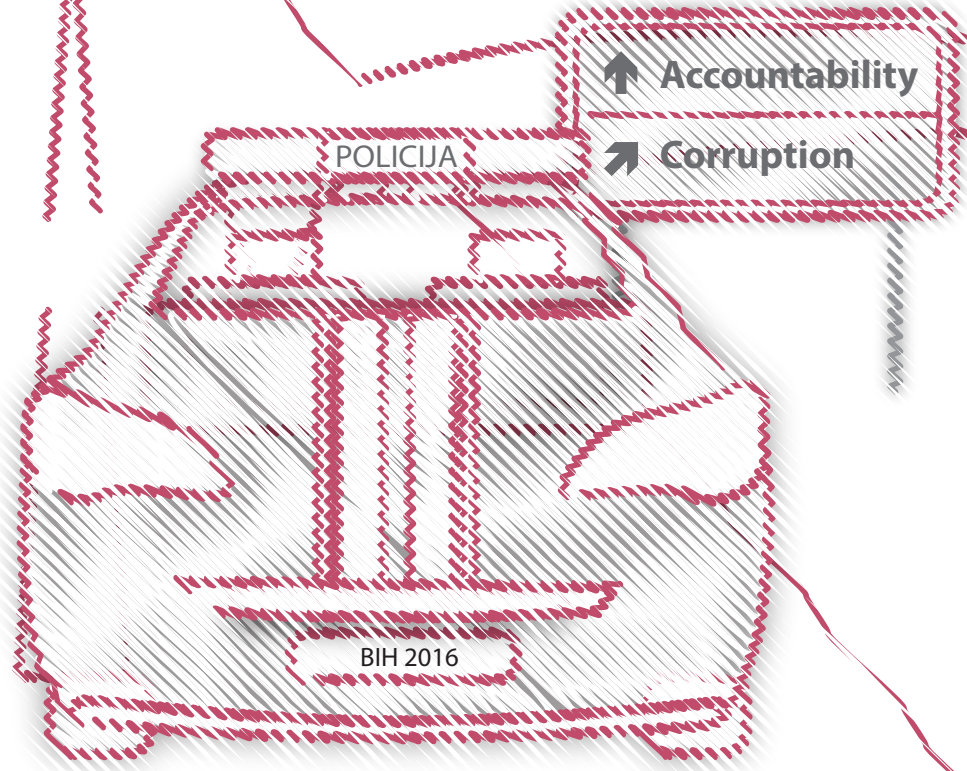


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ASSESSMENT OF POLICE INTEGRITY IN BOSNIA AND HERZEGOVINA



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POINTPULSE 
WESTERN BALKANS PULSE FOR POLICE INTEGRITY AND TRUST

The cover features a central horizontal red band. Above and below this band are two vertical grey bars, one on the left and one on the right, creating a cross-like shape. The text is centered within the red band.

**ASSESSMENT
OF POLICE
INTEGRITY IN
BOSNIA AND
HERZEGOVINA**

THE ASSESSMENT OF POLICE INTEGRITY IN BOSNIA AND HERZEGOVINA

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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.

Sarajevo, 2016

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LIST OF ABBREVIATIONS

BD	Brcko District
BiH	Bosnia and Herzegovina
BP BiH	Border Police of Bosnia and Herzegovina
CL	Criminal Law
CPC	Criminal Procedure Code
DCPB BiH	Directorate for Coordination of Police Bodies of Bosnia and Herzegovina
EC	European Commission
EU	European Union
FMol	Federal Ministry of Interior
FPA	Federal Police Administration
HJPC BiH	High Judicial and Prosecutorial Council of Bosnia and Herzegovina
JCDS	Joint Committee on Defence and Security
Mol KS	Ministry of Interior of the Sarajevo Canton
Mol RS	Ministry of Interior of the Republika Srpska
Mol TC	Ministry of Interior of the Tuzla Canton
Mol USK	Ministry of Interior of the Una-Sana Canton
Mol ZE-DO	Ministry of Interior of the Zenica-Doboj Canton
Mol ZHK	Ministry of Interior of the West Herzegovina Canton
Mol	Ministry of Interior
PA BiH	Parliamentary Assembly BiH
PSA BiH	Police Support Agency of Bosnia and Herzegovina
PSU	Professional Standards Unit
RS	Republika Srpska
SIPA	State Investigation and Protection Agency

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SUMMARY

Due to the complexity of the police system, the integrity of police in Bosnia and Herzegovina is difficult to review. All police institutions have, however, established external mechanisms of oversight and control. Still, the majority of these oversight bodies do not sufficiently use the existing communication resources, which negatively affects the transparency of their work, while independent bodies have no direct authority to conduct investigations against police officers.

Internal control mechanisms in all law enforcement agencies provide a good framework for control of the legality of police work. Certain ambiguities however do exist in practice and are related to the independence and objectivity of the work of heads of departments for internal control; they are appointed by their immediate superiors and are directly accountable to said superiors for their work. Insufficient progress of internal control bodies has also been observed in terms of their contribution to determining criminal and misdemeanour liability of police officers and their transparency of work.

Police institutions in Bosnia and Herzegovina do not pay adequate attention to human resources management, where the greatest concerns revolve around integrity. There are no separate, comprehensive or integrated strategies or organisational units which would deal with all the aspects of human resource management in one place. Internal regulations allow managers to directly affect employees' career advancement. Internal control units are sometimes prevented by their superiors from performing their job effectively. All this ultimately de-stimulates the employees and reduces the efficiency of the police institution as a whole.

The public procurement system is still underdeveloped. Public procurement frequently suffers from lack of adequate administrative capacity because law enforcement agencies do not have enough employees working on public procurement; under such conditions, planning and implementation of public procurement becomes a very difficult task. Findings of auditors show that public procurement procedures in police sector institutions are generally not carried out in the most efficient manner and/or in accordance with the Law on Public Procurement.

Law enforcement agencies and prosecutor's offices still frequently dodge responsibility by assigning it to the other, and use this as the excuse for modest results achieved in practice in the fight against corruption. Poor quality reports of law enforcement agencies have been mentioned also in the last few years' reports of the work of the



prosecutor's office of Bosnia and Herzegovina as the main problem preventing the resolving of cases pending with this institution's prosecutors. Similar observations are also evident in the assessments of the quality of prosecutors that may be heard from representatives of police structures and judges. Improving the institutional relations between prosecutors and representatives of law enforcement agencies is certainly an issue to be addressed in the future.

The report on the assessment of integrity of the police in Bosnia and Herzegovina discusses five thematic sections, three of which relate to the issues of external control, internal liability and human resources management. The other two sections are related to financial management and prosecution of criminal offences of corruption, with special emphasis on coordination of the police and the prosecutor's offices.



EXTERNAL OVERSIGHT

The legal framework governing external oversight and control of the police has yet to be completed. Independent bodies have no authority to conduct investigations involving police officers, which somewhat diminishes their importance. The majority of oversight bodies do not sufficiently use the existing communications resources.

Legal framework for oversight of the work of law enforcement agencies has not been established

The Joint Committee on Defence and Security (JCDS) is the parliamentary body in Bosnia and Herzegovina (BiH) which has been controlling the work of security sector institutions, including law enforcement agencies, since 2004. However, the legal framework regulating the work of this Committee is still not satisfactory. Competences and mandate of the Committee are specified in the rulebooks of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina (PA BiH). The Draft Law on the Parliamentary Oversight, which was in parliamentary procedure in 2012 and 2013, has not been adopted and the renewed procedure to return this Law to parliamentary procedure began no earlier than at the end of 2016. Adoption of the above Law at the level of BiH would contribute to a more precise regulation of this area, particularly with regard to exercise of more efficient and more transparent parliamentary oversight of the work of law enforcement agencies.

Pursuant to the provisions of the Rules of Procedure of both Houses of PA BiH, the Committee continuously monitors and analyses the implementation of the adopted conclusions and recommendations by the security sector. In the reporting period, to improve the state of affairs in the controlled institutions, JCDS has adopted – at workshops and conferences – a number of conclusions and recommendations that were supported and adopted by both Houses of the PA BiH. They concern activities relating to the need to improve coordination of the work of law enforcement agencies within the BiH Ministry of Security and cooperation and better exchange of information between all the law enforcement structures in BiH. On several occasions, the Committee has also used visits to certain law enforcement agencies as a control mechanism to ensure the implementation of conclusions and recommendations in practice. Annual reports on the work of the Committee from 2014 and 2015 show that a visit as a form of control mechanism contributes significantly to improving systematic oversight of the work of institutions of the security sector.

Furthermore, through visits and meetings the Committee cooperates with representatives of the security sector institutions in the course of implementing parliamentary



oversight, as well as with representatives of international organisations and similar parliamentary bodies in the country and abroad. Meetings of the Committee are open to the public; its work is thus regularly monitored by representatives of the media, international organisations and the civil society, who are present also during the conferences organised by the Committee. Compared to most other parliamentary bodies in BiH, this approach represents a step forward in terms of transparency. In its work, JCDS also faces certain problems. One of them is insufficient cooperation with the Council of Ministers of BiH. There have been cases when at the time of consideration of certain draft laws the proposer would fail to appear before the Council of Ministers, thus preventing the Committee from holding a planned debate. The Committee is also burdened by the lack of human resources caused by insufficient number of members of the Parliament, as well as the lack of human resources within the Secretariat of the Committee in relation to the amount of work that falls under its purview.

At the level of the Federation BiH, external oversight of the work of the Federal Ministry of Interior and the Federal Police Administration is provided also by the working bodies of both Houses of the Federal Parliament in charge of security matters. These are the Committee for Security of the House of Representatives and the Committee for Security of the House of Peoples. These committees have been established in accordance with the Rules of Procedure of both Houses of the Federal Parliament. Both committees have a wide range of competences. One of the most important is consideration of issues relating to the system and policies in the field of security, within the rights and duties of the House in which they operate. The importance of these committees is reflected in the fact that they are allowed to conduct investigations and request testimony, evidence and documents to this end.

However, it was not possible to find out whether these two committees have carried out specific investigations during the reporting period, especially those of suspected corruption activities of police officers. From the content of the official website of the Federal Parliament it was concluded that both committees are ensuring the minimum transparency required for their work.

Oversight of the work of the police in the entity of Republika Srpska is carried out through the Committee on Security which operates within the National Assembly of the Republika Srpska (RS). The Committee functions in line with the provisions of the Rules of Procedure of the National Assembly of RS and is authorised to consider issues from the domain of work of the security bodies and institutions, provide opinions, views and recommendations, and propose adequate measures to the National Assembly. The Securities Committee has seven members who are elected from various parliamentary parties, provided that the chairman of the Committee is elected from the



ranks of the opposition. A Secretary provides administrative support to the Committee; however, in view of the scope of work of the Committee, the Secretary's assistance is insufficient. It was not possible to determine whether the Committee had issued specific recommendations to law enforcement authorities or, if it had, how it monitors their implementation in practice. Information about the work and activities of this Committee is very scarce; brief reports are published but only from certain thematic meetings, and the annual reports on the work of the Committee are not accessible.

At the cantonal level, supervision of the work of the police is carried out by independent parliamentary committees. However, the general public has not shown much interest in their work. Many committees never publish annual activity reports or minutes from meetings, and it is therefore impossible to assess their work in this area.

At the level of the Brčko District of BiH, the Committee for Public Security and Oversight of the Work of the Police, as a parliamentary body, monitors the work of the district police in aspects that concern respect of the rights of citizens, discusses issues relating to alleged or established violations of rights and freedoms of citizens by the district police, and identifies problems involving the work of the district police and proposes measures for their elimination. However, as in the previous example, the public is deprived of even the most basic information about the work of this Committee.

The activity of independent bodies in police oversight is difficult to see

At the state level, the Citizens' Complaint Board on Work of the Police Officers in Police Bodies in BiH is a parliamentary body in charge of external oversight of the work of the police. The Committee was established to receive complaints against police officers and supervise the proceedings against them implemented by law enforcement authorities. However, the legal framework regulating the work of this body is not yet fully aligned with international standards. Global international standards to combat corruption, adopted by the international police organisation Interpol, recommended that external oversight bodies have the ability to conduct investigations into possible corruption activities. The Committee has no direct competence to conduct investigations against police officers; it only forwards the case to the police as the competent institution.

The Committee on Citizen Complaints consists of seven members who are elected from among the prominent and esteemed citizens who are not employees of the law enforcement authorities in Bosnia and Herzegovina. The work of the Committee is led by a chairman and two deputies elected from all three constituent peoples. Three



members of the Committee are women, which represents a significant step forward toward gender equality.

The Committee on Citizen Complaints of BiH considered the complaints of 91 persons,¹ of which 55 were submitted concerning the work of police officers - members of the Border Police of Bosnia and Herzegovina (BP BiH), 15 concerning the work of police officers at the State Investigation and Protection Agency (SIPA), 11 against police officers at the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina (DCPB BiH), and 10 against police officers from various police bodies at the level of entities and cantons, which were forwarded to the competent institutions for further processing. The total number of complaints reviewed in 2015 was 29 percent higher than that received by the Committee in 2014, which shows that transparent and proactive approach is contributing to increased public trust and confidence in the work of this independent body.

However, the fact remains that the public is not adequately informed about the work and competences of the Committee. A very small percentage of the citizens' complaints happens to be founded, i.e. is concluded by issuing appropriate sanctions. For example, of the total of 55 complaints against the BP BiH reviewed in 2015, grounds for initiation of disciplinary proceedings have been established in only five, and in one case a police officer was suspended pending disciplinary or criminal proceedings. Similar results were recorded in 2014, when only 11% of the citizens' complaints received concerning the work of police officers of BP BiH were established to have been founded.

The Rules of Procedure have largely established the transparency of work of this body, but Committee meetings are closed to the public. The Committee is also working on improving the proactive approach to publishing information, and the Committee, on its own initiative and in a timely manner, makes available a significant number of important information concerning its work to citizens, the media, non-governmental organisations and other stakeholders. The minutes of meetings as well as the annual reports on the work of the Committee are available on the official website of PA BiH. Furthermore, acting upon complaints and reports of competent law enforcement authorities of BiH, this independent parliamentary body regularly publishes all the findings and recommendations that have been provided to competent police authorities.

At the level of the Federation of Bosnia and Herzegovina there is a similar body that oversees the legality of work of police officers – the Citizens' Complaint Board on Work

1 See: Report on the Committee on Citizen Complaints against the Work of Police Officers in BiH 2015. Available at: <<https://goo.gl/GEJLgU>>.



of the Police Officers in Police Bodies. The Law on Internal Affairs of the Federation of BiH (“Official Gazette FBiH” No. 81/14) specifies the composition and competences of this Committee. According to this Law, the Committee is also authorised to control the work of the Professional Standards Unit (PSU) of the Federal Ministry of the Interior (FMoI) and implement the measures of the Disciplinary Committee, which is very important in the oversight of the work of the internal control mechanisms. However, two years after the adoption of this Law, a Committee on Citizen Complaints has yet to be established at the level of the FBiH.

Bureau for Appeals and Petitions of Citizens has been established at the level of the Republika Srpska, but only as an internal organisational unit within the Ministry of Interior of Republika Srpska (MoI RS). The Bureau supervises the work of disciplinary bodies to ensure the legality and fairness of treatment, monitors the course of internal proceedings initiated upon complaints or petitions, and oversees enforcement of disciplinary measures.

The situation is similar at the cantonal level, where public complaints offices/committees are organised the same way as at the level of the RS: legislative bodies elect members of committees/offices from the ministries of interior.

At the level of the Brčko District of BiH (BD), natural and legal persons are also allowed to submit complaints, requests and suggestions regarding the work of the BD Police to the Bureau for Appeals and Petitions of Citizens of BD Government. The Bureau monitors the proceedings conducted upon the citizens’ complaints filed concerning the work of police officers.

The influence of politics on the work of the independent committees for the selection and appointment of heads of law enforcement agencies is obvious

In addition to the above mentioned bodies, which are in a way authorised to perform direct control or indirectly oversee the work of heads of law enforcement agencies, there are also independent bodies responsible for the appointment of heads of law enforcement agencies (directors, at the state and entity level, and commissioners at the cantonal level). Independent committees at all levels of government are appointed by the parliaments or assemblies, from whose budgets said committees are financed. At the state level independent committees have nine members, while those in cantons, entities and in the BD have seven. One of the requirements for appointment to these independent committees is that persons may not be members of political parties; they are elected from among the prominent experts in the field of law, criminology and other social sciences.



From the analysis of the legal provisions governing the procedure for appointment of heads of police structures it can be concluded that the essential function of independent committees is to select persons who meet the general requirements for any given position and recommend a list of most successful candidates. However, which of the nominated candidates will be elected to the position of Director, Commissioner or Chief of Police depends in most cases on the discretion of holders of political office. For example, Director of SIPA is appointed by the Council of Ministers on the recommendation of the Minister of Security of BiH, from a list of no more than five candidates submitted by the Independent Committee. The situation is the same when it comes to the appointment of Director of the Federal Police Administration (FPA). He is appointed by the Government of FBiH from a list containing at least three candidates, compiled by the Independent Committee. The same example is followed by the Sarajevo Canton. The government of this Canton selects its Police Commissioner between the two candidates proposed by the Committee.

One can thus assume that proposing a single, most successful candidate would formally limit the discretion of holders of political office, which is a good practice that should be applied at other government levels as well. The situation is somewhat different in the Brčko District of BiH. The Independent Committee compiles a list of three most successful candidates and submits it to the assembly through the Mayor. The Assembly approves the appointment of one of the proposed candidates for Chief of Police, and then the Mayor passes the decision on his appointment. If only one candidate is to be proposed in the process of selection and appointment, attention should be paid to the discretionary rights of members of Independent Committees. These rights may be restricted by precisely defining the rules (the criteria and the assessment procedures) governing the selection of candidates in the laws regulating the operation of police structures in BiH. This has already been partially done in the Brčko District of BiH and the Sarajevo Canton, in the laws regulating the work of the police, i.e. cantonal ministries of interior. At the entity level these rules are not specified in the laws; they are instead regulated by the Independent Committees' rules of procedure, as is the case at the state level. It can also be noted that the rules on the selection of candidates are not fully aligned at different levels of the system of government and that their individual components are not sufficiently precise. For example, no one knows what is discussed during the interview for the position of head of police structures in the Brčko District of BiH and the Sarajevo Canton, while at the state level this aspect is defined with greater precision.

Also, a plethora of media articles on the dismissal and selection of the Director of SIPA, Director of FPA and the Commissioner of the Tuzla and Sarajevo Cantons, renders the independence of the Committee for the selection and appointment of senior



police officers very problematic. According to the media in BiH, the proposal of the Minister of Security of BiH for the dismissal of the former Director of SIPA, submitted to the Independent Committee, and his subsequent refusal to comply with the same proposal have shown that this Committee is subjected to considerable political influence.² The same can be noted in the example of the procedure for selection of Director of FPA. The independent committee which has conducted a competition procedure for the position of Director of FPA and proposed to the FBiH Government that Dragan Lukač be appointed new leader of FPA, had to annul the competition because the new Law on Internal Affairs of the Federation of BiH had come into force while the competition was still under way.³ Namely, under the old Law, the Independent Committee was to propose only one candidate for Director of the FPA, while the new Law provides that the Independent Committee is to submit to the Minister the names of three candidates for Director of FPA, and the Government of the Federation of Bosnia and Herzegovina is to select and appoint Director from among those three. According to the media, many believe that this move resulted in political pressure on members of the Committee to support the candidacy of Mr. Lukač.⁴ In several media articles independence of the committee was also problematised in connection with the dismissal of the MoI Commissioner of the Sarajevo Canton: at the beginning of November this year the Independent Committee unanimously rejected the motion for dismissal of the Commissioner; however, after more than two weeks the same motion was accepted and forwarded to the Government of the Sarajevo Canton.⁵

When it comes to transparency of the work and availability of information to the public, the Independent Committee at the state level has an advantage over the bodies at the lower levels of government. Most of the information concerning the work of Committees is published on the website of the PA BiH in the form of minutes.

Minimal transparency of independent bodies

The Independent Committee which appoints heads of law enforcement agencies at the level of the Federation of Bosnia and Herzegovina has similar competences as the above described body. However, the work of this committee lacks transparency, that

2 See: "Who is behind the director of SIPA Goran Zubac?" 17 June 2016, <<https://goo.gl/KoObNh>>.

3 The provisions of Article 102 of the new Law do not provide for the application of the old Law on Internal Affairs after the entry into force of the new one; thus the appointment of Director of the Federal Police Administration for the term of office 2014-2018 must be carried out pursuant to the Law on Internal Affairs of the Federation of BiH. See: "The Law on Internal Affairs of FBiH enters into force tomorrow," 10 November 2014, <<https://goo.gl/sg8i0y>>.

4 See: "The Legislative Office of the Government of BiH confirmed: the appointment of Dragan Lukač was unlawful," 4 March 2015, <<https://goo.gl/Q25bK8>>.

5 See: "Police commissioner Vahid Ćosić has been replaced," 18 November 2016, <<https://goo.gl/oAhiul>>.



is, public availability of data. Annual reports on the work of the Committee and information about its members are not available on the official website of the Federal Parliament.

In the Republika Srpska, oversight of the work of the police is carried out by the Independent Committee for Appointment of Director of Police. This body has been established in accordance with the Law on Police and Internal Affairs of the Republika Srpska.⁶ The Law defines the competences of the Committee and specifies that it organises and manages the process of selection, appointment and dismissal of Director and Deputy Director, in a manner accessible to the public. Formally speaking, this Committee holds an important position because Article 18(2) of the Law on Police and Internal Affairs stipulates that it “selects and chooses suitable candidates, obtains the opinion of the Minister on the selected candidates for Director and Deputy Director, proposes candidates for Director and Deputy Director to the Government for the purpose of appointment (...)” However, it was not possible to assess the work of this body as it does not publish reports on its work on the official website of the National Assembly of RS.

A similar conclusion can be made concerning independent committees at the cantonal level. Information about their work and activities are mostly inaccessible, except when the media start reporting on possible irregularities related to the process of dismissal or selection of managers.

In the Brčko District of BiH, the Independent Committee for the selection and appointment of Chief of Police has been established pursuant to the Law on Police. This committee, like those at the entity and cantonal level, is not sufficiently transparent, which negatively affects public trust and confidence in its work.

Recommendations of the Human Rights Ombudsmen are not taken seriously

The institution of Human Rights Ombudsmen of BiH has the role of special state body with regard to the oversight of security institutions at all levels of government in BiH. Among other things, this office considers complaints concerning corruption in security institutions if basic human rights of citizens or employees in the security sector have been violated. However, this body can only issue recommendations that are not binding for the institutions to which they relate.

In 2015 the Ombudsmen received 135 complaints,⁷ of which the citizens’ complaints

6 “Official Gazette of RS” No. 57/16.

7 See: “Annual Report on the Results of Activity of the Institution of Ombudsmen for Human Rights of BiH 2015,” March 2016, <<https://goo.gl/9jIPv9>>.



concerning the work of the Citizens' Complaint Board on Work of the Police Officers in Police Bodies, i.e. the Professional Standards Unit particularly stand out. These bodies carry out formal proceedings upon the complaints of citizens, usually concluding that the majority of them are unfounded or insufficiently supported by evidence. The Report on the Work of the Human Rights Ombudsmen of BiH 2015 states that the problem lies in the fact that citizens receive information about the conducted internal investigation only in the form of notification, without the benefit of a legal remedy. According to the Ministry of Interior of Federation BiH, the Ministry of Interior of Republika Srpska, the Brčko District Police and the Ministries of Interior of all the cantons, in connection with these cases the Ombudsmen had pointed to the recommendations stating that the concerned institutions should determine and improve true independence of internal control of the work of police officers, re-examine the existence of true independence of the organs that perform control of police officers, ensure two instances in the proceedings conducted upon the citizens' complaints about the actions of police officers, and ensure systemic and continuous education of police officers on the topic of human rights.

In the course of 2015 the institution of Ombudsmen had also received complaints from police officers themselves, regarding the process of selection of candidates, i.e. recruitment, employee advancement within the police structures and the realisation of pension rights. As in previous examples, Ombudsmen had issued recommendations to the competent law enforcement authorities, but such recommendations are often not taken seriously and are very rarely implemented in practice.

Chief of Cabinet and Communication and International Cooperation Advisor provide expert assistance to the office of BiH Ombudsmen, while three persons provide administrative support. Inside the cabinet there is also a public relations service which promotes the core values and work of the institution, initiates promotional and informational activities to improve the public perception of the institution of Ombudsmen of BiH, implements the institution's Public Relations Strategy and establishes productive and professional relationships with the media and other relevant institutions. The institution of Ombudsmen has also been continuously working to improve cooperation with representatives of international organisations, non-governmental organisations and civil society. The work of the Institution of Ombudsman for Human Rights in BiH is largely transparent. Information about his work is published in the annual reports available on the official website. Most of the recommendations issued to the relevant authorities concerning human rights violations are also publicly available.



Recommendations

- ▶ Amend and supplement the existing laws to ensure that external authorities are allowed to carry out independent investigations in cases of suspected corrupt activities of police officers.
- ▶ Harmonise the legal provisions concerning the composition and work of independent committees throughout BiH, with the aim of strengthening independence of the police and establishing uniform standards in the police sector as a condition for efficiency.
- ▶ Consider amending statutory provisions pursuant to which independent committees would propose a single, the most successful, candidate for appointment to a position of Commissioner/Director, instead of several candidates.
- ▶ Amend and supplement the existing laws to unify the rules on the selection of police officials at all levels in BiH.
- ▶ In the laws, adequately specify the rules for the selection of most successful candidate, to be further elaborated in appropriate rulebooks on the selection of heads of police structures.
- ▶ Advocate changes to the provisions of the existing Law on Free Access to Information at all levels in BiH to improve the process of informing the public about the activities of bodies in charge of external control of the police.



INTERNAL ACCOUNTABILITY

Police internal control units are not fully independent because they operate within police units and their heads are appointed by chiefs of specific law enforcement agencies. The contribution of internal control in determining criminal and misdemeanour liability of police officers is insufficient.

The police sector in BiH consists of 16 police agencies at all levels of government and five additional institutions that provide support to them or are engaged in similar activities. The competences of police agencies as well as the fundamental principles of their work are prescribed in specific laws on the establishment of said police bodies, in the laws governing police officers at all levels of government, in the various rules of procedure, and in other bylaws.

In all law enforcement agencies, internal control departments operate mainly within the professional standards units. They are responsible for conducting internal investigations upon complaints of citizens about the misconduct of members of law enforcement agencies, and for imposing sanctions under the legally prescribed procedure (see Table 1).

Table 1: Overview of police agencies, institutions that support their work, and the internal control unit

R. b.	Naziv policijske agencije	Odjeli/jedinice za unutrašnju kontrolu
1.	State Investigation and Protection Agency of BiH	Department for Internal Control
2.	Border Police of BiH	Office for Professional Standards and Internal Control
3.	Directorate for Coordination of Police Bodies of BiH	Professional Standards Office
4.	Ministry of Interior of the Sarajevo Canton	Department for Internal Control
5.	Ministry of Interior of the Una-Sana Canton	Unit for Professional Standards, Internal Control and Auditing
6.	Ministry of Interior of the Posavina Canton	Professional Standards Unit
7.	Ministry of Interior of the Tuzla Canton	Professional Standards Unit



8.	Ministry of Interior of the Zenica-Doboj Canton	Department for Internal Control
9.	Ministry of Interior of the Bosnia-Podrinje Canton	Professional Standards Unit
10.	Ministry of Interior of the Central Bosnia Canton	Department for Internal Control
11.	Ministry of Interior of the Herzegovina-Neretva Canton	Department for Internal Control
12.	Ministry of Interior of the West Herzegovina Canton	Department for Internal Control
13.	Ministry of Interior of Canton 10	Department for Internal Control
14.	Federal Ministry of Interior	Professional Standards Unit
15.	Ministry of Interior of the Republika Srpska	Professional Standards Unit and Bureau for Appeals and petitions of Citizens
16.	Police of Brčko District BiH	Professional Standards Unit
Institutions that support the work of law enforcement agencies in BiH		
17.	Ministry of Security of BiH	
18.	Service for Foreigners' Affairs of BiH	
19.	Forensic Examinations and Expertise Agency of BiH	
20.	Agency for Education and Professional Training of BiH	
21.	Police Support Agency of BiH	

As can be observed from the table above, internal control departments/units have been established in all the police agencies in BiH at different levels of government. Investigation of excessive use of force and firearms, corruption and abuse of power of police officers also falls within their purview. In addition, internal control departments/units are authorised to recommend other disciplinary measures, i.e. submit a request to the Disciplinary Commission for the initiation of disciplinary proceedings for the purpose of disciplinary prosecution and imposition of disciplinary sanctions for serious breaches of official duty. For example, if there are grounds for suspicion that a criminal offence has been committed, the case is submitted for further processing to the organisational unit competent for criminal police affairs, which submits a report to the relevant prosecutor's office and takes further action in cooperation with the prosecution.

In periodic reports submitted to superiors, internal control departments/units also provide recommendations on improving the laws and bylaws (such as regulations, rulebooks, guidelines, instructions, etc.), applied by the institution, with the prima-



ry objective of ensuring the legality and improving work efficiency. Internal control units monitor the implementation of specific recommendations by cooperating directly with all the organisational units – be they within the ministry, a law enforcement agency or the police – depending on the police institution in question.

These organisational units are however not fully independent in their work, because they operate within the police units, and because their heads are appointed by the heads of specific law enforcement agencies. Representatives of police institutions in BiH⁸ have pointed out that one of the problems happens to be the fact that internal control units are sometimes prevented by their very own superiors from effectively performing their job. For example, if the internal control unit needs to initiate an internal investigation (procedure), whether upon a complaint of a citizen or police officer about improper or unlawful conduct of police officers, sometimes the head, to whom the unit is accountable for its work, will suspend this action if that is in his interest or if the person to be investigated upon a complaint is close to him in one way or another. According to representatives of police institutions, research conducted to determine the percentage showing who was most frequently subjected to disciplinary proceedings for breach of official duty (if it was only the lower-ranking officers or also officials with higher ranks) would be a good way to investigate the existence of the above behaviour.

In accordance with their internal rules of procedure, internal control bodies also conduct various forms of inspection and control. These are, primarily: “inspection in accordance with the provisions of the Rulebook on Internal Organisation and Systemisation of Job Positions in the Police, complete inspection of the work of organisational units and police employees, selective inspection of the work of organisational units and employees, control the work of police organisational units and individuals on the ground, and instructive control of the work of organisational units and police employees”⁹ However, it is not possible to evaluate the work of all the law enforcement agencies in this area, as information on whether all police institutions in BiH carry out these activities in practice, and to what extent, was not available. From the publicly available reports on the work of individual police institutions, and from information on the state of security they constitute, we have concluded that in the reporting period similar activities have been carried out by SIPA BiH, FPA, the Ministry of Interior of the Sarajevo Canton, the Ministry of Interior of the Zenica-Doboj Canton and the Ministry of Interior of Tuzla Canton. Analysing the statistical data available on the internal control departments/units of the above law enforcement agencies we have

8 Minutes, Consultations with representatives of police institutions (Mol RS-a, Mol ZHC, Mol USC, Mol ZE-DO and the Brčko District Police), 28 September 2016.

9 See: Internal rulebook on the work of internal control unit. Available at: <<https://goo.gl/3tql7N>>.



found that – in comparison with 2014 – no significant steps forward have been taken in 2015 in terms of contribution to establishing criminal and misdemeanour liability of police officers.

To begin with, we would like to note that the Professional Standards Unit of the Ministry of Interior of the Tuzla Canton has conducted inspections of organisational units and individuals in 2015, as well as control of police officers on the ground in order to verify that the police have carried out their tasks effectively and efficiently. However, the report submitted by the MoI TC, within which the unit operates, contained no statistical data on the basis of which we would have been able to assess the effectiveness of the work of the Professional Standards Unit.

Further, the Professional Standards Unit of the Federal Police Administration (FPA) has carried out internal proceedings against police officers employed in FPA, submitted requests to the Disciplinary Commission for the initiation of disciplinary proceedings for serious violations of official duty against police officers employed in FMOI, and carried out verifications within their purview regarding the complaints submitted against civil servants and employees of FPA. In the course of 2015 this Unit has conducted internal proceedings in the total of 87 cases – one case fewer than in 2014. A total of 74 cases have been processed all the way to the end, of which only 20 have been pronounced founded. The table below shows the results of the completed proceedings carried out by the Professional Standards Unit of the Federal Police Administration.

Table 2: Results of the work of the Professional Standards Unit of the Federal Police Administration

1.	Founded	20
2.	Unfounded	12
3.	Without sufficient evidence	7
4.	Acquittal	0
5.	Discontinued	4
6.	No elements to initiate internal investigation	28
7.	Cases forwarded to competent institutions	3
8.	Total	74

Regarding the Department of Internal Control which operates within the BiH State Investigation and Protection Agency, the statistics show that in 2015 the Department has had quite a workload in connection with the number of complaints received about the work of police officers, as well as with established irregularities, especially in connection with the implementation of a significant number of inspection and safety



controls. The Department carried out 34 regular and extraordinary inspections of the organisational units; extraordinary inspections were carried out on the orders of the Director, Deputy Director and Head of the Department for Internal Control. Security checks were carried out regarding 608 persons and in the case of 29 persons certain facts were established and forwarded for further assessment. In 2015, internal investigations based on complaints of unlawful conduct involved 152 police officers, four civil servants and an employee, which is 22 percent less in comparison with 2014 when internal investigations involved 192 employees, of which 189 were police officers and three were civil servants.

In this area, important contribution was made to the establishment of disciplinary liability. In 2015 the Disciplinary Commission received 14 cases in which requests for the initiation of disciplinary proceedings were submitted against 17 police officers due to grounded suspicion that they had committed a breach of official duty.¹⁰ Disciplinary sanctions were imposed against 11 police officers for violation of official duty, while 6 police officers were acquitted (see Table 3).

Table 3: Cases pending at the Department for Internal Control of the State Investigation and Protection Agency

		2014			2015		
		Total	Resolved	Resolved in %	Total	Resolved	Resolved in %
Transferred from pervious year		10	6	60%	11	7	63%
Cases opened during the reporting period	Appeals of citizens	10	8	88%	21	19	90%
	Requests of employees	51	46	94%	65	61	94%
	Requests for the assessment of legality of use of force	128	128	100%	71	71	100%
Total		199	128	94%	168	158	94%

For the purposes of this report, the Professional Standards Unit of the MoI of the Republika Srpska has also made available data that show that in the first seven months of 2016 the Unit received a total of 226 citizens' complaints on the work of police officers.

10 Report on the Work of State Investigation and Protection Agency 2015. Available at: <<https://goo.gl/ZzLhfv>>.



During the above mentioned period, PSU has conducted 214 internal proceedings, following which 22 complaints were assessed as founded but involved no disciplinary liability of police officers. When it comes to establishing disciplinary liability of police officers, similar results had been achieved in 2014; however, the number of complaints received concerning the work of police officers had been 50 percent higher than that in 2015.

In terms of control of the legality of work, in the first half of 2016 the Department of Internal Control which operates within the Police Administration Police of the MoI of the Zenica-Doboj Canton performed a total of 8 inspections, 27 audits, and 4 verifications upon petitions and letters submitted by citizens.¹¹ During the reporting period it received a total of 68 petitions, 58 of which were fully resolved while 10 are currently at the decision-making stage at the Public Complaints Office. In 4 petitions it was found that four police officers have indeed committed a serious breach of official duty under the Law on Police Officials ZDC, while in 8 petitions it was found that they involved minor breaches of official duty for which disciplinary sanctions were imposed.

Report on the work of the MoI SC for the first half of 2016¹² shows that the Internal Control Department within the Professional Standards Unit of the MoI SC mostly considered petitions of citizens concerning the work of police officers. During the above period, the Department approved internal investigations against police officers in the case of 70 petitions. A total of 62 complaints have been resolved: 30 of them lacked sufficient evidence, 12 were founded and 11 unfounded, in 8 cases the parties withdrew their complaints, while in one case the investigation resulted in acquittal. However, it was not possible to determine from said report the number of imposed disciplinary sanctions or establish whether the internal control unit has carried out inspection supervision activities, controls and safety checks.

Police agencies do not communicate with citizens effectively

Most police institutions' official websites do not provide adequate information on the by-laws or strategic documents that are important for monitoring the development of integrity. At the state level SIPA has taken a step forward when it comes to the publication of these documents on its official website.

At the cantonal level, specifically when it comes to the rules of procedure of internal control units, these documents can be found online only in the case of certain minis-

11 See: Information on the state of security in the canton area for the first half of 2016. Available at: <<https://goo.gl/tJ2lI2>>.

12 Ibid.



tries of interior. The Brčko District Police have adopted the Rules of Procedure of the Professional Standards Unit and said Rules are publicly available. However, the Bureau for Appeals and Petitions of Citizens and the Professional Standards Unit, organised as internal organisational units within the Services of the Minister in the Ministry of Interior of the Republika Srpska where they perform activities from their purview, have not published these documents on the official website of the Ministry of Interior.

As regards the activities of law enforcement agencies relating to informing the public about how to file a complaint with the police, there is a need for further improvement. After examining the content of the official websites of police institutions at all levels in BiH it can be noted that most ministries of interior at the cantonal level provide scant information to citizens on how and to whom to report improper or unlawful conduct of police officers; the Ministry of Interior of the Posavina Canton, Canton 10, and the Herzegovina-Neretva Canton provide almost no information about this. The situation is much better when it comes to law enforcement agencies at the state level, the Ministry of Interior of the Republika Srpska, and the Brčko District police. On their official websites, BP BiH, SIPA BiH, and MoI RS provide citizens with quality information on how to report occurrences of unlawful behaviour of police officers from these institutions. The official website of the Brčko District police offers a special section, in the part relating to the organisational unit of the police, describing the tasks performed by the Professional Standards Unit. The same section provides forms or requests that citizens can fill out in electronic form and submit to the Professional Standards Unit.

In this context, representatives of police institutions also point out another significant problem: many police institutions in the country are not taking into account the fact that not all citizens have access to a computer and that they are, in this sense, unable to obtain specific information on how and to whom to submit complaints against police officers. As a solution they propose that certain police institutions carry out educational campaigns during the forthcoming period to educate the citizens about ways to complain about unlawful conduct of police officers, i.e. to teach them which elements constitute a violation of duty of a police officer, within what time frame a complaint should be submitted, and how to resolve similar concerns they might have regarding the submission of complaints to the internal control unit.

The fact that reports on the work of internal control units are not available to the public represents another problem. These units' reports are submitted to senior managers of police institutions and then forwarded to bodies in charge of external control; consequently, as a rule, they are not available to the public. Thus, statistical data such as the number of complaints submitted to internal control units against police officers, the number of conducted internal investigations, their outcomes and similar data can



be obtained only by submitting a request for access to information. The exceptions, in respect of publishing this information for the public, are SIPA BiH, MoI of the Sarajevo Canton and the MoI of the Zenica-Doboj Canton; they publish partial data on the work of internal control units in their semi-annual and annual reports, as well as in periodic information they provide on the state of security in the area in which they operate.

The number of citizens' complaints does not reflect the efficiency of the internal control units

When it comes to efficiency and effectiveness of internal control units in all police institutions, they generally cannot be assessed solely based on received complaints or requests for implementation of the internal process upon a complaint. For the purpose of compiling this Report, many police institutions in BiH have provided data on the number of complaints received about the work of police officers, the number of internal investigations conducted upon complaints, as well as data on the outcome of investigations for a specific period. This clearly shows that the internal control units operate in accordance with their purpose and that they act responsibly toward the citizens. In order to evaluate the success of their work, in addition to this we should also bear in mind the content of the received complaints, that is, whether they were founded and whether they concerned the work of a police officer or some subjective opinion of a citizen who was expressing his concern. In any case, it can be concluded that the essential motive for the establishment of this unit at the level of organs is one of the measurable indicators of the success of performance of internal control.

There are no integrity plans

In last year's report¹³ it was established that many police institutions in BiH lacked integrity plans, whose adoption and implementation happens to be one of the activities stemming from the Anti-Corruption Strategy and the Action Plan BiH 2015-2019. In 2016 most of the police institutions in BiH has neither developed nor implemented integrity plans. At the state level only a few law enforcement agencies have developed them. Among others, they are: BP BiH, SIPA BiH and DCPB BiH. The working group in charge of drafting the FMOI Integrity Plan has also completed the process of developing the Integrity Plan of FMOI. At the end of November 2016, the Plan was submitted for adoption and published on the website of FMOI.

As for the cantonal ministries of interior, representatives of the Agency for Preven-

13 Alma Kovačević, Hamza Visca. 2015. Assessment of Integrity of the Police in Bosnia and Herzegovina. Sarajevo: Centre for Security Studies. <<https://goo.gl/WLW1Am>>.



tion of Corruption and Coordination of the Fight against Corruption of BiH launched an initiative and, in the course of 2016, provided written communication to all the institutions regarding the obligation to adopt integrity plans in accordance with the provisions of the new Strategy.¹⁴ Meanwhile, the MoI of the Zenica-Doboj Canton developed its Anti-Corruption Action Plan 2016-2020, a working group in charge of drafting the Integrity Plan of this Ministry has been formed, and the developed Integrity Plan is currently being submitted to the Agency for opinion. The Government of the Zenica-Doboj Canton has also developed questionnaires which it uses to assess whether citizens are satisfied with the services of the professional standards unit of the Police Administration of the Zenica-Doboj Canton MoI. In this regard, the professional standards unit is under the obligation to send the questionnaire to every citizen who had submitted a complaint concerning the work of police officers, and to later forward it to the Government together with the regular report, for the purpose of improving the operation of internal control.

The MoI of the Bosnian-Podrinje Canton has also undertaken activities to set up mechanisms for preventing and combating corruption, that is, activities relating to the preparation of the Integrity Plan. In the Central Bosnia Canton the Strategy has not been adopted, nor has a team to develop said Strategy been formed. Back in 2013, the MoI of this canton had adopted the Anti-Corruption Action Plan; the Professional Standards Department been placed in charge of this task, but the document is an internal document of the MoI. The Government of the Una-Sana Canton has established the Anti-Corruption Body, but that had happened before the Government of this Canton had changed. The Body is in charge of proposing a strategy and action plan, but so far only the working versions of the action plans have been developed. In the Posavina Canton, the Anti-Corruption Strategy was adopted in the middle of this year while the Action Plan is under consideration. The Government of this Canton has not yet appointed a body that will monitor the implementation of measures listed in the Strategy.

At the level of the Republika Srpska, the Anti-Corruption Strategy 2013-2017 has been adopted, as well as the Action Plan for the implementation of Anti-Corruption Strategy in the RS in the field of internal affairs. The Strategic Plan also prescribes the obligation of all organisational units of the MoI RS to adopt integrity plans and identify job positions that carry a high risk of corruption. Having conducted the Institutional Capacity Assessment and developed the Integrity Plan of the institution, the Brčko District Police showed a similar commitment.

14 See: <<https://goo.gl/NGnBfW>>.



Laws to protect whistleblowers have not been enacted at the lower levels of government

The Law on Protection of Whistleblowers in the Institutions of Bosnia and Herzegovina (“Official Gazette BiH” No. 100/13) was adopted at the state level in late 2013. Still, special laws to protect persons who report corruption have not yet been enacted at other levels of government. The procedure for drafting this law is already under way in the Brčko District, as well as in the Federation BiH. In the Republika Srpska preliminary announcements show that the process of drafting this law could soon begin.

The Law on Protection of Whistleblowers in the Institutions of Bosnia and Herzegovina provides that the person who reports corruption internally shall have the right to address the Agency for Prevention of Corruption and Coordination of the Fight against Corruption in order to be granted the status of whistleblower if s/he believes that adverse measures could be taken against him/her as a result of his/her action. In essence, this is the first law in Europe which enables the reporter to obtain the status of whistleblower prior to being exposed to possible adverse consequences.

The Administrative Inspection of the Ministry of Justice BiH and the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, which are in charge of supervision of the implementation of this law, have implemented measures from their respective purviews. In the past two years, which is how long the Law on Protection of Whistleblowers has been in existence, “the Agency has received a total of 10 requests for granting the status of protected whistleblower. In the case of 7 of these requests it was established that there were no conditions for granting the status of protected whistleblower, while in some of the the cases the Law could not have been applied to those who requested the status because they were not included in the category of persons employed in the institutions of BiH”.¹⁵ The Agency has granted the status of protected corruption whistleblower in two cases only, but in one of them the Agency issued the Instruction to eliminate harmful acts committed against a protected corruption whistleblower whose employment at the institution where the worked had been terminated. After the Agency initiated the proceedings, the protected corruption whistleblower successfully returned to his former job position.

For the purpose of better implementation of the law, the Agency also coordinates the process of drafting internal regulations for reporting corruption in the institutions of BiH. Looking at law enforcement agencies at the state level, Forensic Examinations and Expertise Agency (FEEA), SIPA and DCPB BiH represent positive examples, as

15 See: Annual Report of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption of BiH 2015. Available at: <<https://goo.gl/lj73bS>>.



they have adopted rulebooks for internal reporting of corruption by employees.¹⁶ Documents are available on the official websites of these institutions, which is not the case with other law enforcement agencies in BiH.

Recommendations

- ▶ In the upcoming period, law enforcement institutions such as the MoI of the Posavina Canton, Canton 10, and Herzegovina-Neretva Canton should carry out educational campaigns to inform the citizens about the possibilities of filing complaints concerning unlawful conduct of police officers.
- ▶ All the law enforcement agencies in BiH should develop and implement integrity plans that would serve to prevent various forms of irregularities in the work of these agencies, including corruption.
- ▶ In order to comprehensively regulate the protection of whistleblowers in BiH, it is necessary to pass legislation in this area also at the level of the entities and the Brčko District.
- ▶ Law enforcement agencies in BiH should also establish regular practice of conducting satisfaction surveys among the users of official websites and gather useful suggestions for improvement. In this way law enforcement agencies can improve the quality of published information, which will facilitate communication with the public and increase trust and confidence in their work.

16 The rulebook/instruction specifies who can submit a report and to whom; there is also the procedure for filing a report, the procedure of acting upon a submitted report, forms of protection of the person who submitted a report, etc.



HUMAN RESOURCES MANAGEMENT

Police institutions in BiH do not have strategies for human resources management. Certain procedures are inadequately implemented in practice, which ultimately de-stimulates both the employees and the efficiency of the police institution as a whole. Police institutions do not have organisational units which would deal with all the aspects of human resource management in one place.

There are no strategies for human resources management

The collected data indicate that law enforcement agencies at the state level do not possess human resources management strategies which would encompass all the elements of HRM, such as: human resource planning, recruitment and selection, training and development, promotion, performance management, rewarding and retaining the effective workforce, and discipline.¹⁷ The situation at the lower levels of government is not much better. It was not possible to obtain information on the (lack of) existence of such a strategy by searching the official website of the Federal Police Administration (FPA). The same situation is present in the case of MoI RS, as confirmed by their representative who emphasised that no such strategic document exists. The Brčko District Police is no exception although this institution's strategic plan for the period 2013-2018 expresses the need to strengthen the human resources potential as part of the first objective.¹⁸

Cantonal ministries of interior also do not have uniform strategies of human resources management. Although the representative of the Ministry of Interior of the Una-Sana Canton said that no such document existed, the work strategy for the period 2015-2017 can be found on the website of that institution. In the above work strategy it is stressed that one of the objectives is the strengthening of the human resource capacity. Something similar can be found at the Ministry of Interior of the Sarajevo Canton, within the previous year's General Plan of the Police Administration which indicates the priorities and objectives of the sector for legal, human resource and logistics affairs,

17 Some attention has been paid to human resources planning, as one of the elements of the HRM, in the Strategic Action Plan of the State Investigation and Protection Agency (SIPA) 2015-2017. One of the strategic goals of the document relates to strengthening the organisational structure of SIPA and the provision of adequate human resources potential. The medium-term plan of the Directorate for Coordination of Police Bodies of BiH 2016-2018 includes something similar. Realisation of this plan and its objectives envisages employment quotas for 2016, 2017 and 2018. No documents of a similar content have been found on the official website of the Border Police.

18 "Strategic Plan of the Police of the Brčko District of Bosnia and Herzegovina 2013-2018", December 2012. <<https://goo.gl/bjmN45>>.



training, and analytics.¹⁹ Although the content of the document cannot be accessed, Canton 10 has developed General Guidelines for the Human Resources Policies in State Bodies which also applies to the cantonal Ministry of Interior.²⁰

Human resources and the fight against corruption

In the context of human resources management and fight against corruption, it is important to point out that the police officers – as authorised officials in all police structures in BiH – have an obligation to act upon complaints or knowledge of corrupt activities, regardless of whether they involve employees of the institution or third parties. Grounds for such action are found in the provisions of criminal laws and criminal procedure codes in BiH. At the state level, FEEA BiH, SIPA BiH i DCPB BiH can serve as positive examples as institutions that have developed rulebooks for internal reporting of corruption by employees.²¹

Protection from discrimination

When discussing employment in police institutions in BiH, it is necessary to know that there are three categories of employees who are recruited through open competitions. The first are police officers, whose terms of employment are governed by the laws on police officers (the state level, FBiH, the cantons and the Brčko District of BiH) and the Law on Police and Internal Affairs in the Republika Srpska. Civil servants belong to the second category and they are employed under the terms of the laws on civil service. The third category consists of state employees, whose employment is governed by the Law on Employment in Institutions of Bosnia and Herzegovina, the laws governing state employees, etc. Provisions of the BiH Labour Law also apply to all categories of employees. From the formal and legal point of view, all categories of employees of police institutions in BiH are protected against various forms of discrimination, regardless of whether they concern the employment process or employment in the institution.

In addition, the provisions of the Law on Gender Equality in Bosnia and Herzegovina also apply to the above institutions, particularly Article 20(2) which states that equal gender representation shall be deemed to exist if a gender has a representation of at

19 "General Work Plan of the Police Administration of the Ministry of Interior of the Sarajevo Canton 2015", 26 May 2015. <<https://goo.gl/2GO25R>>.

20 See: <<https://goo.gl/KHqr2R>>.

21 The rulebook/instruction specifies who can submit a report and to whom; there is also the procedure for filing a report, the procedure of acting upon a submitted report, forms of protection of the person who submitted a report, etc. Documents are available on the official websites of these institutions. Similar documents have not been found on the website of the BiH Border Police.



least 40% in state bodies. Formal mechanisms for adequate inclusion of women in the government institutions are therefore provided. However, data collected for the Center for Security Studies project titled “Empowerment of Women for Stronger Integration in the Security Sector of Bosnia and Herzegovina through Public Promotion of Successful Women Leaders” show that the majority of institutions of the police and security sector do not meet the legally prescribed minimum percentage, and that the disproportionately small number of women in certain job positions is quite noticeable. The first that comes to mind is the position of police officer, as women mainly have the status of civil servant or state employee.²²

Job descriptions, ranking, employment and promotion in the police force

Job descriptions in police institutions in BiH are governed by regulations on internal organisation and systemisation of job positions. The above cannot be obtained by searching the official websites of state law enforcement agencies, and identical situation is evident also when it comes to individual police institutions at the lower levels of government. Representatives of law enforcement agencies in BiH point out that such documents bear a certain degree of confidentiality i.e. secrecy, and that it is for these reasons that they are inaccessible to public. However, such attitudes and practices are unjustified, as only documents or information essential for the operational work should involve that degree of confidentiality. In other words, something that might affect the ability of law enforcement agencies to prevent and combat any form of crime they are in charge of should constitute confidential information - not the number of systematised job positions and the job descriptions within each of the established organisational units.²³ Also, the publication of these rulebooks would allow citizens to determine the number of job positions envisaged for specific police institutions, the approximate amount of public funds spent on salaries and compensation of employees, etc. All this would lead to increased awareness and improved transparency of police institutions, which would consequently have an impact on the improvement of the operational work of the police, i.e. through community policing. In addition, the

22 According to collected official data for 2016, a total of 22,006 people work in the security and police institutions of BiH (cantonal Ministries of Interior; FMol and the Federal Ministry of Interior; Mol RS, BD Police and the Ministry of Security, together with seven administrative organisations) Out of this number 4,515 are women, which is 20, 51%. Also, of the total number of employees in these institutions 16,276 are police officers (in the Ministry of Security BiH only three administrative organisations have police officers: the State Investigation and Protection Agency - SIPA, the Border Police of BiH, and the Directorate for Coordination of Police Bodies of BiH), and 1,288 women hold such status. In percentage terms, this amounts to 7.91%.

23 Also, most people are familiar with the general function of law enforcement agencies. Why would a job description of a police officer in charge of traffic safety be confidential if the officer comes in daily contact with citizens who are aware, more or less, of the fact that his duty is to control and regulate traffic, verify and establish the validity of personal documents, and the like.



publication of such rulebooks would further educate the citizens on the tasks and duties of police employees, which would undoubtedly facilitate, improve and streamline two-way communication.²⁴

Police ranks are governed by the laws of police officers of BiH (law enforcement agencies at the state level, FPA, the Brčko District Police and cantonal police administrations) and the Law on Police and Internal Affairs in the Republika Srpska. The structure of police ranks is almost compatible at the level of cantons, the Federation of Bosnia and Herzegovina, the Brčko District and BiH. However, the difference is reflected in the number of ranks: at the cantonal level there are 10, while at the level of BiH, the Federation of Bosnia and Herzegovina, and the Brčko District there are 11. In the Republika Srpska the structure of police ranks is somewhat different and there are 12 ranks in total.²⁵

Criteria for the selection of police officers are also regulated by the aforementioned laws and by-laws as well as regulations based on them. The above laws precisely state the requirements that a person must meet in order to gain employment in a police institution, as well as practices and procedures related to the selection of candidates, which are also further elaborated in rulebooks.

In general, there are two levels at which one can join a police institution as police employee: that of police officer and that of junior inspector. Hiring new police employees is conducted through open competitions. A person who intends to apply for an open competition must meet a number of requirements, some of which are:

- ▶ S/he must be a citizen of Bosnia and Herzegovina;
- ▶ S/he must be between 18 and 35 years of age - in some institutions a police officer must be between 18 and 27 years old, while a junior inspector must be 18 to 35 years old;
- ▶ S/he must have at least the fourth degree of education to obtain a rank of police

24 For example, a citizen whose human rights were unjustifiably violated through the work of police officers would know exactly to whom to report such an occurrence, and within which organisational unit to do so; this would speed up the procedure and make it impossible for such reports to remain “unrecorded” or “unnoticed.”

25 Police ranks at the cantonal level are: police officer, senior police officer, sergeant, master sergeant, junior inspector, inspector, senior inspector, independent inspector, chief inspector and inspector general of police (Police Commissioner). At the level of FBiH, BD and BiH, in addition to these ranks there is also the rank of chief inspector general of police. The person holding this rank performs the function of director of law enforcement agency, while the lower rank, that of inspector general of police, is reserved for his deputy. Police ranks in the Republika Srpska are: junior police officer, police officer, senior police officer, independent police officer, chief officer, junior inspector, inspector, senior inspector, independent inspector, chief inspector, inspector general of police and chief inspector general of police.



- officer, and at least the sixth level for the rank of junior inspector;
- ▶ S/he must be psychologically and physically fit to perform police duties and tasks;
 - ▶ No criminal proceedings are pending against him/her, s/he has never been prosecuted, no unappealable prison sentence has ever been imposed against him/her for a criminal offence, etc.

Requirements concerning the minimum level of education for the appropriate level of accession are not sufficiently precise and allow people of different occupations to apply for open competitions. Viewed long-term, this practice undermines the police profession because it formally allows people without prior police, criminalist or legal knowledge to gain employment in the force. In addition, this practice degrades criminalist, security and legal sciences, as well as the faculties that are highly specialised for these areas, creating a false impression that police work can be performed by people who lack adequate professional training and qualifications.

The selection of candidates is done through a series of tests: a test of general knowledge and a written essay; a physical fitness test; medical examination; psychological examination including a test and an interview; and other tests as deemed necessary by the specific police authority. Often, candidates also have an interview with members of the selection commission - employees of the police institution which organised a public competition. However, there is a clear opinion in the public, especially among the people who had already gone through the process of selection that the actual interview is the phase in which nepotism and discretionary powers are the most pronounced. Members of the police institutions have agreed with this statement, noting that this test phase should be further elaborated in the rulebooks.²⁶ On the other hand, during the debate on this issue there were also those who were of the opinion that the purpose of the interview is to assess the integrity of the candidates. In other words, the interview serves to learn about a candidate's way of thinking and his/her opinion on specific issues, which could then be used to assess the compatibility of his/her profile with service in the police force. Such opinions have been defended by the view that members of the candidate selection commissions are long-time police employees with necessary experience. One of the interlocutors said that, apart from the interview, the written essay could also be perceived as a problematic part of the test, because essays

26 In the Rulebook on the Content, Method and Schedule of Candidate Testing in the Process of Selecting Police Officers of one of the police institutions in BiH it is stipulated that the purpose of the interview is to obtain an objective picture of the candidate; a general impression of him/her, his/her appearance, neatness, etc. It also states that all candidates do not have to ask the same questions. But is it possible to get an objective picture of a candidate if the aim is to obtain a general impression of him/her and if the subject of evaluation i.e. assessment is his/her neatness and appearance? Thus, the issue here is obviously the subjective opinion of each member of the commission in charge of selecting police officers.



are reviewed by secondary school teachers and the members of the candidate selection commission cannot influence that specific evaluation segment.

In terms of promotion of police officers, standards, policies and procedures are specified in the laws on police officers in BiH and the Law on Police and Internal Affairs in the Republika Srpska, while certain aspects of the process are further elaborated in internal rulebooks. In conversations with the representatives of police institutions it was observed that there are certain problems in this area as well. Points earned by police officers at courses or seminars during the process of professional development and training are important for professional advancement. This causes situations where those who have attended such trainings and have earned the most points have a better starting position or priority in professional advancement, while police officers who are the real executors of operational activities and who bear the full burden of police tasks and activities remain neglected, which has a de-stimulating effect on them.

There are no organisational units for human resources management

It seems that there is no single organisational unit in the law enforcement authorities in Bosnia and Herzegovina which deals with all the key elements of human resource management. Almost all the police institutions in BiH have sections or departments in charge of human resources or policies. At the cantonal level, according to the information available on the official websites of police institutions, such sections or departments operate predominantly within the administration and support directorates. Police departments in the Sarajevo and Herzegovina-Neretva Cantons represent sort of an exception, because – in additions to the administration directorates – they also have human resource departments within the police administrations.

FPA, a law enforcement agency at the level of FBiH, has a sector for administration and logistical support which, among other things, also deals with human resource affairs. Within the Ministry of Interior of the Republika Srpska operates the Directorate for Legal Affairs and Human Resources, with the Human Resource Department of Personnel within it. From organisational charts and job descriptions of the organisational units in the Brčko District Police it is not possible to conclude whether there is a separate organisational unit that deals with issues related to human resources. However, the Office of the Chief of Police employs one senior associate and one expert human resources officer.

DCPB BiH has the Sector for Human Resources, Legal, Financial and Material Affairs and the Registry Office, within which operates the Department of Human Resources Management. The official website of this institution states that the above sector



takes care of human resources, among other things. Additional specifications are not available, and the modalities of care for human resources therefore remain unknown. Within SIPA BiH there is the Sector for Administration and Internal Support which monitors and analyses the staffing situation in connection with the hiring and termination of employees, performs technical tasks for the Agency in the area of regulation of the employment status of employees, establishes and maintains prescribed records, performs administrative proceedings tasks, prepares acts regulating the status issues of employees, and participates in the planning, organisation and coordination of the training of Agency employees.²⁷ Within this sector operates the Department of Human Resources, Human Resources Development and Training. Within the organisation of the BiH Border Police operates the Directorate for Administration, composed of four sections. One of these sections is the Department of Human Resource Affairs.

Procedures relating to human resources management should be fair and transparent

After the interviews conducted with representatives of some of the police structures in BiH, it can be concluded that certain procedures of human resources management should be more fair and transparent. They should be further developed i.e. elaborated to make the work of police institutions more efficient and transparent.

The evaluation of candidates during the process of internal advancement can be taken as an example. Namely, there have been situations where certain candidates were inadequately i.e. differently evaluated year after year, and there have also been others where the advantage was given to persons with lower education levels. In addition, there have also been situations where, after the police officers' performance evaluation – which, according to the applicable laws, is carried out at least once a year – almost everyone in the headquarters of a police institution would receive the highest mark. At the lower levels, police officers' evaluation marks were lower.

However, there are also some very positive examples of how certain procedures for the management of human resources were implemented transparently. For example, the Ministry of Interior of the Zenica-Doboj Canton has allowed the media and stakeholders to attend all the phases of the testing of candidates for the selection of new police officers.²⁸

27 See: <<https://goo.gl/55OAWw>>.

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



Training and professional development of cadets and police officers

Upon completion of a public competition i.e. selection of candidates who have successfully passed the selection process for the hiring of new staff, all the candidates undergo basic training pursuant to the laws governing the work of police officers in BiH. At the state level, candidates for new police employees with the rank of police officer or junior inspector acquire the status of cadet and undergo basic training implemented by the Agency for Education and Professional Training in Mostar. The curriculum for the cadets varies depending on the level of accession.

The situation is almost identical in the Federation of BiH, including the cantonal level, with the exception that cadets undergo basic training at the Police Academy in Sarajevo. The same rules apply for cadets of the Brčko District Police, who attend basic training at the Agency for Education and Professional Training, the Police Academy in Sarajevo, or in organisational units in charge of training police personnel at the Ministry of Interior of the Republika Srpska.

The training of cadets in the MoI RS is the responsibility of the Police Training Directorate, within which operates the Police Training Unit – the Police Academy. According to the Law on Police and the Internal Affairs of the Republika Srpska, at the Police Academy cadets are studying for the rank of police officer, while the Higher School of Internal Affairs assists when it comes to the needs of the Ministry for highly educated staff.

In terms of professional development and training of personnel, according to the applicable legislation police officers in BiH are obliged to pursue such development over the course of their professional careers by participating in various seminars and courses.

Recommendations

- ▶ All police institutions should develop rulebooks or guidelines for internal reporting of corruption along the lines of the State Investigation and Protection Agency and the Directorate for Coordination of Police Bodies.
- ▶ Although there are legal provisions that guarantee the inclusion of women in police institutions, take greater effort to actually involve i.e. employ them. In addition, more women that meet the requirements should be in management positions within the police institutions.



- ▶ All police institutions should publish their rulebooks on internal organisation and systemisation of job positions;
- ▶ Advocate amendments to the provisions of the existing laws on police officers so as to specify which professions will be given priority in the process of selection of new police officers with the rank of junior inspector. Priority should be given to persons with security and criminal justice backgrounds or law school graduates.
- ▶ The interview, as one of the stages of selecting new candidates for police officers, should be further elaborated in the rulebooks. It is proposed that there be two sets of questions. The first set would refer to the area of expertise to assess the candidate's knowledge in the field of Criminal Law, Criminal Procedure Code, crime theory and practice. The purpose of the second set of questions would serve to assess the candidate's profile, that is, his/her compatibility with police service.
- ▶ To avoid irregularities in the process of professional advancement, police officers should be equitably subjected to additional training and professional development.
- ▶ Study the experience of other countries in terms of human resources management to find the best practices and standards for the establishment of a single sector/department to manage human resources.



FINANCIAL MANAGEMENT

Police agencies in BiH do not have a sufficient number of employees who work on public procurement and under such conditions planning and implementation of public procurement has become a very difficult task. The implementation of internal financial controls in the police is problematic. The findings of auditors generally show that public procurement procedures in the police sector institutions are not carried out in the most efficient manner and/or in accordance with the Law on Public Procurement.

Large budget allocations for the operation of law enforcement agencies

Budgets of the law enforcement agencies generally meet their operational needs, but the current number of their staff and the available infrastructure are not satisfactory. Each police agency is funded at the appropriate level of government, i.e. agencies at the state level are funded from the state budget, those at the entity level from the budget of the entity in question, those at the cantonal level from the budget of the specific canton, while the Brčko District Police is funded from the budget of the Brčko District BiH.

The total budget funds spent in 2015 by 16 law enforcement agencies and five institutions closely connected to the police activity amounted to KM 670 million. In 2016, KM 694.7 million has been allocated for the operation of these agencies in the budgets of various levels of government, which shows an overall increase of approximately 3.7%. KM 164 million has been allocated for the operation of law enforcement agencies at the state level, KM 348.5 million for the ministries of interior of the cantons and the FMoI, KM 171 million for the Ministry of Interior of the Republika Srpska, and KM 11 million for the Brčko District Police. In 2015, allocations to law enforcement agencies in Bosnia and Herzegovina, which employ approximately 23,000 persons, amounted to 8.04% of the total budget. For example, the Republic Slovenia allocates 3.06% of the total budget for the Ministry of Interior, the Republic Montenegro 3.59%, the Republic Croatia 3.80%, the Republic Serbia 5.71%, and the Republic Kosovo 6.85%. According to these data, BiH is a country that, percentage-wise, spends the most in the region to fund law enforcement agencies.²⁹

All budgets include the following basic elements: type of expenditure and appropriate economic code, source of funding, execution (or assessment of execution) of the institution's previous calendar year's budget, the institution's budget for the calendar year for which the budget is adopted, and the difference expressed in absolute and

29 Denis Hadžović, Benjamin Plevljak. 2016. What is the cost of public security? Sarajevo: Centre for Security Studies.



relative (index) values. Individual budgets also include other elements depending on who had adopted the budget of a specific institution. Upon adoption, all budgets and budget execution reports are published in the official gazette and are thus available to the public. To increase transparency, every law enforcement agency should publish its budget on its website.

Internal audit has not been established in all the agencies

In Bosnia and Herzegovina, internal audit is regulated by four laws: the Law on Internal Audit of Institutions of Bosnia and Herzegovina; The Law on Internal Audit in the Public Sector in the Federation of Bosnia and Herzegovina; the Law on Internal Audit in the Public Sector of the Republika Srpska; and The Law on Audit of Public Administration and Institutions in Brčko District of Bosnia and Herzegovina. These Laws define internal audit as “an independent, objective assurance and consulting activity created for the purpose of adding value and improving an organisation’s operations. It helps an organisation to accomplish its objectives by ensuring a systematic, disciplined approach to evaluation and improvement of the effectiveness of risk management, control, and management processes. Internal control involves a variety of mechanisms that serve to ensure correct execution of the decisions related to budget and other policies, particularly in the following areas: financial reporting, effective systems of communication between managers and their staff, accounting control, control of procedures, and control of public procurement.” The elements of this definition are in line with international standards; however, the implementation of the law is problematic, primarily concerning the establishment of internal audit in practice.

By-laws define the criteria for determining which institutions should establish their own internal audit departments (units), and stipulate which institutions shall introduce the job position of independent internal auditor and which shall be subject to the jurisdiction of the internal audit department (unit) of another institution. Law enforcement agencies at the national level are required to establish their own internal audit departments (units) or are subject to the jurisdiction of the Ministry of Security BiH; the law enforcement agencies at the level of entity are required to establish their own departments, while cantonal law enforcement agencies are subject to the jurisdiction of internal audit departments (units) of the cantonal ministries of finance. In their consolidated internal audit annual reports, central harmonisation units of the Ministry of Finance and Treasury BiH and the entities’ ministries of finance have stated that, as at the end of 2015, certain law enforcement agencies and cantons have not yet established internal audit departments (units).



External audits are carried out each year

The Audit Office of the Institutions in BiH, the Supreme Audit Office for the Republika Srpska, the Audit Office of the Institutions in FBiH, and the Audit Office of Public Administration and Institutions in Brčko District of BiH conduct external audit of all institutions at all levels of government in Bosnia and Herzegovina. Their work is defined by four laws on the audit, according to which they annually express their opinion concerning the institution's financial operations.

Financial audit involves procedures that serve to obtain evidence about the amounts and disclosures contained in the financial statements to determine whether the financial statements are free of material misstatement. In his/her work, the auditor also considers internal controls relevant to financial operations. In addition to expressing opinion on the financial statements, the auditors also express their opinion on whether the financial information and transactions are in line with the relevant laws and other regulations.

The main elements of the external audit reports in BiH are: audit opinion; analysis of compliance with previous recommendations; conclusion on the functioning of internal control; budget planning and execution; balance sheet; analysis of conducted public procurements; and the institution's comments on the draft report.

By-laws have been passed to increase transparency in public procurement

In Bosnia and Herzegovina this area had been regulated by the Law on Public Procurement of 2004 at all levels of government; after several amendments to the above Law, a new Law was enacted in 2014. In the SIGMA report from 2015 it was stated that the new Law was largely aligned with the then current EU Directives on public procurement,³⁰ and that the most important non-compliance pertained to the application of domestic preferences. The report also emphasised that the institutional structure was well defined.

Before the new Law came into force, the time needed for the completion of the decision-making process in the Appeals Office was an aggravating circumstance for the institutions because of the large number of submitted appeals. New legislation introduced fees for the initiation of process and envisaged the opening of two more offices

30 Directive No. 2004/17/EC of the European Parliament and of the Council of 31 March 2004, coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors; Directive No. 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the co-ordination of procedures for the awarding of public works contracts, public supply contracts and public service contracts.



of the above Office, in Banja Luka and Mostar. The fact that contracting authorities, unlike suppliers, cannot appeal decisions of the Appeals Office remains problematic in the eyes of contracting authorities.

Progress has been made regarding transparency in public procurement by way of the legal provision on the publication of procurement plans and basic elements of contracts and contract amendments on the websites of institutions, and on the publication of the procurement announcement and tender documentation on the Public Procurement Portal managed by the Public Procurement Agency of Bosnia and Herzegovina. To further improve the use of modern technologies and public procurement methods, in July 2016 the Council of Ministers adopted a Rulebook on the Terms and Method of Use of e-Auctions. According to the Rulebook – by gradual increase until the year 2020 – all the procedures in which a procurement announcement and tender documentation was published and in which the lowest price appears as the criterion will have to be completed through the e-Auction.

One of the major problems of law enforcement agencies in Bosnia and Herzegovina in the area of public procurement is the fact that they have only two or three people working on public procurement tasks. In such circumstances, planning and implementation of public procurement becomes a very difficult task; this greatly undermines their ability to implement mechanisms for obtaining better quality offers. Although the law stipulates the possibility for contracting authorities to decide to jointly carry out a procurement procedure, or to set up a central procurement body, this option was used only once at the state level: the Police Support Agency BiH has conducted a joint procurement of IT equipment for several agencies at the state level.

In the reports of the Audit Office of the Institutions in FBiH on the Police Support Agency of Bosnia and Herzegovina (PSA BiH), the BiH Ministry of Security, BP BiH, DCPB BiH and SIPA BiH, the auditors have shown concern regarding joint procurement and have stated that the Police Support Agency “has not yet taken over the tasks from its purview in the part concerning the implementation of public procurement of certain equipment for police bodies in accordance with the Law on the Directorate for Coordination of Police Bodies and Police Support Agencies of BiH and the Rulebook of Standardised Equipment and Arms of Police Bodies in BiH”.³¹ Measures taken by the PSA BiH involve the following: development of a draft Decision on the Establishment of a Central Procurement Body for the Needs of Police Forces of Bosnia and Herzegovina, and the proposed Agreement on the implementation of public procurement for the needs of police forces – both submitted to other police agencies (SIPA BiH, BP

31 “Report on the Financial Audit of the Police Support Agency of Bosnia and Herzegovina 2015,” May 2016, <<https://goo.gl/7qZ6wL>>.



BiH, DCPB BiH) for signing. The Agreement was signed only by DCPB BiH, and the audit reports thus recommend to other institutions "to take action to implement the Law (...) with respect to the implementation of joint procurement of certain equipment for the police force."³²

Objections to police sector institutions concerning the public procurement procedure

Annual reports of the audit office in Bosnia and Herzegovina for 2015 contain objections to institutions of the police sector concerning the processes of public procurement. The analysis of these reports results in the conclusion that public procurement procedures in the police sector are not carried out in the most efficient manner and/or in accordance with the Law on Public Procurement.

In its reports on law enforcement agencies at the state level, the Audit Office of the Institutions in BiH draws attention especially to certain practices noted in these agencies. In 2015, when defining the technical specifications, the Forensic Examinations and Expertise Agency often listed the exact names and models of equipment. Although the Law on Public Procurement allows this practice when the subject of procurement cannot be precisely and comprehensively described, the audit report states that this has not been the case.³³

The Audit Office of the Institutions in FBiH issued the Agency for Education and Professional Training a recommendation to consistently apply the provisions of the Law on Public Procurement, that is, to comply with the conditions provided in the tender documents and respect the planned dynamic of the implementation of procurement procedures so that procurement could be completed within the scheduled period of time, taking into account the contracts already in force and the period of their validity.³⁴

The audit report on DCPB BiH for 2015 shows the continued presence of the same supplier of vehicles (AC Quattro Sarajevo, a company which in previous years has been awarded the following contracts: in 2012 – in the amount of KM 394,400; in 2013 – KM 1,352,219; in 2014 - KM 599,500; and in 2015 - KM 1,058,198), which may imply the existence of a target market (a group consisting of an authorised importer and

32 *Ibid.*

33 "Report on the Financial Audit of the Forensic Examinations and Expertise Agency of Bosnia and Herzegovina 2015," June 2016, <<https://goo.gl/TcDuRZ>>.

34 "Report on the Financial Audit of the Agency for Education and Professional Training of Bosnia and Herzegovina 2015," June 2016, <<https://goo.gl/SVG82T>>.



partner sales and service centres in BiH for the placement of the contracted Volkswagen products), and which can ultimately have a negative impact on the basic principles of public procurement in terms of competition and equal treatment of bidders.³⁵

According to the audit report, the Ministry of Security BiH has not established an appropriate implementation monitoring system and has in some cases procured goods that were not covered by the signed contract. Also, it is recommended that the Ministry conduct an analysis of its true needs when planning public procurement.³⁶ It has been recommended to the Service for Foreigners' Affairs (SFA BiH) to take account of the supply in the market when defining the technical specifications, and that purchases be made in accordance with the signed contracts. These recommendations stem from the process of procurement of IT equipment which was initiated twice with only submitted bid, and the purchase of toner through a general contract for the purchase of office and computer supplies that did not include toners.³⁷

In the report on BP BiH, attention has been drawn to the practice where those employed in the Department of Procurement and Logistics which prepares, initiates and implements public procurement procedures were simultaneously members of public procurement commissions; a separation of duties in public procurement procedures has thus been recommended. There is also the practice of frequent use of emergency procedures and contingency procurement through direct agreements, which may be an indication of a lack of good procurement planning. It has been recommended to the BiH Border Police to fully comply with the provisions of the Law on Public Procurement, initiate public procurement procedures on time to meet the deadlines preceding the conclusion of the contracts, and plan the procurement of certain goods realistically so that signed general contracts could follow their own dynamics and reflect the actual needs.³⁸

The Audit Office has stated that SIPA, depending on the planned value of procurement and the objects of procurement, has implemented competing requests, open procedures, procedures for contracts allocated under a special regime (Article 8 of the Law on Public Procurement) and exemptions from the application of the provisions of the Law on Public Procurement (Article 10). The request for procurement submitted by

35 "Report on the Financial Audit of the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina 2015," May 2016, <<https://goo.gl/ekckUN>>.

36 "Report on the Financial Audit of the Ministry of Security of Bosnia and Herzegovina 2015," July 2016, <<https://goo.gl/x3udfz>>.

37 "Report on the Financial Audit of the Service for Foreigners' Affairs of Bosnia and Herzegovina 2015," July 2016 <<https://goo.gl/AV1yhF>>.

38 "Report on the Financial Audit of the Border Police of Bosnia and Herzegovina 2015," July 2016, <<https://goo.gl/JVTGjw>>.



an organisational unit of the Agency listed the type of equipment to be purchased, and proposed that procurement be initiated under Article 10 of the Law on Public Procurement to protect classified information and that the document be declared "confidential". However, the Audit Office believes that the reasons for the application of exemptions should be supported by listing relevant legislation (laws of BiH) governing special security measures, which were not sufficiently substantiated. The Office also found that, instead of substantiated reasoning, what was actually provided was information that the equipment in question was specific and that the ability of the supplier to implement the planned specific procurement was well known, which should never be the reason to apply exemption from the legislation.³⁹

In the audit reports on entity ministries of interior, while testing the samples of conducted public procurement procedures auditors found no issues (the sample for the MoI of the Republika Srpska included 11 procedures, which represents 41% of the value of implemented public procurement⁴⁰ and the sample for the FMOI included 14 procedures, which represents 83% of the value of implemented public procurement).⁴¹ Consequently, the auditors found that public procurement procedures in these two law enforcement agencies are managed in line with the Law on Public Procurement. Furthermore, the audit reports on the canton budgets suggest that in 2015 irregularities regarding the implementation of the Law on Public Procurement were observed in all the cantons. Some of the reports also mention irregularities observed in the implementation of the public procurement process in the cantonal ministries of interior, specifically in the Una-Sana Canton,⁴² The Herzegovina-Neretva Canton,⁴³ the Zenica-Doboj Canton,⁴⁴ the Posavina Canton,⁴⁵ the West Herzegovina Canton,⁴⁶ and the Sarajevo Canton⁴⁷.

Recommendations

- Police institutions should establish the position of public procurement officer in their acts on the systematisation of job positions (the number of public procure-

39 "Report on the Financial Audit of the State Investigation and Protection Agency of Bosnia and Herzegovina 2015," July 2016, <<https://goo.gl/v0MYkZ>>.

40 "Report on the Audit of Financial Statements of the Ministry of Interior of the Republika Srpska 2015," 8 April 2016, <<https://goo.gl/Xd2Eqk>>.

41 "Report on the Financial Audit of the Federal Ministry of the Interior 2015," June 2016, <<https://goo.gl/FtZ2Qm>>.

42 Audit Report on USC for 2015.

43 Audit Report on the HNC for 2015.

44 Audit Report on the ZDC for 2015.

45 Audit Report on the PC for 2015.

46 Audit Report on the WHC for 2015.

47 Audit Report on the SC for 2015.



ment officers should be determined based on the number of employees and the annual procurement budget of the contracting authority).

- ▶ Public procurement audits should be performed by a public procurement expert, and all the comments provided by the audited institution should be published as an integral part of the audit report. This practice already exists in a number of Member States of the European Union.
- ▶ Ensure greater transparency of the entire public procurement process through a regularly updated web page.
- ▶ Fully implement the recommendations of the financial audit body, as they will help law enforcement agencies to apply the procurement procedures in accordance with the law.



CRIMINAL ACCOUNTABILITY

Criminal proceedings in Bosnia and Herzegovina are mostly well rounded legally but the implementation of the law is weak or inconsistent. Investigation and prosecution of high-level cases are still not satisfactory. The system for electronic data exchange between the police and the prosecutor's offices in the Federation BiH does not function. Prosecutors cite poor quality of crime reports submitted by the police as the reason for the large number of unresolved corruption cases.

Chapter XIX of the Criminal Code of BiH titled Criminal Offences of Corruption and Criminal Offences against Official Duty or Other Responsible Duty (Articles 217-229) incriminates 12 criminal offences. These are: accepting gifts and other forms of benefits, giving gifts and other forms of benefits, illegal interceding, abuse of office or official authority, embezzlement in office, fraud in office, using property of office, lack of commitment in office, forging of official document, illegal collection and disbursement, unlawful release of a detainee, and unlawful appropriation of objects while searching or carrying out an enforcement order. Criminal offences of corruption committed by members of law enforcement agencies are prosecuted before the competent prosecutor's offices and courts in accordance with the provisions of the existing Criminal Laws and CPCs.⁴⁸ Offenders are also disciplined within their own agencies, that is, police officers are subjected to proceedings before disciplinary commissions if the investigation conducted by the internal control department (professional standards unit) establishes that the officer at hand had indeed committed a criminal offence.

Poor cooperation between the police and prosecution

Successful detection and prosecution of criminal offences of corruption depends primarily on the amount of information and evidence received by relevant institutions. In this regard it is necessary that law enforcement agencies have good cooperation with the prosecutor's offices because it is one of the key factors contributing to their successful work. However, although they are key players and should act in a synchronised manner in a criminal investigation, police officers and prosecutors sometimes perceive their respective roles differently, which leads to a series of problems in investigations. The EC Progress Report on Bosnia and Herzegovina 2016 shows that the system of electronic exchange of data between the registers of the police and the prosecutor's offices in the BiH Federation does not function either.

Another problem lies in the fact that some laws and regulations on the work of law enforcement agencies provide operational/on duty police officers with a large scope of

⁴⁸ These are: Criminal Laws and Criminal Procedure Codes of BiH, Federation BiH, RS and BD.



discretionary powers in the assignment of cases, especially those that require urgent action. In the 2015 diagnostic analysis of the integrity of the justice sector in BiH and the possible risks of corruption or unethical behaviour in the judiciary it is stated that this method of work can be subject to abuse, and that this can manifest as inadequate definition of work priorities, which should depend on the seriousness of cases and the extent of damage that certain acts can cause the society if work on specific cases is delayed.⁴⁹ At the same time, the analysis states that time limits for notifying the prosecutor are ignored frequently and in a significant number of cases; timely notification of the prosecutor is important because it allows him/her to get involved in the work as early as possible. It is also important for the allocation of cases and creation of case files.⁵⁰

Among other things, poor quality of the reports of law enforcement agencies has been mentioned in the previous years' reports of the Prosecutor's Offices of BiH as the main problem with the cases still pending with this institution's prosecutors. On the other hand, prosecutors often encounter problems after notifying the competent law enforcement authorities of the measures and actions to be taken in order to solve potential crimes. As a rule, a prosecutor submits the investigation order to the head of a police institution or the head of a specific department, who then assigns the case to a specific authorised officer. However, due to the problem caused by frequent changes of inspectors working on the cases, prosecutors say that they cannot effectively conduct investigations, that mutual trust is lost, and that all this creates a risk of insufficient information or information leakage.⁵¹ Objections to the work of prosecutors can often be heard also from representatives of police structures. Dragan Mektić, the current Minister of Security of BiH, has repeatedly criticised the Prosecutor's Office of BiH saying that "there has been no single judgment in cases relating to corruption since the Prosecutor's Office BiH was established."⁵² Mektić also stated that the fact that some of the 60 plus prosecutors operating in the Prosecutor's Office have not filed a single indictment in more than a year is worrying.

Therefore, improvement of institutional relations and better cooperation between prosecutors and law enforcement agencies is a matter must be addressed as soon as possible. Shifting the responsibility from one actor to another and back will benefit only the already-present phenomena - failure to achieve adequate results in the fight

49 See: <<https://goo.gl/7kqKhd>>.

50 Ibid.

51 Ibid.

52 "Mektić to the Prosecutor's Office of BiH: We are not sheep." Mondo. 29 November 2016. <<https://goo.gl/t1upPf>>.



against corruption. The European Commission report on BiH 2015⁵³ states that police and judiciary should have specialised personnel to fight corruption. The Law Establishing Specialised Departments within the Prosecutor's Office and the Supreme Court of the Federation of Bosnia and Herzegovina to Prosecute Corruption and Organised Crime Cases has entered into force in February 2015. However, these bodies do not yet exist, and the cantons have stopped prosecuting corruption cases above a certain threshold, thus creating a legal vacuum.

There is a lack of statistical data on corruption

As regards the prosecution of corruption offences of police officers, case studies show that statistical indicators are not an adequate measure for assessing efficiency. Based on the current statistics issued by the High Judicial and Prosecutorial Council and the Prosecutor's Office of BiH it is not possible to monitor the flow of cases and find out their outcome. The reason for this is that such statistics give an annual picture of the work on such cases, without providing information about the time when the cases were received, i.e. how long it took the prosecutor's offices to decide to initiate or not initiate an investigation or file an indictment, and how long it took the courts to begin the proceedings or render a verdict.

Second, from the statistics it is not possible to determine how many cases are pending against high ranking public servants involved in corruption and how many of the cases are actually the so-called "low profile" cases, as they are all recorded together. These data are thus not helpful, because we cannot find out how many cases have been initiated against police officers, holders of high government office or certain groups of employees. And third, it was also noted that the prosecutor's offices have a rather uneven approach to identifying and reporting corruption.

Law on Access to Information is being violated

As regards transparency of the work of prosecutor's offices, case studies show that these institutions often refuse to disclose data to the public when it comes to certain criminal offences, especially those related to corruption or those that involve politicians as suspects, and it is quite difficult to gain access to adequate information on the decisions taken, or how they were taken. An example that attracted the attention of the general public in BiH was the claim filed by Transparency International BiH against the Prosecutor's Office of BiH.

53 "Bosnia and Herzegovina Report 2015." European Commission. 10 November 2016. <<https://goo.gl/losqfo>>.



The media reports have stated that the Prosecutor's Office BiH had violated the Law on Free Access to Information because it had refused to submit documentation on the cases related to criminal offences against official duty. Many earlier examples also show that prosecutor's offices often refuse to act in accordance with the Law on Free Access to Information and the Law on the Prosecutor's Office, in terms of making the requested documents publicly available.

Recommendations

- ▶ Improve the instruments and procedures for keeping judicial statistics on corruption cases and other serious crimes, and ensure their exchange among law enforcement agencies.
- ▶ Introduce the obligation for judicial institutions to publish all indictments and verdicts related to corruption, especially those against police officers and employees of the judiciary, as well as against politicians and holders of high government office. This will increase the transparency of their work and serve as a good tool for fighting corruption.
- ▶ Improve cooperation between the police and prosecution in the fight against corruption and employ specialised personnel to fight corruption.

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