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# ASSESSMENT OF POLICE INTEGRITY IN MONTENEGRO



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**POINTPULSE**   
WESTERN BALKANS PULSE FOR POLICE INTEGRITY AND TRUST

**ASSESSMENT OF  
POLICE  
INTEGRITY IN  
MONTENEGRO**

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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 Podgorica and Kosovo 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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## List of abbreviations

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CSO	Civil Society Organizations
Mol	Ministry of Interior
NATO	North Atlantic Treaty Organization
NSA	National Security Agency
PD	Police Directorate
SAT	Special Anti-Terrorist Unit

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### SUMMARY

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The integrity of the police in Montenegro has been compromised. The problems of bribery and misuse of office do not stand alone; there is also excessive use of force, passive professional behavior, extortion of statements, and political activity. Corruption is the second most common association of Montenegrin citizens when they are asked about the police, right after “security, safety and the protection of citizens,” and only 12 percent of the citizens believe that corruption does not run rampant in the police force of Montenegro. For the above reasons, the integrity of the police must become one of the priority areas of strategic further development of this service.

There is a complex system of internal and external control of the police, which is characterized by insufficient cooperation and information exchange between the authorities in charge of oversight, insufficient effects of their controls, conclusions and recommendations, and by the citizens’ dilemma concerning the right authority to which to report abuse, corruption or overstepping of police powers, resulting from presence of too many actors. Although some progress has been made, supervisory authorities have not yet achieved necessary efficiency in the implementation of their powers.

Reform of the Montenegrin police began shortly before the referendum on independence, through the enactment of the new Law on Police in October 2005. The Law on Internal Affairs of 2012 brought the Police Directorate back under the aegis of the Ministry of Interior, which resulted in reduced independence of the police concerning management and decision-making in many areas, from human resources and finance, to transparency.

In this report we have presented the results of a study which aims to contribute to the improved functioning of the police, and increase the public trust and confidence in its work, which - as in all the Balkan countries – stands at quite a low level.

The report is divided into six thematic sections: the first three relate to the issues of transparency, depoliticisation and management of human resources. The following three chapters deal with financial management and public procurement and the repressive measures for establishing the liability of employees, and analyze the work and results of all the actors in charge of internal and external control of police work. Each chapter is followed by recommendations for improvement within the specific area.

The study had revealed six main findings. (i) Although important steps have been taken in the area of management of human resources, such as the tightening of criteria for appointment to leading positions in the police, the key problems that still remain are: the lack of strategic approach in the policy of rationalization of the number of police officers, discretionary decisions of the heads concerning hiring and promotion, superficial performance evaluation, and a weak link between reporting on the work, evaluation and promotion.



(ii) Despite the fact that police officers are prohibited by law from political activity, membership in political parties and presence at political rallies, these practices have not been suppressed and the citizens assess the Police as a highly politicized state authority. Lack of transparency when deciding on dismissal from leading positions, lack of practice of providing a public explanation of the reasons for such dismissals, and a flawed legal framework regulating these procedures, also contribute to the politicization.

(iii) The institutional framework for control of police work has been developed and is now almost complete, in terms of the existence of legal possibilities for effective control; however, there is still much room to introduce a number of additional controls by all the supervisory authorities, and to improve the enforcement of preventive and repressive measures to heighten the level of integrity of police officers.

(iv) From 2013 until 1 October 2015 the State Prosecutor's Office worked on 62 cases involving police officers, of which only 19 resulted in filed charges. There are no available results concerning the prosecution of high-level corruption in the police. During the same period, the Courts had 47 cases pending against police officers (not including corruption cases). Although there were 16 final Court decisions, only three persons received a sanction in the form of a prison term.

(v) Internal Control made significant progress when it comes to controls carried out on its own initiative, of which there were 76 in 2014, with 26 identified irregularities and a total of 6 cases submitted to the State Prosecutor's Office. However, out of a total of 500 asset declaration cards, it had so far controlled 140 and found irregularities in two cases. Out of 154 complaints from citizens submitted to the heads of organizational units in 2014, only two were found to be grounded. In the same year, the heads initiated disciplinary proceedings for grave violation of official duty against 87 officers and imposed 55 disciplinary measures in the form of fines. In one year, the organizational units of the police also filed criminal charges against seven police officers and initiated misdemeanor proceedings against five. The Ethics Committee found that during the past sixteen months the Police Code of Ethics had been violated at least 55 times.

(vi) On average, three percent of the annual cases of the Protector of Human Rights and Freedoms refer to police officers. The procedure for the election of the Protector does not enable selection of the best candidate. Although parliamentary oversight of the police has been established, the application of control mechanisms is infrequent and the impact of the conclusions and recommendations of the working bodies of the Assembly is insufficient. The Ministry of Interior has improved its implementation of the Law on Free Access to Information, but an insufficient number of enactments concerning the police have been opened for public discussion and citizen participation.





## TRANSPARENCY

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*Progress has been observed in the application of the Law on Free Access to Information, but the level of transparency of police work is not satisfactory. Declassified documents are not published, and there are no public debates and consultations regarding important regulations and enactments that essentially mold the police reform.*

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It is understandable that a significant part of police work must remain secret. However, greater transparency is a prerequisite for reducing opportunities for misuse of office; as one of the key anti-corruption principles, it serves as a basis for the participation of citizens and the civil society in monitoring the activities of the police and the results of their work.

In the following section of this chapter we will analyze the level of transparency of police work, the availability of information, and what the Ministry of Interior and the Police Directorate are doing to improve their communication with the citizens - as all these being prerequisites for the improvement of public trust and confidence in police work.

### **Progress has been made in the implementation of the Law on Free Access to Information**

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The progress that has been made in the implementation of the Law on Free Access to Information (Table 1) is evident, as shown by the high number of authorized accesses to information. However, there is still room for improvement of internal data management structures of the MoI, and for a better method of keeping information in possession of the Ministry of Interior and the Police Directorate. This would primarily facilitate the work of the employee in charge of free access to information, who must obtain the required information from organizational units; it would, thus, also provide more efficient access to information. This is particularly important as it concerns state authorities with the highest number of public administration employees.<sup>1</sup>

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1 Additional information on the number of officers is available in chapter 3 of this Report, "Human Resources Management."



Table 1 – *Moi cases in the area of free access to information*

<b>Moi/Police</b>	<b>2013<sup>2</sup></b>	<b>2014<sup>3</sup></b>	<b>First six months of 2015<sup>4</sup></b>
Number of cases	304	404	283
Number of resolved requests	293	398	279
Approved	244	388	268
Number of rejected requests	11	5	7
Partially approved	11	/	
Number of requests submitted pursuant to Article 55 paragraph 4 of the LAP/Number of requests submitted to the competent authorities	10	1	3
Number of notifications	12	/	/
Number of notifications stating that requested information can be found on the Moi website	5	4	1
Number of unresolved requests	11	/	/
Number of appeals	13	14	8
Outcomes of appeals	3 proceedings discontinued, 10 approved	2 appeals withdrawn, 8 rejected	4 appeals withdrawn by parties, 4 unresolved appeals
Administrative disputes	29 appeals, 21 upheld, 3 rejected, 5 decisions to discontinue the proceedings	1 appeal rejected	0

2 Report on the work of the Ministry of Interior and the Human Resources Directorate, overseen by Moi in 2013, published on 14 May 2014, available at: <http://www.mup.gov.me/biblioteka/izvjestaji?pagerIndex=2> (accessed on 26 October 2015).

3 2014 Report of the Ministry of Interior on the work and situation in the administrative fields, published on 29 July 2015, available at: <http://www.mup.gov.me/biblioteka/izvjestaji> (accessed on 26 October 2015).

4 Statistical data of the Ministry of Interior concerning free access to information for the first 6 months of 2015, published on 16 July 2015, available at: <http://www.mup.gov.me/biblioteka/izvjestaji> (accessed on 26 October 2015).



In addition to the findings relating to the acting of MoI upon requests, concerning the application of the provision of the law which governs what the state authorities are required to disclose proactively,<sup>5</sup> research performed by the Center for Democratic Transition has shown that MoI discloses 83% of its information,<sup>6</sup> which ranks it as the fourth Ministry as regards proactive disclosure.

Access to information is made difficult by high cost per page when it comes to the MoI, whose information about the work and employees are typically more extensive than those of other authorities. Namely, the Government Regulation on the Costs of Procedure of Free Access to information<sup>7</sup> prescribes EUR 0.10 per one page of A4 format, whereas the cost of the same page in the Republic of Croatia is EUR 0.03 (KN 0.25).

### **Unclassified Information is not being published**

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When it comes to the unclassification procedure, that is, the removal of markings from information that had once been marked as classified, there has been no significant progress and there is no practice of proactive disclosure of documents from which the mark "classified" has been removed. There is also no information as to whether the Commission in charge of periodic review of secrecy of documents,<sup>8</sup> established in accordance with the statutory obligation, had removed any secrecy markings before the expiry of the statutory deadline. All this makes it difficult for interested parties to obtain information that no longer endangers the safety of citizens and the carrying out of proceedings but, nevertheless, provides insight into the quality of work of the police and the MoI.

### **Websites of the MoI and the Police are regularly updated**

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Websites of the MoI and the Police Directorate are regularly updated, and the annual report on the work is publicly available, as well as key strategic documents concerning the police. The website also offers detailed information on the internal mechanisms for accountability of police officers and the results of their implementation. Both the MoI and the Police Directorate have public relations employees who are in charge of day-to-day media inquiries.

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5 The Law on Free Access to Information obliges institutions to publish the following on their websites: guides to free access to information, public registers, programs and work plans, work reports, strategic documents, regulations, a list of public officials and their monthly salaries, list of employees and their titles.

6 Additional information is available at: <http://www.cdtmn.org/index.php/2013-11-06-11-39-20/vlada-i-uprava-uredbe-zakoni-transparentnost/704-podaci-uprave-policije-na-sajtu-mup-a>.

7 Pursuant to the Law on Free Access to Information, the applicant bears the costs of access to information, that is, the actual costs incurred by the authorities by having to copy, scan and submit the requested information. Regulation is available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B44C63155-0643-4A44-89A4-AF7878F9C517%7D>.

8 Obligation stipulated in the Data Secrecy Law, Article 19b. The Commission was established by Decision of the Minister dated 14 September 2015.



Information provided on the work of the MoI and the Police Directorate in the course of a year has also been upgraded with the introduction, in October 2014, of a magazine on internal affairs titled "Document", which is useful for both the professional and the general public. So far three issues have been published.<sup>9</sup> Neither the MoI nor the Police Directorate has official pages on social networks; this would intensify direct communication with the citizens, although some of the organizational units of the police do have them.<sup>10</sup>

## **Public hearings on regulations pertaining to security are avoided**

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In February this year the Ministry of Interior published a list of four Laws within its jurisdiction to be discussed at public hearings in the course of the year.<sup>11</sup> The problem with the Government Regulation on the Procedure and Manner of Conducting Public Hearings during the Preparation of Laws<sup>12</sup> is that it does not prescribe the obligation to also publish a list of other acts that will be discussed at public hearings – those that will be prepared and enacted during the year - so that stakeholders could plan their participation. This does not serve as encouragement to the authorities; consequently, the MoI does not organize, at its own initiative, any public debates or provide any other opportunities for suggestions concerning a number of important strategic documents-in-preparation that significantly regulate the work of the police, such as the Internal Reorganization Plan, Rules on internal Organization and Classification of Job Positions, the Staffing Plan, the Annual Work Plan, etc.

The Regulation also provides, without justification, an exception from having to organize debates concerning the laws that serve to regulate security issues - which is absolutely unacceptable given that the laws are public and that citizens need to conduct themselves in accordance with the provisions contained in them. This exception, among other things, was misused by MoI, which failed to organize a public debate on the Law on Amendments to the Law on Internal Affairs in 2014.

## **Insufficiently transparent work of the MoI working groups**

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The work of numerous MoI working groups in charge of implementation of measures related to the police contained in a number of strategic documents, especially Chapter 23 and Chapter 24, is not sufficiently transparent. Information on the established working groups, their members, tasks and deadlines are not published on the MoI website. In the course of 2015, the MoI did not invite civil society organizations to participate in the work of these working bodies charged with the implementation

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9 Available at: <http://www.mup.gov.me/dokument/>.

10 The Special Anti-Terrorist Unit of the Police Directorate and the Aero-Helicopter Unit of the MoI do have Facebook pages.

11 The Law on Protection and Rescue, the Law on Public Gatherings, the Law on Non-Governmental Organizations, and the Law on Asylum. Available at: [http://www.mup.gov.me/ministarstvo/Javne\\_rasprave/146092/Spisak-zakona-ciji-je-obrađivac-MUP-za-koje-je-u-toku-ili-ce-se-organizovati-javna-rasprava-u-2015-godini.html](http://www.mup.gov.me/ministarstvo/Javne_rasprave/146092/Spisak-zakona-ciji-je-obrađivac-MUP-za-koje-je-u-toku-ili-ce-se-organizovati-javna-rasprava-u-2015-godini.html).

12 Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B16F45D1E-4AA0-4C69-A589-2C4432EC8F77%7D>.



of measures, nor were these organizations ever invited to submit written suggestions concerning the work of said bodies.

The worst example is the working group in charge of preparing the new Strategy and Action Plan for development and functioning of the police, which should provide guidelines for the most important reform projects related to the police up to the year 2020, which worked on these documents in 2015 without ever involving the interested public. This was remedied when, at the proposal of the Alternativa Institute, a public debate was organized on the draft versions of these documents.

### Recommendations

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1. Improve the method of keeping the internal information in possession of MoI/Police Directorate in electronic databases.
2. Improve the unclassification of documents in possession of MoI/Police Directorate, through proactive disclosure of unclassified documents.
3. Improve the transparency of work of the Commission for the Periodic Review of Documents Marked "Confidential" by regularly publishing information on its meetings and work results on the MoI website.
4. Amend the Regulation on the Costs of Access to Information, to stipulate lower costs.
5. Adopt the policy of compiling information and documents in electronic form at the level of MoI and Police Directorate, in order to facilitate greater access to information.
6. Amend the Regulation on the Procedure and Manner of Conducting Public Hearings in a way that will eliminate the exception of security-related laws from being subjected to public debates, and prescribe the obligation to conduct debates on key strategic documents, action plans, etc.
7. In the case where there is no public hearing regarding a certain document, open up "electronic consultations" with stakeholders by extending a public invitation for the submission of comments and suggestions regarding the work of the working group.
8. Regularly publish information on the established working groups, lists of members of working groups, their tasks and deadlines for the completion of their work on the website of the MoI.
9. Create formal accounts of the MoI and the Police on social networks Facebook and Twitter; use them to publish news and announcements and to intensify direct communication with the citizens.



## POLITICIZATION

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*The political neutrality of police officers is questionable. Political engagement of police officers is not sufficiently monitored or sanctioned. Statutory deficiencies allow political influence on the management of human resources.*

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### Insufficient compliance with prohibition of political activity

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Although police officers are legally prohibited from being politically active, activities such as membership in political parties, running for elections and presence at political rallies in official uniform<sup>13</sup> have not been suppressed, while strategic documents and accompanying action plans do not provide special, additional measures to address the problem of political influence on the police.

For example, the final election rally of the ruling Socialist Democratic Party<sup>14</sup> was attended by the Police Commander of the Tivat Airport Border Police office, Zoran Stanović, in civilian clothes, accompanied by a retired officer of the NSA, Mirko Stojanović; he applauded after the speech of Prime Minister Milo Djukanović, who spoke about the arrests of opposition leaders. As reported by newspaper 'Vijesti', the Police Directorate issued a statement on this occasion saying that Stanović attended the rally "in the capacity of authorized police officer in charge of securing a public gathering."

What is especially worrisome are the signs that persons in leading positions influence political activism of police officers and encourage them to get engaged during elections in favor of the ruling parties.

Thus, at the beginning of November 2013, shortly before the local elections in the municipality of Mojkovac, Veselin Veljović, former Chief of Police and former Commander of the Special Anti-Terrorist Unit, then adviser to the President of Montenegro Filip Vujanović, organized an unannounced meeting with dozens of police officers in the police camp "Zlatica". According to the media, Veljović then allegedly "asked his former colleagues to selflessly participate and convince, by Saturday, as many people as possible to support DPS at the local elections in the city."<sup>15</sup> Veljović, on the other hand, stated after the rally that on said occasion he gave a lecture on NATO integration to gathered police officers.

Minister of Interior demanded an urgent investigation of the gathering, and a day later Veljović submitted the requested information to President Filip Vujanović in writing. Internal Control opened an investigation into this matter and initiated a hearing of former Chief of Police; he, however, refused to answer the questions of inspectors of Internal Control, and provided them with a written state-

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13 Article 94 of the Law on Internal Affairs, paragraphs 2 and 3.

14 In April 2012.

15 "Veljović refuses to say whom he 'lectured' in Camp Zlatica", portal of 'Vijesti', 15 November 2013, available at: <http://www.vijesti.me/vijesti/veljovic-odbio-da-kaze-kome-je-predavao-na-zlatici-160440>.



ment the content of which was almost identical to the one he had previously submitted to President Vujanović. As Veljović refused to provide a list of police officers who were present at the disputed gathering, Internal Control inspectors managed to identify most of them from photographs taken by “Vijesti” reporters and by performing additional checks.

The Internal Control Department submitted to Minister Konjević the final report which contained findings that at the gathering it was said that “other parties must not be allowed to come to power in Mojkovac,”<sup>16</sup> and the Minister suggested that the Police Director Slavko Stojanović “issue a written warning to everyone and forbid them from attending any meetings, lectures and the like, without receiving the approval of their superior officers and a written invitation including the topic to be discussed at such gathering or lecture.”<sup>17</sup> The Internal Control report showed that the gathering was attended by 44 police officers, all of them connected to Mojkovac one way or another.

The only superior officer who actually sanctioned the attendees of the gathering was the Commander of the Special Anti-Terrorist Unit Mladen Marković, against whom disciplinary proceedings were then initiated, establishing a grave violation of official duty.<sup>18</sup> According to ‘Vijesti’, he had violated the law when he opened the door of the police camp in Zlatica to a plainclothesman, Veselin Veljović, to hold the alleged lecture on NATO integration. On 12 December 2013, Police Director Slavko Stojanović dismissed Marković from his duty as Commander of the Special Anti-Terrorist Unit.

Having completed the investigation, Internal Control submitted the report to Minister Konjević, who forwarded it to the Basic State Prosecutor’s Office; however, there is no information as to further action.

The Council for Civil Control of the Police reviewed the case on its own initiative and established, among other things, that “strong pressure is applied by political structures and entities on the overall system of the police and its officers, for the purpose of using them to achieve day-to-day political objectives.”<sup>19</sup>

In this specific case, one question remains unanswered: would the reaction of the Minister and the Internal Control have been the same if the competent Minister and the former Director of Police who organized the gathering did not belong to different political parties sharing the power at the moment?

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16 “Konjević: Internal control established that Veljović spoke about the elections in Mojkovac at the SAT camp,” 11 December 2013, available at: <http://portalanalitika.me/clanak/126568/konjevic-unutrasnja-kontrola-utvr-dila-da-je-veljovic-u-kampu-saj-a-govorilo-o-izborima-u-mojkovcu>.

17 Konjević stays clear of Stojanović, who worked behind his back, portal of ‘Vijesti’, 12 December 2013, available at: <http://www.vijesti.me/vijesti/konjevic-ne-dira-stojanovica-koji-mu-je-radio-iza-ledja-165584>.

18 “Any act or omission that prevents, obstructs or hinders the performance of official duties” - Article 106 paragraph 1 item 11 of the Law on Internal Affairs.

19 Press release of the Council regarding its consideration of this case: <http://www.kontrolapolicije.me/images/biblioteka/dokumenti/slucaj%20kamp%20zlatica.pdf>.



## Citizens are indicating the presence of strong influence of politics on police work

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According to the opinion poll taken in July 2015, only one-third of Montenegrin population believes that the police act as a service to citizens. Everyone else believes that they work to protect the interests of the Government or the political parties, while 11 percent of the citizens believe that they are actually protecting the interests of the people in the highest positions of the force itself. When perception of the extent of the influence of politicians on police work is explored further, we can see that as many as 70 percent of the citizens believe that politicians completely or considerably influence the work of the police, while 17 percent believe that the level of their influence is low.

Deputies from the opposition parties agree with the negative perception of the population and are continuously asking for the “depoliticization and departisation” of the police and for the cessation of practice of selection of ‘politically colored’ people to leading positions.<sup>20</sup> They go as far as to state that the police are an instrument “for the defense of the regime.”<sup>21</sup>

## Arbitrary dismissal of high-level police officers

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The fact that allows politicization of the police is insufficient statutory regulation of grounds for dismissal of persons holding high-level positions in the police, which allows for their frequent replacement without any explanations provided to the public. Since the Law on Internal Affairs does not prescribe grounds for such dismissal, ambiguous provisions of the Law on Civil Servants and State Employees is applied instead, which has led to excessive arbitrariness of the Heads of police who reassign police officers as they see fit.

Because of the above legal shortcomings, two officers were at one point simultaneously appointed Chief of Security Department. In January 2014, Zlatko Maliković was appointed Chief of Security Department in Kolašin, taking over this position after former Chief Milorad Šuković was dismissed due to negligent behavior in the “Moračanin” case. Maliković was Commander of the Regional Unit in Podgorica since 2012; in 2013 he was reassigned to the position of Physical Training Instructor, which decision he appealed and the decision on his reassignment was revoked. Having spent more than a year in the service without a new assignment, Maliković sued the state for mobbing. After he initiated legal action, he was appointed Chief in Kolašin by an orally issued decision of Police Director Slavko Stojanović; however, there was no official decision on the assignment, and the position was still

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20 “Kaluderović: Replacements in the police are an alibi for those who are most responsible,” Analitika portal, 25 February 2014, available at: <http://portalanalitika.me/clanak/135879/kaluderovic-smjene-u-policiji-su-alibi-za-najodgovornije>.

21 “Rakčević: Expectations of demonstrators foiled, the regime wants to strike fear into the citizens,” 25 October 2015: <http://www.vijesti.me/vijesti/rakcevic-izigrana-ocekivanja-demonstranata-rezim-hoce-da-utjera-strah-u-kosti-gradana-857375>.





formally held by dismissed Šuković. Thus, two men found themselves holding the same job position in the police at the same time.<sup>22</sup>

### **Citizens do not believe that the police is fighting corruption in their own ranks**

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In addition to numerous reports of international organizations on the alarming presence of corruption and organized crime in Montenegro, a public opinion survey that we published in July 2015 confirmed these findings and also pointed out to a kind of paradox<sup>23</sup>. Namely, the citizens of Montenegro have a relatively high level of trust in the police (58%), which places this state authority in the second place when it comes to trust, right behind the educational institutions; however, at the same time, as many as 56 percent of the citizens believe that corruption in the police is widespread. One of the possible explanations for this occurrence is that Montenegrin citizens give high marks to the efficiency of public security in general (72%), together with the safety of schools, road safety, and the protection of lives and property of citizens. However, they perceive the police as inefficient when it comes to combating corruption in general (68%), "capturing" the perpetrators of economic and organized crime, and suppressing corruption in its own ranks, which is particularly worrying.

### **Recommendations**

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1. The Strategy of Police Development and Functioning for the Period 2016-2020 should include depoliticisation of the police and reduction of public political involvement of police officers as a special objective.
2. The Law on Internal Affairs should prescribe procedures for the dismissal of police officers in leading positions and stipulate the obligation to inform the public about the reasons for their dismissal.
3. Better inform the citizens on cases initiated by the Ministry of Interior and the Police against police officers, to strengthen the citizens' trust in the police.

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22 "Former Commander of the Special Unit sues the state for mobbing," portal of 'Vijesti', 5 June 2014, available at: <http://www.vijesti.me/vijesti/bivsi-komandant-posebne-jedinice-tuzio-drzavu-zbog-mobinga-215612>.

23 Full research of the POINTPULSE network for Montenegro and the region is available at: <http://institut-alternativa.org/rezultati-istrazivanja-stavova-gradana-o-odgovornosti-policije-u-crnoj-gori-i-regionu/>.



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## HUMAN RESOURCES MANAGEMENT

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*The criteria for appointment of heads of police have become stricter, but there is still a lack of strategic approach to rationalizing the number of police officers. The connection between reporting on the work, performance evaluation and career advancement is weak.*

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In this chapter we will deal with the problem of redundancy in the police and analyze the strategic documents governing the field of human resources management, the hiring procedures and practices, career advancement, performance evaluation, remuneration policy, appointment to leading positions, the system of titles and the training of police officers.

### **The problem of redundancy in the police**

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Human resource management in the police is the key area for reducing the risk of corruption because it creates the environment in which police officers operate. The issue of the number of officers in the police force is closely related to its efficiency and opportunity for quality work, but also to the (dis)satisfaction of police officers who may be faced with unrealistic tasks if the police is not adequately structured or, conversely, with the lack of work-related activities, which also negatively affects integrity. Still, although the Government of Montenegro has adopted a series of enactments governing these issues, not a single one was based on a thorough analysis.

### **The Internal Reorganization Plan was developed without a needs assessment**

Data from April 2015 show that the Police Directorate has 4,203 employees,<sup>24</sup> which means that it has already downsized its work force in accordance with the Government's 2013 Plan for the Internal Reorganization of the Public Sector.<sup>25</sup> The state, however, still has the largest number of police officers per capita in Europe.<sup>26</sup> The problem with reaching the planned number stems from the fact that the Government's reduction projections are not supported by an analysis or a serious assessment – the number seems to have been produced arbitrarily: "4,287 by 2017." It is therefore impossible to say, with conviction based on data, which number of police officers would be optimal.

It is also not clear how, and in which segments, the Plan for reducing the number of employees had affected the decline of almost 50% in the number of criminal offenses in Montenegro in the last ten

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24 Data obtained through free access to information, in April 2015.

25 The Internal Reorganization Plan is available at: <http://www.mup.gov.me/pretraga?query=plan+unutra%C5%A1nje+reorganizacije+javnog+sektora&siteld=47&contentType=2&searchType=1&sortDirection=desc&pageNumber=2>.

26 The Government's "Comparative Analysis of Employment in the Public Sector" states that Montenegro has by far the highest number of police officers in comparison with the EU countries - 808 per 100,000 citizens, and one of the highest in the world, the average number being 300. Source: <http://www.vijesti.me/ekonomija/crna-gora-umjesto-300-ima-808-polica-jaca-na-100000-stanovnika-41678>.



years – at least according to official police statistics – nor do available documents state that a similar analysis was ever conducted. The low number of criminal offenses indicates the need to raise the question whether Montenegro needs a number of police officers that’s smaller even than the European average, as the crime rate is significantly lower. Although a direct parallel cannot be drawn in this case, just for the purpose of comparison: there were 97,242 criminal offenses in the Republic of Croatia in 2014.<sup>27</sup> Another important parameter when comparing police forces is certainly efficiency, which affects the number of officers.<sup>28</sup>

**Table 2 - Number of registered criminal offenses in Montenegro in the period 2005-2014**

Montenegro Police Directorate	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<i>Number of registered criminal offenses</i>	<u>9,579</u>	9,564	9,258	8,277	8,101	6,994	6,147 <sup>28</sup>	5,827	5,899	<u>5,701</u>
<i>Criminal offenses reported by unknown persons</i>	4,954	2,411	2,347	2,228	2,316	1,928	2,782	3,066	2,826	2,665
<i>Crime rate</i>					13	11.3	10	9.4	9.5	9.1
<i>Proceedings concluded</i>						6,080	5,165	4,748	4,893	4,538
<i>Proceedings concluded, in %</i>						86.9%	84%	81.5%	82.9%	79.6%
<i>Solved, in %</i>						67.8%	64.7%	64.8%	64.4%	56.4%
<i>Number of wunsolved criminal offenses</i>						914	982	1,079	1,006	1,163

27 Report of the Minister of Interior on police performance in 2014, p. 22, available at: [http://www.mup.hr/UserDocsmages/minstarstvo/2015/izvjesce\\_ministra\\_14\\_policijski\\_poslovi.pdf](http://www.mup.hr/UserDocsmages/minstarstvo/2015/izvjesce_ministra_14_policijski_poslovi.pdf).

28 “The Police Directorate registered 6,147 (6,994) criminal offenses prosecuted ex officio, which represents a reduction in the number of criminal activities by 12.1% in comparison with 2010. The number of criminal activities in the last five years, when compared to 2007, has decreased by 33.6%”. The 2011 report on the work of the Ministry of Interior and the Human Resources Directorate, overseen by Mol.



## **The New Rules on Internal Organization have kept the high number of employees**

Two years later<sup>29</sup> the Government adopted the new Rules on Internal Organization and Classification of Job Positions in the Ministry of Interior - with the Police Directorate as an authority within the Ministry - which defined job positions for 5,724 executors. Thus, job positions defined in these Rules do not indicate a tendency to further reduce the number of police officers, even though a comparative analysis shows multiple redundancies in the force.

The Rules also maintained the previous tendency towards the “accumulation” of organizational units, of which there are now 31, which also means the continuation of the policy of a large number of persons in leading positions.<sup>30</sup> The fact that as many as 500 police officers are in top and high positions, and are thus subjected to the obligation to submit their asset declaration cards to the MoI speaks volumes about the heaviness of the police apparatus. This Job Positions Classification Act, much like the Plan of Internal Reorganization of the Police, was adopted without preparation and analysis of the competences of the police, the establishment the standards, norms and optimal number of employees, i.e. the maximum number of employees required for the proper functioning of the police, as planned in the Internal Reorganization Plan for the third quarter of 2014.<sup>31</sup>

### **“Natural employee turnover” instead of the “policy of cuts”**

Based on the above documents, further policy of the Government and the relevant Ministry on whether to continue to reduce the number of police officers is unclear. Given that the 146-employee reduction in 2014 occurred solely based on mutual agreement (amicable termination of employment, termination of employment by operation of law, retirement<sup>32</sup>) - this looks more like a “natural employee turnover” rather than a thoroughly thought-out reduction policy, as official documents do not indicate the direction in which said reduction should proceed. If there is to be a “policy of cuts”, that is, a policy of serious reduction of employees in the organizational units, it would have to be developed in compliance with all the standards of employment, i.e. the merit system and the criteria for the workload and performance results, which is currently not the case.

It is also evident that the number of employees and their placement has not been analyzed in official documents together with the analysis of the available and required new technology - which ought to be two inseparable working processes. Studies have shown, for example, that improving street lighting and installing cameras in neighborhoods with higher crime rates costs less than increasing the number of police patrols in such neighborhoods.<sup>33</sup> The analysis of these parameters provides the opportunity for police officers to focus on other tasks, thus improving overall efficiency. The policy

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29 At the meeting held on 18 March 2015.

30 According to official statistics, there are more than 200.

31 Report on the implementation of the Internal Reorganization Plan for the Public Sector, 2013.

32 Ibidem, pp. 12-13.

33 Presentation of expert David McCracken, counselor of the European Union for Serbia’s accession process, 2-4 November 2015 in Belgrade.



relating to the number of employees should also strategically respond to the question of where the savings will go; if invested in improving the working conditions of police employees who will remain in service, such savings would have a multiplying effect and serve as stimuli.<sup>34</sup>

### **The future employment plan is devoid of vision**

Unfortunately, the Staffing Plan provides only a tabular review of the number of different categories of executors,<sup>35</sup> without including a narrative needs analysis, that is, a qualitative analysis of tasks and workloads of individual sectors and units. Of the total number of job positions classified according to the Staffing Plan,<sup>36</sup> adopted in June 2015, the total number of executors employed in the Ministry of Interior is 5,120, of which 5,046 have permanent employment while 74 are employed for a specific period of time.

The Staffing Plan is a document created on an annual basis; it refers to the year 2015 and offers no vision concerning the anticipated medium-term and long-term development of the police in terms of staff and officers, and in accordance with the strategic objectives of the police. This format of the Plan does not make it possible to define e.g. the expert needs of the police and the need for new professions, such as experts on finance and banking systems, experts in new technologies, hackers, profilers, psychologists, experts on organized crime and corruption, and so on.

The Staffing Plan mentions the intent to hire 80 civil servants or state employees in 2015, 39 of which from the category of special police professions,<sup>37</sup> while also mentioning that 295 civil servants or state employees will become eligible for retirement. The Human Resources Directorate will not be hiring additional civil servants, while the Ministry of Interior and the Police Directorate are planning to hire 58 trainees in the course of the year.

### **Two thirds of Montenegrin citizens do not believe that hiring is merit-based**

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The hiring of new personnel is particularly worrisome. If one takes into account the opinion of the citizens, the picture is not at all positive, as only a third of the country's population believes that hiring is carried out lawfully, through public competitions. All of 48% of the respondents believe that hiring is done primarily with the help of acquaintances, i.e. through friends and relatives, with political connections holding the second place (41%), and so on.

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34 Ibidem.

35 Number of executives, according to the job classification; number of employed executors, permanent employees and temporary employees; number of needed civil servants and state employees; number of needed permanently employed civil servants and state employees; number of needed temporarily employed civil servants and state employees; number of employees who will be eligible for retirement; number of employees who were made available to the human resources management authority.

36 Full title: The 2015 Staffing Plan of the State Administration Authorities and the Services of the Government of Montenegro.

37 Senior Police Inspector of First Class - 1; Independent Police Inspector - 5; Junior Police Inspector - 12; Senior Police Sergeant - 1; Senior Police Officer of First Class - 14, and Senior Police Officer - 6.



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## The legal framework for hiring has been improved

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In addition to the general requirements for employment in state authorities, the Law on Internal Affairs also prescribes special requirements for the profession of police officer,<sup>38</sup> while some additional special requirements are also stipulated in the Act on Internal Organization and Classification of Job Positions in the MoI. Police employees gain employment through a public competition conducted by the Human Resources Directorate for all the state authorities, including the police.<sup>39</sup>

The current Law on Civil Servants and State Employees (LCSSE) has been in effect since January 2013. The main objective of the Law was to establish a different system of selection of persons for employment in state bodies, which would be based on merit i.e. on the so-called “merit principle.”<sup>40</sup> Together with LCSSE the Government issued a special decree, which regulates verification of the candidates’ ability to work in a state authority.<sup>41</sup> Under this secondary legislation, key capabilities and characteristics of candidates to be evaluated are: professional and work qualities; the results achieved in the written test which consists of the theoretical and practical part, and the verification of special skills; the results achieved at the oral interview; and the average mark received during the studies.<sup>42</sup>

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### Already employed candidates are favored, in contravention of the law

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However, the 2014 annual report of the Human Resources Directorate also points out that although the procedure for verifying the capabilities of candidates has been improved, it is necessary to continue with activities involving the introduction of more modern methods of such verification. The Human Resources Directorate notes that certain state authorities, when preparing the practical part of the written test, have not been able to ensure complete autonomy and confidentiality of the prepared test materials. This can be concluded also on the basis of reports on the process of verification of capabilities of candidates; namely, it has been noted that, in the capabilities verification process, the candidates already working in the state authorities are achieving the maximum number of points<sup>43</sup> in the practical part of the written test.

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38 Article 85 of the Law on Internal Affairs.

39 Key institutions for hiring and promotion in state authorities are the Human Resources Directorate, the Ministry of Interior (the Administrative Inspectorate), the Appeals Commission, and the Administrative Court.

40 Namely, earlier absolute discretionary right of a Head of an authority to select any candidate who meets the capability requirements during the process of verification is now reduced to the obligation of the Head to decide between the five best-rated candidates from the selection list. As a rule, the best-rated candidate is the one who is selected, and the Head is allowed to select another candidate only exceptionally and having provided special reasoning.

41 Regulation on the Procedure of Mandatory Verification of Capabilities, Detailed Criteria and Method of Assessing Candidates for Job Positions in State Authorities, “Official Gazette of Montenegro” No. 4/2013.

42 The verification of capabilities is conducted by a special commission established by the Human Resources Directorate.

43 The 2014 Report on the work of the Ministry of Interior, the Police Directorate and the Human Resources Directorate.



## The career advancement system is dysfunctional

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Not a single person was promoted in the entire state administration in 2014 – promotion to a higher salary grade is possible only if a civil servant’s performance has been evaluated as excellent for two years in a row.<sup>44</sup> As the data available for all the state authorities suggest, one of the reasons for this is the fact that almost all the employees are already in the highest salary grade,<sup>45</sup> which essentially renders the promotion system pointless. In July 2015 MoI did not have information on the number of employees who have experienced career advancement in the previous year.<sup>46</sup> All this testifies to a lack of existence of a functional objective system of career advancement, and the opportunity for advancement is directly connected to the work motivation of employees of the police and other state authorities.

## Arbitrary performance evaluation

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Pursuant to LCSSE, promotion to a higher category of job positions is not contingent on performance evaluation. In July 2015 the Government adopted the report on the implementation of the Internal Reorganization Plan,<sup>47</sup> which was supposed to include information on performance evaluation. However, even though it has been six months since the end of the year, the MoI has yet to provide performance evaluation statistics for 2014 for the official report to be adopted by the Government. The deadline for performance evaluation was 31 January 2015. The report only provides information on how many persons have been evaluated, and why some of them have not:

*“Given that the number of employees in MoI and PD as at 31 December 2014 is 5,131, it was not possible to conduct the complete process of performance evaluation within the statutory deadline. At the time of drafting this Report, a total of 3,766 employees have undergone performance evaluation, while decisions on the performance evaluation are still in procedure for approximately one thousand employees. More than 300 employees will not be evaluated at all, as, pursuant to legal provisions they are not subject to evaluation (trial employment period, sick leave lasting longer than 60 days, etc.).*

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44 Although, according to the data of the Human Resources Directorate, the work of the majority of persons employed in state authorities was evaluated in 2013 as ‘good’, data for 2014 available to date indicate that the work of the majority of civil servants and state employees has been assessed as ‘excellent’. According to the data entered into the Central Personnel Record, of the total of 2,050 evaluations entered in 2014, the work of 1,569 employees has been evaluated as ‘excellent’, the work of 410, as ‘good’, the work of 67 as ‘satisfactory’, while the work of only 4 civil servants and state employees received an unsatisfactory evaluation mark. Additional information is available at: <http://media.institut-alternativa.org/2015/05/monitoring-iz-vjestaj-2014.pdf>.

45 Interviews with Svetlana Vuković, Director of the Human Resources Directorate, and Djuro Nikač, Assistant Director of the Human Resources Directorate, held on 16 March 2015 at the premises of the Human Resources Directorate.

46 Report on the implementation of the Internal Reorganization Plan, p. 16.

47 The report is available on the website of the Government of Montenegro: [http://www.gov.me/sjednice\\_vlade/118](http://www.gov.me/sjednice_vlade/118).



*Also, a number of employees have not been evaluated because they are still waiting to be placed in accordance with the new Rules.”<sup>48</sup>*

According to the data provided to Institute Alternative sininsby the MoI in March 2014, the evaluation marks given by that time for the year 2013 have placed the MoI in a category of exceptions, in relation to other government authorities. Specifically, out of the total number of persons evaluated by that time, the majority of employees of this state authority, 226 of them, were rated “good,” not “excellent,” while other authorities evaluated the work of their employees as mostly “excellent.” Two employees of the MoI received the mark “unsatisfactory,” which opened up the possibility of their dismissal if they fail to receive a “passing” mark this year. However, 17 persons in the leading positions at the MoI received the mark “excellent,” unlike those in the police.

Still, the number of evaluated employees, and the fact that not all of them have been evaluated six months into the following year, speaks in favor of the conclusion that performance evaluation holds no special significance when it comes to every-day procedures in the police. In addition, there no special form is used for reporting on the performance; instead, different employees *‘report differently, in “free form,”*<sup>49</sup> which additionally prevents any kind of objective assessment.

A good performance evaluation system is not possible without defining the strategic and operational priorities of the work, as well as objectives that each organizational unit and sub-unit of the police (a group), or even an individual employee/officer, should reach on a semi-annual and annual basis. Performance can be measured only against set objectives. If (formal or informal) objectives of the police sector however do exist, their achievement is not institutionally linked to the performance evaluation system, and is therefore not linked to the system of career advancement either. The current format for the annual performance evaluation of police officers is not suited to police work, nor does it recognize qualitative differences between various jobs; what is used is a general template created by the Human Resources Directorate for the authorities across the board, which includes only numerical score marks from 1 to 4 for broadly defined criteria.<sup>50</sup> Therefore, it cannot be said that it contributes to the fair measurement of work performance.<sup>51</sup>

48 Data on the number of evaluated civil servants and state employees could not be obtained from the Central Personnel Record, so data in possession of relevant Ministries at the moment of creation of this Report were obtained instead. The MoI failed to provide us with the performance evaluation statistics.

49 Information from the focus group held on 18 September 2015 with representatives of the Ministry of Interior and the Police Directorate.

50 The criteria are: 1. achieved performance results: expertise, scope of work, timeliness in performing the tasks, 2. independence and creativity: provision of useful suggestions, work motivation, the ability to plan and execute tasks, 3. quality of achieved cooperation with parties and colleagues: oral and written interaction with co-workers, polite behavior with the parties, 4. quality of work organization in performing tasks: economical and efficient organization of work, harmonization of priorities, 5. other abilities, skills and qualities in performing the tasks: teamwork, communication skills, tasks performed in another workplace, interdisciplinary approach.

51 *“The Rules on Performance Evaluation serve to positively influence the work of employees. These Rules are not what we expected them to be, based on our previous experience - objective, rigorous, strict, showing clear differences in the details and nuances between various employees. They do not provide that.”* - Comment of one of the participants in the focus group with the representatives of the Ministry of the Interior and the Police, held on 18 September 2015.





## Insufficiently transparent awarding; variable remunerations paid without explanation

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Types of and methods used for giving awards and recognitions are prescribed by the Law on Internal Affairs,<sup>52</sup> which provides for three types of awards (the annual award, the special-occasion award and the award in the form of absence from work) and recognition; however there is no available information on the implementation of this policy in 2015. In 2014, however:

- Recognition in the form of a monetary award in the amount of a monthly salary earned for the previous month was extended to 26 police officers employed in four different organizational units.<sup>53</sup> Decisions on the payment of awards did not include an explanation of the merits based on which said officers were rewarded;
- Recognition in the form of a monetary award in the amount of three monthly salaries was extended to six members of the UXO team, one of them a member of medical security, for demonstrated professionalism, personal courage and sacrifice while performing complex actions related to destroying unexploded ordnance.

Police officers particularly emphasize that there is room for more transparent allocation of variable remunerations, as even they themselves often do not know who had received variable remuneration, and in what amount, and that they know even less of the reasons for such remuneration.<sup>54</sup> In 2014 there were a total of 31 decisions on the allocation of variable remuneration, involving 984 officers/employees<sup>55</sup>, i.e. 19.17% employees of the MoI, which represents a very high percentage. In this regard, the question may be raised as to whether the performance of at least 20% of MoI employees has also been evaluated as “excellent.”

As regards the Decisions on eligibility for realization of the variable part of a salary, and the amount of the variable part of a salary, they are issued by the Head of a civil administration authority, based on written requests including reasons that justify the granting of said variables.<sup>56</sup> In this regard, through its control of payroll and using a selected sample, the State Audit Institution has found that:

1. For some of the employees there were no written requests including reasons that justified the granting of of the variable part of the salary;

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52 Article 100 of the Law on Internal Affairs.

53 Criminal Police Sector 10, Security Center in Podgorica 11, Forensic Center 3, Security Center in Bijelo Polje 2.

54 Data from the interview with a representative of the Police Directorate, September 2015.

55 The total number of employees of the MoI and the Police Directorate who were awarded pursuant to the Decision on the Criteria for Defining the Variable Portion of the Salaries of Civil Servants and State Employees (“Official Gazette of Montenegro” No. 25/11).

56 The decision on the variable portion of the salary of civil servants i.e. state employees is issued by the Minister of Finance, based on the decision of the Head of the authority on the fulfillment of requirements for the variable portion of salary.



2. Instruction on the Manner and Procedure for Determining the Variable Part of the Salary, which the Ministry issued on 24 November 2014, fails to provide sufficiently clearly defined criteria for the allocation of the variable part of the salary.

## **There is a large number of unplaced employees in the police**

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Although the MoI drafted and published official information on temporary employment in the MoI, back in August 2013, with proposed measures to resolve the employment status of persons engaged for a specific period of time,<sup>57</sup> the State Audit Institution confirmed in its Audit Report<sup>58</sup> that no one had attempted to solve the problem since then, and that all of 534 employees - or 10% of the total number – were still unplaced. 302 of them happen to be employees of the police<sup>59</sup> who had obviously failed to meet the requirements of their respective job positions.

## **Threat of dismissal as a new preventative measure**

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Both the Government and the MoI are aware of the particularly severe consequences of corruption on the work of police officers; this is evidenced by the fact that the latest amendments to the Law on Internal Affairs stipulate that any police officer convicted by a final court decision to unconditional imprisonment of at least six months, or convicted of a criminal offense of corruption, will be dismissed from employment by operation of law on the date of delivery of the final judgment to the Ministry, regardless of whether the sentence was conditional or unconditional.

## **Arbitrary nature of decisions on the high positions in the police**

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Amendments and supplements to the Law on Internal Affairs, enacted by the Assembly in December 2014, tightened the special requirements for the appointment to the leading positions in the police,<sup>60</sup> which is good. Consequently, the Law now stipulates, as a special requirement for the appointment of Director of Police, that it may be "... a person who, in addition to the general requirements laid down by law, also meets the special requirement of having had at least 15 years of experience in jobs requiring a university degree, at least five of them spent in leading positions in the Police, the Court,

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57 Information is available at: <http://www.mup.gov.me/pretraga?query=informacija%20o%20radnim%20odnosima&siteId=47&contentType=2&searchType=1&sortDirection=desc>.

58 Published on 19 October 2015, available at: [http://www.dri.co.me/1/index.php?option=com\\_k2&view=item&id=249:objavljen-izvje%C5%A1taj-o-reviziji-ministarstva-unutra%C5%A1njih-poslova-za-2014-godinu&lang=sr](http://www.dri.co.me/1/index.php?option=com_k2&view=item&id=249:objavljen-izvje%C5%A1taj-o-reviziji-ministarstva-unutra%C5%A1njih-poslova-za-2014-godinu&lang=sr).

59 Additional information on this issue can be found in the report of the Institute Alternative titled "Hiring and Promotion in the State Authorities: the Annual Monitoring Report, January 1, 2013 - January 1, 2014," p. 20. Available at: <http://media.institut-alternativa.org/2014/06/Godisnji-monitoring-izvestaj...-za-SAJT-2.pdf>.

60 Assistant Director of Police (Head of Sector) "may be any person with at least ten years of professional experience in job positions requiring a secondary education, of which a minimum of three years must have been spent in managerial positions in the Police, the Court, the State Prosecutors's Office, or the National Security Agency."



the State Prosecutor's Office or the National Security Agency." In addition, the Law on Parliamentary Oversight of Security and Defense of 2010 also requires that an opinion be provided on the candidate by the competent Committee on Security and Defense.

The Law on the Special State Prosecutor's Office also prescribes special requirements for the appointment of the Head of the Police Department in Charge of Acting upon Orders of Special State Prosecutors. However, even with stricter requirements, for example, all of 158 police officers meet the statutory requirements for this position,<sup>61</sup> although it is the leading position in the key department for combating high-profile corruption and organized crime, which deals with most complex investigations. In other words, even with stricter criteria there is plenty of room for arbitrary decisions.

Decisions concerning the leading positions are made by selecting one person from a list of candidates who are interested in/have applied for the position, and in the absence of serious reporting on the work and of performance evaluation, deciding between candidates with the same/similar qualifications is still largely subjective, even when the decision happens to be a good one. These issues, in addition to being threatening to the functioning of sectors and units in the event of bad decisions, are hardly contributing to a fair system of decision-making and the confidence of police officers that their work will be rewarded.<sup>62</sup>

### Problems with titles in the police

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The latest amendments and supplements to the Law on Internal Affairs also introduced new parallel titles in the police, in addition to the existing ones whose aim was to allow persons with higher education who do not have police powers to work in the police: "This especially refers to job positions in the police force that require expertise in a particular field, particularly those in the Criminal Investigation Department for Organized or Economic Crime and the Forensic Center." Amendments and supplements to the Law also reduced the necessary work experience for acquiring certain titles in the police because, as explained by the proposer of the Law, it was concluded that the current solutions are too rigid.<sup>63</sup> On the other hand, the police have expressed concern that this reform and the reduction of required experience have degraded police titles.<sup>64</sup>

Still, the MoI is already preparing additional reforms in this area: "The need to separate career advancement from promotion concerning a title<sup>65</sup> has been recognized, as well as the need to separate

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61 MoI's reply to a request for free access to information 08-UPI-007/15-3850/02 of 6 October 2015.

62 Information from the interview with a representative of the Ministry of the Interior held in September 2015.

63 Statement made by the Minister of Interior prior to the adoption of the Law, available at: <http://www.vijesti.me/vijesti/poostri-ce-uslove-za-izbor-direktora-i-pomocnika-mup-a-807142>.

64 Interview with a representative of the Police Directorate, September 2015.

65 Degrees and ranks (Article 88), the requirements for obtaining the police officers' ranks (Article 88a) and the system of rank promotion are regulated in Article 90 of the Law on Internal Affairs, which prescribes the requirements necessary for acquiring a higher title or losing the existing one. As the direct aim of said requirements is to ensure the integrity of the police, it is also provided that a person



the regulation of rights and obligations pertaining to procedures for hiring and promotion of police officers from the provisions of the Law on Civil Servants and State Employees, precisely because of the specific nature of tasks the police officers perform and the powers they exercise.”<sup>66</sup> In simple terms, this means that a police officer will be able to advance in his/her career (obtain a higher title, switch to a higher salary grade, etc.) while remaining in the same job position.

“Should this system be adopted, then, of course, the Rules on Internal Organization and Classification of Job Positions should determine the name of each individual job position and prescribe a title for it, the requirements of which a police employee would have to meet, meaning that police employees with different titles will be able to hold the same job positions. MoI-PD would then have to ensure that employees with better performance results and higher titles are placed in higher ranking job positions. What has been identified as a problem to date is the fact that, once a police employee is awarded the highest title – e.g. Chief Police Inspector, s/he cannot have a job position other than a leading one,” explained the Head of the Directorate.

### **Large number of appeals concerning termination of employment and the selection of candidates in job competitions**

In 2014, there have been 483 appeals (Table 2) concerning the decisions of the Ministry of Interior,<sup>67</sup> on the basis of which the Appeals Commission annulled 229 decisions. Of the total number of appeals, most (115) were appeals pertaining to decisions on termination of employment (Table 3), followed by 44 appeals against decisions on the selection of candidate. These numbers are very high considering that this was the year when job competitions were prohibited because of the election process. The official reports of the MoI do not provide an analysis of the reasons for such a large number of appeals and annulled decisions, nor is there information on anyone being found responsible for such a situation.

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cannot advance if, in the two years before obtaining the title, s/he was sentenced, for a criminal offense prosecuted ex officio, to a prison term or was issued a disciplinary measure for a grave disciplinary violation. Also, a person cannot advance if there are criminal proceedings pending against him/her for a criminal offense prosecuted ex officio, or if disciplinary proceedings are pending against him/her for a committed grave disciplinary violation.

66 Statement of the Head of the Directorate for Strategic Development and Normative Affairs, Dragana Đurišić, provided to the MoI magazine ‘Document’, issue No. 3.

67 The report of the work of the Appeals Commission was prepared in accordance with Article 146 of the Law on Civil Servants and State Employees (“Official Gazette of Montenegro” No. 39/11, 50/11, 66/12 and 34/14), which stipulates the obligation of the Appeals Commission to annually submit to the Government a report on its work. The Government of Montenegro approved the Report of the Work of the Appeals Commission for the period 1 January – 31 December 2014 at its 103d meeting held on 12 March 2015.



**Table 3 - Decisions on appeals against the decisions of the MoI**

NAME OF AUTHORITY	Number of cases	Number of rejected appeals	Number of annulled decisions	Number of dismissed appeals	Number of discontinued proceedings	Number of appeals upheld due to administrative silence	Number of appeals forwarded for further action	Number of unresolved cases
MoI	483	214	229	7	3	26		4
Police Directorate	82	21	57	1	3			

**Table 4: Overview of the areas with appealed decisions**

AUTHORITY	Termination of employment	Job placement	Salary	Severance pay	Disciplinary measure	Temporary suspension of duty	Administrative silence	Decision on selection of candidate	Performance evaluation	Other
MoI	115	24			34	43	26	44	43	154
Police Directorate	1	76					1			4

### **Much training, but still no sufficient professional capacities**

There is no information in the official reports on specific integrity and anti-corruption trainings,<sup>68</sup> but a general overview indicates that members of the Montenegrin police annually attend a significant number of training courses. There is also no information on whether those in the leading positions undergo training courses in relation to human resources management, and how many, even though this is essential for the integrity of police officers.

<sup>68</sup> On the website of the MoI there is information that, in order to strengthen the integrity of police officers, a team of trainers has been trained at the Police Academy by DCAF, in cooperation with the OSCE, and that they will train police officers in the future on the topic of "Ethics and Integrity of Police officers." Three pilot training sessions for policemen were organized in three security centers (South, Center, North) while those in leading positions were trained in November. The Government of Norway provided support for a three-year project aimed at strengthening the integrity in the security sector, in which the MoI is participating as well.



As at December 2014, 1,538 employees of the MoI and Police Directorate attended 99 professional training courses held at the Police Academy. In the same period, 59 employees of the MoI and Police Directorate attended 5 advanced training courses.

**Table 5 – Overview of trainings and other forms of development conducted for police employees by 31 December 2014**

General training program		Special training program	
Number of trainings:	Number of employees:	Number of trainings:	Number of employees:
50	121	21	660

However, official assessments establishing the lack of administrative and professional capacity of the police are still frequent,<sup>69</sup> and have resulted, among other things, in the formulation of the conclusion of the parliamentary Committee on Security and Defense in this regard.<sup>70</sup> What is particularly worrying is that a significant percentage of the population had stated that they associate the average Montenegrin policeman with someone who is “arrogant, rude and brash” - 23%, and with someone who is “uneducated” - 12%. These are the two most common responses, which raises the question of the quality of the training courses.

In addition, we found that the MoI and the Police Directorate do not have standardized procedures for the evaluation of training programs or the evaluation of knowledge acquired by police officers, nor do they have an organized system for transferring knowledge from one employee to others.<sup>71</sup>

The importance of a system of quality training courses that produce changes in the police work, and a system of thorough analysis of such trainings stems from the fact that training requires both time and money. Of the seven Ministries that published this type of data, the MoI is the one that spent the most money on training - approximately EUR 179,000. In the words of the MoI, “Of the total amount, MoI paid EUR 95,591.10 for the training courses carried out at the Police Academy in Danilovgrad, while the rest of the money was spent on training sessions for pilots and staff of the Aero-Helicopter Unit and police officers that were not carried out in this educational institution.”<sup>72</sup>

69 “Criminal inspectors don’t know how to do their job,” daily newspaper Vijesti, 28 February 2015, available at: <http://www.vijesti.me/vijesti/krimi-inspektori-ne-znaju-da-rade-svoj-posao-821477>.

70 “8. The Committee believes that it is necessary to strengthen the human capacities and the technical system in the security sector, and to continue and strengthen international and regional cooperation.”- All the conclusions from the 35th meeting of the Committee on Security and Defence are available at: <http://www.skupstina.me/index.php/me/odbor-za-bezbjednost-i-odbranu/aktuelnosti/item/3448-odrzana-35-sednica-odbora-za-bezbjednost-i-odbranu>.

71 Interview with a representative of the Police Directorate, September 2015.

72 “Information obtained from 7 of the 16 Ministries: Training of 1,023 people had cost more than EUR 184,000”, Vijesti, available at: <http://www.vijesti.me/vijesti/podaci-sedam-od-16-ministarstava-obucavali-1023-ljudi-zavise-od-184000-eura-857153>.



### Recommendations

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1. Rewrite the Internal Reorganization Plan insofar as it relates to the police, on the basis of fundamental analyses of the competences of the police, the establishment of standards, norms and the optimal number of executors.
2. In the Strategy of Police Development and Functioning, envisage – as a strategic objective – the rationalization of organizational units and leading positions, in order to contribute to the efficiency and accountability of the police.
3. Invest the savings resulting from rationalization within the the police in improving the working conditions of police officers.
4. Stipulate the obligation of the police to adopt a medium-term Staffing Plan harmonized with the strategic documents for the development of the police.
5. Stipulate the obligation to adopt the plan of objectives of the organizational units of the police, accompanied by a work plan, on which to base performance evaluation.
6. Stipulate a special form to be used for the annual performance evaluation in the police, and a special form for quarterly reporting on the work of police officers
7. .The MoI should further develop the criteria for awarding the variable part of the salary, already defined in the Instruction on the Manner and Procedure for Determining the Variable Part of the Salary, and ensure consistent application of the Instruction.
8. Publish the decisions on the variables, awards and recognitions extended to police officers on the website of the MoI, in a separate section intended for news on the implementation of policies that serve to encourage good performance results and brave and successful actions of police officers.
9. Draft a new report on the situation in the MoI concerning unplaced/unassigned employees, with a proposal on how to resolve the problem.
10. Reduce room for discretionary decision-making concerning assignment to the leading positions, by introducing the practice of publishing the reasoning behind the selection of candidates.
11. Develop an analysis of appeals against the decisions of MoI/PD, with proposed measures for for those responsible for the annulled decisions.
12. Introduce procedures for the evaluation of training programs for police officers.
13. Prescribe mandatory training for persons newly appointed to leading positions on how to manage employees and how to establish anti-corruption procedures.



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## FINANCIAL MANAGEMENT

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*Lack of key elements of program budgeting, insufficient involvement of the Police Directorate in budget planning, unrealistic budget planning and overruns above the statutory limit, weak capacity of Internal Audit, superficial application of elements of financial management and control system, situation where a large number of public procurements are carried out using less than transparent procedures, and the current legal void concerning confidential procurements – these are the problems that jeopardize the integrity of budget operations of the Police Directorate within the MoI.*

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In this section we will present some of the main problems in the areas of financial management, establishment of internal control, budget planning and execution, and public procurement.

### **Program budget exists “only on paper”**

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Reflecting the image that prevails in almost the entire public sector, the implementation of the program budget in the MoI stopped when it reached the formal division of the budget line into several programs.<sup>73</sup> No work has been done on the key aspect of the program budget - definition of non-financial elements such as goals or performance indicators as means used to monitor the results.

However, there are problems even with the formal division of the MoI budget. In budgetary terms, the Police Directorate is one of five programs within the overall budget of the Ministry of Interior.<sup>74</sup> It is the most dominant budget program which has devoured almost 80% of the total MoI budget in 2015 without being broken down into sub-programs.

When it comes to complex state authorities with a clear internal structure in terms of competence and organization, all their work should not be listed under a single program<sup>75</sup> but should instead be divided according to programs that show the purpose of their work. The existence of too many dominant programs makes it difficult to fulfill the purpose of program budget's introduction (with emphasis on achieving set objectives and on effectiveness of budget spending) and encourage accountability of those in leading positions.

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73 In 2009, Montenegro transferred from line to program budget, which meant that all the consumer units at the central level had to divide their total budgets into so-called budget programs – a budget program is a set of independent but closely related activities of a consumer unit, aimed at achieving one or more common objectives, that is, the costs for the implementation of said objectives.

74 In addition to the Police Directorate, MoI programs included in the Draft Budget for 2016 are: Emergency Situations and Civil Security, Administrative Affairs, Administration, and Integrated Border Management.

75 The generalized structure of budget programs was encouraged by the Ministry of Finance, weary of overly high fragmentation and the impact it could have on its ability to carry out control. A total of 99 consumer units have 205 programs, which means that units have an average of two programs. In reality, more than half the consumer units have only one program, approximately 40% have from two to five programs, and the rest (6%) have more than five.





For example, the Police Directorate - as a budget program - could be broken down into the following programs: "Fight against Organized Crime", "Traffic Safety", "Combating the Production of and Trade in Narcotics", "Prevention of Juvenile Delinquency" and so on, and then provided with indicators which would be used to measure the performance. The structures of Chapters 23 and 24 and their 19, that is, 10 sub-areas would also be beneficial for the definition of specific budget programs.

### Indispensable external control

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The State Audit Institution published a report on its audit of the MoI<sup>76</sup> in October 2015. This was the first time that SAI had audited the Police Directorate (*not counting the audit of the state budget Balance Sheet, within which certain operational aspects of the police have been covered a few times as part of the sample*), because the Police Directorate was not a part of the MoI at the time of its previous audit (in 2009<sup>77</sup>).

Having conducted financial and regularity audits, the SAI has given a positive opinion concerning the financial statement, including points of attention, as well as a conditional opinion on the compliance of operations with applicable regulations; it had provided the audited entity with a total of 34 recommendations, several of which also apply to the Ministry of Finance. The SAI noted certain problems with cash operations, asset management, public procurement, internal control systems, etc.

The parliamentary Committee on Defense and Security has not yet considered the SAI report on the operation of the MoI,<sup>78</sup> probably with the intention of unifying the debate on the Balance Sheet of the MoI for 2014 with the consideration of this report (which usually occurs in December of the current year), as was the case with the audit of the National Security Agency in 2013 and the Ministry of Defense in 2014.

Six months from the publication of the report the MoI is obliged<sup>79</sup> to notify SAI of the actions taken upon the provided recommendations – in this case by 15 April 2015. Due to the volume of identified irregularities and the large number of recommendations, it is necessary that the Committee receives

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76 Report available at: <http://www.dri.co.me/1/doc/lzvjestaj%20o%20reviziji%20Ministarstva%20unutrašnjih%20poslova%20.pdf>.

77 The 2008 Report on the audit of the annual financial statement of the Ministry of Interior and Public Administration of 29 July 2009.

78 Pursuant to the Law on Parliamentary Oversight of Security and Defense, the parliamentary Committee on Security and Defense considers reports of the State Audit Institution on the financial operations of authorities and institutions belonging to the sector, takes stands, and monitors the activities of the relevant authorities upon said reports. Article 7 paragraph 11, "Official Gazette of Montenegro" No. 80/10 of 31 December 2010.

79 In its Article 15 paragraph 3, the Law on SAI stipulates that «the audited entity is obliged to submit a report on the implementation of recommendations from the audit report within the time period set by the Institution,» «Official Gazette of Montenegro» No. 28/04 of 29 April 2004, 27/06 of 27 April 2006, 78/06 of 22 December 2006, «Official Gazette of Montenegro» No. 17/07 of 31 December 2007, 73/10 of 10 December 2010, 40/11 of 8 August 2011, 31/14 of 24 July 2014.



and considers this information, i.e. that it evaluates the extent to which the recommendations have been implemented, as well as the reasons and responsibility for any unimplemented recommendations.

## **The MoI budget planning and the role of the police**

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After the Police Directorate's return under the aegis of the MoI in 2012,<sup>80</sup> a separate administrative unit dealing with matters of financial management within the police had ceased to exist, and all the related activities were centralized in the MoI. Consequently, the police no longer play a role in the planning and self-management of funds allocated to it. The process of planning a budget of the Police Directorate takes place elsewhere, in the MoI Department for Human Resources and Legal and Financial Affairs, without defined procedures for the participation of representatives of the Directorate in the planning process, and without procedures for internal budget planning within the Police Directorate itself through which the organizational units could participate in the process of assessment of their needs by providing proposals and suggestions.<sup>81</sup> Representatives of the Police Directorate did not take part in parliamentary debates on the Draft Budget either, nor in the presentation of the Balance Sheet at the meeting of its parent Committee on Security and Defense<sup>82</sup>.

## **Overdrafts and redirection of funds over the statutory limit**

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In a special section of its website, MoI presents information about its budget and public procurements, the Budget Law, the quarterly financial statements on budget execution and its annual procurement plan.<sup>83</sup> The MoI is the only of the 16 Ministries which publishes its quarterly financial statements (statement on cash flows and arrears).

Of the total budget of the Police Directorate, which amounted to EUR 55 million in 2015, almost 90% was spent on salaries and wages. In addition to salaries, the largest expense of the Police Directorate concerned the supplies (administrative supplies, fuel, medical care and goods for special purposes). The MoI budget for 2014 was realized with the overdraft of 6.13% (instead of the planned EUR 69,057,094.19, it spent EUR 73,498,366.42). Budget spending overdrafts involved the programs titled 'Administration' (22.03%) and 'Police Directorate' (4.78%). Funds planned in the Budget Law for certain expenditure positions were increased by more than 100% through re-direction of funds. Increases of more than 100% in certain expenditure positions were also noted in the Police Directorate

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80 Pursuant to Regulation on the Organization and Functioning of Public Administration of 2012, the Police Directorate was organized as an authority within the Ministry of Interior; in 2005, once the police affairs were removed from the jurisdiction of the Ministry, it was established as an independent authority.

81 Gajić, N. and Stojanović S. (2012) Reform of the Police in Montenegro 2006-2011: Assessment and Recommendations. Podgorica: OSCE Mission in Montenegro, p. 32.

82 Additional information in : Bajramspahić, D. and Sošić, M. (2014) Parliamentary Oversight of Security and Defense – the 2013 Monitoring Report with Impact Analysis, Podgorica, Institute Alternative.

83 [http://www.mup.gov.me/rubrike/Budzet\\_i\\_zavrsni\\_racun](http://www.mup.gov.me/rubrike/Budzet_i_zavrsni_racun).



programs, whose total budget was realized in the amount of 104.78%, compared to the planned amount.<sup>84</sup> Budget planning for the program titled 'Administration' was particularly problematic: through re-direction of funds during the year, the value of this program was increased by almost EUR 3 million, that is, by 49.8%, while at the end of the year the actually realized amount was 22.3% higher even than the already increased amount.

The highest overdraft occurred in the position titled 'Liabilities from Previous Years', that is, involving the payment of obligations based on court rulings. The Police Directorate spent more than EUR 2.6 million in unplanned funds on these positions, which are primarily related to the obligations stemming from labor disputes and payables. Expenses, paid on the basis of court rulings where the subject of the dispute was labor relations, included: overtime, night work, work during national and religious holidays, per diems, compensation for living away from family, travel allowance for family visits, compensation of unpaid salaries, underpaid meal allowance, and underpaid recourse.

### **Internal control – one per 5,000**

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In accordance with the Law on Public Internal Financial Control, the MoI has established the Internal Audit Department, which, although with insufficient capacity, manages to function and exercise influence, receiving positive assessment marks from the SAI in terms of quality of work.

The MoI has classified three job positions in the Internal Audit unit, which happens to be the statutory minimum. Larger consumer units have opted to classify even more positions in such units.<sup>85</sup> Although under the Law the Internal Audit unit may not have fewer than three internal auditors,<sup>86</sup> the Department currently has two executors, one of whom is a Junior Internal Auditor who was hired in the second half of 2015.

During the MoI audit in 2014, the SAI noted for the first time in its report that "the work of the Internal Audit of the Ministry is relevant" and that the state auditors, while carrying out the audit, had used internal audit reports, thus reducing the time and scope of their own audit work.<sup>87</sup> SAI also quoted the findings of internal audits in areas such as assets and public procurement, and strengthened its recommendations. This was the first time that internal audit reports were used in this way in an audit report since the entry into force of the Law on Public Internal Financial Control.

Little is available to the public regarding the work of the Internal Audit, due to the way in which this aspect of the PIFC system is conceived in the Law (a management tool based on closed communica-

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84 Report on the audit of the Ministry of Interior, State Audit Institution, 15 October 2015.

85 Ministry of Finance - 7 internal auditors, Ministry of Agriculture and Rural Development - 4, Ministry of Tourism and Sustainable Development - 4, the Pension Fund - 4, etc.

86 Article 18, Law on Public Internal Financial Control, «Official Gazette of Montenegro» No. 73/08 of 02 December 2008, 20/11 of 15 April 2011, 30/12 of 8 June 2012, 34/14 of 8 August 2014.

87 Report on the audit of the Ministry of Interior, State Audit Institution, 15 October 2015.



tion between auditors and persons in leading positions), but also due to restrictive interpretation of the Heads of the MoI. According to the Head of the Internal Audit,<sup>88</sup> audit reports will not be published and the annual report on the work of the Internal Audit is not publicly available either. However, summary data are provided in the annual reports of the MoI on how many audits have been performed and what were their subjects. It can be concluded from this source that a total of 13 audits have been carried out in the period from 2012 to 2014.<sup>89</sup> No audit concerned a process, procedure or system specifically linked to the work of the Police Directorate.

## **Lack of understanding of the importance of financial management and control**

When it comes to financial management and control as a segment of the PIFC system, the MoI has completed a large number of formal actions, from the appointment of FMC manager to the adoption of internal enactments to regulate the procedures; however, according to the assessment of SAI, all of this had “very little effect on the effectiveness of internal control.” The reason for this is the lack of understanding of the importance of internal financial controls, in the formal and substantive sense; this however is characteristic of the entire public sector at this stage of development of the PIFC system.<sup>90</sup> Although a large number of internal enactments (instructions) regulating the procedures within the Ministry have been passed, the framework of the environment of control of procedures in the MoI has not been completed, the risks have not been identified and measures to manage them have not been defined, and no one is working on testing the existing mechanisms.

Unlike the internal audit, this segment of the PIFC system organizationally also applies to the MoI and the Police Directorate; the Directorate is therefore obliged to appoint an FMC manager and adopt a book of procedures. Still, the Police Directorate never submitted to the Ministry of Finance the requested information on the state of the system of financial management and control.<sup>91</sup>

## **Funds-for-confidential-purposes are spent in disregard of the rules**

Although the Law on Internal Affairs was enacted in 2012, the secondary legislation governing the

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88 Data from the focus group held with representatives of the Ministry of Interior, 19 September 2015.

89 The following subjects were audited in 2012: the management of official vehicles, the system of calculation and payment of salaries at the Police Academy, and the system of payment of invoices. The following subjects were audited in 2013 : the system of performance evaluation of civil servants, the system for managing business travel expenditures, and budget planning. The following subjects were audited in 2014: the systems for management of accomodation and meals, public procurement –purchases made by use of the shopping method, management of outstanding liabilities from the previous period, management of real property, implementation of disciplinary measures (fines) imposed for grave violation of official duty, the process of awarding variable portions of salaries, and asset management in the Human Resources Directorate.

90 This conclusion can be drawn from the facts presented in the 2014 Consolidated Report on Public Internal Financial Control, prepared by the Ministry of Finance.

91 The 2014 Consolidated Report on Public Internal Financial Control, p. 26, Ministry of Finance.



spending of funds used for so-called confidential purposes was adopted only in the third quarter of 2015, which means that in the meantime the funds were being disbursed without adequate justification and control. The above mentioned secondary legislation is the Instruction on the Use of Funds for Special Operative Purposes, together with the amendments and supplements to the Instruction on Handling of Informants.<sup>92</sup>

In the course of 2014 the amount of EUR 273,025 was paid in cash for the so-called special operative purposes, and state auditors were not allowed access to documentation that would justify this amount. The funds were paid by reference to Article 122 of the Law on Internal Affairs, that is, were used to pay the expenses and fees of persons who participated in the application of special powers and secret surveillance measures. In the absence of secondary legislation, the method of justification of expenditure of funds was not defined either, and the Instructions on the Work of the State Treasury have been violated.

### **Problems concerning the transparency of public procurements**

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In 2014, MoI spent approximately 14% of its budget on public procurement, or EUR 9,703,457.63, which is approximately 1.3 million less than what was envisaged in the Public Procurement Plan. The Plan was amended six times in the course of the year, and there is a legal gap which exists in the part concerning the approval of the Ministry of Finance, which is required for the Plan but not for its amendments.

In some cases the MoI used less transparent types of public procurement procedures although this was not justified by the nature of the procurements and their characteristics. Namely, the MoI conducted negotiation proceedings in several cases, referring to the provisions of the Law on Public Procurement which provides for the use of this method in the case of extreme urgency, and in the case of inability to predict the need for procurement which happens to be so significant that it relieves the purchaser from responsibility to act in accordance with the prescribed deadlines. License plates and vehicle stickers were procured by use of this method, after the MoI requested and received from the Public Procurement Administration approval to enter into negotiations with a specific bidder. The situation was similar concerning the procurement of consumable office supplies, IT services and the leasing of office space. In the opinion of SAI, in addition to the misinterpretation of the Law on Public Procurement, these procurements “violated the basic principles of public procurement: the principle of transparency, ensuring the existence of competition, equality, and the principle of economical and efficient use of public funds.”<sup>93</sup>

The control procedure that would allow the monitoring of purchases carried out by use of the shopping method is undefined, that is, there are no written procedures to document the control of this method of procurement.

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92 The third quarterly report on the implementation of obligations under the Program of Montenegro’s Accession to the European Union 2015-2018, October 2015.

93 Report on the audit of the Ministry of Interior, State Audit Institution, 15 October 2015.



Auditors have found that MoI often divides the subjects of public procurement, those that represent a whole, in order to present a single large purchase as several purchases of lesser value, with the intention of avoiding the application of the law and the prescribed procurement procedure. This is a violation of the Law on Public Procurement which carries a penalty ranging from EUR 2,000 to 20,000; it is however still not known whether anyone was ever held liable for such violations.

## Confidential procurement in a legal vacuum

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Institutions of the security and defense sector are currently in a legal vacuum when it comes to confidential public procurement. Procedures involving the procurement of arms, military and police equipment, and military and police supplies were regulated by the Regulation on Foreign Trade of Goods with Specific Purposes<sup>94</sup> until the adoption of amendments and supplements to the Law on Public Procurement in May 2015, when the effect of the above Regulation ceased. Even when it was current, the Regulation was criticized by those who had to implement it, but also by SAI when it had tested its application.<sup>95</sup> Secondary legislation, which should regulate the current application of the confidential public procurement process, has yet to be adopted.

When auditing the operations of MoI in 2014, SAI found that the MoI had conducted 20 confidential procurement procedures involving goods, services and works, whose total value was EUR 1,596,985.46.<sup>96</sup> These procedures also included procurement of goods not recognized as special purpose equipment (such as car tires and passenger vans). Out of 20 completed confidential public procurement procedures, in 13 the purchase was made on the basis of a single submitted bid. Also, the internal enactments of the Ministry do not prescribe a deadline for the preparation and submission of reports on confidential procurement.<sup>97</sup>

## Recommendations

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1. Establish the practice of publishing the key activities of the MoI Internal Audit Department (processed topics, number of issued recommendations, identified problems) on the website of the MoI.
2. Appoint a third internal auditor as soon as possible, and expand the Internal Audit Department by amending the Rules on the Organization and Classification of Job Positions in the MoI and including additional job positions for internal auditors.

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94 "Official Gazette of Montenegro" No. 66/10.

95 Report on the audit of the system of internal financial control and public procurement of the Ministry of Defense, SAI, December, 2014.

96 Report on confidential public procurements in the MoI in 2014.

97 Report on the audit of the Ministry of Interior, State Audit Institution, 15 October 2015.



3. The internal audit must closely monitor confidential expenses, such as expenditures for special operative purposes and confidential procurements.
4. Fragment the program structure so that it reflects different segments of work within the Police Directorate, avoiding disproportionate differences in the budget amounts of various programs (avoid dominant programs that take up more than 50% of the total budget of the unit).
5. Define non-financial elements of the program budget, set clear objectives of the budget programs, and define performance indicators on the basis of the existing data collected on the work of the Police Directorate.
6. It is vital to regulate the area of confidential procurement for all the institutions of security and defense sector by improving the law and secondary legislation.
7. Establish the practice of participation of representatives of the Police Directorate in the consideration of the Draft Budget and the Balance Sheet at the meeting of the parliamentary Committee on Security and Defense;
8. The Committee on Security and Defense should consider the SAI report on the audit of the Ministry of Interior from October 2015, and requests that it be submitted *Information on the Activities Undertaken to Implement the Recommendations of the SAI*; the deadline for submission is 6 months from the publication of the report (by 15 April 2015).



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## INTERNAL CONTROL

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*There has been noticeable progress in the work of the MoI body in charge of controlling the legality of conduct and ethics of police officers. It is worrying that most cases of control involved lower-level police officers and minor violations of the law, official duties and ethics, while prosecution of any form of violation of integrity at a higher level went without much success.*

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In this chapter we will analyze the work and results of the internal mechanism for control of police actions, which is divided between the Department of Internal Control of the Police within the the Ministry of Interior, the Ethics Committee of the Police, the Disciplinary Commission of the MoI, and the Heads of organizational units of the police, who also receive complaints from citizens as well as act *ex officio*.

### Work of the Internal Control Department has improved

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Statistical parameters show that Internal Control<sup>98</sup> took a big step forward in 2014; there has been an increase in the number of cases and identified irregularities, especially in the number of controls carried out at its own initiative,<sup>99</sup> of which there have been 75 in 2014, with 26 identified irregularities.<sup>100</sup>

By August 2015, the internal control had carried out 25 controls at its own initiative and had acted based on 33 complaints submitted by citizens, identifying a total of 12 irregularities.

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98 Internal control of the police is carried out by a special organizational unit of the Ministry of Interior - Department of Internal Control of the Police, with a mandate to control the legality of police work, especially with regard to respect and protection of human rights when performing police tasks and the application of police powers, implementation of protective counterintelligence procedures, and other controls important for efficient and legal work.

99 When carrying out internal control, authorized employees act on their own initiative, based on notifications and other findings, motions, complaints and applications of individuals and police officers, proposals and conclusions of the competent Assembly committee, recommendations of the Protector of Human Rights and Freedoms of Montenegro, and the analysis of the assessments and recommendations of the Council (Article 117 of the Law on Internal Affairs).

100 Some of the identified irregularities were: irregularities in the actions of civil servants and in the keeping of records, grave violations of official duty, provision of false information when filling out the asset declaration card, creation of a false record on the scene of a traffic accident, misuse of office or abuse of official powers, and provision of false information on meeting the special requirements for employment in state authorities.





**Table 6 - The work of the Internal Control Department from 2014 to 2015**

<b>The total number of citizens' complaints in 2013 was 62</b>	
<b>Founded</b>	<b>Unfounded</b>
<b>8</b>	<b>54</b>
<b>The total number of citizens' complaints in 2014 was 81</b>	
<b>Founded</b>	<b>Unfounded</b>
<b>13</b>	<b>68</b>
9 cases: proposals for initiation of disciplinary proceedings	2 cases: Although assessed as unfounded, created case files were forwarded to the competent state prosecutors' office because the allegations involved suspected abuse
1 case: forwarded to the state prosecutors' office	
2 cases: case files were forwarded to the Ethics Committee, to determine whether or not actions were ethical	
1 case: measures have already been undertaken	

**Table 7 – Control of legality of police work and exercise of powers in 2014, with a review of sanctions**

Control of legality of police work and exercise of powers in 2014, with an overview of imposed sanctions:		
Number of performed controls	Identified irregularities	Out of 26 cases in which irregularities have been identified:
75	26	<p>7 cases - proposals for initiating disciplinary proceedings were submitted against nine employees/officers</p> <p>5 cases – case files were submitted to the state prosecutors' office for deciding on the existence of elements of a criminal offense</p> <p>1 case - there was absolute obsolescence of the proceedings, but measures were proposed to amend the Rules of Procedure of the Border Police</p> <p>11 cases - control of the Security Center and the Security Department, in which irregularities were found in the conduct of civil employees and the keeping of records</p> <p>1 case - measures to eliminate irregularities in record-keeping were ordered</p> <p>1 - Minister issued a decision on termination of employment concerning 5 employees/officers, based on established facts about the existence of final convicting court decisions</p>



**Table 8 – The work of internal control in 2015:**

	Verification of legality of conduct of police employees/officers:	Upon reports of citizens:
January	1	0
February	4	6
	2 cases – Certain irregularities were identified and measures for their elimination have been ordered	There were no elements of responsibility of police officers
April	6	2
	1 case – Certain irregularities were identified and the case was forwarded to the Supreme State Prosecutor’s Office for further action	There were no elements of responsibility of police officers
May	4	5
	2 cases - Certain irregularities were identified	1 case – A proposal to initiate disciplinary proceedings was submitted to the Disciplinary Prosecutor
June	4	10
	1 case – A report was submitted to the Ethics Committee because of incorrect information provided in the asset declaration card	There were no elements of responsibility of police officers
	1 case – Irregularities were noted in the keeping of records, and measures for their elimination were ordered	
July	1	3
		1 case – Measures have already been undertaken, due to violation of the Police Code of Ethics
		1 case - Measures have already been undertaken, and the state prosecutor has been notified
August	5	7
	2 cases - Motions to initiate disciplinary proceedings have been submitted	There were no elements of responsibility of police officers
<b>Total:</b>	<b>25</b>	<b>33</b>



### Introduction of technical conditions for secret surveillance of police officers is under way

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As regards legal framework, the fact that the Criminal Procedure Code was amended and supplemented in 2014 represents a significant novelty; said amendments relieved a problem that existed in practice and confirmed the right of the Internal Control to initiate with the competent authorities secret surveillance of police officers, in order to be able to investigate complex cases of corruption in the police and the possible connection between a number of police officers and organized crime groups. Introduction of technical conditions required for the implementation of such measures is still under way.

### Internal control no longer controls the financial management

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After the latest reorganization of the police, the areas with high risk of corruption have been removed from the jurisdiction of internal control, leaving one of the key issues unresolved. Namely, when the Police Directorate became an authority within the MoI, certain areas such as financial management and implementation of public procurement procedures, have been handed over to the MoI, over which the Department has no authority to exercise control. This is a step backwards in comparison with the previous period when the Department used to control these issues in the police; it even initiated a case concerning a disputable contract (Text box 1). Unfortunately, after the commendable reaction of the internal control in said case, other actors in the chain failed to prosecute the participants.

#### Box 1: Purchase of free software from “PGS Agency”

At the end of 2012, the internal control of the Ministry of Interior submitted to the Special Prosecutor for Organized Crime and Corruption documentation concerning five questionable contracts on business-technical cooperation concluded between the Police Directorate and the “PGS Agency”, worth approximately EUR 675,000.<sup>101</sup>

One of the controversial contracts involved the provision of “intellectual services” in the form of information system design, equipment procurement, installation of software, as well as training of police employees. However, reviewing the questionable contracts, MoI inspectors suspected that company “PGS,” in the course of three years of cooperation, mainly kept providing the Police Directorate with software systems which they had previously downloaded from the Internet, free of charge, regularly submitting invoices for the payment of “intellectual services.”

In April 2014 the Prosecutor’s Office submitted the complete documentation to the Police Directorate, with the order that it carry out, on the spot, a comparison of documents with software applications that had been installed on the computer units in the Police Directorate, and to determine whether the contracted services have indeed been performed. Since then, no charges were brought and no other information was ever provided on how the case was resolved.

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<sup>101</sup> Veljović’s contracts are slow to arrive, 27 April 2015, available at: <http://www.vijesti.me/vijesti/veljov-icevi-ugovori-nikako-da-stignu-830881>.



The above example confirms the need for the Internal Control to continue to check the financial management in the Ministry, as it used to do in the Police; it should do the same with the employees in the MoI, as they too are susceptible to integrity risks - as confirmed by the official MoI Integrity Plan. Considering the fact that more than ten authorities in Montenegro are in charge of supervising one aspect of police work or another, the Internal Control – which, unlike other supervising authorities, has all the investigative powers of the police - should strategically position itself as an actor specifically devoted to prosecution of criminal offenses committed by police employees/officers, especially those in leading positions. It should delegate the investigation of less demanding cases to other actors, Heads of organizational units in particular, and act as a second instance authority upon the complaints of citizens dissatisfied with the decisions of said Heads.

## Citizens still don't know enough about the internal control of the police

The Internal Control Department publishes monthly reports with precise data on the outcomes of its investigations. Although transparency has improved significantly, some categories of the population are still insufficiently familiar with the work of Internal Control. Our opinion poll showed that only 51% of the citizens have even heard of internal control. The analysis of respondents indicated that citizens with lower education are more often the ones that haven't heard of internal control, as well as people who live in rural areas, those who had no contact with the police during the previous year, and those who believe that corruption in the police is not widespread. Special information activities on how and when these categories of citizens could file a complaint with the Internal Control have yet to be developed. This should be done as soon as possible, as out of the 51% of citizens who *have* heard of internal control, 61% believe that internal control deals with the "protection of the human rights of police officers."

	2013.	2014.
Citizens' complaints to Internal Control and the number of founded complaints	62	81
	8	13

## Soon, double control of asset declaration cards

The connection between corruption and organized crime represents one of the socially most dangerous types of criminal activity, and the connection between organized crime groups and individual exponents of the state authorities, including the police, contributes to the lack of efficiency in preventing and combatting it. The stronger and more widespread the connection, the less successful are the attempts to combat it. The catalog of measures and actions that Internal Control can undertake<sup>102</sup>

<sup>102</sup> The authorized employee has all the powers of a police officer, and in the carrying out of internal control s/he is specifically authorized to inspect the records, documents and data bases obtained, created or issued by the police in accordance with its competences; to take statements from police officers, injured parties and citizens; to request from the police and police employees submission of other data and information from their



was expanded exactly with this in mind; the control of asset declaration cards of persons in the leading positions in the police was first introduced and later expanded to include the obligation to also report assets of their spouses and children.<sup>103</sup> According to the European Commission's 2015 report on Montenegro, Internal Control has so far controlled 140 out of 500 asset declaration cards. Irregularities were noted in two cases, and have been submitted for further disciplinary and criminal prosecution.<sup>104</sup> Representatives of Internal Control indicate that police officers most often do report all their assets, while in some cases assets had already been transferred to third parties.<sup>105</sup> This is why it is expected that extended control of assets of spouses and children of police officers, planned for the coming period in line with amendments to the Law on Internal Affairs, will point to other controversial property of a number of police officers.

*Out of 500 asset declaration cards, 140 underwent control. Irregularities were found in 2.*

It should also be borne in mind that finding irregularities in the declarations of assets implies only *disciplinary* liability of police officers, and can point to a discrepancy between their income and their assets. It however still does not prove that assets represent the proceeds of crime; this falls under the second phase of the proceedings, the one that follows the control of asset declaration cards. This is one of the reasons why this mechanism does not provide quick results.

However, following the adoption of the Law on Prevention of Corruption, as of 1 January 2016 the new Agency for the Prevention of Corruption will be in charge of control of these asset declaration cards, rendering the list the actors in charge of controlling the police even more complex.

### **Communication of Internal Control with the Prosecutor's Office and other authorities has not been regulated**

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One of the problems that we recognized in the work of Internal Control is the lack of a formal-legal basis of the formal and frequent communication with state prosecutors who, in accordance with the new Criminal Procedure Code, direct and manage police work. This allows for a situation where police officers refer to the orders of prosecutors concerning their actions, whereas the Internal Control

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purview, needed for the carrying out of internal control; to inspect the premises used by the police in their work; to request certificates and technical and other information on the technical means used by the police, as well as evidence of the ability of police officers to use technical and other means utilized in their work.

103 "Police officers with titles of: Chief Police Inspector, Senior Police Inspector of First Class, Senior Police Inspector, Independent Police Inspector, Chief Police Adviser, Senior Police Adviser of First Class, Senior Police Adviser and Independent Police Adviser are obliged to submit reports on their assets and income, as well as on the assets and income of their spouses and common law spouses, and children living in the common household, in accordance with a special law. The report (referred to in paragraph 1 of this Article) shall also be submitted to the Ministry, by March 31 of the current year for the previous year. The Ministry shall keep records of information provided in the reports." - Article 49 of the Law on Amendments and Supplements to the Law on Internal Affairs, published in the Official Gazette on 27 December 2014.

104 Page 53, Report on Montenegro, the European Commission, published on 11 October 2015.

105 Interview with a representative of Internal Control, March 2015.



has no possibility of verifying such statements. Improved communication between the Prosecutor's Office and the Internal Control would also have a positive effect on the pre-trial procedure and the preparation of criminal charges against police officers.

In this regard, there is also the need to protect communication between the Internal Control Department and other government authorities. As the law does not prescribe the obligation to keep confidential e.g. requests of the Internal Control for information, civil servants from other authorities (such as, for example, the Tax Administration, the Property Administration, etc.) may inform individual citizens and/or police officers that the Internal Control Department had requested information about them, thus hindering the investigation. Proceedings against police officers must be kept strictly confidential, as police officers know how evidence is collected and are better informed than average citizens on how to conceal evidence of a committed criminal act.

## **Improve cooperation between the Internal Control and the Assembly**

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Internal Control does not submit its integral annual report to the Committee on Security and Defense, nor has the Committee requested that it do so to date; instead, there is a paragraph in the annual report of the MoI containing the summary of results of the Police Internal Control Department. However, that can not be a substitute for the consideration of a report at a special meeting, as such consideration would contribute to the work of the Committee in reviewing the situation in the police, as well as strengthen the integrity and professionalism of the Department, which would then be obliged to report to a body outside the Ministry of Interior concerning the results of its work. This is particularly important given the increase in the powers of the Department from one year to the next, and the fact that the Department is about to start applying measures of secret surveillance against police officers.

## **The majority of the citizens' complaints are resolved by persons in leading positions**

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Managerial structures significantly contribute to the accountability of police officers. In 2014, 154 citizens' complaints on the conduct of police officers were submitted to the Heads of organizational units of the Police Directorate. The analysis of these complaints shows that the majority of the complaints pertained to the conduct of regular police officers - 127 complaints (82.47%). These are followed by complaints about the conduct of police officers from the criminal department - 16 (10.39%), and the border police - 11 (7.14%).

After the heads of organizational units of the Police Directorate carried out the investigations, it was established that only two complaints were founded, while 152 complaints were assessed as unfounded.<sup>106</sup> These numbers should definitely be the subject of further analysis, even if the police inves-

*Out of 154 complaints of the citizens, submitted to those in leading positions in 2014, only 2 were founded?*

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<sup>106</sup> Report on the work of MoI for 2014.



tigation of the cases was fully impartial. The police must find out what is the reason for such a large number of unfounded complaints of citizens (whether it is, for example, the citizens' unfamiliarity with police powers, etc.), and propose appropriate measures. Also, there is no information on whether any appeals were submitted to the MoI regarding the decisions of the Heads of organizational units concerning said complaints, or on the outcome of the appeals.<sup>107</sup>

### **Police contribution to determining criminal and misdemeanor liability of police officers**

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During the past year, the police filed five criminal charges against 7 officers and initiated misdemeanor proceedings against five, as well as 97 proceedings for determination of grave violation of official duty, and imposed 55 disciplinary measures for minor violations of official duty.

In 2014, competent organizational units of the police have filed five criminal charges against 7 officers of the Police on suspicion that they committed a total of 12 criminal offenses that are prosecuted *ex officio*.<sup>108</sup>

During the same year, competent organizational units have filed motions to institute misdemeanor proceedings against five employees of the Police Directorate, for a total of 10 committed violations of the Law on Public Peace and Order and the Law on Domestic Violence Protection.<sup>109</sup> When we look at the structure of the committed violations, we can observe that it is dominated by violations of the Law on Domestic Violence Protection (7 violations). In addition to these, there were also 2 violations of Article 10, paragraph 2 of the Law on Public Order and Peace - instigating a fight and physical assault (20% of the total number of committed violations) and 1 violation of Article 7 paragraph 2 of the Law on Public Order and Peace – insult of a person in a public place, accompanied by especially insolent and abusive behavior (10% of the total number of violations).

Immediate organizational unit superiors submitted motions for the initiation of disciplinary proceedings against 97 employees of the Police Directorate due to grave violation of official duty stipulated in the Law on Internal Affairs and the Law on Civil Servants and State Employees. Most were filed against officers of the Border Police.

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107 The Law on Internal Affairs prescribes the possibility to file an appeal against a decision on the appeal.

108 Criminal charges were filed against four regular police officers (57.14%) and three officers of the Border Police (42.86%). Most criminal charges were filed based on suspicion that officers committed criminal offenses against official duty - 8 criminal offenses (66.66%). These are followed by criminal offenses against life and limb - 2 (16.67% of the total number), and against public traffic safety - 2 (16.67%).

109 Requests for the initiation of misdemeanor proceedings were filed against: 1 regular police officer (20%), two officers of the Border Police (40%) and two employees of the Security Department (40%).



<b>Table 9 - Organizational affiliation of employees of the Police Directorate against whom motions for the initiation of disciplinary proceedings have been filed due to serious violation of official duty</b>	<b>2014</b>	<b>2013</b>
	Number of employees	Number of employees
Regular police officers	38	43
Officers of the Criminal Police	3	11
Border Police	45	65
Officers of the Security Department	8	9
Officers of the Special Police Unit	3	1
<b>TOTAL:</b>	<b>97</b>	<b>129</b>

Immediate organizational unit superiors imposed disciplinary measures in the form of fines on 55 employees of the Police Directorate due to minor violations of official duty stipulated in the Law on Internal Affairs and the Law on Civil Servants and State Employees.

<b>Table 10 - Organizational affiliation of employees of the Police Directorate against whom disciplinary measures in the form of fines have been imposed for minor violations of official duty</b>	<b>2014</b>	<b>2013</b>
	Number of employees	Number of employees
Regular police officers	28	34
Officers of the Criminal Police	2	2
Border Police	17	3
Officers of the Security Department	6	5
Officers of the Special Police Unit	2	-
<b>TOTAL:</b>	<b>55</b>	<b>44</b>

In the second instance disciplinary proceedings, acting upon appeals against decisions of the Police Directorate imposing disciplinary measures for minor violations of official duty, there were 9 decisions upholding the appeals, while one case was transferred to 2015, which demonstrates a high degree of justification of disciplinary measures. However, police reports do not provide detailed information on the nature of the transgressions for which the officers were sanctioned, nor is there information as to whether the Heads of organizational units offered recommendations on how to improve the work practices based on the transgressions of certain officers, and whether and to what extent said recommendations were implemented.

### **There is no sufficient balance, as regards disciplinary proceedings, between the LAP and CPC**

The key problem when it comes to implementation of disciplinary proceedings lies in the fact that these proceedings are carried out in accordance with the Law on Administrative Procedure (LAP), even though disciplinary proceedings often serve to establish liability bordering on criminal, where





the evidential procedure itself exceeds the provisions of the LAP.<sup>110</sup> One example that proves this: the LAP does not recognize damaged parties who appear as parties in disciplinary proceedings, nor does it recognize concurrence, intent and negligence, which are all elements of criminal offenses that occur in cases before the Disciplinary Commission.

The Disciplinary Commission of the Ministry of Interior was established by the decision of the Minister of 24 September 2013, in accordance with Article 19 of the Rules on Determining Disciplinary Responsibility of Police Employees. Disciplinary proceedings for grave violations of official duty are carried out by the Council of the Disciplinary Commission, whose powers are granted by the Minister. At the proposal of the President of the Disciplinary Commission, the Minister establishes a Disciplinary Commission for each individual case. The Minister also compiles a list of members of the Disciplinary Commission for each calendar year. In accordance with the Rules on Disciplinary Responsibility, disciplinary measures for grave violation of official duty are imposed by the Minister. An appeal may be filed with the Appeals Commission against a decision on a disciplinary measure imposed for a grave violation of official duty, within eight days of receiving said decision.<sup>111</sup>

The transparency of work of the Disciplinary Committee has been significantly improved. News on any initiated procedures and any imposed disciplinary measures are published on the website of the Mol. From 2012- to 2015, the Disciplinary Prosecutor acted in 326 proceedings conducted against police officers; the number of cases is however declining with each passing year.<sup>112</sup>

**Table 11 – Number of disciplinary proceedings**

2012	2013	2014	By August 2015 <sup>112</sup>
120	86	92	28

<sup>110</sup> Observations of police officers, September 2015.

<sup>111</sup> When imposing disciplinary measures for the violation of official duty, aggravating and mitigating circumstances are taken into account, in particular: confession, disciplinary record, severity of the violation and its consequences, degree of responsibility, the circumstances under which the violation occurred, personal circumstances, and the financial status of the police officer. - Article 8 of the Rules of Disciplinary Procedure.

<sup>112</sup> Reports of the Disciplinary Commission for 2015 state the following as some of the most common violations: actions that prevent, obstructs or hinder the performance of official tasks: failure to appear on the scene of an event; failure to conduct a thorough check at a border crossing; failure to notify a state prosecutor; allowing entry into the country to persons listed in the Interpol database; unjustified absence from work for three consecutive working days, behavior (on or outside the job) that is in contravention with the Police Code of Ethics (attack on a physical person; assault of a minor), complete or partial failure to take measures to ensure the safety of persons, property and entrusted items; unauthorized disclosure of information to the media; performing jobs that are incompatible with official duty, willful abandonment of the workplace. (See Annex 1 for an overview of all the cases from 2015).



## In 2015, the Disciplinary Commission imposed a measure of conditional termination of employment for the first time

Disciplinary measures most frequently imposed in 2015<sup>113</sup> were fines in the amount of 20% of a monthly salary, effective for two or three months, while the sanction involving conditional termination of employment was imposed for the first time on two employees, effective for one and two years.

<b>1. Acquitted</b>	<b>9</b>
2. Conditional termination of employment, effective one year	1
3. Conditional termination of employment, effective two years, together with a fine in the amount of 20 percent of the monthly salary, effective 6 months	1
4. Conditional termination of employment, effective two years, together with a fine in the amount of 20 percent of the monthly salary, effective 4 months	2
5. A fine in the amount of 20 percent of the monthly salary, effective one month	2
6. A fine in the amount of 20 percent of the monthly salary, effective two months	7
7. A fine in the amount of 20 percent of the monthly salary, effective three months	6
8. A fine in the amount of 20 percent of the monthly salary, effective five months	1
9. A fine in the amount of 30 percent of the monthly salary, effective one month	2
10. A fine in the amount of 30 percent of the monthly salary, effective two months	5
11. A fine in the amount of 30 percent of the monthly salary, effective three months	5
12. A fine in the amount of 30 percent of the monthly salary, effective four months	2
13. A fine in the amount of 30 percent of the monthly salary, effective five months	1

As regards disciplinary prosecution, in 2012 the Disciplinary Prosecutor received and processed 92 motions to initiate disciplinary proceedings,<sup>114</sup> as well as 72 supplemented motions of the same type.<sup>115</sup> He participated in 124 hearings and submitted 61 conclusions determining disciplinary liability, which served to initiate proceedings against 73 police officers. Disciplinary measures were imposed against a total of 50 police officers:

- A fine - 47 police officers,<sup>116</sup>
- Termination of employment - one officer,
- Inability to obtain a title during a period of 2 years - 6 officers, while
- 14 officers were acquitted from disciplinary liability.

<sup>113</sup> To be more exact, from 10 February 2015 to 9 November 2015.

<sup>114</sup> Of which 25 cases remained pending and were transferred to 2015.

<sup>115</sup> 92 requests were issued concerning supplementation of incomplete motions, of which 39 were sent by telegram and 53 were expedited to the competent Heads in the form of written communication, concerning the provision of evidence needed for the initiation and conduct of disciplinary proceedings. - Report on the work of the Ministry of Interior, p. 20.

<sup>116</sup> Fine in the amount of 30% x 1 month (18 officers), fine in the amount of 30% x 2 months (10 officers), fine in the amount of 30% x 3 months (6 officers), fine in the amount of 30% x 4 months (4 officers), fine in the amount of 30% x 6 months (8 officers), termination of employment (1 officer).



### **Out of the total number of appeals, half the cases have been remanded for repeated proceedings**

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The Appeals Commission received 23 appeals, of which 9 - concerning 12 officers – turned out to be unfounded, while 9 cases were remanded for repeated proceedings. “In 90% of the repeated proceedings, the factual description, that is, the disposition of the disciplinary decision was assessed as exceedingly lengthy, vague and imprecise, (...). On the other hand, the nature of our work and the nature of the cases we investigate do not allow us to condense and shorten the text; the factual description is the way it is, and nothing can be left out because the decision serves to impose a seriously punishment on a person<sup>117</sup>”.

### **The Code of Ethics was violated at least 55 times in 16 months**

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The Ethics Committee of the MoI-Police Directorate was established on 26 February 2006. From the date of its establishment until present it had reviewed 612 cases concerning possible violations of the Police Code of Ethics.<sup>118</sup> In the past eight years, the appeal against the opinion of this Committee was filed only in one case. The Ethics Committee in its present, third, composition was formed in May 2014, by a decision of the Minister of the Interior.<sup>119</sup> In this composition, the Committee has reviewed 86 motions<sup>120</sup> involving 106 officers, reaching the following conclusions:

- That the Code of Ethics was violated in 55 cases,
- That the Code of Ethics was not violated in 17 cases,
- Supplementation was requested in 12 cases, and
- The Committee declared itself incompetent in 8 cases

In the course of its work, the Ethics Committee had noted the following problems:

- The heads, as the most frequent submitters of motions, often tend to “hide” behind the Ethics Committee, avoiding to take measures within their purview (conversation, strengthening of interpersonal relations, disciplinary measures, and initiation of disciplinary action through the Disciplinary Prosecutor)

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117 Interview with the President of the Disciplinary Commission, September 2015.

118 The Police Code of Ethics is available at: [http://www.mup.gov.me/rubrike/eticki\\_odbor](http://www.mup.gov.me/rubrike/eticki_odbor). Among other things, it prescribes the obligation to refuse to accept gifts except in exceptional circumstances; the obligation to be politically neutral; the obligation to report unethical requests; etc.

119 The Ethics Committee is composed of seven members, four of which are representatives of the Police Directorate. One is a representative of the Ministry of Interior, one is a representative of the NGO sector, and one is a representative of the Union of the Police Directorate.

120 The Ethics Committee holds meetings in accordance with the Rules of Procedure, during which it considers submitted initiatives. Submitters of initiatives may include: persons in leading positions, the Internal Control Department, police officers, Committee members, civil society (individuals, groups and organizations), as well as the institutions of the system.



- Insufficient knowledge of positive ethical values and the Police Code of Ethics itself, on the part of police officers at all levels,
- The text of certain provisions of the Code is not sufficiently precise; it should therefore be supplemented in certain parts.

In addition, the role of the Ethics Committee should be intensified as regards public and internal emphasis on positive examples in the police - courageous and ethical conduct which should serve as an example to other police officers.

**Table 12: Ethical responsibility of police officers in 2014 and 2015**

Date of meeting	<b>Number of reviewed cases</b>	Opinion that the Code of Ethics has been violated	Opinion that the case should be supplemented	No elements of violation of the Code of Ethics	EC incompetent, case forwarded to the competent Department/Head	Other
16 May 2014	<b>1</b>	1	/	/	/	/
20 May 2014	<b>7</b>	6	1	/	/	/
29 May 2014	<b>1</b>	1	/	/	/	/
26 June 2014	<b>4</b>	1	/	1	2	/
31 July 2014	<b>1</b>	/	/	1	/	/
7 August 2014	<b>1</b>	/	/	/	1	/
4 September 2014	<b>3</b>	1	1	/	1	/
22 September 2014	<b>1</b>	/	/	/	1	/
30 October 2014	<b>11</b>	8	1	/	2	/
17 November 2014	<b>2</b>	/	1	/	1	/
8 December 2014	<b>1</b>	1	1	/	/	/
29 December 2014	<b>8</b>	3	3	/	2	/
30 December 2014	<b>1</b>	1	/	/	/	/
<b>Total:</b>	<b>42</b>	23				



Date of meeting	Number of re-viewed cases	Opinion that the Code of Ethics has been violated	Opinion that the case should be supplemented	No elements of violation of the Code of Ethics	EC incompetent, case forwarded to the competent Department/Head	Other
4 March 2015	10	6	2	2	/	/
31 March 2015	2	2	/	/	/	/
26 May 2015	5	2	/	1	1	At the initiative of the EC member who is a representative of an NGO, a case was reviewed involving some members of the Special Anti-Terrorist Unit who forcefully entered an apartment without authorisation. EC agreed with the conclusions of the Internal Control regarding further processing of the case
3 July 2015	9	4	2	/	1	One case was referred to the Police Internal Control Department; a suggestion was provided to the Security Department concerning one case
31 July 2015	5	4	1	/	/	/
4 September 2015	7	6	/	/	1	/
25 September 2015	7	4	1	/	2	
Total:	45	28				

## Recommendations

1. Improve coordination and exchange of information between the internal mechanisms in charge of determination of liability; for greater efficiency, hold regular quarterly meetings focused on the systemic problems identified in the work of police officers and propose joint measures for their elimination.
2. Amend and supplement the Law on Internal Affairs to expand the powers of the Internal Control to include control of MoI, especially in areas with high risk of corruption such as public finances and public procurement.



3. Amend and supplement the Law on Internal Affairs to include the power of the Internal Control to request information from the competent state prosecutor concerning specific conduct of police officers, in all the stages of criminal proceedings.
4. Amend and supplement the Law on Internal Affairs to stipulate that the state authorities are obliged to keep requests for information submitted by the Internal Control Department confidential. Apply the Data Secrecy Law and mark the documents relating to investigations carried out by the Internal Control "confidential".
5. Amend and supplement the Law on Internal Affairs to stipulate the obligation of the Internal Control Department to submit an annual report on its work to the Assembly.
6. Ensure communication and information exchange between the Internal Control and the new Anti-Corruption Agency.
7. Develop activities aimed at informing the citizens who live in the northern and rural areas about the work of Internal Control.
8. Regularly publish brief information on citizens' complaints against police officers on the website of the Police Directorate, as well as their outcomes.
9. Conduct an analysis of the complaints of citizens submitted to persons in leading positions, with reasons for the high number of unfounded complaints.
10. Introduce the practice of publishing periodic summary reports on the website of the police, concerning the reasons for the imposition of disciplinary measures in the form of fines, in order to gain public confidence in the police.
11. Conduct an analysis of the legal framework for the work of the Disciplinary Commission, and offer measures for improvement, with special emphasis on the analysis of the last three years' cases, trends in the conduct of police officers, cases remanded for repeated processing by the Appeals Commission, and shortcomings of the Law on Administrative Procedure in the context of disciplinary proceedings.
12. Develop activities to promote the Code of Ethics among the police officers.
13. Intensify the role of the Ethics Committee when it comes to public and internal emphasis on positive examples in the police - courageous and ethical conduct which should serve as an example to other police officers.



## EXTERNAL OVERSIGHT

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*The legal framework governing external oversight of police work<sup>121</sup> complies with international standards and is almost fully completed. However, the practice of proactive monitoring and systemic contribution to solving problems in the police is not sufficiently represented, while the impact of conclusions and recommendations is inadequate.*

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In the remainder of the text we will consider the work and results of the Protector of Human Rights and Freedoms, the Parliament of Montenegro with special emphasis on the work of the Committee on Security and Defense and the Committee on Anti-Corruption, and the work of the Council for Civil Control of Police.

### Protector of Human Rights and Freedoms

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The areas in which the role of the Protector of Human Rights and Freedoms is particularly important, in comparison with all the other actors who control the police, are police torture and protection from discrimination, as protector has investigative powers that include visits to all the facilities and insight into all the documents, without limitation,<sup>122</sup> and the law prescribes fines for failure to comply with the Protector's requests.<sup>123</sup> In its report for 2013, the European Committee on the Prevention of Torture (CPT) found that, in Montenegro, arrested persons are exposed to substantial risk of police abuse. Nevertheless, Montenegrin Ombudsman is one of the less prominent institutions when it comes to control of the police, with an annual average of only 3% of cases concerning complaints against police work.

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121 External oversight is control performed by the Protector of Human Rights and Freedoms, the Assembly of Montenegro and its competent working bodies, the Council for Civil Control of the Police, the Agency for Personal Data Protection and Free Access to Information, non-governmental organizations and citizens. Institutions performing external oversight are: the State Audit Institution and the State Commission for Control of Public Procurement (their work was analyzed in the previous chapter). There is also the future Anti-Corruption Agency, which will begin to operate on 1 January 2016.

122 "The Protector has the right to: without prior notice, inspect the premises in the authorities, organizations, institutions and other places where a person deprived of liberty is or may be held; without prior notification and permission, visit a person deprived of liberty and verify the respect of its rights; without the presence of official or other person, either personally or through an interpreter, talk to a person deprived of liberty, as well as with other person for who he/she thinks it can provide the necessary information." – Article 24 of the Law on the Protector of Human Rights and Freedoms.

"The Head or the person managing the authority shall be obliged to make available to the Protector all data from the jurisdiction of the authority he/she is managing, regardless of the degree of confidentiality as well as to provide to him/her unrestricted access to all premises, in accordance with the regulations governing the data confidentiality and protection of personal data, and handling of the official files and documents." – Article 36 of the Law on the Protector of Human Rights and Freedoms.

123 "A fine amounting from 500 Euros to 2000 Euros shall be imposed for misdemeanour on: 1) the responsible person in the authority who fails to not comply with the request of the Protector within provided deadline (Article 35, paragraph 2); 2) the person who fails to appear before the Protector (Article 40, paragraph 2)." – Article 54 of the Law on the Protector of Human Rights and Freedoms.



Not even this small number of complaints is covered in the media, which is something that might help citizens gain more confidence in the Protector and submit a larger number of complaints. Insight into the complaints and their outcomes also shows that, in 2014, violation of the rights was established in a small number of cases - four out of 24.<sup>124125</sup>

<b>Table 13 – Ombudsman’s cases relating to the police</b>	2012	2013	2014
Number of complains	24	24 <sup>124</sup>	19 <sup>125</sup>
Number of complaints transferred from the previous year	9	5	4
Total number of pending complaints	33	29	23
Number of resolved complaints	28	25	21
Number of resolved this year’s complaints	20	22	19
Number of resolved last year’s complaints	8	3	2
Number of complaints transferred to the following year	5	4	2
<i>Outcome of proceedings upon complaints:</i>			
No violation of rights	20	17	12
No action was taken	3	5	2
Discontinued	4	2	4
Referred	1	1	3

Looking at all the citizens’ complaints submitted in 2014, four (4) were related to the work of the Police Directorate, five (5) to the work of the Security Center in Podgorica, three (3) to the work of the Security Center in Budva, two (2) to the work of the Security Center in Nikšić, one (1) complaint each was filed regarding the work of the Security Centers in Bijelo Polje and Herceg Novi, and one each regarding the work of Security Departments in Kolašin, Kotor, Ulcinj and Danilovgrad. At the end of the reporting year, the proceedings have not been completed in two cases, so they were transferred to 2015. The complaints mostly concerned failure to act upon the citizens’ complaints and requests.<sup>126</sup>

In 2013, four (4) complaints referred to the work of the Police Directorate, seven (7) to the work of the Regional Unit in Podgorica, three (3) each to the work of the Regional Units in Budva and Nikšić, two (2) to the work of the Regional Unit in Bijelo Polje, one each to the work of the Regional Units in Bar, Berane and Pljevlja, and one each to the work of the Regional Offices in Rožaje, Cetinje and Kolašin.<sup>127</sup>

124 Or 3.92% of the total number of received complaints (611).

125 Or 3.3% of the total number of received complaints (576).

126 Report on the work of the Protector of Human Rights and Freedoms for 2014, published in March 2015, available at: [http://www.ombudsman.co.me/docs/izvjestaji/Izvjestaj\\_za\\_2014.pdf](http://www.ombudsman.co.me/docs/izvjestaji/Izvjestaj_za_2014.pdf) (accessed on 26 October 2015).

127 Report on the work of the Montenegrin Protector of Human Rights and Freedoms of Montenegro for 2013, published in March 2014. godine, available at: [http://www.ombudsman.co.me/docs/izvjestaji/Final\\_Izvjestaj\\_za\\_2013\\_05042014.pdf](http://www.ombudsman.co.me/docs/izvjestaji/Final_Izvjestaj_za_2013_05042014.pdf) (accessed on 26 October 2015).





**Table 14 - Work of the Ombudsman related to the police, according to organizational units**

<b>Number of complaints in which the proceedings have been completed, according to units of the Police Directorate</b>			
	<b>2012</b>	<b>2013</b>	<b>2014</b>
Number of complaints pertaining to the work of the Police Directorate	9	4	4
Number of complaints pertaining to the work of the Regional Unit in Podgorica/ Security Center in Podgorica	11	7	5
Police Directorate – Police unit in Berane/Security Center in Berane	2	/	/
Police Directorate - Regional unit in Budva/ Security Center in Berane	2	3	3
Police Directorate - Regional unit in Nikšić/ Security Center in Nikšić	1	3	2
Police Directorate – Regional unit in Bijelo Polje/ Security Center in Bijelo Polje	/	2	1
Police Directorate – Regional unit in Bar/ Security Center in Bar	/	1	/
Police Directorate – Regional unit in Berane/ Security Center in Berane	/	1	/
Police Directorate – Regional unit in Pljevlja/ Security Center in Pljevlja	/	1	/
Police Directorate – Regional unit in Herceg Novi	/		1
Police Directorate - Regional office in Rožaje/ Security Department in Rožaje	1	1	/
Police Directorate - Regional office in Cetinje/ Security Department in Cetinje	2	1	/
Police Directorate – Regional office in Kolašin/ Security Department in Kolašin	/	1	1
Police Directorate – Security Department in Kotor	/	/	1
Police Directorate – Security Department in Ulcinj	/	/	1
Police Directorate – Security Department in Danilovgrad	/	/	1

**Procedure for the election of Protector does not provide the appointment of best candidate**

The constitutional framework for the nomination and election of the Protector of Human Rights and Freedoms is particularly contentious. In 2007 the Venice Commission had criticized the manner of election prescribed in the Constitution, considering the solution according to which the Protector is proposed by the President of the State questionable and criticizing the solution according to which the Assembly elects the Protector by simple rather than qualified majority, fearing that this would not



facilitate the election of a person who will act autonomously and independently, especially towards the executive.<sup>128</sup>

## The Assembly of Montenegro

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Two working bodies of the Assembly particularly charged with monitoring the issues related to the work of the police are the Committee on Security and Defense and the Committee on Anti-Corruption. According to the opposition, the key problem impeding the work of both Committees is that the fact that the opposition does not have the majority required for decision-making.<sup>129</sup> The majority-minority ratio in the Committee on Anti-Corruption is 8 to 5, while in the Committee on Security it is 7 to 6. Chairman of the Committee on Anti-Corruption is elected from the ranks of the opposition.

### Powerful yet passive Committee on Security and Defense

Unlike other countries in the Western Balkans, parliamentary oversight of the security and defense sectors in Montenegro is regulated by a special Law on Parliamentary Oversight of Security and Defense. It prescribes the competences and control mechanisms of the Committee on Security and Defense<sup>130</sup> and provides a number of important options to control the police. Especially important is the “minority Initiative,” which allows the opposition<sup>131</sup> to take initiative twice a year even without the majority vote. The law also prescribes penalties in cases when, despite a request of the Committee, an employee fails to participate in a meeting, fails to provide necessary information, fails to submit the requested information to the Committee, etc.<sup>132</sup>

However, the monitoring practice and the use of mechanisms are not common enough. As part of its ordinary activities, the Committee has police on its agenda three times per year on average: when considering the annual report on the work of the MoI, and when considering the Balance Sheet and the Draft Budget for the following year (thanks to the establishment of practice according to which the Committee invites representatives of consumer units when considering the budget). When considering the annual report on the work of the MoI (which includes the report of the Police Directorate) at the same meeting, as the second item on the agenda the Committee also considers the report on

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128 Statement provided by Action for Human Rights (Akcija za ljudska prava), 22 November 2015, available at: <http://www.hraction.org/?p=9816> Nine non-governmental organizations, including the Institute Alternative, reacted on this topic both in 2009 and recently in 2015 when, after spending six years in office, the same person was proposed for the same position once again.

129 Interview with a deputy of the Assembly of Montenegro, April 2015.

130 As regards supervision of the police, the Law stipulates that the Committee shall consider its activities of in terms of legality; may institute control- and consultative hearings and parliamentary investigations; consider reports on the application of secret surveillance measures; consider the Draft Budget of the police, the Balance Sheet and the police audit report of the State Audit Institution; and consider the nomination of candidate for the position of Director of Police.

131 One third of the members of the Committee.

132 A fine in the amount of EUR 2,000 - Article 22 of the Law on Parliamentary Oversight of Security and Defense.



the state of the protection and rescue system in Montenegro. This does not allow it to extend sufficient attention to either of these two reports.<sup>133</sup>

Other activities include *ad hoc* control hearings and consideration of legislation on the initiative of the Government. Minister of the Interior participates in thematic control hearings, together with representatives of other state authorities.<sup>134</sup> Since the adoption of the Law on Parliamentary Oversight, there have been a total of five such hearings:

- In 2015, there was one, on the topic of organized crime and usury in Montenegro;
- In 2014, there was also one, on the topic of attacks on journalists;
- In 2013, there was also one, with a three-point agenda: the murder of Duško Jovanović, the 'Listing' scandal in the light of the arrest of Naser Kelmendi, and the security situation in the municipality of Bar;
- In 2012, there were none;
- In 2011, there were two: one on the topic of listings in the Kelmendi-Šarić case, and the other on the topic of lack of communication and coordination between the competent authorities in connection with the 'Balkan Warrior' case.

Although all of these hearings contribute to the awareness of citizens and the Parliament regarding these matters, and to greater transparency of the work of the police and the MoI, they have also - to a somewhat lesser extent - contributed to solving the problems that have been discussed. All the above topics, however, still represent open and sensitive issues in relation to which the results of the police are still expected. One of the reasons for this is the fact that conclusions after the hearings are largely of declarative, general and political nature, instead of being concrete proposals for resolving the identified problems in a systematic way.

The Committee on Security and Defense has never discussed any of the strategic documents concerning the functioning of the police, and it has also never specifically addressed the issue of police integrity. The Committee has never invited to its meetings the representatives of internal control, the Ethics Committee, the Disciplinary Committee or the Council for Civil Control of Police in order to systematically examine the problems noted in the police.

Conclusions adopted by the Committee are, formally and legally, not binding on the state authorities, nor is reporting on the conclusions prescribed with any precision. In practice, members of the Committee usually ask questions verbally at a meeting; for example, when it comes to the conclusions concerning the report on the work – they ask questions the following year about the conclusions of

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<sup>133</sup> The analysis of the contents of the annual report on the work of police is available in the report of the Institute Alternative titled "Which was satisfied: FORM or ESSENCE? - Analysis of the contents of annual reports on the work of the State Prosecutor's Office and the Police Directorate", 2014: <http://institut-alternativa.org/zadovoljena-forma-ili-sustina-analiza-sadrzine-godisnjih-izvjestaja-o-radu-drzavnog-tuzilastva-i-uprave-policije/>.

<sup>134</sup> Usually it is a representative of the Prosecutor General and the National Security Agency, in response to one of the problematic situations that are of public interest.



the committee from the previous year. In this way, it is easy to notice that same questions are repeated year after year, and that the police always have the same problems.

The Security Committee participates in the procedure of appointment of Director of Police, in accordance with the Law on Internal Affairs which provides that after a public competition the Minister of Interior proposes a candidate to the Prime Minister, who then refers the nomination to the Assembly for opinion. Following a discussion, in June 2013 the Committee submitted a positive opinion on the current Director Slavko Stojanović for the last time.

The Committee on Security also has the legal ability to exercise control over the secret surveillance measures applied by the Police Directorate, and it has indeed exercised it its work once to date, without being able to successfully determine whether or not abuse was involved due to the lack of technical equipment and expert knowledge of Committee members.<sup>135</sup>

**Table 15 – Number of visits related to the control of secret surveillance measures, by year:**

	2010.	2011.	2012.	2013.	2014	2015.
<i>Police Directorate</i>	0	0	0	1	0	0

### **No influence of the Committee on Anti-Corruption on the hearings<sup>136</sup>**

Intriguing control hearings in connection with possible corruption concerning the financial management in the Police Directorate were the subject of interest of the Committee on Anti-Corruption in 2013 and 2015 (Sase Studies 3 and 4). However, the hearings themselves failed to apply sufficiently pressure on the authorities to shed full light on these cases, and since part of the opposition - including the Chairman of the Committee - is boycotting the work of the Assembly, the Committee on Anti-Corruption did not continue to monitor further work of the authorities on these cases.

<sup>135</sup> Additional information is available in the analysis of the Institute Alternative titled "Parliamentary Oversight of Security and Defense - The 2013 Monitoring Report and Impact Analysis," Podgorica, August 2014. Available at: <http://media.institut-alternativa.org/2014/10/parlamentarni-nadzor.pdf>.

<sup>136</sup> Pursuant to the Assembly Rules of Procedure, the Committee on Anti-Corruption is allowed use any control mechanisms provided in the Rules, and its prescribed competences are: to monitor and analyze the work of state authorities, institutions, organizations and bodies in the fight against corruption and organized crime; to consider issues and problems in the implementation of laws related to the fight against corruption and organized crime and propose amendments to them; to propose additional measures to improve strategies, action plans and other documents relating to the fight against corruption and organized crime; to consider petitions and forward them to competent authorities.



### Box 2 – Sale and re-purchase of Camp “Zlatica” for twice the price

In 2006 the Government of Montenegro sold most of the state-owned package of shares, including Camp “Zlatica”, to “Normal Company” for EUR 4.76 million. The Police Directorate re-purchased it in 2011 for all of EUR 8,339,999, thus causing damage to the state budget of Montenegro.<sup>137</sup> The then Director Veselin Veljović signed the contract on behalf of the Police Directorate.<sup>138</sup>

In December 2013, concerning this topic, the Parliamentary Committee on Anti-Corruption held a control hearing of the Minister of Internal Affairs Raško Konjević and the Minister Igor Lukšić who served as Prime Minister at the time of conclusion of the contract.<sup>139</sup> Deputies and Ministers were in agreement that this case should be thoroughly investigated, and that it was a job for the Prosecution. Four years after the conclusion of the contract and two years after the opening of the investigation, the case is still waiting for its epilogue.

### Box 3 – Construction of the Security Center building in Podgorica

Another case of suspect management operations of the Police Directorate involves construction of the Security Center building in Podgorica. This contract, worth EUR 13 million, was entered into with company “Čelebić,” as Contractor, without a prior public Request for Bids, despite the fact that such a Request represents an explicit legal requirement. In addition, the Police Directorate damaged the state budget by undertaking to cede the so-called “Limenka” building to company “Čelebić” as compensation for part of the performed works.

Finally, the Higher Court found additional breaches of the sale and purchase contract on the part of the PD, which cost the state budget an additional EUR 12 million, which amount was to be paid to Aco Djukanović, brother of Montenegrin Prime Minister Milo Djukanović, who bought the “Limenka” building from company “Čelebić.”

It has yet to be established who in the Police Directorate was responsible for these actions and the damage caused to the state budget. The Committee on Anti-Corruption held a control hearing regarding this issue on 23 February 2015. Deputies of the ruling party and the opposition parties have adopted the conclusion that the Special State Prosecutor should obtain complete documentation about the case and inform the Committee about the actions taken within a period of 60 days.<sup>140</sup> However, there are still no indictments, or any other information concerning this case, nor has the Committee held a new control hearing on this issue in the meantime.

The fact that in 2014, at special meetings, the Committee reviewed the progress in the implementation of the Action Plan for the application of the Strategy for Fight against Corruption and Organized

137 Camp ‘Zlatica’ once again under the looking glass of the Prosecutors’ Office, Portal CDM, 18 September 2015, available at: <http://www.cdm.me/drustvo/hronika/kamp-zlatica-opet-pod-lupom-tuzilastva>.

138 He is currently a member of the Bureau for the operative coordination of authorities that make up the intelligence and security sector, and the Secretary of the National Security Council.

139 He currently serves as Minister of Foreign Affairs and European Integration.

140 The 2013 report of the Committee on Anti-Corruption of the Assembly of Montenegro, available at: <http://skupstina.me/zakoni/web/dokumenta/sjednice-radnih-tijela/531/1340-.pdf>.



Crime, as well as the Action Plans for Chapters 23 and 24 which contain measures related to police work, should be considered a significant improvement. However, only two meetings were dedicated to the implementation of strategic documents on the fight against corruption, which is insufficient in terms of more concrete contribution to the fight against corruption in the form of guidelines and recommendations for improvement.<sup>141</sup>

## Parliamentary questions

The MoI is one of the two Ministries with the highest number of questions posed by deputies; the other is the Ministry of Justice. In 2014, the Minister of Interior received 29 questions, in 2013 - 27. But it is interesting that the majority of the questions mostly concerned the public administration reform, electoral laws and Montenegrin citizenship - all areas that fall within other competences of the MoI, while few had to do with the police.

### Box 4: Parliamentary questions addressed to the Ministry of Interior in 2014

An example from 2014: Four questions were related to investigations of political corruption for electoral purposes; two questions were related to the introduction of electronic identification of voters, the number of official vehicles registered in Montenegro, the requirements for obtaining Montenegrin citizenship, the attacks on journalists, the act which defined the 24-month residence in Montenegro; when the road Plav-Čakor-Peć will become operational; information on the fake bomb threat in Ulcinj before the meeting of the Municipal Assembly, proportional representation of minorities in the MoI, in the Police Directorate in particular; investigations of frequent accidents concerning the remaining equipment of the "Bajo Sekulic" salt production plant in Ulcinj; information on the existence of the so-called Media Mafia in Montenegro, data on administrative and inspection control in the capital city; information on six special vehicles for extinguishing forest fires and rescue in Pljevlja; arrogance shown during the police raid of discotheque 'Maximus'; activities related to public administration reform; implementation of the Law on the List of Registered Voters; when the Law on Local Self-Government will be sent to parliamentary procedure; unsolved crimes in Montenegro; based on which parameters it was estimated that security in Montenegro is of the same quality as that in the United States; the unsolved homicides in Montenegro; and the opinion of the Ministry regarding the request of the city of Sutomore to be awarded the status of municipality.

## Insufficient statutory powers of the Council for Civil Control of the Police

Civil control of the police is performed by the Council for Civil Control of the Police<sup>142</sup> established pursuant to the Law on Internal Affairs, which prescribes its competences.<sup>143</sup> The Council is a five

141 Additional information on the work of the Committee on Anti-Corruption is available in the analysis of the Institute Alternative titled "The Assembly and the Oversight of the Executive in 2014", Podgorica, April 2015, available at: <http://media.institut-alternativa.org/2015/08/skupstina-i-nadzor-izvrsne-vlasti-u-2014.pdf>.

142 The official website of the Council: <http://www.kontrolapolicije.me/>.

143 The Council is composed of five members. The following organizations nominate one member each: the Bar



member body which assesses the use of police powers in the field of protection of human rights and freedoms.

The Council may be addressed by citizens and police officers,<sup>144</sup> whose statements it is obliged to take. In 2014 it held 11 meetings, in 2015 - 6, which show that the Council meets once per month on average, in accordance with its Rules of Procedure.<sup>145</sup>

However, unlike the other supervisory bodies such as the Committee on Security and Defense or the Protector of Human Rights and Freedoms, which have unrestricted access to the premises and documents regardless of their level of confidentiality, the control mechanisms at its disposal of the Council are very modest. It can only request information and a declaration from the Director of Police,<sup>146</sup> and then provide its assessment of legality in the context of respect for human rights, which does not directly imply any sanctions.

However, despite its lack of legal powers the Council managed to play a prominent role, thanks to its own independent initiatives and particularly to its new Chairman, elected in January 2015 from the ranks of non-governmental organizations.<sup>147</sup> Since his appointment, the Chairman has initiated a number of cases by collecting information from citizens, and has held a series of meetings with all the stakeholders, both institutional and non-institutional, that deal with and monitor the work of the police, thus actualizing various issues such as: gender equality in the police, police conduct toward the LGBT community, work of the Police Union, behavior of fans after sporting events and the related conduct of the police, etc. (See Annex 2). This has contributed to a greater prominence of the Council and better linking of actors who monitor police work. However, interconnection of other stakeholders remains a systemic problem.

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Association of Montenegro, the Medical Association of Montenegro, the Association of Lawyers of Montenegro, the University of Montenegro, and non-governmental organizations dealing with human rights. President of the Council is elected by a majority vote of all the members. The members' mandates last five years. The Speaker of the Assembly initiates the procedure for the nomination of members of the Council by inviting the authorized subjects to nominate their representatives. The Service of the Assembly of Montenegro performs technical tasks related to the work of the Council. The work of the Council is further defined in the Rules of Procedure.

144 From 2009 to 2013, if we look at the total number of cases, the Council was addressed by citizens in 23% of the cases; through a member of the Council – in 8% of the cases; police officers addressed it in 2% of the cases; members of the Assembly of Montenegro in 2% of the cases; the civil society in 20% of the cases; a member of the Council for Civil Control of the Police in 41% of the cases, the Council for Civil Control of the Police, collectively – in 4% of the cases.

145 The Council's Rules of Procedure are available at: <http://www.kontrolapolicije.me/images/biblioteka/dokumenti/poslovnik.pdf>.

146 Under the Law on Internal Affairs, the police are obliged, at the request of the Council, to provide required information and notifications. The Council provides assessments and recommendations which are submitted to the Minister. The Minister is obliged to inform the Council about the measures taken.

147 At the 49th meeting of the Council for Civil Control of the Police, held on 27 January 2015, Aleksandar Saša Zeković, M.Sc. was elected new President of the Council.



Although transparency of the work of the Council has indeed improved in 2015, what has not improved to a sufficient extent is its reporting to the public on the outcomes of the cases, the recommendations provided by the Council, and the implementation of these recommendations by the police and the MoI, in the course of the year, not just when publishing the annual report.<sup>148</sup> Data from the last Report on the Work of the Council from 2009 to 2013 show that the nature of the Council's cases is diverse, and that in four years the Council was unable to establish the facts in 19 cases due to the lack of significant powers.

Unethical or unconscientious behavior of police officers	16	8.9%
Corruption in the police	4	2.2%
Abuse of torture by police officers	44	24.5%
Exceeding police authority	46	26%
Discrimination	5	2.7%
Verification of exercise of police powers	40	22.2%
Dismissal from police of officers not worthy of police profession	11	6%
Improving the exercise of powers, communication and cooperation with the community	14	7.5%
<i>Results of the work on cases:</i>		
<i>Outcome:</i>	<i>Number:</i>	<i>%</i>
Violation of rights was established	63	36%
Violation of rights was not established	50	28.5%
It was not possible to make a conclusion	19	10.8%
Recommendations for improving the credibility of the police have been issued	44	25%
Commendations	5	-
Dismissal from the police force	25	-
Process of dismissal from the police force has not been completed	10	-

The new Law on Internal Affairs, enacted in 2012 (which abolished the Law on Police in which civil control of the police was established for the first time), and its amendments in 2014 failed to legally improve the work of the Council and strengthen and define it in accordance with what the Council actually does in practice.

<sup>148</sup> Of the total number of cases (176) the Council worked on in the period 2009-2013, 63 cases or 36% involved a positive assessment regarding the existence of violation of rights, while in 50 cases or 28.5% the Council found that there was no such violation. In 19 cases, or 10.8% of the total number, it was not possible to issue an assessment of the use of powers (due to the lack of evidence, lack of access to the requested/needed documentation, administrative silence, lack of public interest in further communication and cooperation, or discontinuation of work due to procedural reasons). In 44 cases, or 25% of the total number, the Council issued appropriate recommendations to enhance the credibility of the police and improve the application of police powers.





Although the Secretariat of the Council functions under the aegis of the Assembly, parliamentary control has not been established over the work of the Council and the Assembly had never formally dealt with its operations. The Council is under no obligation to submit the annual report on its work to the working bodies for consideration, although there is a need for the parliamentary Committee on Security, and especially the Human Rights Committee, to follow the topics of the work of the Council and provide additional support to its conclusions and recommendations. It is particularly important to establish the role of the Assembly in the context of monitoring compliance with the Council's recommendations.

The annual budget of the Council is very modest, having amounted to EUR 35,000 in the last five years. All the funds go towards the payment of salaries,<sup>149</sup> without any allocations for program activities.

### Recommendations

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1. Taking into account the importance of the role of the Protector, until the amendment of the Constitution a gentlemen's agreement should be reached between the political parties to elect the Protector by two-thirds majority of the Assembly, following broad consultations of the President of the State with all social actors.
2. Better inform the citizens on the Protector's cases related to the conduct of police officers, in order to encourage citizens to address the Protector more frequently.
3. Prescribe the obligation of the authorities to automatically report on the implementation of the conclusions and recommendations of the Assembly's working bodies, within the deadlines set forth by the working bodies themselves.
4. Appoint the Chairman of the Committee on Security and Defense from the ranks of the opposition to enable more active work of the Committee, and encourage the opposition to submit a larger number of initiatives relating to the control of the security sector.
5. The Committee on Security and Defense and the Committee on Anti-Corruption should hold regular quarterly meetings, i.e. consultative hearings, of all the actors in charge of supervision of the police. Following said meetings they should define measures for improving the functioning of the police, with particular focus on integrity, specifying those in charge of the activities and deadlines for their implementation.
6. The Committee on Security should control the application of secret surveillance measures by the Police Directorate at least twice per year, with special focus on legality and the results achieved by applying such measures.

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<sup>149</sup> Items contained in the program of the Civil Control of Police are: Expenditures, Current Expenditures, Other Personal Income, Other Remunerations; Total: 35, 000.



7. Amend and supplement the Law on Parliamentary Oversight of Security and Defense to prescribe mandatory consideration of key strategic documents concerning the police by the Committee on Security and Defense.
8. The Committee on Anti-Corruption should continue the practice, begun in 2014, concerning the review of the Strategy for the Fight against Corruption and Organized Crime, as well as reports on the implementation of the Action Plans for Chapters 23 and 24 and reports on the implementation of the MOI Integrity Plan.
9. Prescribe the obligation of judicial authorities to proactively inform the public and the Assembly about the cases pending against police officers, from the beginning of the proceedings until the final decision.
10. Expand the legal powers of the Council for Civil Control of the Police modeled on the powers and control mechanisms granted to the Protector of Human Rights and Freedoms and the Committee on Security and Defense.



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