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of Police
Comparative
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Introduction

Professional, reliable and efficient police is of utmost importance for effective and comprehensive fight against corruption and organised crime, which also represents one of the key conditions to be met for further progress of Montenegro in its negotiations with the European Union in Chapter 23 on Judiciary and Fundamental Rights and in Chapter 24 on Justice, Freedom and Security. The Police Administration, as the largest part of Montenegro's public administration staff-wise, with more than 5 300 employees, must pay special attention to the suppression of corruption within itself, in particular bearing in mind its competences when it comes to citizens and their constitutionally guaranteed rights. Besides the statements on widespread corruption in all social spheres, Montenegrin public discourse is often characterised by doubts on the existence of links between a certain number of police officials and organised crime groups, as a consequence of a lengthy transition process in Montenegro¹.

Although there are several levels of control of the work of police in Montenegro (parliamentary², civic³, "independent institutions" control⁴) in order to establish facts in complex cases such as the ones related to corruption or organised crime, a key role is played by the internal control of the police, *inter alia*, due to the fact that its officials have police powers, necessary for collecting evidence for such types of criminal offence.

The Action Plan for Chapter 23, adopted by the Government of Montenegro, identifies the need for a serious approach to this phenomenon, thus providing a set of measures related to strengthening of the **internal control of the police**. One of these measures is the "preparation of a functional analysis with an overview of the current state of play in the application of internal control mechanisms in the work of the police and other bodies." In that regard, the Ministry of Interior of Montenegro formed an interagency working group to work on the analysis and in line with the Decree on cooperation between the government and non-governmental organisations, it publicly called all interested NGOs to contribute to the work of the working group⁵. That is how a representative of Institute Alternative (IA) became a member of this working group.

The research conducted by Institute Alternative in this area, as well as the preparation of this comparative analysis which aims at pointing out to the possibilities for enhancing the Montenegrin model of internal control through the study of three EU models, was supported by the OSCE Mission to Montenegro⁶. The models selected for this analysis are almost entirely different and each of them has a special feature which distinguishes them in this area. Models were not chosen on the basis of similarities and differences vis-à-vis the Montenegrin model (number of inhabitants, number of police officials, judicial system, etc.); instead, the goal of the author was to "study" the *modus operandi* of the internal control system in these countries at the level of principles.

1 Member of the Parliament of Montenegro, Nebojša Medojević, 28 July 2011, statement given to daily newspaper "Vijesti". Article available at: <http://www.vijesti.me/vijesti/medojevic-sumnjamo-da-je-neko-anb-ili-policije-rekao-kalicu-da-bjezi-clanak-30859>

2 The Parliament of Montenegro and the competent working body: Security and Defence Committee.

3 Council for the civil control of the police work

4 Institute of the Protector of Human Rights and Freedoms, Personal Data Protection Agency and State Audit Institution.

5 Public call available at: <http://www.mup.gov.me/vijesti/135323/Javni-poziv-za-NVO-za-predlaganje-predstavnika-za-clana-radne-grupe-za-izradu.html>

6 Activity carried out within the framework of the OSCE project "Anti-corruption mechanisms and accountability of police officers".



By providing recommendations for enhancing the *modus operandi* of our internal control of the police, our goal is to contribute to the transformation of Montenegrin Police into a professional police service trusted and respected by its citizens.

This comparative study provides a detailed overview of control mechanisms (*modus operandi*) and instruments for efficient identification and prevention of abuse, as well as the analysis of challenges and possibilities for enhancing the *modus operandi* of the internal control of the police. On that basis and on the basis of the analysis of comparative cases (models from three EU member states), IA formulated its concrete recommendations for the reform of the Montenegrin model.

Part I—The Issue of Internal Control

● Typology of tasks performed by the internal control

A well-structured internal control system may help in detecting and preventing corruption and unlawful behaviour among police officers. The goal of the control is to ensure that the police service operates in line with its purpose, and that its work results in improved reputation of the police and more efficient and responsible officers.⁷

The tasks carried out by the internal control vary – a) when it comes to administration and operations: the internal control assesses whether the goals of the service, of a certain unit or a certain operation, have been met; b) when it comes to security: the internal control checks if the police undertook all the necessary precautionary measures with a view to securing a risk zone or location, while in the police itself it checks whether confidential data have been protected; c) when it comes to legitimacy of the actions taken by a police officer, the internal control investigates: whether the measures undertaken were legal and proportionate, whether the relevant procedures have been followed; d) when it comes to ethics, the internal control stimulates and promotes the respect for values, norms and ethical rules applied in the service.

Link with external control mechanisms

Bodies in charge of external oversight and control operate in parallel with the internal control systems. In maintaining the standards of professionalism and transparency, the external mechanisms depend on efficient internal control mechanisms, i.e. on tools used to establish facts in problematic cases.⁸ Yet, external bodies (executive, Parliament, specialised bodies for the control of the police, media and the public) may have a stimulating influence on the internal control and through its oversight they may “strengthen” it in order to operate successfully and impartially.

Investigative tools and techniques

Some of the most incriminating and most convincing evidence indicating that a police officer participated in unlawful activities are those that demonstrate that s/he had obtained financial gains from the alleged corruption, e.g. evidence showing that s/he deposited a large amount of cash to a bank account, purchased expensive items using cash or spent a much larger amount of money than s/he could have afforded legally. Receiving and spending money leaves a trace which may be investigated, and such data are obtained in cooperation with the competent authorities outside the police.

Covert operations, “undercover work”, tailing, wiretapping, audio and video surveillance, represent some of the most important tools for achieving progress in such investigations. “Surveillance is a particularly important technique since corrupt police officers know how to disable

7 “The toolkit on Police Integrity”, Geneva Centre for the Democratic Control of Armed Forces DCAF, 2012.

8 Ibidem.



standard investigative techniques.⁹ Traditional, more open forms of investigation, such as a conversation with the suspects and witnesses' statements, will have a weaker impact on the suspect compared to the confrontation with evidence such as a video recording.

Integrity tests, police traps, and planning of scenarios are additional tools for collecting evidence. However, they require significant financial and human resources. There is no stronger evidence than the forensic one, however, they are only useful once placed in a context – general investigative principles involve providing answers to seven questions: *what* happened, *who* committed the criminal offence, *where*, *when*, *how/with what*, *why*?

Steps comprising the investigative process involve collecting information, their classification and reliability check, i.e. confirmation from other sources (whenever possible). Special attention must be paid to the manner of evidence collection, the way they are kept in records, and to the cooperation with the prosecutor who assesses the evidence and defends it before the court.

Internal investigative units and anti-corruption units strengthen their own legitimacy if they are concentrated on criminal investigations (defined by the criminal procedure rules and rules regarding evidence processing) compared to administrative investigations (defined by work contracts and codes of conduct).¹⁰

Closed culture of the police organisation is an important factor hampering the investigation of unlawful behaviour of police officers, especially the police officers' rule not to "rat" on other colleagues.¹¹ A positive measure to break such a culture would be to improve the reputation and the position of the internal control police officers and to promote their successful results. Citizen complaints and whistle-blowers' reports are often the most significant source of information and as such should be encouraged.

Finally, the role of the management of the internal control department is of particular importance and it has five basic tasks to perform: analyse the work of the department and set out its goals, motivate the employees and communicate with other bodies, control the work of employees, assess and provide feedback.

9 Conclusions of the Commission for the fight against corruption - Ibidem, p. 220.

10 Ibidem, p. 229.

11 "Police corruption: an organization based problem?" Drago Kos, 2008.

Part II–Comparative Models

● Kingdom of Belgium

Before the institutional framework

Belgium is one of the countries with the lowest index of corruption in the world and is ranked 15th on the list of corruption perception research conducted by Transparency International (out of 177 countries).¹²

The key features of the Belgian model for the fight against corruption in the police are the coordination and integration of repressive and preventive components of anti-corruption policies, as well as institutionalised partnership between the key strategic partners.¹³ On the basis of studies on corruption in the police, the most frequent circumstances which lead to increased “vulnerability” and result in unlawful behaviour of police officers have been identified:

- Personal vulnerability (drugs, debts, problematic social connections);
- Dissatisfaction at workplace and poor performance results;
- Insufficient or inadequate oversight of superiors;
- Previous experience with misdemeanours or crimes;
- Life and/or work in the same surrounding with criminal groups;
- Social and/or family connections to criminal groups outside the workplace.



The Paradigm of Corruption

By analysing those circumstances, the Belgian model for the suppression of all forms of unlawful behaviour among police officers has been designed, as regards:

- a. Preventive segment at the macro-level: democratic political climate, freedom of press and freedom of expression, ratification of international conventions; at the middle and micro-level: adoption of a code of ethics, trainings for all relevant actors, organisational measures (high standards for recruitment, risk analysis, regular rotation, and strict policy on “gifts”).
- b. Repressive segment (at the macro-level: special legislation, national coordination among all specialised bodies (CDBC, AIG, COM P, and COIV), special investigative techniques and tactics; at the middle and micro-level: whistle-blower protection, witness protection and expert investigators).

Institutional framework – specialised bodies

The institutional framework for the fight against corruption and organised crime in Belgium comprises a large number of bodies, the most relevant of which – when it comes to investigating police officers – are: Inspectorate General of the Federal and Local Police, Comité P and the internal control system. Their work is well-coordinated so that together they can cover and control all segments of the police work.

¹² 2013 Research available at: <http://www.transparency.org/country/#BEL>

¹³ Presentation from a regional training on investigation of corruption in the police by Dirk Verstraete, from the Belgian General Police Directorate, organised by DCAF in Belgrade, 14-16 April 2013.



1. Inspectorate General of the Federal and Local Police¹⁴

Inspectorate General of the Federal and Local Police is an external body, independent of police services, within the Ministry of Interior. The mission of this body is to contribute to a better functioning of police services, their functioning in line with the law and their respect for fundamental human rights. Its competences include: inspection and audit (of all segments of work, especially police operations) with a view to providing recommendations for enhancing the work and practices of the police; individual investigations upon complaints, suspicions or reports (signalling); and administrative and preliminary criminal investigations.

In order to enforce its powers, this Inspectorate has an unlimited right to inspection and audit, unlimited possibility to hear and summon police service employees for a hearing, right to access and photocopy all documents needed for the inspection, right to establish binding deadlines for answers and receipt of information on the application of given recommendations. It may also initiate the application of special investigative techniques for data collection (secret surveillance) by the competent court via a proposal containing a rationale.

The Inspectorate has all police powers for criminal and disciplinary cases for all police officers at both federal and local level. As regards corruption, the Inspectorate General investigates, *inter alia*, various incidents and unlawful behaviour of police officers such as: forging of documents, sabotaging an investigation, violation of confidentiality, unauthorised access to IT systems, exerting pressure, etc. About 95% of the work of the Inspectorate General is related to criminal investigation while the administrative and disciplinary investigations are an exception.

The initiative for launching an investigation may come from the Minister of Interior and/or Minister of Justice, while it may launch an investigation: upon its own initiative, upon orders of the judicial and administrative authorities, including: state prosecutors, directors general of the federal police, chiefs of local police services, etc. These requests must contain a rationale and acting upon them is not obligatory. Also, it may deliberate on complaints submitted by individuals and organisations. The Minister of Interior is informed about their activities on a daily basis¹⁵ while the personnel of the director are appointed by a royal decree (decision). The proposal for appointing the Inspector General is adopted in a joint committee in which both the Ministry of Interior and the Ministry of Justice are represented. The mandate of the Inspector General is five years and it may be extended. The Inspectorate General informs the judicial authorities and the Comité P about its findings (You can read more about Comité P below).

Organisation

The Inspectorate General has six organisational units (directorates).

The first unit, the Directorate General, is composed of the Inspector General and his/her deputy who coordinate other directorates and four decentralised offices¹⁶, and are responsible for delivering the proposals to the Minister of Justice and the Minister of Interior, as well as for addressing the public on behalf of the Directorate General.

Tasks performed by the officers of the Directorate for Inspection and Audit include proactive and reactive controls, as well as the preparation of the annual performance report and the annual action plan.

14 Abbreviation: AIG

15 For more details see – International expertise of the Centre for the Study of Democracy: <http://www.csd.bg/index.php?id=2124>

16 They are located in Antwerp, Ghent, Liège and Mons.

Individual investigations are initiated upon complaints, reports, signalling, data from an ongoing preliminary criminal proceeding, administrative proceeding, disciplinary proceeding, media, and covert police operations. This organisational unit has a special database used to keep and manage all data, which contains data provided by the Comité P and local and federal police units. However, the police have no access to the Inspectorate General data and this is crucial for the independent work of this body in charge of controlling the police.

For the competences prescribed by law, the Directorate reviews the laws and bylaws which regulate the work of the police, and presides or is a member of numerous committees dealing with the work of the police (jury for the award of certificates for promotion in service, presentation of expert reports before a disciplinary council, membership in evaluation committees for the coordination of various bodies, etc.).

Decentralised directorates are in charge of collecting data and information useful for the work and the mission of the Inspectorate General, they maintain contact with local authorities, local police services and decentralised federal services, they register (keep record of) reports and complaints, participate in mediation (between citizens and police officers), audit and inspection.

Support and logistics is in charge of human resources, financial management, IT and communication technology and expert database.

The Inspectorate General has a total of 96 employees, of which 16 are administrative employees, 16 are in decentralised directorates, while 64 are operational police officers.



2. Comité P¹⁷

The Permanent Committee for Police Monitoring (Comité P) was established in 1991 as an expert body which assists the Federal Parliament in monitoring the work of the police and assessing the use of police authority. It became fully operational in mid-1993. As it is the case with the Inspectorate General, it is an external body vis-à-vis the police and is independent of the police. The goal of the external oversight is to verify how police tasks are performed.



Thanks to numerous investigations and examination of complaints performed by its investigative department, the Comité P has proven to be a reliable body for the oversight of the police work. With the help of information from numerous sources, this body operates as a guardian by monitoring the work of the police on behalf of the Federal Parliament and all citizens. The work of this body is regulated by a special Law on Comité P¹⁸, while its competences have been expanded four times since its establishment.

The majority of the work performed by the Comité P is related to important and major cases of corruption involving police officials and it may be limited to the first phase of the investigation or it may assist police investigators of one of the police services. Special attention is also given to the assessment of coordination between police units – whether it was efficient and successful,

¹⁷ Official webpage: <http://www.comitep.be/EN/index.asp>

¹⁸ Adopted on 18 July 1991

and whether human rights are respected. The Comité P audits police procedures, and acts upon complaints on unlawful behaviour of police officers. Based on the investigation and analysis, it provides conclusions, opinions and recommendations (short-term, mid-term and long-term), and monitors their implementation.

Comité P may perform this oversight proactively and reactively, at its own initiative, and may hire additional expert assistance for particularly complex investigations. The Belgian Ombudsman does not have the authority to protect citizens in case their human rights have been violated by the police. Instead, if such a complaint is received, the Ombudsman forwards it to the Comité P.

The control may be initiated by the Senate of the Parliament, as well as by the Police itself. Complaints may be submitted by citizens and civil servants, while their anonymity is guaranteed. Comité P may perform checks on how the complaint was processed in the second-instance (Inspectorate General, Internal Control of the local police, etc.). Information is usually collected from the police, Inspectorate General, judicial authorities, while they may be obtained also upon request or by individual notification from a state body. Comité P has no disciplinary authority.¹⁹

Organisation

Comité P has about 100 employees and four organisational units.

Permanent Committee is composed of 5 members who represent the Parliament (of which one is the Chair and one is the deputy) and who are appointed by the House of Representatives of the Federal Parliament. Their mandate is limited to 6 years.

Service for Support and Logistics has 35 administrative employees who are appointed by the Permanent Committee for a period of 5 years.

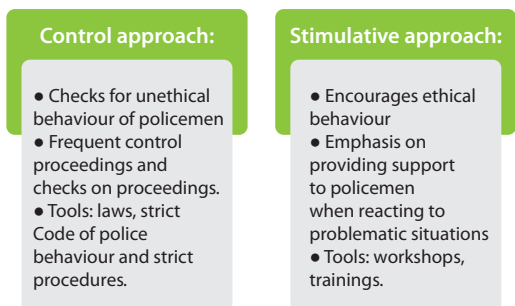
The Investigative Department has 48 members, the Head of the Department and two deputies. Members of the Investigative Department are appointed upon proposal of the Head of the Department for a period of 5 years, with the possibility of renewing their contracts, and are appointed by the Permanent Committee. The work of this Department may be initiated by the judicial authorities too, as they are specialised in investigating police officers.

The third organisational unit is the Complaints Sector.



3. Internal Control System

Every local police station has its own internal control department and is responsible for ensuring that routine police work is in line with the standards and prescribed procedures, as well as for detecting and identifying unethical, unprofessional and criminal behaviour. However, these departments deal with misdemeanours which pose a minor so-



¹⁹ Presentation by Walter Peeters, available at: <http://www.cacole.ca/confere-reunion/pastCon/presentations/2008/WalterPeeters-eng.pdf>

cial danger. When it comes to serious and systemic violations of law by police officers, especially highly ranked officials, the case is transferred to the Inspectorate General or to the Comité P.

The internal control departments have been operational since 1994 and there are a total of 196 – corresponding to the number of local police units, and they vary in terms of the number of staff in line with the size of police stations.

The strategic goal of these units is to ensure: operational work in line with standards, reliability of information, regularity of transactions and integrity. Two approaches to integrity policy are present in these units: control and stimulative approaches – both used in everyday work.

● Republic of Slovenia

According to the corruption perception research conducted by Transparency International, Slovenia is ranked 43rd (out of 177 countries)²⁰, and therefore belongs to a group of countries where corruption is moderately spread, while it is the best ranked among the countries of Central and Eastern Europe.

Although all theoretical forms of oversight exist (parliamentary control, judicial, internal, control by independent bodies), Slovenia does not have bodies with police powers in charge of controlling the work of police officers, which are outside the police structure. Hence, the Slovenian model is a classical one without specialised bodies, meaning that the core of criminal investigative authority as regards the work of police officers is exercised by the Criminal police, the National Bureau for Investigations, the prosecution and special mixed investigative teams.

Internal oversight of the police work

A comprehensive and systemic oversight of the work of the police, of the implementation of their tasks and enforcement of their authority, is carried out by the Ministry of Interior. Oversight procedures involve assessment of legality of police officers' behaviour, respect for professional standards and respect for fundamental human rights and freedoms during the enforcement of police powers. Oversight may be performed through an inspection overview of documents or other material in possession of police units, by hearing of police officers and other employees in the police as well as of natural persons. Oversight may be performed directly in a place where police tasks are implemented.²¹ On the basis of control procedures, a report is prepared which may include proposals for eliminating the identified shortcomings.



Direction and Supervision Unit

This kind of oversight of the work of the police is initiated (ordered) by the Minister, who appoints the head of oversight and officers who participate in oversight, and who are full-time employees of the internal unit of the Ministry, in charge of direction and supervision. These persons

²⁰ 2013 Research available at: <http://www.transparency.org/country/#SVN>

²¹ Article 5 of the Law on organisation and work of the police (Official Gazette of the Republic of Slovenia), no. 15/13, available at: <http://www.policija.si/eng/images/stories/Legislation/pdf/OrganisationAndWorkOfThePoliceAct.pdf>

have a status of official persons with special powers. When implementing their competences, they prove their identity by their official service ID issued by the Minister. The form, contents and the procedure for issuing this ID are prescribed by the Minister.

The Minister may also put together police officers employed in the police or other public officials in the Ministry, in order to carry out certain tasks related to the oversight of the police work.

Special powers of the members of Direction and Supervision Unit:²²

- May request information contained in records kept and maintained by the police;
- May examine records, documents, papers, orders, minutes, decisions and resolutions obtained, prepared or issued by the police in accordance with their competences, and to request, if necessary, that they be submitted to them in the original or as copies;
- May invite police officers, other police employees or individuals to interviews;
- May enter any premises used by the police in the course of their work;
- May request official certificates and technical and other information on technical means used by the police and to request proof of the qualification of police officers to use technical and other means they use in the course of their work;
- May be present when the police are carrying out their tasks.

All police officers are obliged to provide all necessary assistance to the officers of the Unit during their supervision proceedings. In case it has been established, during the supervision, that in performing their tasks, police officers were unlawfully encroaching upon human rights and fundamental freedoms, the head of the supervision shall demand of the head of the unit supervised to implement measures to eliminate unlawful actions. Such and other measures are laid down in the report on performed control.

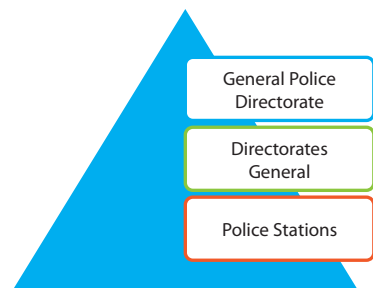
Supervision limitations

If there is a reasonable risk that the exercise of powers, in the course of the supervision of the implementation of covert investigative measures of the police, might prevent the implementation of these measures or make it considerably more difficult or endanger the life and health of people carrying them out, the police may temporarily deny access to documents, inspection of premises and communication of certain data or information. In this case, the possible continuation of supervision is decided by the Minister.

The second limitation is that the Unit officials may not have access to documents disclosing the identity of undercover operatives and natural persons who voluntarily and secretly provide the police with operational information about criminal offences, their perpetrators, etc.

Control within the police

Bearing in mind that the Slovenian Police is hierarchically organised in three levels, each of these levels is responsible for the control and internal management of a lower level: General Police Directorate oversees the work of directorates general, which in turn oversee the work of police stations. The goal of these controls is to ensure legality, professionalism, quality, as well as to ensure that tasks



22 Article 8 of the Law on organisation and work of the Police

are carried out efficiently, effectively and economically, and to assess whether they contribute to the achievement of set goals.

In 2009²³, in that regard, the Director General initiated 5 controls of work performed by the General Police Directorate and regional police directorates, while the authorised police directorate officials initiated 104 controls, mostly related to organisational matters, internal communication and reporting, use of police powers, road safety and financial management.

Within the General Police Directorate, there are two departments: Department for internal Affairs and Integrity and Complaints Department. The Department for Internal Affairs and Integrity promotes anti-corruption policies and provides measures for systemic improvement of the police work and for reducing possibilities for the breach of integrity among police officers.

Complaints Department

The Complaints Department has a long tradition in Slovenia. Every year, it deliberates on about 30 petitions, 70 initiatives submitted by the Ombudsman²⁴ and about 50 complaints. Answers to complaints submitted by foreign nationals are delivered via the Ministry of Foreign Affairs. The Law regulating the work of the police stipulates that, in addition to other legal and other means of protecting one's rights, an individual shall have the right to complain against the police if he/she believes that his/her rights and freedoms have been unjustifiably violated. This complaint must be lodged within 30 days.²⁵ The procedure for deciding upon complaints is accompanied by a strictly defined methodology which enables its transparency. The Complaints Senate is composed of three members: chair, representative of the public and representative of the police trade union. Members of the Senate deliberate on the complaint and adopt a decision. At the state level, the public is represented via judicial experts.²⁶

● Republic of Hungary

With regard to corruption perception, Hungary is slightly behind Slovenia and is ranked 47th on the list of 177 countries prepared by Transparency International.²⁷

Bodies in charge of enforcing laws in Hungary are the National police – an independent body within the Ministry of Interior, the Customs and Financial Service which are bodies within the Ministry of Finance, while supervisions is carried out by a specialised body – Protective Service of the Law Enforcement Agencies. This Agency makes the Hungarian model very specific due to its special powers – integrity tests – which has been tested in many Western European countries before the constitutional courts and proclaimed unconstitutional. However, many consider this power as a successful component of the Hungarian model.

23 Page 16, last available report on the work of the Slovenian Police is available at: <http://www.policija.si/eng/images/stories/Statistics/AnnualReport2009.pdf>

24 The Ombudsman deliberates as a final instance on an individual complaint on the police work, only after the decision of the Complaints Department of the Police and the Ministry of Interior.

25 Article 28 of the Law on Police.

26 The Slovenian Police, available at: http://www.policija.si/eng/images/stories/Publications/book_slovene-police.pdf

27 2013 Research available at: http://www.transparency.org/country/#HUN_DataResearch

The Protective Service of Law Enforcement Agencies²⁸

The specialised service for the oversight of institutions/agencies in charge of enforcing the law has been operational since 1995. It carries out tasks related to prevention, protection and detection of criminal offences committed by public officials and civil servants employed in:

- The Police,
- The National Directorate General for disaster management (including civilian protection bodies, and professional, local and national fire services)
- Customs and Financial Service,
- Institutions for the Enforcement of Criminal Sanctions,
- Ministerial level bodies in charge of overseeing these bodies.



Oversight activities are primarily directed at preventing and detecting criminal offences by collecting, analysing and evaluating data related to crimes and misdemeanours. In its work, the Service relies on public reports and public complaints, as well as on the assistance of public body/agency employees in which such allegations are being examined, and it cooperates with state and social organisations, citizens/individuals and international law enforcement agencies.

This service is not an investigative body – this means that the activities performed by this Service in detecting crime do not go beyond a confirmation or dismissal of allegations that a certain crime has been committed and reporting the case to the competent prosecutor, or closing the case if allegations were unfounded.

In the area of prevention and detection of crime, the Service has the power to act in following areas:

- Negligence in service,
- Criminal offence committed in official capacity,
- Criminal offence committed in official capacity or linked to the performance of official duties,
- Misdemeanours committed by professional police officers and members of the military performing the border control tasks.

The National Protective Service is a special body with police powers under direct supervision of the Minister of Interior, with competences covering the entire territory of Hungary. The majority of its tasks are related to anti-corruption activities in the area of public administration, i.e. there are three lines of work: 1) prevention and detection of criminal offences, 2) monitoring of officers' lifestyle for 30 days (respect for professional standards), and 3) integrity tests. The Service may collect information on government officials and law enforcement officials, including information from the private sphere and even (proactively) test their integrity by false attempts of bribing (integrity test) – this measure is frequently applied.

The Service has a Code of Conduct. Regulations with regard to the disclosure of asset declarations of police officers also apply to the Service officials.

Number of cases per year: about 1000; however, it should be noted that Hungary has a population of about 10 million. The number of full-time staff is 290, while the total number of employees varies up to 500.

28 The Protective Service of Law Enforcement Agencies, official webpage: <http://www.nvsz.hu/en/introduce>

Reports submitted to the Police

Police stations are the place where criminal charges are filed against police officers suspected of having committed a crime. However, the practice shows that the police do not investigate these crimes independently. Instead, the police immediately forward the charges to the competent prosecutor who then leads the proceeding.²⁹

● Overview of the Montenegrin model and recommendations for improvement:

Department of Internal Control of the Ministry of Interior has made a step forward in terms of increasing public visibility and improving transparency of its work in 2014. Among other things, monthly reports on the work of the Department³⁰ containing information on all requests for conducting internal controls, performed controls and their outcomes, are published on the website of the Ministry of Internal Affairs. This is highly important in order for citizens to gain confidence in the work of Internal Control and to become encouraged to report all forms of violations of the law and ethics by the police officers.

However, the Department still does not have all the necessary legal and technical prerequisites to fully exercise its powers.

Namely, the Law on Internal Affairs provides that “internal control is performed by the police officer authorized to conduct internal affairs”. In addition to the powers of Internal Control listed in the Article 118, the police officer has police authorities under the Article 23³¹ of the Law on Internal Affairs, which provides the legal basis for the Internal Control to apply authorities stipulated in the Criminal Procedure Code (CPC).

Types of police authority

Article 23

A police officer, in addition to competencies, measures and actions provided by the Criminal Procedure Code, under the Law on Misdemeanours and special laws, shall be authorized to:

1) collect and process personal and other data;

2) perform summonings;

3) give warnings and give orders;

4) use other people’s means of transport and means of communication;

5) use means of coercion;

6) carry out undercover operations.

In practice, however, there is a denial of police authority to the Internal Control and a claim that the Criminal Procedure Code does not recognize police officers of Internal Control as the police. This makes it impossible for the Department of Internal Control to carry out its work in full legal capacity, especially when it comes to more complex crimes, like corruption and organized crime cases, to which police officers are not immune either.

Among other things, Internal Control has been denied the right to propose application of SSM

²⁹ VeraInstitute of Justice, Country Overview of Hungary, available at: <http://www.vera.org/sites/default/files/resources/downloads/hungary.pdf>

³⁰ http://www.mup.gov.me/rubrike/Unutrasnja_kontrola/

³¹ Article 118 stipulates that the Internal Controls has authorities under Article 23 of the Law on Internal Affairs, as well.



to the public prosecutor and the investigating judge, in accordance with the CPC and statement of grounds of the request. This represents a very unusual ranking of legal acts in practice and ignoring the provisions of the Law on Internal Affairs, as if these provisions do not have the same legal power as the CPC. On the other hand, the intention of the legislator was obviously to grant equal rights to the officers of Internal Control and to the police officers.

One should bear in mind the complexity of investigating abuse of official authority and unlawful conduct of police affairs carried out by the police officers, who possess knowledge on the manner of collecting and concealing evidence, and in addition, have professional and personal contacts with other police officers and can influence possible initiation of proceedings against them.

The advantage of the Internal Control in relation to the Criminal Police Department is having focus only on the work of the police, and thus the possibility of high specialization for work on these cases, while for the CPD these cases are just one of many varieties of cases they handle.

Bearing in mind everything mentioned so far, it is of utter most importance to enable access of Internal Control to all the instruments for collecting data on irregularities in the work of the police and put all the legal possibilities provided under the CPC at their disposal, in a manner that will:

- **add a paragraph in the CPC which clarifies that the term “police” applies to all authorized officers of Internal Control as well.**

This will allow for the work the Internal Control and the rule of law to no longer depend on individual interpretation of the provisions of the law. The result will be achieving equal status of both officers and providing support to serious treatment of the problem of corruption in the police, as it is tried in other spheres of society.

Another problem that we have recognized in their work is the lack of legal basis for the formal communication with state prosecutors, which are in charge of directing and managing work of the police³², in accordance with the new CPC. This allows for a situation where police officers refer to the orders of prosecutors for their actions and Internal Control has no possibility of verifying such statements. Therefore, it is necessary to:

- **amend the Law on Internal Affairs and authorize Internal Control to request information from the competent public prosecutor on the specific conduct of police officers in all stages of criminal proceedings.**

The third problem refers to the need to protect communication between the Department of Internal Control and other state authorities. Since keeping the information on, for instance, internal control requests for providing information a secret is not prescribed, there may be civil servants from other authorities (such as the Tax Administration, Property Administration, etc.) who will inform citizens and/or police officers that the Department of Internal Control requested information about them. Consequently, this may interfere with the process of conducting controls. Therefore, it is necessary:

- **amend to the Law on Internal Affairs so that it stipulates that the state authorities are required to keep secret requests for information submitted by the Department of Internal Control.**
- **apply Data Secrecy Law and determine the “label of secrecy” for documents relating to controls carried out by the Internal Control.**

Finally, it is necessary to improve administrative, human and technical capacities of the Internal Control, so that it could be able to respond to the need for fighting corruption in the police and improving integrity of the police officers.

³² Article 44, paragraph 2, item 1 of the Criminal Procedure Code.

About Institute Alternative:

Institute Alternative (IA) is a non-governmental organization, established in September 2007 by a group of citizens with experience in civil society, public administration and business sector.

*Our **mission** is to contribute to strengthening of democracy and good governance through research and policy analysis as well as monitoring of public institutions performance.*

*Our **strategic objectives** are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.*

*The **values** we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.*

We function as a **think tank** or a research centre, focusing on the overarching areas of good governance, transparency and accountability. Our research and advocacy activities are structured within five main programme strands: I) public administration, II) accountable public finance, III) security and defense, IV) parliamentary programme and V) social policy.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups for certain chapters. Our flagship project is the Public Policy School, which is organized since 2012.

In our hitherto work, we had joint projects with Center for monitoring and research (CEMI), Centre for Civic Education (CGO) and European Movement in Montenegro.

When it comes to international partners, we have cooperated with Centre for Control of Armed Forces (DCAF) from Geneva, Support for Improvement in Governance and Management (SIGMA), a joint initiative of the OECD and the European Union, European Policy Center from Brussels, Center for International Studies (CESPI) from Rome, Center for Study of Democracy – Sofia, etc.

Managing of the organization is divided between the Assembly and the Managing Board. President of the Managing Board is Stevo Muk. Research Coordinator is Jovana Marović, PhD.

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