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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

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

## ASSESSMENT OF POLICE INTEGRITY IN BOSNIA AND HERZEGOVINA

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**About the POINTPULSE Network** – Five civil society organizations: Belgrade Centre for Security Policy (BCSP) and Balkan Investigative Reporting Network (BIRN) from Belgrade, Centre for Security Studies (CSS) from Sarajevo, Institute Alternative (IA) from Montenegro and Kosovar Centre for Security Studies (KCSS) from Prishtina, networked into POINTPULSE Network aimed to oversight of police integrity in the Western Balkans. The POINTPULSE aim to contribute to increased trust and confidence in the law enforcement agencies in the Western Balkans by fighting police corruption and promoting police integrity.

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**ia**  
institut alternativa

**KCSS**  
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## List of abbreviations

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BiH	Bosnia and Herzegovina
CSS	Centre for Security Studies
FBiH	Federation of Bosnia and Herzegovina
HJPC	High Judicial and Prosecutorial Council
RS	Republic of Srpska
SIPA	State Investigation and Protection Agency
TI BiH	Transparency International Bosnia and Herzegovina

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Chart 3	Sector within police which is most vulnerable to corruption
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## SUMMARY

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A question of police integrity in BiH is quite difficult to consider due to the complexity of the police system. The police sector in BiH consists of 16 police agencies at all levels of government and 6 institutions which provide them support or carry out similar activities. This fact makes any research difficult because each police agency could be considered as an individual entity and particular research could be committed for each of them.

Generally, findings of the report indicate that neither the legal framework, nor the practice is satisfying to ensure police integrity. In addition to that, the citizens assess police work as very weak and its efforts insufficient in fighting corruption. A very high influence of politicians on the police work still exists; police transparency is not satisfying when it comes to investigation of serious cases of corruption; human resources management and financing require serious reforms to be more functional in the fight against corruption; while both internal and external controls need serious changes to be more independent and functional.

This report could help to consider police integrity from important points of view, including legal framework and citizens' perspective. The report can help make a comprehensive study and a deeper analysis of each chapter.



## TRANSPARENCY

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*Police agencies are transparent inasmuch it does not compromise their work or interfere with investigations. However, when it comes to certain criminal offences, notably those related to corruption and implicating politicians as suspects, the public finds it rather difficult to get access to adequate information on the decisions that were made, and how they were made.*

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### Application of the law on free access to information

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As a rule, all police agencies are open to the public. Most of the information about the work of police agencies can be found on their official websites. Freedom of information about the activities of public authorities in BiH is regulated by the Laws on Freedom of Access to Information in BiH.<sup>1</sup> Information about the work of police agencies is mainly disseminated by the agencies' PR services or spokespersons, although the managers or the staff can also give statements and information to the public through the media.

The entity Laws on Freedom of Access to Information state that every natural and legal person has a right of access to information under the control of a public authority and each public authority has a corresponding obligation to disclosing information.<sup>2</sup> Furthermore, the competent authority may claim an exemption in cases where the disclosure would reasonably be expected to, among other things, cause substantial harm to the interests of defense and security, protection of public safety and the prevention and detection of crime.<sup>3</sup>

The laws that govern the work of police agencies contain provisions on transparency and enable the public to have access to relevant information about their activities, as long as they are not treated as confidential or constitute operational information on criminal offences and whose disclosure would infringe provisions laid down in the Law on Criminal Procedure. However, the very nature of police work requires certain secrecy, making it impossible to publicly disclose all of the requested information.

In 2014, Transparency International BiH has filed 32 lawsuits against public institutions for violations of the Law on Free Access to Information, mostly related to the incorrect application of certain articles of the law, non-enforcement of the public interest test and administrative silence. From the 32 disputes, 14 judgments were rendered in favor of TI BiH, one against, and in the remaining 17 cases proceedings are still being conducted. Among the institutions that TI BiH sued for failure to service contracts is the SIPA.<sup>4</sup>

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1 There are the Federation of BiH and Republika Srpska Laws on Freedom of Access to Information.

2 FBiH and RS Laws on Freedom of Access to Information, Article 4.

3 FBiH and RS Laws on Freedom of Access to Information, Article 4.

4 For further information see: <<http://goo.gl/IQDmbe>>.



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## Problems with sensitive police cases

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Based on the interviews with police managers, a big issue is that the work of the police agencies is sometimes made too transparent and media presence is not often welcome in some sensitive cases. This occurs when it comes to arrests of high-ranking officials, politicians, etc., that are often done in the presence of the media, especially TV crews and afterwards broadcast to the public. This creates the situation that, in the eyes of the public, the arrested people are declared guilty in advance, i.e. before any trial and legal verdict. Later, if they are set free or acquitted of charges, the citizens have less confidence in police fighting corruption.<sup>5</sup> However, we come to an important issue here: “How is it possible that media representatives are aware of the arrests if it is a confidential police action?” The problem of recording such actions is caused by the police, not the media. Therefore, we can claim that, to some extent, police contributes to declaring some individuals guilty in the eyes of the public.

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## The obvious influence of politics on policing institutions

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Although both police and judicial institutions claim that they are independent and impartial, the influence of politics and the ruling structures is evident.<sup>6</sup> It often happens that massive police operations and spectacular arrests of political leaders are conducted during election campaigns, while shortly after an election and formation of a new government, as a rule, either no investigation is conducted or cases are dismissed over a lack of evidence against the suspects.

An example would be the arrest of the then president of the Federation, Živko Budimir, in 2013 on suspicion that some decisions on pardoning convicts violated the law and that he had abused his authority, specifically that he had committed criminal offenses of organized crime, abuse of authority, illegal mediation and bribery. A one month detention was set in place, after which the State Prosecution proposed an extension for another two months. However, the Court quickly issued a decision on his release. This took place at the same time as the reconstruction of the Government of the Federation.

Furthermore, in less than one month before the general elections in October 2014, the Federal Minister of Agriculture, Water and Forestry, Jerko Ivanković Lijanović, as well as the Trade Minister of the Federal Government, Milorad Bahilj, and number of ministers and senior officials at the cantonal level of government, all members of Lijanović’s party, were arrested. They were under investigation and suspected of criminal offenses of organized crime in connection to crimes of tax evasion, tax avoidance or fraud and money laundering under article 209 of the Criminal Code of Bosnia and Herzegovina. The next day Lijanović was released of custody and the criminal proceedings were never initiated.

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5 Interviews with managers of police agencies at the state level, 2015.

6 Interviews with representatives of academic and NGO sectors, 2015.





## The lack of statistical data on corruption

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A very interesting issue in the area of transparency relates to the lack of relevant statistical data on corruption in general and on corruption in police itself. This is, by a huge part, caused by the complex police and judicial structure. Some of the statistics are published by prosecutors' offices, courts and the High Judicial and Prosecutorial Council (HJPC). The advantage is that they provide accurate data, but the weaknesses are multi-fold.

First of all, existing statistics do not allow monitoring of cases nor do they show the outcomes. The reason is that statistics provide annual data of the cases, without any information on the dates of receipt of cases or how long it took the prosecution to decide whether or not an investigation would be opened, to propose charges or how long it took the courts to start holding hearings or to reach verdicts.<sup>7</sup> This means that the existing statistics do not allow a case by case analysis. Even the BiH Progress Report of the European Commission for 2013 notes that "despite available statistical data, there is no analysis of corruption cases."

Further, statistics do not show the number of cases against high-ranking public officials involved in corruption, or the number of so-called "small" cases, because all cases are recorded together. Therefore, these statistics are not helpful as we cannot find out how many cases have been held against police officers or holders of high positions in the state or any specific groups of officials. Thirdly, a rather unequal approach to identify and report on corruption cases in prosecutors' offices has been noticed. For instance, some prosecutors' offices provide statistical data on cases, and others on both cases and individuals. Some reports provide the data as per groups of criminal offences, while others do that per type of crime, general crime, economic crime and war crimes, without showing the number of corruptive offences. Therefore, we have a sum of non-comparable data on corruption.

As for the keeping statistics on police corruption by police agencies, the practice varies from one police agency to another. Hence, there is a lack of real and objective statistical data on police corruption in Bosnia and Herzegovina. The lack of legislation regulating this obligation usually leads to misinterpretation and wrong assessment of police behavior. In addition to that, the lack of clear international standards regulating this area makes the issue more dubious. This indicates the importance of harmonizing the method for data collection and keeping statistics across BiH.

## Recommendations

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1. Introduce an obligation to judiciary institutions to publish all indictments and verdicts on corruption, especially those against police and judiciary employees as well as against high politicians and holders of high positions in the state. This would increase the transparency of their work and would be a good anti-corruption tool.

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<sup>7</sup> Interviews with representatives of judicial and prosecutorial institutions, 2015.



2. It is important to harmonize the method for data collection and keeping statistics on corruption across BiH. This would enable objective comparison of the statistical data amongst police agencies and provide objective data on police corruption in the country. Finally, harmonization of the method for data collection and keeping statistics on police corruption would make BiH closer to the EU in terms of applying best practice of keeping statistics on crime.



## POLITICIZATION

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*There have been some attempts of local governments aimed at depoliticization of police work, however, the influence of politics on police work still remains very strong, especially when it comes to identification and investigation of corruption and related cases. Over 80% of citizens of BiH consider that there is a pretty high influence of politics in police operational work.*

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### **The work of the independent committees of appointments**

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Activities aimed towards depoliticization and the improvement of professionalism of police organizations in BiH started in 2002. The institutions of police directors were established in BiH entities, while in the cantons the institutions of police commissioners were established. The duty of the police directors/commissioners was to organize police work in professional terms, unlike the ministers of the police, whose roles were primarily political. Police institutions at the state level (SIPA, Border Police and Directorate for Coordination of Police Bodies of Bosnia and Herzegovina), and entity police agencies (Federal and RS Police Administrations) are managed by directors, while cantonal police are managed by police commissioners.

International standards require civilian control over the process of selecting heads of police structures among professionals, independently of political or peer influence. One of the intentions of the police reform in Bosnia and Herzegovina was to formally disable political influence in the appointment and dismissal of heads of police structures. Thus, the reform legislation established independent committees to propose appointment and dismissal of police directors/commissioners.

Independent committees of appointments (at all levels) carry out the process of the election of police directors and commissioners. They conduct the process of selecting candidates and submit a shortlist or recommend a candidate to the Council of Ministers or to a lower level government. At some levels, the minister of police recommends a candidate from the shortlist to the government. The Council of Ministers or the lower level government appoints the police director or the police commissioner. The composition of the committee (i.e. the qualification of the candidates) and the way of nomination of the director varies amongst the different levels of government and between the entities.

However, the members of the committee have the discretionary right of selecting candidates who meet the criteria. This is a moment where corruption can occur, i.e. the selection on the basis of suitability or other unprofessional criteria. Cases of political interference in these appointments can happen as the members of the committee might be influenced by a particular political party to select a preferred candidate. Although the independence of managers of police agencies from the executive branch or from political interference in the appointment and dismissal of key people in the police is theoretically ensured, the practice has recorded cases which were subject to arrangements of political elites as well as peer influences due to certain roles of professional members from the same institution in the selection process.

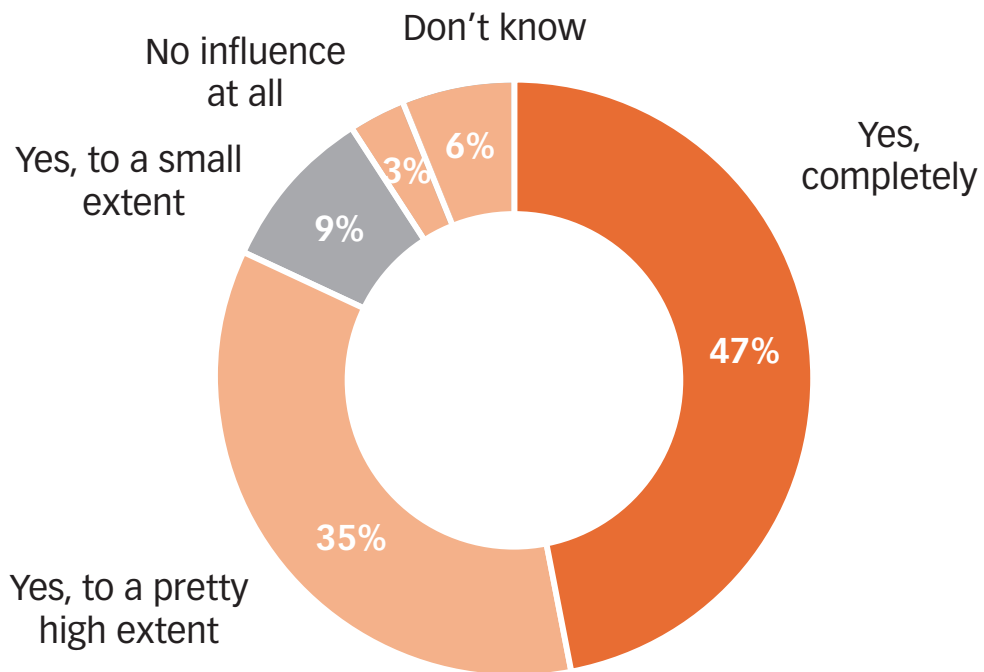


## Citizens think that there is a big influence of politics on policing

The public opinion survey conducted by IPSOS showed that over 80% of BH citizens believe that politicians have complete or high influence on operating work of police while only 3% of them think there is no influence at all.

### Chart 1: The influence of politicians on the police

[Question: Do you believe that politicians have influence on operating work of police force? Base: total population]



### Recommendation

1. Mutually harmonize requirements on the composition and the way of work of the independent committees countrywide with the aim to increase police independence and set unique standards in the police sector



## HUMAN RESOURCES MANAGEMENT

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*Inadequate systematization and selection of personnel for admission to the police; bad practice related to vocational development and trainings; lack of professional approach in carrier advancement; and lack of integrity plans which enable control of the positions that are much vulnerable for corruption, are the main problems regarding human resource management within law enforcement agencies in BiH.*

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### Employment in the police

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As for the recruitment for the police forces, the law prescribes general requirements, but anyone with a 4-year high school degree (for a policeman) or anyone with a university degree in social sciences (for a younger inspector) that passes the entrance examination can become a police officer. Thus, the problems that lead to inadequate human resources are:

1. Candidates that have already mastered the initial knowledge (e.g. degrees in criminal justice, law and security studies) are discredited;
2. The training is organized after admission of candidates, where it is noticed that many candidates were not the most adequate for police, but they have already been admitted;
3. Personal connections and corruption might occur and affect the selection and admission of candidates.

In addition to this, a vast discretion is in the hands of the heads of the institutions, as regulated by internal regulations, whereby the managerial staff in police has the right to select the required number of candidates from a list of candidates submitted to them by the selection panel, with names of all candidates who have successfully passed the required tests (physical ability test, written test and interview with members of the panel). Such organizations, managed based on discretionary powers of superiors, become a strong internal barrier to the detection and elimination of corruption. With the growth of rank and power of command and control posts of the management in the security sector, due to its systemic protection and inaccessibility, the chances proportionally decrease in terms of officially identifying corrupt behavior or nepotism, or even prosecute and sanction such behavior.

### Training of police officers

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During several projects with police agencies which were either implemented by the CSS or in which its experts participated, it was noted that professional development and specialized training of police officers were not regularly and systematically conducted. The officers often do not dispose of



adequate knowledge and skills for complex investigations. A specific problem is the lack of training in investigation of: cybercrime, intellectual property rights related crime, crimes committed against computer systems and crimes committed via Internet, economic crime and money laundering. In the previous years, there have been some training organized by internationally funded projects and organizations, but these are attended by a small number of police officers, whereas all inspectors should attend such trainings. Unfortunately, specialized trainings are very often treated by police agencies as “award travels”. It is very often the case that, when training is taking place abroad, the management nominates senior officers who are to be retired soon, police officials who have achieved good results in their work, or middle or even top management staff. This practice produces zero result as these people will never deal with the issue which is the subject of the specialized training. Police agencies were sometimes criticized even by the organizers of the trainings for this flaw, but this practice still exists.

Additionally, during the cooperation with police, the CSS team has noted that a big number of inspectors is not capable to use the Internet, does not even have an e-mail address, etc. Even though it is desirable that the attendees of the trainings pass on the gained knowledge to their colleagues, this is never the case. The cascade training method is totally lacking. The knowledge gained on specialized trainings, as a rule, stays as an “ownership” of those who have attended them and is never shared within the unit. In addition to that, it happens very often that an officer who has attended a series of trainings and became a specialist for a specific area (such as securing of public events, investigation of traffic accidents, terrorism, money laundering, etc.), after a certain period of time, is moved to a position which has nothing to do with the specialization s/he had completed (ex. VIP securing unit, investigation of murders, etc.). This practice also produces no results. On the contrary, it makes additional difficulties to the police as these officials do not have necessary skills for new positions, while they are very desirable to perform tasks they received training for.

Furthermore, when it comes to investigations that require professionals or experts in the few professions relevant to a criminal investigation (e.g., forensic expert, special expert-investigator of high financial profile, cutting-edge software programmer, etc.), they are contracted as there is no practice to employ such experts in the police.

## **The lack of transparency in career advancement**

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The advancement is carried out in accordance with the laws on police officers and the Rulebook on Promotion Procedure. However, the lack of transparency in the application of procedures for recruitment and promotion leads to a conclusion about a possible high level of corruption. According to interviews with the representatives of the police sector<sup>8</sup>, frequent risks of corruption are linked to recruitment and career advancement. Any decisions on employment, salaries, promotion, remuneration, appointment to a specific post in the police can be a source of corruption. These risks mainly arise

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8 The interviews were conducted in April and May 2015.



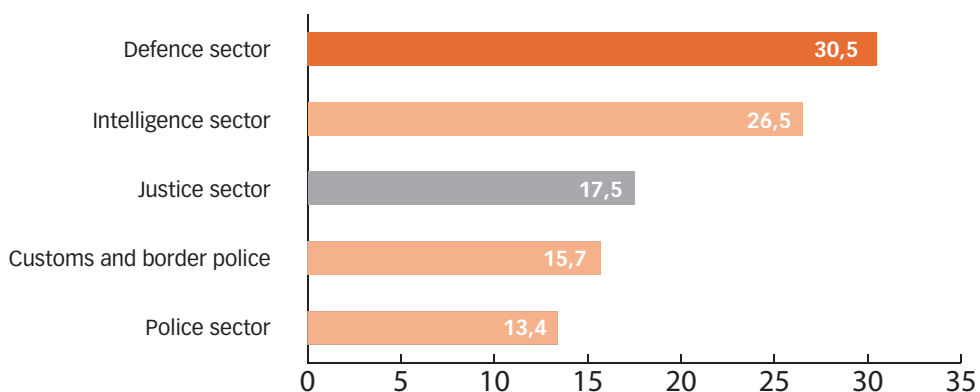
from the nature of police sector institutions, or from the fact that the recruitment, advancement and termination of employment are regulated, in a substantial extent, in confidential documents and take place mainly through non-transparent procedures, that is, based on the discretion of the managers.

As for indicators of possible risks of corruption in the area of employment, it is possible to use the data of the Office of the Ombudsman for Bosnia and Herzegovina, which has received a large number of complaints from candidates for positions in law enforcement relating to testing and selection of candidates<sup>9</sup>. Here we can discuss deficiencies in the normative regulation, but also the manner in which the prescribed procedures take place.

In the period of December 2014-March 2015, within the EU project “Mapping Corruption Risks in the Security Sector”, the CSS conducted a public survey with the aim to identify where corruption is most prevalent in the security sector. According to the results of the survey, in a multiple-choice of possible occurrence of corruption within the employment in the security sector, a high percentage of citizens believe that corruption occurs during the employment process, 39.9% for the police sector and 62.5% for the customs/border police.

It is interesting that the citizens’ perception on the ranking and advancement in the security sector in general, shows that the defence, justice and intelligence sectors are more vulnerable to corruption than the police sector; 29,1% stated that ranking in police is very vulnerable on corruption, i.e. 15,7% in customs/border police and 13,4% in the police.

**Chart 2: Corruption is most frequent in ranking/advancement in service**



<sup>9</sup> Annual report on the results of the activities of the Ombudsman for Human Rights in BiH, 2014, Chapter IV, Ombudsman’s activities in certain areas of human rights, pp. 19, 25-27, 36-38, <<https://goo.gl/tMy9Zl>>.



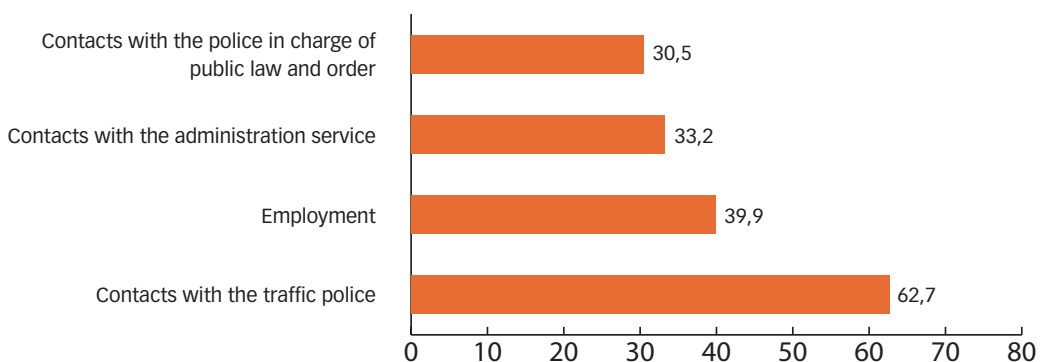
## There are no integrity plans

Another important issue is the lack of integrity plans in the most of police organizations, especially those at lower levels. Integrity plans are a perfect tool to assist in planning and implementing particular measures in the human resources area which can prevent corruption in the police. It is a huge issue that the police institutions, which are first instance in fighting corruption, are lacking these plans. Therefore, the police agencies have not conducted the assessment of vulnerability on corruption within their institutions. Preparation of integrity plans was one of the obligations of all institutions, resulting from specific measures under the Action Plan of the 2009 – 2014 BiH Anti-Corruption Strategy. The importance of these plans is that they identify the risks of corruption and other deficiencies in the integrity system of a particular institution. The Integrity plan is an internal anti-corruption document, which contains a set of measures of legal and practical nature to eliminate and prevent opportunities for various forms of irregularities in the work, including corruption. This document, in practice, is the result of self-assessment of institution's susceptibility and risk to corrupt activities and irregularities. Its overall objective is reflected in the increase of transparency and publicity of work, and thus strengthened citizens' confidence in the functioning of the institutions.

## Corruption in employment at the second place

During the above mentioned research, respondents were offered to choose which parts of police work are most vulnerable to corruption i.e. on which types of jobs corruption is most likely to occur. In a multiple choice, a great number of them (62,7%) assess traffic police as most vulnerable to corruption, by the employment process (39,9%), police for public law and order (33,2%) and administration service (33,5%).

**Chart 3: Sector within police which is most vulnerable to corruption**







## Recommendations

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1. Make necessary changes to laws and regulations in order to precisely define professional requirements for admission to the police force (formal education and professional experience).
2. Through laws or by-laws, eliminate the elements of subjective criteria for professional advancement. Establish objective measurable criteria that evaluate efficiency, effectiveness and quality of work of police officers.
3. Make and implement integrity plans as a modern tool for prevention of corruption in order to identify positions that are most vulnerable to corruption and ensure adequate oversight of the staff assigned to these positions. A good model which can be used is the integrity plan of the BiH Border Police.



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## FINANCIAL MANAGEMENT

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*There is no “centralized” procurement for the police, and due to the number of police agencies, this creates a large space for corruption in the public procurement process. Only Agencies at the State level provide IT equipment through the Police Support Agency of BiH according to their mutual agreement. Additionally, many procurement proceedings are carried out as “classified” which, in fact, do not fall into this provision.*

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### Corruption risks in procurement process

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As it now stands, all police agencies do their procurements for themselves and in an individual way. The allocated funds are sometimes inappropriately spent or too much is spent on less important items (such as official vehicles, office supplies) and not enough is spent on more important items such as training, IT equipment – which is especially old and obsolete and does not meet the needs of the police

The twenty-two police and related agencies spend a lot of budget funds, around 330 million Euros on a yearly basis. The budget of police agencies generally meets the operational needs of all agencies, but their current staffing and infrastructure have not been properly addressed. Each police agency is funded by the corresponding level of government – i.e. agencies at the state level are funded by the state budget, those at the cantonal level – from the cantonal budget.

Due to the sizable amounts of funds, public procurement is one of the areas where corruption offences can and do take place. Corruption in public procurement can occur at any time and can be initiated by an official and/or by a supplier.

In the police sector, public procurement in the wider sense is understood as the procurement of various goods and services to carry out their tasks (furniture, vehicles, office supplies etc.), and in the narrow sense, the procurement of weapons.

The specificity of public procurement in the security sector lies in the so-called “classified” procurement or special procurement of confidential types of goods and/or services, not required in other sectors. Considering that ‘national security’ is often used as an excuse to avoid questioning security issues, and even beyond the legitimate need of confidentiality, public procurement in the police sector is especially vulnerable to corruption. Confidentiality in the field of police work is very important, considering that the features of the equipment and weapons should not be available to potential adversaries, that is, members of criminal organizations. The fact is that this kind of procedure inevitably excludes the public and thus fair competition. Therefore, the equal opportunities for bidders can easily be “tricked”, thus awarding the contract to the preferred bidder.



The possibility of corruption in public procurement in the security sector may appear already in the early stages, in the process of the identification of needs, but even more so in the stage of technical specifications. The objective of technical specification is to define the needs of contracting authorities which apply to them. Specifications define the subject of the procurement and provide relevant parameters to inform bidders. Here, it is necessary to provide for open competition, proof of equal value, as well as that the advertised tenders reflect the diversity of the market. The problem occurs because the results of a certain procedure are mainly affected by certain technical requirements. There may be a risk that a person who is involved in the preparation of technical specifications cannot be independent from manipulation of the bidders. In such a case, it might happen that the technical needs are favored over a financial operator, that is, a specific bidder.

The first Law on Public Procurement that governed all levels of government was adopted in 2004, and after multiple amendments to the Law, a new Law was adopted in 2014. However, there are multiple problems with public procurements in the police: there is a bad identification of the needs of the police and the technical specifications are usually badly defined; the lack of transparency of the process, where the treatment of all the bidders is not the same and the same companies win tenders; and not confidential equipment is procured by using the provisions for confidential procurements.

Furthermore, representatives of the security sector pointed out that there are technical deficiencies whereby the Law is too explicit, and that may be the cause for a high quality company not to be awarded the contract. It is often the case that high quality bidders are rejected only due to technical deficiencies of their bid (for example, no stamp over their signature, page numbering not done according to the instructions, etc.).

### **Ineffective application of public procurement procedures**

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The analysis of reports of the existing audit offices in Bosnia and Herzegovina has shown that the most complaints addressed to the police sector institutions concern the public procurement procedures. This common denominator for the majority of stakeholders in the security sector has influenced our commitment to devote significant attention to these issues. The general assessment that could be derived from the audit reports in relation to the police is that public procurement procedures are not done in the most efficient manner and/or in accordance with the Law on Public Procurement. In the Report on the financial audit of the Border Police of Bosnia and Herzegovina for 2013,<sup>10</sup> as well as the Report on the financial audit of the Agency for Education and Professional Training of Staff of Bosnia and Herzegovina for 2013,<sup>11</sup> the Audit Office for BiH institutions gave a recommendation for the procedure of preparation of tender documentation to ensure fair and active competition of all bidders, through verification of realistic possibilities of potential bidders in terms of meeting the required technical characteristics of the subject of procurement, that is, to analyze the supply on the market and set the qualification requirements.

<sup>10</sup> See: <<http://goo.gl/9cfgfM>>.

<sup>11</sup> See: <<http://goo.gl/bMzOnH>>.



The Audit Office for Institutions in the FBiH gave a recommendation to the FBiH Ministry of the Interior to purchase goods and services in accordance with the Public Procurement Act.<sup>12</sup> Furthermore, the Office for Audit of Institutions in FBiH recommended the FBiH Police Administration to have the purchase of goods, services and works fully carried out in accordance with the Law on Public Procurement, the Rulebook on the Direct Negotiating Procedure and the Procedures for Procurement of Goods, Provision of Services and Works. This recommendation was given on the basis of the identified irregularities in the procurement of services of a multi-purpose database interface for the use of data a system of electronic exchange of data records of police authorities and prosecutors' offices.<sup>13</sup>

The Audit Office for the Public Sector of Republika Srpska in the Audit Report of the Summary Financial Report of the Ministry of the Interior of Republika Srpska, covering the period from 1 January to 31 December 2013, noted, among other irregularities, that the Ministry failed to adopt the amended/revised procurement plan that would cover the purchase from loan instruments. Instead, on 2 August 2013, it adopted the Decision on the implementation of procurement of official vehicles and motorcycles.<sup>14</sup>

Irregularities in the implementation of the Public Procurement Act in 2013 were observed also in cantonal ministries of the interior, particularly in the Una Sana Canton,<sup>15</sup> Central Bosnia Canton,<sup>16</sup> Sarajevo Canton,<sup>17</sup> Gorazde Canton,<sup>18</sup> West Herzegovina Canton<sup>19</sup> and the Herzegovina Neretva Canton.<sup>20</sup>

As for the Ministry of Security of BiH, a sample-based audit of procurement procedures in 2014 had shown that the contracting authority did not entirely require evidence in the tender documents for certain procedures in accordance with Article 23 of the Law on Public Procurement. Also, for certain procedures, there was no notice of the cancellation of the procurement procedure published.<sup>21</sup>

Also, the 2014 financial audit of the Border Police of BiH had identified ample irregularities. It was found that there are certain shortcomings when it comes to the organization and implementation of public procurement procedures, and implementation of agreements that were concluded after the procedures performed. Identification of needs for specific goods or services is not carried out in a way to accurately determine the subject of the procurement and explain the need for it, especially in the case of major procurements. Also, auditors noted certain problems in terms of determining the type of procedure that should be carried out with subject-related procurements. When it comes to the implementation of contracts or framework agreements, there is a discrepancy between the ordered goods and services and those required in the tender documentation.<sup>22</sup>

12 See: <<http://goo.gl/Ykk4xq>>.

13 See: <<http://goo.gl/37ozjs>>.

14 See: <<http://goo.gl/U47sWJ>>.

15 See: <<http://goo.gl/HK1uQt>>.

16 See: <<http://goo.gl/cYYnuD>>.

17 See: <<http://goo.gl/psWCSZ>>.

18 See: <<http://goo.gl/r1Qckk>>.

19 See: <<http://goo.gl/COMxeA>>.

20 See: <<http://goo.gl/AAR5yN>>.

21 See: <<http://goo.gl/iH6Ydj>>.

22 See: <<http://goo.gl/7svVRr>>.



The 2014 Financial Audit Report for SIPA reads, among other, that the procurement plan for goods is not comprehensive and does not include all purchases made during the year (e.g. acquisition of tactical uniforms and boots). These purchases were conducted as an emergency matter, but given that these are common and not emergency procurements necessitated by emergency situations or circumstances, the audit's position was that the purchase of such items should have been included in the plan. Also, it was noted that the Agency has purchased different kinds of goods from the same supplier, based on individual decisions made on procurement procedure through direct negotiating procedure.<sup>23</sup>

The 2014 Financial Audit Report for the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina indicates the steady presence of the same car supplier (AC Quattro Sarajevo, with contracts made in the amount of 394,400 BAM in 2012, 1,352,219 BAM in 2013, and 599,500 BAM in 2014), which could imply that there is a target market (a group consisting of an authorized importer and partner sales and service centers in BiH for the placement of the contracted Volkswagen-made products), which may ultimately have a negative impact on the basic principles of public procurement in terms of competitiveness and equality of bidders.<sup>24</sup>

### Recommendations

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1. Ensure greater transparency in the whole public procurement process through the website which will be regularly updated
2. Fully implement recommendations of the financial audit bodies which are simply implementable and will help police agencies better apply procurement procedures required by the law

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23 See: <<http://goo.gl/Z0Fa7D>>.

24 See: <<http://goo.gl/thZkcN>>.



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## INTERNAL CONTROL

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*Internal control units are not fully independent in their work, as they are part of police bodies and each head of internal control unit is nominated by the manager of the respective police body. Apart from that, most of BH citizens have not heard about internal control in police and they are not aware of what do these units do.*

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The police sector in BiH consists of 16 police agencies at all levels of government and 6 institutions which provide them support or carry out similar activities. Internal control units exist in all police agencies at all levels of government, usually within the professional standards units. They are responsible for conducting internal investigations (procedures) in response to citizens' complaints about improper or unlawful behavior of police officers. These units are subject to legally defined procedures. They appropriately process citizens' and police employees' complaints, as well as impose sanctions in the framework of legally defined procedures.

An internal work-related complaints procedure is launched in response to:

1. a grievance raised by citizens;
2. a request by one or more employees of the police authority;
3. a request by the immediate supervisor of a police officer;
4. a request by the manager of the complaints and grievances office.

The internal control unit is also responsible for investigating allegations about excessive use of force, fire arms, corruption and abuse of office by police officers. An internal procedure looking into minor violations of police duties must be completed within 30 days from the date of receipt of a complaint. If an internal procedure is related to a serious breach of rules, it must be completed within 3 months.

In the case that an internal investigation finds out that police duties have been violated, a disciplinary action is sought. If there are reasonable grounds to believe that a criminal offence has been committed, the case will be transferred to an organizational unit responsible for actions and operations of the crime investigation police, which will then file a crime report with the prosecutor's office and carry out further actions in cooperation with the prosecutor. Investigations by internal control units are conducted by police officers. Their operations are regulated by internal rulebooks or instructions, issued by each police agency.

The situation is similar in regard to disciplinary proceedings. Police officers are liable to a disciplinary action for breaking the rules. During the disciplinary procedure, the level of individual culpability of a police officer is established and a disciplinary punishment imposed.



Punishments for minor violations of police duties include:

1. a written warning;
2. a fine in the amount of up to 15% of a basic monthly salary paid to the police officer concerned.

For serious violations of police duties, the following disciplinary punishments may be imposed:

1. a fine;
2. suspension of promotion;
3. termination of employment.

Culpability under criminal or civil law does not preclude disciplinary liability of a police officer if the commission of a criminal offence or a misdemeanor constitutes a breach of police duties. Relief from culpability of a police officer under criminal or civil law does not imply relief from disciplinary liability. However, the chairman and members of a disciplinary panel are appointed by the manager of the police organization to whom they report. Therefore, neither this mechanism can be considered fully independent.

Further, a police officer may be suspended for a limited period of time if a criminal or disciplinary procedure has been instituted against him/her and if, taking into consideration the nature of a criminal offence or the nature of a serious violation of police duties, as well as the circumstances under which they were committed, it can be reasonably believed that otherwise damage would be done to the interests of the organization or its internal procedure. Suspension of a police officer may last until the completion of a criminal or disciplinary procedure. While on suspension from work, the police officer does not have access to his/her firearm and ID, and may not wear a police uniform.

However, the effectiveness and independence of internal mechanisms can be called into question. Internal control units which carry out investigations in response to complaints and grievances by citizens, and into irregularities in police operations are a part of police organizations and their heads are appointed by the managers of police agencies. The managers of internal control units report directly to the directors of the police agencies who appointed them. For all these reasons, it cannot be said that these units are fully independent.<sup>25</sup>

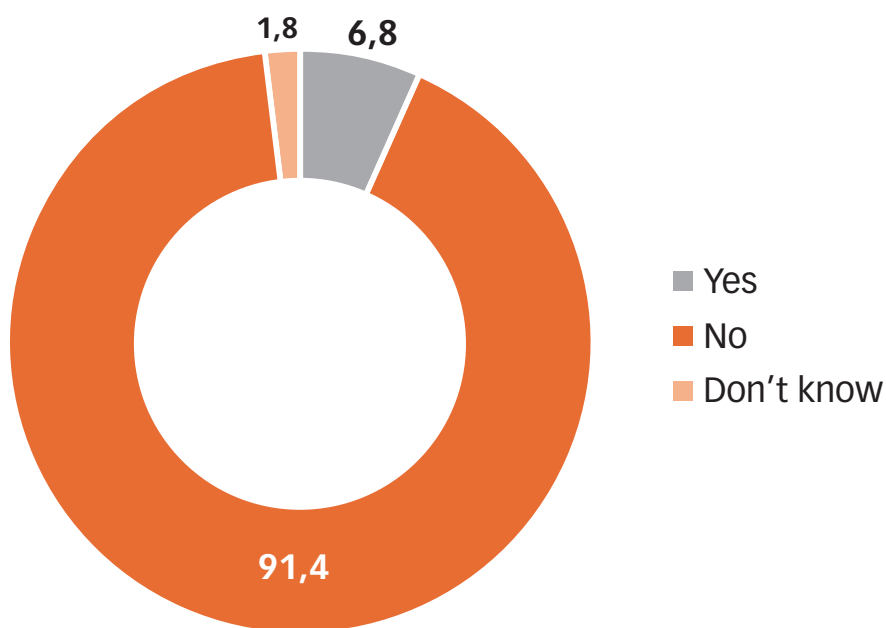
The public opinion survey conducted by IPSOS, within the POINTPULSE project, showed that 91,4% of citizens of BiH have not heard of internal control in the police.

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<sup>25</sup> Interviews with representatives of the police, 2015.

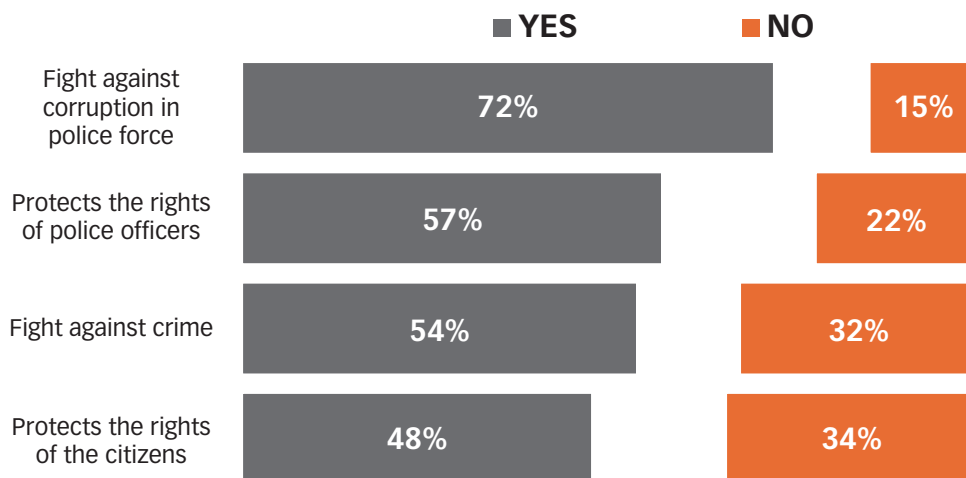


**Chart 4: Have you ever heard of internal control within the police units in BiH?**



Those citizens who have heard of the internal control in the police force have a notion of what these units are actually engaged in, although not a very specific one. So 72% of the citizens claim that this unit is engaged in fight against corruption in the police force. In addition, about half of citizens who have heard of this unit agree that it also protects the rights of police officers (57%); fights crime (54%) and protects citizens' rights (48%).

**Chart 5: In your opinion, which of the following does the internal control of police force do?**







Ethical behavior of the police is regulated mainly by codes of ethics which are made by every police agency separately (there is a single code of ethics for the police agencies at the state level). The prosecution and trial of police officers in connection with corruption offences are done before courts of law, while internal proceedings aimed at establishing the facts take place in internal control units in every police agency.

Security institutions in BiH have a genuine need for systematically maintained records of their employees' involvement in corruption. To illustrate, police institutions have statistics on police involvement in corruption, yet these data are not consolidated, instead they are kept in several different records or individual reports.<sup>26</sup>

### Recommendation

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1. To introduce a rule that the heads of units of internal control and disciplinary committees are appointed by non-institutional bodies, i.e. not to be appointed by the managers of police bodies, in order to eventually provide additional independence of these bodies.

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26 More information available in "Mapping the Quality of Statistics on Police Corruption", Centre for Security Studies, 2014



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## EXTERNAL OVERSIGHT

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*External oversight over the work of the police bodies exist through several independent institutions. However, the problem is that they do not conduct direct investigations of individual cases, but only forward the case to the jurisdiction of the police institution, or if they do conduct investigations, they do not have commanding power over the police and cannot affect much to rectify the irregularities.*

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Democratic oversight of the police sector and the responsibilities of the institutions of this sector are a prerequisite for democracy. In order to satisfy this condition in Bosnia and Herzegovina, significant measures of control have been established and initiated (including parliamentary control, executive control, judicial control and control by independent state bodies, such as the Office of the Ombudsman or the audit offices). There are bodies that oversight police work only and bodies which are in charge of overseeing security sector in general, including police agencies. In this part, we will explain both.

According to the constitutional structure of BiH, external oversight and control mechanisms were formed at various levels of government. Therefore, we will set forth and explain the responsibilities of these bodies for each level.

### State level

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Under the BiH Constitution and the BiH Independent and Supervisory Bodies of the Police Structure Law, a BiH Committee on Citizen Complaints against the Work of Police Officers was formed in 2008 as an independent body of the Parliamentary Assembly of BiH.<sup>27</sup> The Committee consists of seven members from the constituent peoples in BiH who may not be employed by any police body at the level of BiH. The Committee is responsible for receiving, assessing and transferring citizen complaints against police officers to the relevant police bodies. Although the Committee is not attached to any police agency, it does not have the jurisdiction to investigate citizen complaints against police officers directly. They receive, register, assess and forward the complaints to the competent police agencies, continuously monitor the development of the case investigation and initiate the appropriate procedure. Similar bodies have been established in the entities and the cantons.

According to annual reports, the Committee on Citizen Complaints against the Work of Police Officers in Police Bodies in BiH within the Parliamentary Assembly of Bosnia and Herzegovina had reviewed 74 complaints in 2013, while in 2014, it reviewed 77, of which seven complaints were related to corruption, all in the Border Police of BiH. Two of these seven complaints have resulted in disciplinary proceedings. A disciplinary sanction was taken in one of the two, and the Committee has sent a

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<sup>27</sup> Official Gazette of BiH, No. 36/08



request and is expecting a response regarding the outcome of the other. It is interesting that for the remaining five complaints, it was impossible to determine whether these were justified or not, due to either absence or malfunctioning of the video surveillance at reported border crossings, hence the internal control could not document the allegations reported in complaints.<sup>28</sup> That is why one of the recommendations of this Committee was to put video surveillance in operation at all border crossings. The Committee had issued several recommendations to the police agencies, one of which was successfully implemented, namely the one on familiarising all employees with secondary legislation on crossing of the state border.

For the purpose of parliamentary oversight of the police bodies at the state level, a Joint Defence and Security Committee of BiH was formed as part of the Parliamentary Assembly of BiH. In addition to its important engagement and powers related to the legislative framework of defence and security institutions, the Committee has also an important role in the budgeting process and the development of strategic documents relating to defence and security. The Joint Defence and Security Committee oversees 15 defence and security institutions at the state level, such as the BiH Defense Ministry, the BiH Ministry of Security, the State Investigation and Protection Agency, as well as many other executive bodies engaged in the areas of security and defense at the state level. This Commission is a Parliamentary body and considers and monitors the implementation of the security and defense policies of Bosnia and Herzegovina. The public perception about the Joint Committee is generally good, especially taking into account its capacities and the circumstances under which it carries out its duties, as well as a complicated political system of the country. Similar bodies exist in entity parliaments and they have similar jurisdictions as the one at the state level.

In addition, it is also important to mention the Finance and Budget Committees of the House of Representatives and the House of Peoples of the Parliamentary Assembly of BiH. Their role in overseeing the security institutions is not explicitly defined, but their duties are also related to consideration of the reports of the Audit Office for BiH institutions which audits all security institutions at the state level, among other institutions.<sup>29</sup>

In addition to the above mentioned institutions, the BiH Office of Ombudsmen for Human Rights has the role in the oversight of security institutions at all levels of government. Although this Office deals with the cases relating to poor performance or violations of human rights by any authority of BiH, its entities or the Brcko District, it also deals with complaints related to suspected corruption in the security institutions if it amounts to a violation of the basic human rights of citizens or employees in the security sector. This body deals with cases at any level of government. The cases are formed on the basis of individual complaints filed by legal entities or individuals, or by virtue of office. The legal framework defines the powers and authority of the BiH Ombudsmen, the rules of procedure for monitoring institutions and agencies in relation to citizens' complaints and *ex officio* and other important issues related to the functioning of this state-level mechanism for the protection of the basic human

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28 Information obtained from representatives of the Citizens' Complaint Board on Work of the Police Officers.

29 See: <<https://goo.gl/5QikYW>>.



rights and freedoms. However, this institution may only issue recommendations which are, unfortunately, not binding for the institutions to which they refer. The Office of the Ombudsmen most often receives complaints about selection of applicants, recruitment and employment and promotions in the law enforcement or defence structures.

There are also financial audit institutions at all levels of operation of police agencies. Those are: Audit Office for BiH Institutions, Audit Office for Institutions in the Federation of BiH, the RS Public Sector Audit Office, and Audit Office for Public Administration and Institutions in the Brcko District of BiH. Cantonal institutions are audited by the Audit Office of the Federation of BiH and all cantons must have internal audits in place. Audit Offices are external, independent institutions which audit business operations of institutions in BiH. These Offices conduct audits of financial reports and accounts of institutions in order to assess whether financial reports are reliable and whether their balance sheets fully reflect expenditures. The Audit Offices assess whether the managers of institutions comply with all applicable laws and regulations, whether public spending and execution of duties are in compliance with the law and established accounting principles, whether the funds are used for appropriate purposes and assess financial management, functions of internal audit and internal control systems. In addition, the Audit Offices carry out audits every year and issue opinions on annual budget execution reports of each institution. The Offices audit an institution's performance and check cost-effectiveness, efficiency and effectiveness with which an institution is spending resources to carry out its tasks and duties.

## **Federation of BiH**

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Under the Home Affairs Law of the Federation of BiH (Article 77), a Committee on Citizens' Complaints against Police is planned, but has not yet been formed. It is an independent body of the Parliament of the Federation of BiH which ensures its funding. It will consist of three members of whom one is a civil servant, and two represent citizens. The Committee members will be appointed by the Parliament of the Federation of BiH at the proposal of the committees of the House of Representatives and the House of Peoples in charge of selection and appointments. The Committee ensures objective and unbiased conduct of procedures in response to citizen complaints against actions and conduct of police officers, thereby ensuring the protection of human rights and freedoms. Further, the Committee has broad powers over the Professional Standards Unit of the Federation's Interior Ministry and the implementation of the punishments imposed by a disciplinary panel, which is a strong advantage in oversight compared to internal control mechanisms.

In broader terms, the parliamentary oversight of legality of the general functioning of the Federation's Interior Ministry and Police Administration is ensured also through the bodies of the Parliament of the Federation of BiH which are in charge of security issues. Those are: the Security Committee of the House of Representatives and the Security Committee of the House of Peoples. These Committees consider issues of the system and policy in the area of security within the scope of rights and duties of the House and, accordingly, provide opinions and proposals to the House; propose security orga-



nization, leadership and development measures for the Federation; consider issues of prevention of terrorism, inter-cantonal crime, illegal trade in drugs and organized crime; consider issues regarding purchasing, possessing and carrying firearms; consider draft bills, bills and other legal drafts and proposals relevant for the public security in the Federation. These Committees are extremely important because they can conduct investigations and request testimonies, evidence and documents.

### Republika Srpska

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In broader terms, oversight of the police in Republic of Srpska is done by the Security Committee of the National Assembly of RS. The Security Committee, among other things, considers issues relevant for security institutions and agencies, provides opinions and positions, gives recommendations, and proposes actions to the National Assembly of RS. The Security Committee consists of seven members who are elected among the members of the National Assembly of RS.

### Other bodies and mechanisms

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Regarding the police, in addition to the above-mentioned bodies which, in a way, have direct control over or indirect oversight of those institutions, it is important to mention that there are also independent bodies which are responsible for the appointment of managers of police agencies (directors at the state and entity levels, and commissioners at the entity level). These bodies are responsible for overseeing managers of the police agencies and legality of their actions and operations and they exist on each level of government.

Additionally, the audit bodies exist at both entities – Republic of Srpska and the Federation of BiH. (Their jurisdiction is explained at the subheading *State level*).

### Recommendations

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1. Bodies for external oversight of the police, which are located within police agencies/ministries, should be legally and physically separated and dislocated from those institutions.
2. Ensure that external authorities can conduct independent investigations in the case of suspected corruption activities of police officers

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