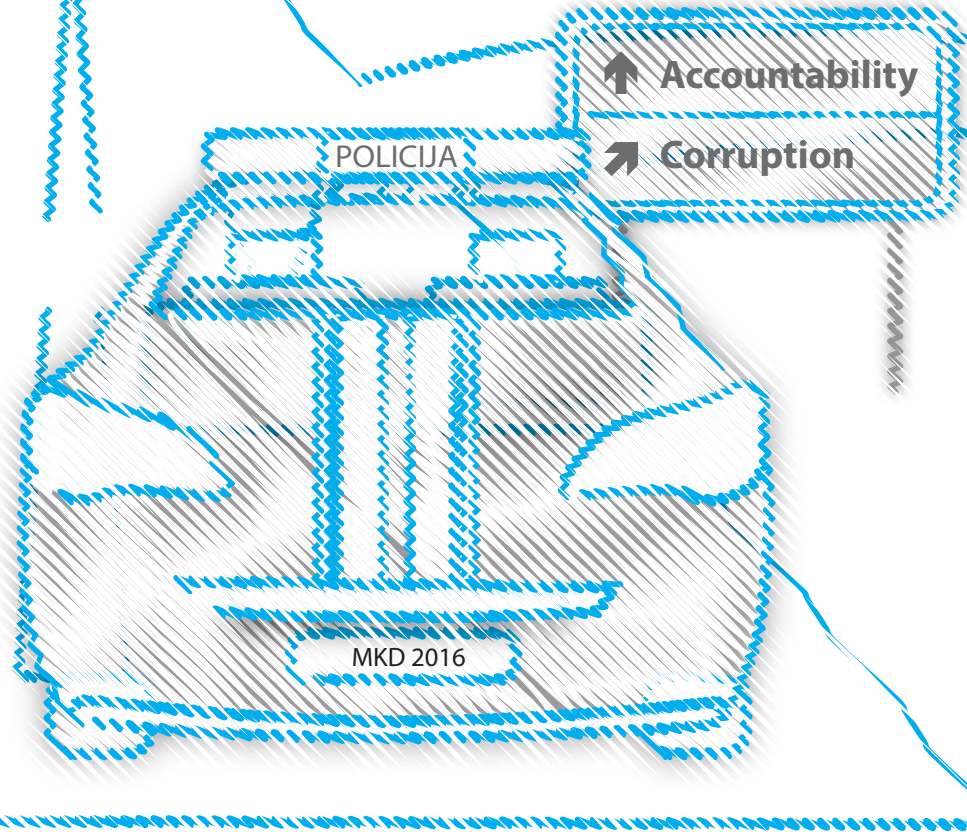


The European Union's "Civil Society Facility" programme
for civil society organizations associations



ASSESSMENT OF POLICE INTEGRITY IN MACEDONIA



The publication is supported
by the European Union

POINTPULSE 
WESTERN BALKANS PULSE FOR POLICE INTEGRITY AND TRUST



**ASSESSMENT
OF POLICE
INTEGRITY IN
MACEDONIA**

ASSESSMENT OF POLICE INTEGRITY IN MACEDONIA

Publisher

Analytica
Albert Švajcer 6, Skopje, Macedonia
Tel: +389 23 151 948
E-mail: info@analyticamk.org
www.analyticamk.org
www.pointpulse.net

Authors

Magdalena Lembovska, Filip Stojkovski

Editor

Saša Đorđević

Proofreading

Alisa Koljenšić Radić

Design and layout

DTP Studio

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 Analytica 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.

Skopje, 2016

TABLE OF CONTENTS

LIST OF ABBREVIATIONS	6
SUMMARY	7
EXTERNAL OVERSIGHT	9
Underused parliamentary oversight of the police.....	9
Lack of cooperation between the Ombudsman and the Ministry of Interior	10
Absence of progress in external financial oversight has been noted	11
Recommendations	12
INTERNAL ACCOUNTABILITY	13
Internal control is not sufficiently effective.....	13
No political will to protect the whistle-blowers.....	15
Conflict of interest is not on the agenda	16
Recommendations	17
HUMAN RESOURCES MANAGEMENT	18
The hiring process of the Ministry of Interior is transparent.....	18
The main challenges of human resources management.....	19
Recommendations	20
FINANCIAL MANAGEMENT	21
The budget of the Ministry of Interior has been increased by EUR 19 million	21
The lowest price is the most common criterion for winning a contract.....	21
No proper resources for internal auditing	22
Recommendations	23
CRIMINAL PROSECUTION	24
Insufficient cooperation between the Public Prosecutor's Office and the police.....	24
Perception of corruption in the judiciary is quite high	25
Recommendations	26

LIST OF ABBREVIATIONS

CSOs	Civil society organisations
EU	European Union
HR	Human Resources
IT	Information Technology
MoI	Ministry of Interior
MPs	Members of the Parliament
SCPC	State Commission for Prevention of Corruption



SUMMARY

The Parliament provides basic oversight and control of the police. The Committee on Security and Defence, as a parent committee in charge of security-related issues, mainly deals with discussing draft legislation. The Standing Inquiry Committee for Protection of Civil Freedoms and Rights, which is authorised to review communications from citizens and whose findings could be used as grounds for initiating a procedure for accountability of public office holders, has not had any track record since establishment. At the same time, the existing oversight mechanisms, such as holding oversight hearings, remain underused. On the other side, members of the Parliament make good use of parliamentary questions.

On paper, the Ombudsman is well positioned within the Macedonian institutional setup; however, he is faced with obstructions from the institutions in fulfilling his mandate and lack of cooperation with the Internal Control Unit of the Ministry of Interior and the Public Prosecutor's Office. It should be noted that the Ombudsman has noted an increase in policy brutality and a decrease in the protection of human rights and freedoms.

In regards to internal control, the Department for Internal Control, Criminal Investigations and Professional Standards has undergone structural changes that should allow greater authority and a better delineation between preventive and reactive work. The number of decisions taken in favour of citizens in the cases of excessive use of force remains very low, which undermines public trust in this body. Also, there have been allegations of politicisation of the work of the unit.

The adoption of the Law on Whistle-Blower Protection represents a positive development. Still, the Law needs to be amended to become more precise, and the institutions involved in the process of whistle-blower protection need to be equipped with necessary resources (human, technical, financial) in order to be able to perform. As for the prevention of conflict of interest, the State Commission for Prevention of Corruption needs to overcome certain structural deficiencies, including lack of independence, in order to be recognised as an independent oversight mechanism.

Regarding human resource management, the legal dimension of recruitment is well-established and the process is generally transparent. However, the public perception is that the selection of candidates for police employment is generally made through political and personal connections, which undermines the legitimacy of open calls. Some



sectors of the MoI are not adequately equipped, meaning that they lack either a sufficient number of staff or employees with required skills and knowledge.

The budget of the MoI and the police is publically available as part of the Ministry of Finance's report on the overall Budget of the Republic of Macedonia. However, budget scrutiny is not ensured, and there are no reports on the revenue, expenditure and borrowing of the police. The internal audit unit within the Ministry is not positioned well enough within the organisational structure to establish itself as a robust and independent internal control body. The unit also lacks necessary human and material resources.

The judicial system in Macedonia is one of the weakest links in fighting corruption in the police force and ensuring police integrity. The Public Prosecutor's Office and the police have not strengthened connections with one another, although extensive plans have been made for them to do so. The European Commission and the public agree on the notable absence of practice and real implementation of the Rule of Law on the ground.



EXTERNAL OVERSIGHT

The work of the Parliament's Committee on Security and Defence does not suggest impact on building police integrity, while the Standing Inquiry Committee for Protection of Civil Freedoms and Rights has failed to establish itself as a protector of human rights. Absence of cooperation between the Ministry of Interior and Ombudsman has been noted.

The first chapter of the assessment contains an analysis of external supervision over the work of the police. External control ensures that institutions that are organisationally and operationally independent from the police (the Parliament, specialised oversight bodies, civil society and the media) are designed properly, isolated from political influence and free from undue pressure, which allows them to review, monitor and supervise police integrity.

Underused parliamentary oversight of the police

The Parliament provides basic oversight and control of the police. According to its Rules of Procedure, it does have competences to exercise political control and oversight of the Government. The mechanism for such control, as stipulated in the Law on the Parliament, is the possibility of organising oversight hearings in order to obtain information, which invited authorised representatives are under the obligation to attend.¹ However, this mechanism remains underused.

There is no separate parliamentary committee overseeing the work of the police. Still, the Committee on Security and Defence is the parent committee in charge of all the issues related to security and defence, which also includes the work of the police. However, the track record of this Committee does not suggest parliamentary impact on improving police integrity. Its work mainly consists of discussing draft legislation on security and defence, as proposed usually by the Ministry of Interior, Ministry of Defence, or a group of parliamentarians. One of the more controversial laws adopted by the Parliament in 2015 was the Law amending the Law on Police, which allowed the police to use rubber bullets, stun guns and shock grenades during protests and riots. These provisions sparked an extensive public debate. However, the absence of the opposition parties from the Parliament at the time hindered the work of the Parliament in terms of quality of the debate.²

1 Article 20, Law on the Assembly of Republic of Macedonia, "Official Gazette of Republic of Macedonia", No. 104/09.

2 Kaltrina Selimi. 2016. *Assessing the oversight mechanisms of the police forces in Macedonia*. Skopje: Analytica, p. 5. <<https://goo.gl/269Wvy>>.



On paper, there is a Standing Inquiry Committee for Protection of Civil Freedoms and Rights which, among other things, is responsible for considering issues concerning civil rights and freedoms; this also includes the possibility of citizens submitting complaints to the Committee when they believe their rights have been infringed upon. While the Committee does not have investigatory or judicial powers, its findings could serve as grounds for instigating a procedure for the accountability of public office holders.³ However, this Committee has failed to establish itself as a guardian of citizens' rights and freedoms. Not a single committee meeting has been recorded during its last mandate.⁴

Another mechanism is the possibility of posing parliamentary questions on a monthly basis. MPs regularly use this opportunity to pose questions to the Minister of Interior regarding certain aspects of the work of the police.

The Committees have limited support staff and no separate budgets that could be used for obtaining additional expertise in certain areas. This is important considering that the Committee on Security and Defence covers a wide range of areas: from military missions, through public order, to migration. On the other hand, the Parliamentary Institute as the internal research unit is a solid source of knowledge and analysis which could be used by the Committee or individual MPs.

Another factor hampering the oversight and the work of the Parliament in general is political instability and the ongoing political crisis which ultimately resulted in early parliamentary elections. These elections were initially scheduled for 24 April 2016 and have since been postponed twice (to 5 June and finally 11 December). In such conditions the Parliament cannot be expected to fully perform its mandate and provide substantial control of the executive.

Lack of cooperation between the Ombudsman and the Ministry of Interior

Apart from the Parliament, the Ombudsman is the only external oversight mechanism envisaged in the Law on Internal Affairs. The position of the Ombudsman within the Macedonian legal system is sufficient for performing proper oversight. It includes a wide range of competences, such as access to classified information - including top secret information, access to the premises of state institutions without a previous announcement, summoning of officials, etc.

3 The Parliament of the Republic of Macedonia, available at: <<https://goo.gl/DNHQex>>.

4 Ibid.



The number of complaints submitted by citizens registered an increase, and 2015 was the year with the largest number of received complaints since the Ombudsman's inception.⁵ On the one hand, this could mean that the population's trust in this institution has increased. On the other, it could also mean that the situation with the citizens' rights and freedoms has worsened. In the annual report for 2015, the Ombudsman noted a higher number of occurrences of police brutality in comparison with 2014.

The Ombudsman pays special attention to police brutality and is constantly advocating for reform of the existing control mechanism of the police. The biggest concern in terms of police brutality has been the use of force against protesters. Even though the Ombudsman has initiated proceedings against police officers in this regard, the Internal Control Unit has provided a reply which was "purely formal and has not reviewed the brutal behaviour of the police".⁶ In fact, the Ombudsman generally complains about his lack of cooperation with the Internal Control Unit within the MoI, which, according to him, is nothing but "a formality".⁷ The Ombudsman also complains about the absence of cooperation with the Public Prosecutor's Office. These patterns of insufficient cooperation with institutions that are responsible for processing any improper police behavior are a serious impediment to police integrity.

Apart from the protests, the biggest problems in the work of the police, as noted by the Ombudsman, are: breach of the principle of presumption of innocence, selective actions, violations of the right to home protection, restriction of freedom of movement, restriction of the freedoms and rights of foreign citizens transiting through the Macedonian territory as refugees/migrants, etc.

Apart from the lack of cooperation with key players that should ensure police integrity, an important factor impeding the work of this institution is the insufficient number of staff. For example, there has been only one person dealing with cases of police misconduct.⁸ In the absence of another external oversight mechanism of the police, providing the institution of the Ombudsman with sufficient human and other resources should be of utmost importance.

Absence of progress in external financial oversight has been noted

There is no publically information available on external audits conducted in the MoI in the last four years. The last audit report on MoI that can be found on the State Auditing

5 The Annual Report of the Ombudsman for 2015.

6 Ibid.

7 Ibid.

8 Kaltrina Selimi. 2016. *Assessing the oversight mechanisms of the police forces in Macedonia*. Skopje: Analytica, p. 4. <<https://goo.gl/269Wvy>>.



Office's website is from 2012. After that, there are reports of audits of other institutions, but not the MoI.⁹

The two parliamentary committees that could play a role in external oversight of the spending of the MoI are the Committee for Security and Defence and the Committee for Financing and Budget. From what is publically available, neither of the two have conducted oversight of the spending of the MoI. The Committee for Security and Defence could ask the State Audit Office why there have been no audits of the MoI since 2012. The MPs however, do not have human, material and administrative resources required to review the spending of the police.

Lack of progress in the financial control of institutions has also been noted in the EU Progress Report, which states that 'Considerable further efforts are needed to ensure effective implementation of public internal financial control legislation. Improved internal control over public funds, in line with a sound anti-corruption policy and follow-up of audit recommendations, has yet to be pursued',¹⁰ but also notes that some progress has been made concerning the implementation of internal audit standards, rulebooks and manuals.¹¹

Recommendations

- ▶ The Committee on Security and Defence should be more proactive in overseeing the work of the police.
- ▶ The Committee on Security and Defence should make better use of oversight hearings as a specific mechanism to oversee the executive.
- ▶ The Ombudsman should be provided with sufficient resources to enable it to perform its duties effectively and efficiently.
- ▶ There is a need for better cooperation between the Ombudsman and the Department for Internal Control, Criminal Investigations and Professional Standards.

9 State Audit Office: <http://www.dzr.mk/en/>.

10 European Commission. 2016. *The Former Yugoslav Republic of Macedonia 2016 Report*. Brussels: SWD (2016) 362 final, p. 78.

11 Ibid.



INTERNAL ACCOUNTABILITY

There is an evident low rate of decisions taken in favour of the citizens' complaints. Absence of political will to fully implement the Law on Whistle-Blower Protection hinders effective fight against corruption. The State Commission for Prevention of Corruption is not a functional independent institution.

The following text assesses preventive and enforcement rules and processes within the police (police complaints, internal control, protection of whistle-blowers and conflict of interest) implemented by the management or specific units in order ensure police accountability.

Internal control is not sufficiently effective

The Law on Internal Affairs establishes external and internal control of the work of the Ministry of Interior including the work of the police.¹² There is a separate unit within the MoI - the Department for Internal Control, Criminal Investigations and Professional Standards - which functions as an internal control mechanism. This unit can act upon information, data and knowledge that it has collected on its own, upon complaints received from citizens or other legal entities, upon requests from the police or the Ministry of Interior, or upon a direct order of the Minister of Interior.¹³ The head of the unit holds the rank of Assistant Minister and is accountable directly to the Minister of Interior, which is supposed to ensure greater independence from other organisational units that are subject to control. Due to the fact that primary legislation on internal control is scarce, the work of the Internal Control is further regulated by secondary legislation,¹⁴ published on the MoI website.

Once there are findings of a performed criminal act, the Public Prosecutor's Office and the Sector for Criminal Investigation are informed thereof so that they could initiate an investigation. However, there is no follow-up about the criminal proceedings and their outcome. Citizens can submit complaints if they believe that their rights and freedoms have been infringed upon. In this regard, the unit is under the obligation to inform the person who had filed the complaint, within 30 days, about the findings and measures taken.

12 Law on Internal Affairs, "Official Gazette of the Republic of Macedonia", No. 42/2014, 116/2014, 33/15, 5/16, 120/16, 127/16.

13 Ibid.

14 Rules of Procedure of the Department for Internal Control and Professional Standards, Ministry of Interior.



With the new act on the systematisation of job positions in the Ministry of Interior, in 2015 the unit became a separate department (instead of a sector, as it used to be) for internal control, criminal investigations and professional standards, thus encompassing three sectors.¹⁵ This could be viewed as an investment in internal control and an emphasis of the importance of the unit and the authority mandated to it to perform effective control. Also, there resulted in a better division between preventive and reactive work, as there is now a separate Sector for Professional Conduct, Prevention and Integrity.

On paper, the police do have in place a fair complaint system to address grievances against police officers. However, there are certain inconsistencies in practice. As regards ill-treatment, the unit has received 62 such complaints from citizens in 2015, but has found that unjustified physical force has been used in only three cases.¹⁶ Such a low number of decisions taken in favour of the citizens could lead to reduced trust in the internal control mechanism, and the citizens might not be willing to report cases of ill-treatment in the future if they don't trust the efficiency of the system.

The complainants are not actively involved in the investigation. After submitting their complaints and providing available evidence to support them, they must passively wait for the unit's decision. In most cases, lack of evidence is the most common reason for rejection of a complaint as unfounded. Thus, it comes down to the word of the complainant against the word of the police officer, in which case the unit, naturally, is more inclined to believe its own employee.¹⁷ It is not clear how the Unit decides whose statement is more reliable. Moreover, in the Progress Report on Macedonia for 2016, the European Commission criticised the Internal Control Unit as "not sufficiently effective, especially when it comes to ill-treatment", noting that "Penalties imposed against police officers are not sufficiently dissuasive." Moreover, it states that "The complaints mechanism is not always implemented in a consistent manner."¹⁸

There have also been allegations of politicisation of the work of the unit – that investigations are performed differently depending on the political affiliation of the police officer involved. The last two years have been marked by numerous protests in the streets against the political establishment, including the work of the former Minister of Interior. In this context, there have been allegations of police brutality against the protestors and the use of police for political purposes. On the other hand, the Internal

15 Annual Report of the Department for Internal Control, Criminal Investigations and Professional Standards for 2015, p. 1.

16 Ibid.

17 Minutes from the consultation with representatives of the Mol. 7 November 2016.

18 European Commission. 2016. *The Former Yugoslav Republic of Macedonia 2016 Report*. Brussels: SWD (2016) 362 final, p. 18.



Control Unit has found that the use of force during the protests has been justified.¹⁹

In terms of transparency, the police complaint system is open and easy to understand; complaints can be submitted at any police station, which then forwards them to the Unit. A complaint can also be submitted online, by phone, or through the post. Also, the Unit has been making efforts to promote its work by organising “open door days” at local police stations. Still, the Unit is not the citizens’ first choice when it comes to reporting cases of inappropriate police behavior such as corruption²⁰. A possible reason for this could be that many citizens still have not been made aware of its existence, but it could also be the lack of trust in its effectiveness and impartiality.

No political will to protect the whistle-blowers

In Macedonia, the Law on Whistle-Blower Protection was enacted in November 2015; it came into force in March 2016. Previously there used to be no mechanism that guaranteed the protection of those willing to expose misconduct within the police. The Law came as a result of the “Pržino Agreement”, which aimed to resolve the recent political crisis in Macedonia.

As this is the first time that such a law has been enacted, the establishment of the legal framework is indeed a positive development in terms of protecting the whistle-blowers and encouraging the reporting of irregularities in institutions. However, the Law itself is vague in several instances, starting with the exact meaning of the term “protection”. Not only is this a very sensitive area - it also assigns new responsibilities to institutions. It is therefore very important that the Law be as precise as possible.

According to the Law, there are various ways to report allegations of irregularities: to the institution where the whistle-blower used to work, through the media, or to one of the following four institutions: the Ministry of Interior, the Commission against Corruption, the Public Prosecutor’s Office, and the Ombudsman. However, the Law has been criticised for not really working in practice because of the absence of confidence in the institutions that are supposed to provide protection, especially in regards to ensuring the whistle-blower’s anonymity.²¹ Such criticism comes even from representatives of these very institutions. The Ombudsman himself has been sceptical whether the prescribed protection would be sufficient to encourage people to report irregular-

19 Annual report of the Department for Internal Control, Criminal Investigations and Professional Standards for 2015, Ministry of Interior 2016, p. 4.

20 Magdalena Lembovska. 2016. *The Citizens’ Opinion on the Police Force: The Results of a Public Opinion Survey Conducted in Macedonia*. Skopje: Analytica. Pg 33-34

21 “One year after adopting the Law on Whistle-Blower Protection: The number of those reporting unlawful conduct is very limited”, Akademik, 14 November 2016, available at: <<https://goo.gl/9SQzik>>.



ities.²² Moreover, the Chairman of the Council of Public Prosecutors has noted that whistle-blowers had faced some consequences in the past despite all the efforts of the prosecutors to ensure their protection.²³

There seems to be a lack of political will to fully implement the Law. One of the indicators of this is the absence of funds for this purpose: for investing in staff of the institutions mandated to implement the Law, or in appropriate working conditions.²⁴ Moreover, the low number of cases reported to the MoI confirms that challenges with the implementation indeed do exist. It has therefore been recommended that institutions, including the MoI, work on establishing conditions for the implementation of this Law and encourage employees within the public sector to report irregularities.²⁵

The European Commission for Democracy through Law (the Venice Commission) issued an opinion on the Law on the Whistle-Blower Protection in which it recommended certain changes, such as specification of protection against criminal sanctions, or civil liability instead of disciplinary sanctions.²⁶ Also, it recommended measures to raise public awareness, such as identification of a lead institution which would review the legislation, organise training on the protection of whistle-blowers, and support an independent advisory body to which potential whistle-blowers could turn for advice.²⁷ So far, no action has been taken to address these issues.

Conflict of interest is not on the agenda

The Department for Internal Control, Criminal Investigations and Professional Standards is also responsible for preventing and fighting corruption and conflict of interest. However, there is no concrete information on the actual fight against corruption within the Ministry. For instance, the section of the annual report of the Internal Control Unit dealing with anti-corruption measures does not contain anything other than declarative statements on the importance of fighting corruption. Moreover, the last available anti-corruption programme published on the MoI's website dates from 2014. There is also a separate unit for the fight against corruption as part of the Department

22 "The Ministry of Justice shuts down whistle-blowers?" Transparency Macedonia, available at: <<https://goo.gl/F5mvmv>>.

23 Ibid.

24 "The Law on Whistle-Blower Protection has entered into force, but the institutions are not ready yet", Transparency Macedonia, available at: <<https://goo.gl/03fFa6>>.

25 "One year after the adoption of the Law on Whistle-Blower Protection: The number of those reporting unlawful conduct is very limited", Akademik, 14 November 2016, available at: <<https://goo.gl/9SQzik>>.

26 Opinion on the Law on the Protection of Privacy and the Law on Whistle-Blower Protection, European Commission for Democracy through Law, 2016, available at: <<https://goo.gl/JxknKE>>.

27 Ibid.



for Serious and Organized Crime, which is still struggling with insufficient specialised staff and appropriate equipment, as well as with the lack of safeguards against politicisation and interference.²⁸

Apart from the above, the State Commission for Prevention of Corruption is an independent institution mandated for prevention of corruption and conflict of interest. However, it lacks powers in the cases when the officials' statements on conflict of interest have not been submitted. The only mechanism it uses is the issuing of public statements, and these have not proven to be effective. The State Commission for Prevention of Corruption has been subjected to substantial criticism in the latest EU progress report, where it was said that "it lacks functional independence: the selection and appointment process of its members are not transparent and seems to favour political loyalty over professionalism and integrity."²⁹ Also, the Commission has noted "structural shortcomings" that "deprive the SCPC of effective means to fulfil its duties".³⁰

Recommendations

- ▶ The Department for Internal Control, Criminal Investigations and Professional Standards should be more consistent when performing control, meaning that all the cases of police misconduct should be approached equally regardless of the political affiliation of those involved.
- ▶ The Department for Internal Control, Criminal Investigations and Professional Standards should be more transparent; published reports do not contain sufficient information, especially concerning the outcome of the performed controls and anti-corruption measures.
- ▶ The capacities of the Ministry of Interior for the protection of whistle-blowers should be improved.
- ▶ The Law on Whistle-Blower Protection should be amended as recommended by the Venice Commission.
- ▶ The State Commission for Prevention of Corruption needs to be established as an independent and capable institution, free from political influence, in order for it to be able to fulfill its duties.

28 European Commission. 2016. *The Former Yugoslav Republic of Macedonia 2016 Report*. Brussels: SWD (2016) 362 final, p.16.

29 Ibid.

30 Ibid.



HUMAN RESOURCES MANAGEMENT

The Law on Police clearly defines the requirements for police employment, and the process of hiring is transparent. However, the citizens' perception shows an opposite perspective. Lack of equipment and insufficient IT skills of employees of the HR Department are some of the main challenges.

The following chapter assesses human resources management within the MoI, as a planned approach to managing people effectively to ensure their performance. It aims to establish a more open, flexible and caring management style so that staff will be motivated, developed and managed in a way that will make them willing and able to give their best to support the departments' missions.

The hiring process of the Ministry of Interior is transparent

The Law on Police clearly defines the requirements for police employment. The Law lists specific educational and legal criteria that candidates must fulfil, one of the most significant being the requirement for a security background check to prove that no security risk will arise from hiring a certain candidate³¹. It also specifies that minority groups must be adequately represented in the hiring process³². It is, however, not specified that advantage will be given to candidates who already have a background and knowledge in the area, such as candidates with degrees in security studies, law and similar.

The hiring process in the MoI is transparent and open calls are announced whenever there is a job position that needs to be filled. The selected candidates initially sign a contract for a one-year training, which takes place at the Training Centre and after which they enter into a proper employment contract.³³ Having to undergo training after the admission might be problematic; it leaves room for slacking, as the candidates have already been selected.

However, it is important to note that despite the well-defined criteria for hiring in the MoI, and the transparency of the process itself, the citizens' perception of the hiring process shows a different picture. In a survey from May 2016, only 12% of those surveyed replied that they believed that candidates for police employment have been

31 Law on The Police, Official Gazette of the Republic of Macedonia, 114/06, 6/09, 145/12, 41/14, 33/15, 33/15, 31/16, 106/16.

32 Ibid.

33 "MoI announces an open call for hiring 600 policemen", MKD MK, July 2015, <<https://goo.gl/IQ59Sn>>.



selected through a public competition.³⁴ On the other hand, about 65% of the surveyed citizens believe that selection for police employment is done through other channels, such as: by pulling strings with friends, through political connections, and by use of bribery. This was also noted in the EU 2016 report on Macedonia, where it was identified as a challenge.

The main challenges of human resources management

The Office for Human Resources, part of the Department for Legal Issues, Court Procedures, and Human Resources, is in charge of human resources in the MoI.³⁵ The Department for Internal Control, Criminal Investigations and Professional Standards, an independent body within the MoI, is also important for the human resources, mainly in terms of the professional standards aspect.

One of the challenges faced by the MoI when it comes to recruitment and human resources is the lack of its employees' IT skills.³⁶ When preparing internal or recruitment calls departments often make mistakes the HR department must later correct, which is a time-consuming task.³⁷

Internal calls for open job positions are announced whenever necessary, and emails and telegrams are sent out to all departments. Employees who wish to apply for the position must fill out an electronic form and obtain an opinion/recommendation from their supervisors. This is sometimes problematic as it leaves space for subjectivity, and there have been cases when a supervisor had purposely refused to provide a recommendation in order to keep the employee in his/her own department.³⁸

Another challenge the MoI faces, in terms of HR, is the fact that some sectors are not adequately equipped, meaning that they lack either a sufficient number of staff or employees with required skills and knowledge.³⁹

There is also a need to provide the MoI employees – officers and staff alike – with regular training which would improve their knowledge and performance and keep them up to date with the latest trends and developments, and at the moment there is no such

34 Magdalena Lembovska. 2016. *The Citizens' Opinion on the Police Force. The Results of a Public Opinion Survey Conducted in Macedonia*. Skopje: Analytica, p. 20-21.

35 Department for Legal Issues, Court Procedures and Human Resources, the Ministry of Interior, <<https://goo.gl/41sRtU>>.

36 Minutes from the consultation with representatives of the MoI, 7 November 2016.

37 Ibid.

38 Ibid.

39 Ibid.



training. The MoI does organise an occasional training for its employees, but this is generally done with the assistance of international donors,⁴⁰ which - although it is a positive occurrence - does not bring sustainability to the training process.

Recommendations

- ▶ Work on improving the public opinion on the process of hiring to job positions in the police force through even greater transparency and effective complaint procedures. Lack of trust in the hiring process discourages good candidates from applying and encourages seeking alternative routes to the job.
- ▶ It's necessary to improve employees' IT skills in departments throughout the MoI and have a sustainable training model for current employees.
- ▶ It's important to draft a clearly defined action plan on reducing corruption amongst the police, and to improve the public perception regarding the same issue.

-.

40 "MoI conducted a training for uniformed police officers" A1 on 16. 05. 2016, available at: <http://a1on.mk/wordpress/archives/613395>.



FINANCIAL MANAGEMENT

Although one would expect that it would be published, police budget cannot be found on the website of the Ministry of Interior. The lowest price is the most common criterion for winning a contract, and contracted companies are paid late, which damages their liquidity. The internal audit unit does not have the required human and material resources, or authorisation, to properly conduct an audit.

Financial management concerns aspects of resource mobilisation and expenditure management in the police or the ministry in charge of home affairs. The following chapter assesses the issues of budget transparency, public procurement and internal audit.

The budget of the Ministry of Interior has been increased by EUR 19 million

The priorities of the budget of the MoI and police are determined in accordance with strategic plans of the Government and the MoI.⁴¹ The Bureau of Public Procurements and the Ministry of Finance are responsible for overseeing the spending of public funds.

The budget of the MoI and the police is publically available as part of the Ministry of Finance's report on the overall Budget of the Republic of Macedonia, but cannot be found as a separate document on the MoI website.

This makes the budget difficult to find, as it cannot be accessed through the MoI in the way one would expect. The budget of the MoI for 2016 was roughly EUR 176 million,⁴² which means that it was increased by EUR 19 million in comparison with the previous year. There are no indicators in place to measure the results of its activities.

The lowest price is the most common criterion for winning a contract

All public procurements in Macedonia are conducted through the Bureau of Public Procurements, which is part of the Ministry of Finance. Critics claim that the public procurement process is non-transparent and laden with corruption.⁴³

41 Minutes from the consultation with representatives of the MoI, 7 November 2016.

42 Budget of the Republic of Macedonia for 2016, p 30. Available at: <<https://goo.gl/hFjMrQ>>.

43 Saša Stojkovski. 2012. *Challenges in the implementation of the Law on Public Procurements*. Skopje: Pravdiko. <<https://goo.gl/LcgQVg>>.



Two most common challenges that companies face concerning public procurements (in general, not only when doing business with the MoI) is the fact that lowest price happens to be the only criterion for winning a contract. Companies are also paid late for the work they have performed under a contract, which damages their liquidity.⁴⁴ Companies believe that, in the procurement of electronics, certain companies offer unrealistically low prices at the expense of quality, and complain that, after completing a project, they have to wait for 8 months on average to receive the agreed payment.

The Ministry of Finance is responsible for reporting on expenditures, borrowing and revenues of different institutions. It produces bi-annual reports but they include no details on the revenues, expenditures and borrowing of the police.⁴⁵

No proper resources for internal auditing

There is a body within the MoI that is in charge of internal auditing. However, it does not have the required human and material resources, or authorisation, to properly conduct an audit.⁴⁶ The unit currently has two employees, and has lost many of them in time due to lack of incentives - especially financial - necessary to retain well-qualified staff. Also, the positioning of the unit at the lowest level within the overall organisational structure does not provide it with substantial authority and independence from other organisational units.⁴⁷

This unit is also experiencing lack of cooperation from bodies that are to be audited – as they do not see the benefit of this process – and insufficient authorisation is making the process even more difficult. Also, information on whether there are cases where spending of financial resources is not done in line with the budget is not publicly available.

Little is available to the public regarding the work of this unit, its legal framework and recognition. However, it is important to address the absence of recognition of the importance of internal financial control, which is a general characteristic of the entire public sector.

For the internal auditing unit to be effective, it must be provided with necessary material and human resources as soon as possible, bearing in mind that its authority must

44 Centre for Civil Communications. "Report on the Monitoring of Public Procurements in Macedonia, No. 26". April 2016. Available at: <<https://goo.gl/7n1VOX>>.

45 Report on the budget of Macedonia for the period 1 January 2016 - 30 June 2016. Available at: <<https://goo.gl/p6nrGO>>.

46 Minutes from the consultation with representatives of the MoI, 7 November 2016.

47 Ibid.



also be well defined. In addition, it is important to raise awareness of the importance of internal auditing, and have the political will for its implementation.

Recommendations

- ▶ The budget of the Ministry of Interior should be easily accessible on the MOI website.
- ▶ It's necessary to ensure greater transparency of public procurement and establish a set of criteria for awarding contracts.
- ▶ Strengthen the capacity of the internal auditing body to enable it to properly conduct audits.



CRIMINAL PROSECUTION

No electronic interconnection has been made between the Public Prosecutor's Office and the police, which tends to complicate prosecution of corrupt police officers. The situation becomes even more difficult when the European Commission and the public agree on the notable absence of practice and real implementation of the Rule of Law on the ground.

The following chapter identifies the main challenges in legal proceedings against police officers for criminal behaviour, especially corruption.

Insufficient cooperation between the Public Prosecutor's Office and the police

The judicial system in Macedonia is one of the weakest links in fighting corruption in the police force and ensuring police integrity. As stated in the EU report on Macedonia: 'There was no progress in ensuring the functional independence of the justice system' with many reports of selective justice⁴⁸. Corruption remains present in many areas, and efforts to tackle it are undermined by the absence of political will.

There is also the fact that the Public Prosecutor's Office and the police have not strengthened connections with one another, although extensive plans have been made for them to do so. It seems that many initiatives have been established - but only in the law, not in practice. For example, no electronic interconnection has been established between the Public Prosecutor's Office and the police even though it would enable faster and more efficient mutual sharing of information. Only one disciplinary investigative centre has been established – although more have been planned – and it “is still not properly staffed and equipped”⁴⁹.

The National Coordination Centre for the Fight against Organised Crime has been created, but only as word in the law. Better cooperation between the Public Prosecutor's Office and the police force would make combating crime in the country much more effective, but this cooperation, enshrined in law, must also be implemented in practice.

48 European Commission. 2016. *The Former Yugoslav Republic of Macedonia 2016 Report*. Brussels: SWD (2016) 362 final.

49 Ibid.



Perception of corruption in the judiciary is quite high

The judiciary is another area in need of substantial reform, as assessed in the Recommendations of the Senior Experts' Group on the systemic Rule of Law issues relating to the communications interception revealed in Spring 2015 (the “Priebe” report). It has been noted in this document that materials from wiretapped conversations had revealed that the Counter-Intelligence Service (which is part of the MoI) “has been operating outside its legal mandate on behalf of the government, to control top officials in the public administration, prosecutors, judges and political opponents with a consequent interference in the independence of the judiciary and other relevant national institutions”⁵⁰. Moreover, the expert group noted an atmosphere of pressure and insecurity within the judiciary, a weak system of performance management for judges and court staff, politicisation, and political pressures⁵¹. The Group also outlined numerous recommendations for overcoming those challenges. Even though some steps have been taken by the stakeholders, there is still a need for structural changes on many levels to start noticing a difference.

These findings correspond with the public perception of poor progress, particularly after the wiretapping scandal in 2015. The report⁵² found the judiciary to be the institution with the highest perception of corruption, with 67% of the respondents stating their belief that it is corrupt in some way and almost 40% of them believing that it was corrupt to the highest extent⁵³. The Public Prosecutor’s Office was perceived as the next most corrupt institution, with 62% responding that it is corrupt in some way and 35% believing that it is corrupt to the highest extent. All institutions, with the exception of non-governmental organisations, were also perceived by the majority of the population as plagued by widespread corruption. The society’s perception, therefore – particularly of the judicial branch – is the country’s major problem; institutions are faced with a severe lack of trust, which in turn affects civic participation.

Both the European Commission and the overall public agree that in Macedonia there is a highly notable absence of practice and real implementation of the Rule of Law on the ground. Of particular note in the European Commission report is that previous recommendations from the EC, or those from other strategic plans, are not being carried out, or are carried out only formally and/or partially with little to no changes on

50 Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, Brussels, 8 June 2015. Pg 9. Available at: <<https://goo.gl/9ct0Zh>>.

51 Ibid.

52 Ibid.

53 Magdalena Lembovska. 2016. *The Citizens' Opinion on the Police Force: The Results of a Public Opinion Survey Conducted in Macedonia*. Skopje: Analytica, p. 24.



the ground. There is still much to do in order for Macedonia to return to the path of EU integration.

The work of the Public Prosecutor's Office in the cases of alleged police brutality has been criticised also by the Ombudsman. Namely, the Ombudsman has submitted three requests for initiation of criminal proceedings against police officers. However, he faced "a lack of timely, legal and professional responses in respect of informing the Ombudsman upon his requests supported by material and verbal evidence of existence of well-founded suspicion of the occurrence of a criminal act of torture, inhuman or degrading actions or sanctions - i.e. violation of Article 3 of the European Conventions for Human Rights"⁵⁴.

Moreover, the Public Prosecutor's Office has informed the Ombudsman that abuse perpetrated on duty, torture and other types of cruel, inhuman or degrading actions are not among the acts that are to be prosecuted *ex officio*⁵⁵. Other concerns of the Ombudsman with regard to the Public Prosecutor's Office are: selectivity and giving preferential treatment to criminal reports submitted by the Ministry of Interior as compared to reports submitted by the Ombudsman⁵⁶.

As regards the Internal Control Unit - and as it was already discussed in the earlier section on internal accountability - this Unit indeed informs the Public Prosecutor's Office about possible criminal acts perpetrated by police officers. However, there is no follow-up on this, and there is no publicly available information about their mutual cooperation or the final outcome of such initiatives.

The Public Prosecutor's Office is under the obligation to publish an annual report on its work. However, the latest available report is the one from 2014, which means that the Public Prosecutor's Office has failed to fulfil its statutory obligation to publish annual reports. At the same time, there are no separate data about criminal proceedings pending against police officers, and thus assessing the work of this institution has become a challenge.

Recommendations

- ▶ The Public Prosecutor's Office should be more responsive and establish better cooperation with the Ombudsman.

54 Annual report on the work of the Ombudsman for 2015, p. 24-25.

55 Ibid.

56 Ibid.



- ▶ Recommendations on the judiciary outlined by the Senior Experts' Group on the systemic Rule of Law issues relating to the revealed communications interception need to be urgently and fully implemented.
- ▶ The Department for Internal Control, Criminal Investigations and Professional Standards should follow up and provide information on the final outcomes in the cases of criminal proceedings against police officers initiated by the MoI.
- ▶ The Public Prosecutor's Office and the police should establish more concrete links and share information.
- ▶ The Public Prosecutor's Office and the police should establish electronic communication to facilitate the sharing of information.
- ▶ Create – physically, not just as word of law – the National Coordination Centre for the Fight against Organised Crime.

POINTPULSE

WESTERNBALKANS PULSE FOR POLICE INTEGRITY AND TRUST



WWW.POINTPULSE.NET



twitter.com/POINTPULSEnet



facebook.com/POINTPULSEnet/