of badly planned, poorly implemented, and in some cases dubious restrictive procurement processes that unnecessarily prolong the acquisition of fixed assets or unreasonably narrow competition. For example, due to poor management of the process and unreasonable demands in the tender documentation of the centralised procurement of toner cartridges for printers, MoI remained without means of work during the entire 2015. Six requests for protection of rights have been submitted, the process was twice annulled by the Republic Commission for the Protection of the Rights, and the Ministry of Interior paid the costs of these proceedings.

The third identified problem is the very troubling MoI practice of transferring the procurement of equipment necessary for the operation of the traffic police or fire services to local governments. Municipalities and cities that may recognise, or do recognise, a specific interest in doing so, allocate their own funds to buy radars for traffic police or fire trucks, which they, then, by way of an assignment contract, give to MoI units specialised in fire-fighting to use. The units are unequally equipped and disunity of procurement leads to higher costs and potential technical non-compliance of MoI equipment.

Some media as well as a number of police officers had many objections regarding the quality of purchased goods, especially food and uniforms. They also mentioned unequal treatment of individual units within the MoI and the obvious shortage of fixed assets necessary for work such as patrol cars and traffic police vehicles in proper working order. Following frequent media reactions concerning these and similar cases, in the second half of the year the Minister of Interior accepted the resignation of Head of the Department for Material and Financial Affairs and ordered additional control of implemented procurement procedures.<sup>122</sup> The Minister also promised to improve the material status and better equip the employees in 2017.

In 2016 the Ministry of Interior normatively improved the public procurement system by applying the Instruction for the Implementation of Public Procurement Procedures in the MoI of November 2015, and by adopting the Plan for the Prevention of Corruption in Public Procurement of MoI in January 2016. Among other things, this Plan also provides for the obligation of employees in the MoI, as well as other interested persons,

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122 Decision on termination of office of Assistant Minister of Interior, "Official Gazette of RS" No. 75/2016.



to report corruption and other irregularities noted in public procurement procedures carried out by the MoI. A person who comes into possession of information about corruption or irregularities is obliged to forward it to the Public Procurement Office, the Anti-Corruption Agency, the competent prosecutor's office and the Internal Audit Service, which was designated in the Plan as a body that controls public procurement in the MoI. The Internal Audit Service is obliged to act upon information received and take necessary measures from the scope of its purview. There are no data on the number of reports the Internal Audit Service received on this basis.

The commissioning of the portal for the implementation of e-Procurement, which should significantly facilitate procedures in the future and enhance the transparency and integrity of the proceedings, is certainly commendable.

## Recommendations

- ▶ It is necessary to implement the reform of salaries and organisation of job positions, and significantly increase investment in capital projects and better equipment of police officers. This would lead to a more sustainable financial situation, better placement of employees, better morale of police officers, and consequently better work results.
- ▶ Start working seriously on the development of the program budget criteria, to justify the investments and help MoI to be effective in policy development and achieving strategic goals.
- ▶ It is important to discover the reasons for high costs of court proceedings. It is necessary to carry out the audit of business practices of the MoI that lead to enormous costs of fines and penalties based on court decisions, and implement internal regulations and reforms to prevent the same mistakes. This should free up some additional resources for development.
- ▶ It is necessary to publish annual statistics on the work of the Internal Audit Service and on the number and effects of implemented recommendations. Once per year, the competent committee of the National Assembly should request and consider a report on the work of the Internal Audit Service.
- ▶ It is necessary to strengthen the control of public procurement procedures in the MoI, with the aim of drastically reducing the number of harmful purchases. This will generate long-term savings, improve the working conditions of employees, and create a tradition of good practice.



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# CRIMINAL ACCOUNTABILITY

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*Author: Sofija Mandić*

Republic Prosecutor's Office does not keep separate statistics on the number of criminal charges filed against police officers, making it impossible to find out how the judiciary resolves cases of police corruption.

This section of the report discusses the formal possibility of prosecuting members of the police for corruption offences. Other topics of analysis were: how often police officers are prosecuted in practice; who initiates these proceedings; what is their flow; and how they are concluded.

## **Epilogue of the criminal charges filed for corruption in the police is unknown**

The Criminal Code allows the prosecution of perpetrators of criminal offences that include elements of corruption. Some of these offences may be committed in different circumstances (even while on official duty), while some, as a rule, are committed while on official duty, or their occurrence while on official duty represents a grave criminal offence.<sup>123</sup>

Belgrade Centre for Security Policy has asked the Republic Public Prosecutor's Office how many indictments it had filed against police officers in 2014 and 2015 for corruption offences, and who had filed the related charges (citizens, the Internal Control Sector, or other applicants). BCSP also asked about the number of cases in which the Republic Public Prosecutor's Office has initiated criminal prosecution, and how many criminal proceedings had been resolved by a final decision during the reporting period.

However, the response of the Republic Prosecutor's Office had stated that “statistical forms completed by the public prosecutor's offices do not contain the information requested, and public prosecutor's offices do not keep such records.”<sup>124</sup> In other words, at the moment it is not possible to keep a comprehensive and systematic record of prosecution of police officers. The absence of this information is detrimental for several reasons: without them it is difficult to make strategic decisions in the area of prevention of corruption in the police, and it is difficult to convince the public that the justice system

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123 Criminal Code, “Official Gazette of RS” No. 85/2005, 88/2005 – correction, 107/2005 – correction 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016

124 Reply of the Republic Public Prosecutor's Office No. 50/16 of 4 November 2016.



is doing all it can to prevent this form of corruption. All this further encourages the perception of widespread corruption in the police force. Only three percent of citizens believe that there is no corruption in the police.<sup>125</sup>

Indirect information about the prosecution of offenders can be found in the annual reports of the Republic Public Prosecutor's Office on the work of public prosecutor's offices on crime prevention and protection of constitutionality and legality.<sup>126</sup> The crime prevention department especially follows the proceedings involving crimes against the economy and official duty (Chapters XXII and XXXIII of the Criminal Code) and charges have been filed against 12,963 persons for these offenses in 2015.<sup>127</sup> Reports filed in 2014 against 11,225 persons were still pending in the following year, so the total number of pending reports in 2015 was 24,161.

Half of these charges were filed by the police, while the other half was filed by the prosecution, victims and all other state bodies together. One third of the filed charges have been dropped. After the completion of criminal proceedings, the remaining cases ended with first instance decisions against 3,787 persons, of which 71% were convictions. The sanctions issued were mostly suspended sentences (68%), while 24% of those convicted received prison sentences. 677 appeals have been filed with the second instance, of which 24% were accepted.

However, as we have already pointed out, these data refer to all the pending cases involving crimes against the economy and official duty in the proceedings, and it is not possible to reliably conclude how many of them involved police officers. Prosecutor's offices keep separate records on the occupations of the accused, but there are only three categories: republic and local officials, directors, and others. Other acting officials, including members of the police, belong to the category "Others."

Although there are no specific records of members of the police, if we look at the proceedings involving criminal offences that are often committed by police officers (abuse of office, receiving a bribe) in 2015, we see a similar trend as in the comprehensive data on crimes against the economy and official duty: a modest number of charges filed – in relation to the extent of corruption in the public services – a high number of dropped charges, and a small number of convictions in relation to the number of charges filed.

125 Aurelija Djan. 2016. The Citizens' Opinion of the Police Force - Results of a Public Opinion Survey Conducted in Serbia. Belgrade: Belgrade Centre for Security Policy, p. 19.

126 See: <<https://goo.gl/GCvVBE>>.

127 "Annual Report of the Republic Public Prosecutor's Office on the Work of Public Prosecutor's Offices on Crime Prevention and Protection of Constitutionality and Legality 2015." pp. 29-43, <<https://goo.gl/GCvVBE>>.



Data for the criminal act of receiving a bribe represent a good example: 199 persons were charged for this in 2015, and – also counting unresolved cases from the previous period – cases were pending against 244 persons. In the first instance, verdicts were issued in the case of 92 persons; 57 of them were convictions. These statistics show that only a small number of cases involving typical corruption offences reach the judicial authorities. To compound this conclusion, these data include all persons in the process, not just members of the police force.

#### Box 12: Prosecutors are unhappy with their competencies regarding the police

Introduction of prosecutorial investigation in Serbia completely changed the roles of and the relationship between the main actors in criminal proceeding: the police, the public prosecutor's office, the defence counsel and the court. A public prosecutor now exercises judicial power in a great number of cases, because s/he decides on the rights of suspects and victims and can resolve criminal matters based on the merits. However, the transfer of power from a former "investigating judge" to the public prosecutor was not accompanied by the transfer of resources and guarantees of independence. After the start of implementation of the new CPC, approximately 38,000 cases have been transferred from the courts to the public prosecutor's offices, but without an adequate increase in human resources. Public prosecutors are nominated by the Government and elected by the National Assembly, which allows for impact of the executive and legislative authorities on the work of public prosecution. A CESID recent survey showed disturbing data concerning the training of public prosecutors. Almost half (48%) of the surveyed public prosecutors have attended only one training - which is believed not to be enough - while only 33% claimed to have had sufficient training. Also, prosecutors believe that they also need greater authority over the police in order to conduct investigations more effectively (84%).<sup>128</sup>

### Minimal fluctuations in the number of criminal charges filed against police officers

The report of the Internal Control Sector (ICS) is currently the only source of reliable information on the criminal charges filed against members of the police. By the end of June 2016 there were 116 criminal charges, mostly involving abuse of office (50) and receiving a bribe (36). In one case charges were filed for trading in influence.<sup>129</sup> In 2015, charges were filed against 173 police officers, and they filed most frequently for

128 Interview, Marina Matić, Association of Public Prosecutors and Deputy Public Prosecutors, 15 November 2016.

129 Presentation of the Internal Control Sector at the conference "Challenges of the Existing Policing Control System," organised by the OSCE Mission in Serbia.





receiving a bribe (111) and abuse of office (86), followed by fraud (37), negligence on duty (23) and giving a bribe (21).<sup>130</sup>

The Internal Control Sector stated that other organisational units of the MoI, in addition to ICS, have filed a total of 587 criminal charges against police officers in 2015 for various types of crime.<sup>131</sup> The same number - 587 criminal charges - can also be found in the Information Booklet on the Work of the MoI.<sup>132</sup> However, the Information Booklet does not say which organisational units of the MoI have filed criminal charges against police officers; how many police officers are included in the criminal charges, what are their ranks or titles and to which organisational units belong; for which offenses were criminal charges filed against police officers; what were the outcomes of said criminal charges, how many were dropped, how many the prosecution decided to act upon, how these proceedings ended, and which sanctions were imposed on convicted police officers. Due to the above, the information provided was not taken into consideration.<sup>133</sup>

The Internal Control Sector has made records of charges filed in the ten-year period (2005-2015) publicly available, where a significant increase in the number of charges filed against police officers was apparent until 2008. After that, the number of filed charges varied only slightly. However, it should be noted that the leap made during the period ending in 2008 was recorded only because the initial number of charges was extremely low: only 47 and 28 in 2005 and 2006.

However, although these are important data, they suggest that the fight against corruption in the police force is still in its infancy. At least two other circumstances should also be addressed. The first is that ICS is just one on the list of those who can file criminal charges against members of the police, and the number of charges from its report cannot be viewed as and the total number of charges filed. Also, ICS data speak only of the charges filed, while prosecution and final completion of the proceedings is something that should follow such charges, and the public – as a rule – receives no information about this (this could be solved by the prosecution through a new way of collecting data). It should also be noted that the total number of criminal charges filed against police officers is small, about one percent, and that there is still a signif-

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130 "Report on the Work of the Internal Control Sector for 2015," March 2016, <<https://goo.gl/CJSqoo>>.

131 See: <<https://goo.gl/uxgjpL>>.

132 Information Booklet on the Work of the Ministry of Interior of the Republic of Serbia, updated on 20 September 2016, p. 115.

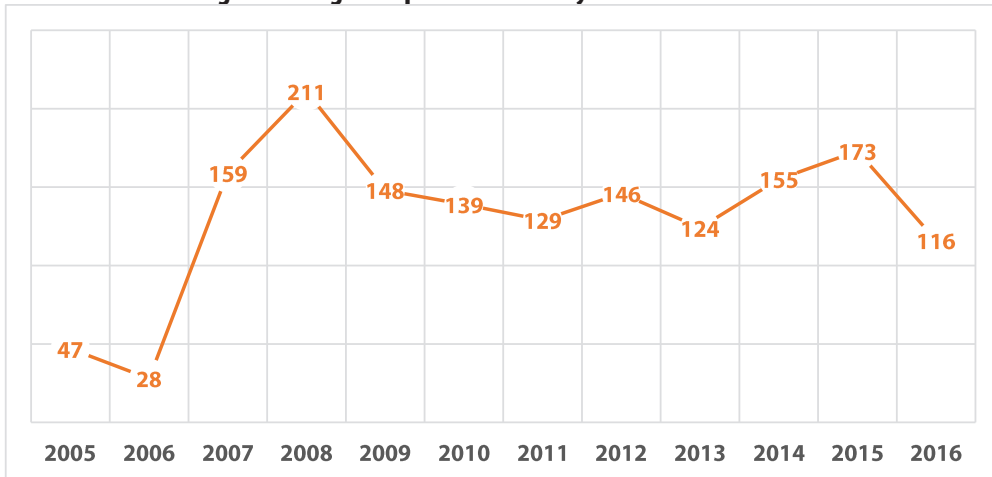
133 To obtain complete information, BCSP submitted a request for access to public information to the MoI on 19 December 2016. Information from the Ministry of Interior has not yet arrived. If this information becomes publicly available or if BCSP receives a response from the Ministry of Interior, BCSP will include it in its report for 2017.





icant discrepancy between the number of charges filed and the perception of citizens about the extent of corruption in the police, which does not stand alone as it has been confirmed in the recommendations of the European Commission, where particular emphasis was placed on the need to establish protective measures for strengthening the integrity of the police.

**Chart 6: Criminal charges filed against police officers by Internal Control Sector\***



\*Data for 2016 refers to the period ending on 30 June 2016

Although the impact is still low, by comparing the data of the Republic Public Prosecutor's Office and ICS we have concluded that the majority of reports of corruption in the police force come from police officers themselves. For example, in the case of 199 persons charged with receiving a bribe in 2015, 111 reports came from ICS. Other actors – victims, state authorities and the prosecutor's offices are still insufficiently using mechanisms that are available to them to report corruption. It should be noted that the Law on Police (Article 172) provides for the termination of employment of any member of the MoI against whom criminal proceedings are pending for offences which are prosecuted ex officio, including corruption offences. Termination of employment comes about before the court decides on a person's liability, which is not a fair solution and may prevent those who wish to report suspicions of corruption from actually do it. If they believe that a criminal act has been committed, members of the ICS or regular police officers may decide not to report it because criminal prosecution would automatically mean the loss of job for the police officer in question. Changing the rules on termination of employment and the introduction of a more just solution - for example, suspension pending a decision - would open up the possibility for a large number of reports filed by the police themselves as a result of suspected corruption.



## Recommendations

- ▶ Within the framework of the existing records, the Anti-Corruption Department of the Republic Public Prosecutor's Office should introduce indicators on the basis of which it would be possible to determine against whom the proceedings are carried out, including the members of the MoI.
- ▶ The Internal Control Sector and the public prosecutor's offices should respond to any suspicion that points to a criminal offence, so that the number of charges filed can approach the level of estimated prevalence of corruption in the police.
- ▶ The mechanism of the Republic Public Prosecutor's Office used to report corruption should be more prominent, to provide injured parties with a simple and easy way to report corruption in the police.

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