

Assessing the Oversight Mechanisms of the Police Forces in Macedonia

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Introduction

Macedonia is an interesting case for analyzing how a state's security sector has evolved, and whether it has succeeded in embracing democratic practices or not. Macedonia's peaceful exit from communist Yugoslavia in the 1990s, its experiences during and after the Internal Armed Conflict in 2001, and its efforts to join the EU and NATO make its recent history ripe for such analysis.

The aim of this policy brief is to describe the existing oversight mechanisms of the police forces - whether they succeed at implementing proper control of the police forces and the use of reinforcement measures, and what kind of challenges they encounter at their work.

The policy brief provides a critical assessment of past police misdemeanors that occurred in Macedonia, how they were administered, and how they were resolved. It maps the trend of the most frequent misconducts of police officers, gives a statistic overview of reported misconducts and provides the resolution rate of those misconducts. It analyzes the Ombudsman's role as an active external oversight mechanism, and to what extent it fulfills its role into reviewing citizens' complaints

against the police, how much the Ministry of Interior (MoI) is open for cooperation with the Ombudsman's office, and how the communication between these two institutions is functioning. It also examines the remaining oversight mechanisms of the security sector, such as the parliamentary committees and their work, with the overall aim of showing the current situation of the functioning of these mechanisms.

The methodology used in this research comprises a set of qualitative methods used for addressing the research question. The first methodological step included desktop research during which the main documents for this research were mapped and existing literature was reviewed. These documents included reports, legal frameworks, and reports on police work, misuse of power, and competencies etc. Likewise interviews with the Ombudsman's office were conducted. This policy brief provides recommendations for sound policy solutions regarding the issue of proper operation and functioning of police forces.

If fully implemented, this should serve to increase citizens' trust toward the police and to strengthen democratic values in Macedonia.

Background

The legal framework¹ has envisaged several institutions to do oversight on the work of the police: the Sector for Internal Control and Professional Standards (SICPS) within Ministry of Interior, the office of Ombudsman, the Macedonian Parliament and its Committee on Security and Defence and Standing Inquiry Committee for Protection of Civil Freedoms and Rights.

The 2014 EU progress report² about Macedonia stressed the lack of independent external oversight mechanism for the police forces.

The existing oversight mechanisms do not provide the mandate to act upon complaints over breaches of the principles of legality, proportionality and non-discrimination. They can only provide suggestions for the respective ministry to act on, or to the public prosecutor, but these remarks in practice quite often get overlooked and not taken into account.

The Law on Ombudsman foresees for the ombudsman to be able to perform field visits to any state institution at any given time and demand information from the institutions. Even information with highest secrecy clearance has to be disclosed to the ombudsman upon his request.

Even though, the Law on Parliament regulates the function of the parliamentary committees as active oversight bodies, they often lack detailed rulebooks that are set in stone. They also lack direction on how to conduct oversight in practice as what falls under their mandate is

not clearly defined. For example the Standing Inquiry Committee for Protection of Civil Freedoms and Rights can review complaints from citizens, but it is not clearly defined how they would do that, whether it is only for cases that have already received public attention or whether they should also have meetings with citizens on some regular basis.

Oversight Mechanisms of the police forces in Macedonia

1. Sector for Internal Control and Professional Standards (SICPS)

The main internal oversight actor of the Macedonian' police is the Sector for Internal Control and Professional Standards (SICPS) that falls under the Ministry of Interior. SICPS often gets criticized for overly depending on the Ministry in its decision-making as it receives direct orders from the Minister.

According to the Law on Internal Affairs, SICPS is a separate and independent organizational unit of the Ministry of Interior which conducts internal control for the Ministry and implements procedures for assessing the legality of the actions of the employees in the Ministry of Interior.³ As such, SICPS can act on data, information and knowledge that it has collected on its own, on complaints received from citizens or other legal entities, on requests from the police or the Ministry of Interior, or by direct order of the Minister for Interior.⁴ Complaints are

¹ Law on Internal Affairs of Republic of Macedonia, regulates the internal and external oversight mechanisms within the articles 57-64 of the Law: <http://www.mvr.gov.mk/Upload/Documents/ZVR%20nov%20precisten%2005.03.15.pdf>

² 2014 EU progress report for Macedonia: http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf

³ Law on Internal Affairs of Republic of Macedonia, article 58: <http://www.mvr.gov.mk/Upload/Documents/ZVR%20nov%20precisten%2005.03.15.pdf>

⁴ Rules for carrying out activities of the Sector for Internal Control and Professional Standards, The ministry of interior, article 3: <http://www.mvr.gov.mk/Upload/Documents/pravilnik%201SVKPS%20okonecna%20verzija.pdf>

usually received in police stations, where the police stations are obliged to inform the SICPS no later than twenty-four hours after the initial complaint.⁵ SICPS has to inform the complainant in writing about the progress of the case no later than 30 days from the time the complaint has been filed.⁶

The work of SICPS has been regularly criticized⁷ through the years for avoiding to punish their police colleagues and for a tendency to be biased. According to the last annual report of the SICPS of 2014⁸ and the biannual report of 2015⁹, this internal controlling mechanism found only 188 complaints out of 1506 submitted in 2014 who were justified to be followed with action against the police officers, as for the first six months of 2015, the numbers were 104 out of 831 complaints.

Regarding the remaining high number of complaints that get dismissed as unfounded, the nature of the complaints and the reasons for being dismissed remain unclear. The reports of SICPS show cumulative numbers of all complaints, but do not go further in analyzing the resolution or dismissal rate of cases separately as filed from citizens and separately filed by MoI officials, thus making it difficult to detect if mishandling of complaints occurs or evaluate how efficient it is as a mechanism for the ordinary citizens. Furthermore, most of the

complaints come from MoI officials, police officers of higher ranks reporting to the SICPS for other police officers in terms of not taking official actions accordingly to internal regulations.¹⁰

2. The Ombudsman

The legislative framework under the Law for Internal Affairs defines the actors within the external oversight framework: the Ombudsman and the Parliament of Macedonia.

If the Ombudsman identifies irregularities or unlawfulness, he can start investigations on his own. The Law on Ombudsman has foreseen very broad competencies for this office. The ombudsman can request additional information or evidence from institutions, perform unannounced visits to offices of every state institution and can view all their work regardless of classification of information, summon any official including police officers, and if needed, request expertise from other institutions.¹¹ However in practice obstructions arise, such as blocking the Ombudsman in performing field visits or lack of essential information from the institutions that could help him prove facts.¹² Importantly, the ombudsman deals with any government action, not only with police oversight. The office thus lacks the resources dedicated to this particular issue.

According to the Ombudsman he is short-staffed by 23 persons, and currently only one person works on cases of police misconducts.¹³

⁵ Ibid, article 12

⁶ Law on Internal Affairs of Republic of Macedonia, article 58:
<http://www.mvr.gov.mk/Upload/Documents/ZVR%20nov%20precisten%2005.03.15.pdf>

⁷ REPUBLIC OF MACEDONIA Submission to United Nations Committee Against Torture 54th session in Geneva, 20 April to 15 May 2015
http://www.omct.org/files/2015/04/23110/cat_submission_on_macedonia.pdf; Submitted: 6 April 2015

⁸ Annual report of SICPS for 2014:
<http://www.mvr.gov.mk/Upload/Documents/godishen-izveshtaj-zarabotata-na-svkps-2014-god.pdf>

⁹ Half-annual report of SICPS for 2015:
http://www.mvr.gov.mk/Upload/Editor_Upload/SVKP%20dokumenti/%D0%98%20%D0%97%20%D0%92%20%D0%95%20%D0%A8%20%D0%A2%20%D0%90%20%D0%88.pdf

¹⁰ Annual report of SICPS for 2014, pg. 3:
<http://www.mvr.gov.mk/Upload/Documents/godishen-izveshtaj-zarabotata-na-svkps-2014-god.pdf>

¹¹ Law on Ombudsman of Republic of Macedonia, article 24:
<http://ombudsman.mk/upload/documents/Zakon%20na%20NP.PDF>

¹² Annual report 2014 –National preventive mechanism, pg 63:
<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014.pdf>

¹³ Interview with the Ombudsman Ixhet Memeti, conducted on 07.10.2015.

Additionally the current employment procedures limit the Ombudsman's office to employ staff from various backgrounds, which has direct impact on the quality of investigations since they cannot get experts from different fields, related to which he adds that greater autonomy in managing finances would be needed as well.¹⁴

In its 2014 annual report¹⁵, the office of the Ombudsman in Macedonia noted that the insufficient responses the Ombudsman received from the SICCP of Ministry of Interior still persist and they still lack information about what specific actions are taken, which leaves room for doubt about objectivity of the procedures.

The cooperation between the Ombudsman's office and the SICPS has been estimated as very formal and superficial, lacking sharing of substantial data.¹⁶

Furthermore, the requested information from the internal oversight mechanism SICPS in the past were often delivered with a delay, by that impeding the ombudsman's role in fulfilling his external control.¹⁷

For 2014 the Ombudsman's office received 173 complaints from citizens, respectively 83 complaints for the first six months in 2015 accusing police officers of abusing official authorizations, torture, police brutality and denying defense in police procedures.¹⁸ From these complaints in 2014 three criminal charges for torture were filed to the Public Prosecutor against 8 police officers. As for 2015 again three charges on police torture were filed against 5

known police officers and against an unknown number of police officers from the special police unit "Alpha".¹⁹ Some of the cases have not been investigated previously by the SICPS and some are cases where citizens are not satisfied by the decisions made through the internal control mechanism.²⁰

3. The Parliamentary Committees - Committee on Security and Defence and Standing Inquiry Committee for Protection of Civil Freedoms and Rights

Parliament as the second external mechanism performs general democratic oversight through its parliamentary committees, including the Committee on Security and Defence and the Standing Inquiry Committee for Protection of Civil Freedoms and Rights. However, the Committee on Security and Defence mainly discusses legislation while the Standing Committee on Human Rights meets once or twice per year (or prior to any change to the law of police or interior is conducted) mainly to discuss draft laws.

Furthermore, the political crisis in Macedonia, during which the biggest opposition party boycotted the Parliament over accusation of election's fraud for two years, and in the beginning of 2015 started airing wiretapped conversations of high officials and political figures allegedly involved in illegal actions, the work of these committees was hindered. As a result they formed without the presence of opposition members which further questioned the legitimacy of their work. Additionally, the

¹⁴ Ibid

¹⁵ Annual Report 2014 Republic Of Macedonia on the level of respect, promotion and protection of human rights and freedoms
<http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014.pdf>

¹⁶ Interview with the Ombudsman Ixhet Memeti, conducted on 07.10.2015

¹⁷ Ibid.

¹⁸ Ombudsman's office of R. Macedonia, Information obtained by utilizing the Law on free access to public information in July 2015, request nr. 206/15

¹⁹ Interview with the state advisor Viktor Aleksov working on police misconduct cases in the Ombudsman's office, conducted on 07.10.2015

²⁰ Ibid.

Standing Inquiry Committee for Protection of Civil Freedoms and Rights discusses the European Commission's Progress Report about Macedonia, with a focus of respect of human rights. However, last time this committee held a plenary meeting was in 2012, and since then has not held any meeting. This committee also can review complaints from citizens and concrete cases where citizens believe their rights to be infringed. An important feature of this parliamentary body is that its findings represent the basis for starting a procedure for accountability of public-office holders.²¹ However, the work of this committee has not been very visible and by thus not very recognized by the citizens.

The parliament in the beginning of 2015 adopted changes to the Law on Police which allowed the police to use rubber bullets, stun guns and shock grenades in dispersing riots and violent protests. Prior to the voting of the law, the Committee on Defence and Security, held two plenary sessions where it discussed the new changes to the law on police. It is worth mentioning that the plenary sessions had only one Member of Parliament coming from the opposition which opposed this law stressing the danger of misusing these new enforcements measures but at the second reading she was outvoted and the law was passed to the parliament.²² The absence of the opposition in the Parliament hindered the work of the committees and had an impact on the quality of the debates when discussing laws that concern human security.

²¹ A. Bogdanovski; M. Lembovska - COMMUNICATIONS INTERCEPTION OVERSIGHT IN MACEDONIA "Making The Impossible Possible" - http://analyticamk.org/images/Files/impossible_en_fin_al_9af93.pdf; pg. 30; Analytica, Skopje 2015

²² Parliamentary documents on changing the Law on Police, March 2015: <http://www.sobranie.mk/materialdetails.nsp?materialId=87b04971-9b6b-45a7-9dc6-586471b58576>

Cases of police brutality

The case of Martin Neshkovski, a student that was severely beaten to death on 6 June 2011 during post-election celebrations in Skopje by a member of the "Tigers" anti-terrorist police unit caused repeated public protests and called for stricter civilian oversight of the police. This case was not investigated by SICPS²³, which it represents an example of the inefficiency of the SICPS to act as a control mechanism, failing to perform comprehensive and objective investigation. MoI in public statements following the Neshkovski's case described it as: the police officer was off duty and his actions cannot be seen as violations of police authorizations. The accused police officer claimed that he was on duty, but there are no records on whether this claim was further investigated by the SICPS. In May 2015 Macedonia's largest opposition party SDSM published wiretapped conversations allegedly showing that top officials plotted to hide official responsibility for Neshkovski's murder. In 2011 officials insisted that the policeman was not on duty at the time and so they were not responsible for the murder, however the wiretapped conversations showed that there was a plot to pin the murder on the policeman alone and avoid responsibility falling on the institutions and avoid being labeled as act of police brutality.²⁴

The revealing of the wiretapped conversations once again triggered protests which ended with violent clashes with the police, where members of student organizations were chased down and arrested. They later complained

²³ How MoI tried to hide the truth about the murder of Martin Neshkoski [Како МВР се обидуваше да ја сокрие вистината за убиството на Мартин Нешкоски], Focus, 07.04.2014 <http://fokus.mk/kako-mvr-se-obiduvashе-da-ja-sokrie-vistinata-za-ubistvoto-na-martin-neshkoski/>

²⁴ Macedonia Officials Attempted Murder Cover-Up, Opposition Claims: <http://www.balkaninsight.com/en/article/macedonia-officials-attempted-murder-cover-up-opposition-claims>; published on 05.05.2015

about disproportionate and excessive use of force by the police even though they had not resisted arrest.²⁵

There are other examples where citizens that had complained against police brutality ended up with charges against them. An example is the case of a surgeon from city of Kumanovo in 2004, who had been arrested over a quarrel with police officers for having parked his car illegally. He suffered violence from the police officers even though he had warned them about his weak heart condition. This case in Macedonia's court proceeded with charges against the surgeon for attacking a state official, and he was convicted for a five-month sentence with provisional release. His complaints to the public prosecutor against police brutality were not taken into account, and they all were dismissed as ungrounded.

This case was sent to European Court of Justice (ECJ) in Strasbourg and in July 2015 the case was ruled in favor of the Kumanovo surgeon as Macedonia had breached Article 3 of the European Convention on Human Rights for failing to conduct an investigation against police brutality.²⁶

There are several cases that ended up at the European Court of Justice against Macedonia for police brutality. Such was the case of a Roma family that was beaten up by a police officer, for which the court found Macedonia guilty for failing to investigate police brutality cases properly.²⁷

The frequent cases that end up at Strasbourg ECJ highlight that allegations of ill treatment by police officers in Macedonia do not get thoroughly investigated, which further sheds light on the inefficiency of the oversight mechanisms to act on the citizens' complaints accordingly, as in both cases described above SICPS did not proceed with the cases to the public prosecutor for further investigations. In reality, the citizen complaint turn into a prosecution against the citizen himself, such as in the case of the Kumanovo surgeon, when the Ministry of Interior had filed criminal charges against him for attacking a police officer.

Even though the Ombudsman's role was described as being very strong in leading independent investigations on his own, in practice often many obstacles arise. An example is the case when the Ombudsman was not allowed to perform a visit to the prison in Vizbegovo Skopje.²⁸ This accusation comes in the light of the events of Kumanovo and attempts to visit the detainees charged with terrorism, including one member of the border police who was arrested as a suspect related to the "Kumanovo group"²⁹. There is suspicion that he was abused by the police forces after he was arrested.

After further investigation by the Ombudsman, it was found that the arrested police officer had been tortured by police officers from the special police unit "Alpha" in the basement of the Basic Court 1 after his statement was taken by a judge. The Ombudsman filed

²⁵ Macedonian protesters demand resignation of cabinet, clash with police:

<http://www.reuters.com/article/2015/05/05/us-macedonia-government-protests-idUSKBN0NQ2BH20150505>, published on 05.05.2015

²⁶ Macedonian Surgeon, Victim of Police Brutality, Received Justice in Strasbourg (Македонски Хирург, Жртва на Полициска Бруталност, ја Доби Правдата во Стразбур) <http://www.akademik.mk/kumanovski-hirurg-advokati>, 29.07.2015

²⁷ Strasbourg Court Finds Violation of Article 3 in the Second Macedonian Roma Torture Case

http://www.errc.org/popup-article-view.php?article_id=2951

²⁸ The ombudsman accuses authorities for allowing him an entrance to prison "Sutka" [Народниот правобранител обвини дека му е забранет влез во Шутка]

<http://novatv.mk/index.php?navig=8&cat=2&vest=22506>, 19.05.2015

²⁹ Macedonia charges 30 with terrorism after Kumanovo clashes

<http://www.bbc.com/news/world-europe-32695909>, 11.05.2015

charges against the "Alpha" police officers to the public prosecutor, and this case is still being investigated.³⁰ It is worth mentioning that this case was not investigated by the SICPS and there has not been any measure taken against any police officer for using unnecessary unlawful force against the accused.

A case of a Roma child beaten by a police officer in school's classroom³¹ shows what challenges citizens face in reporting these cases. In April 2015, a 14 year old child disobeyed a police officer. In response, the police officer entered his classroom and hit him. After this the father of the child reported the case at the police station in Bit Pazar, Skopje. Hours later in the same day the father got called in to the police station together with his son, where he received a fine of 600 euros issued by the police station for insulting a police officer. Due to this fine the father withdrew the complaint and stated that his son lied about being hit by the police officer.

In the following days the father complained about this situation at the Ombudsman's office.

The Ombudsman's office sent a request for a repeated investigation to the SICPS for which it received a response that the father had withdrawn the complaint. Only after the Ombudsman's office provided camera recordings from the school where the police officer could be seen hitting the young boy and sent it together with a copy of the 600 euro fine to the SICPS disciplinary measures against the police officer were taken. The police officer was punished with a salary reduction, while the other police officer who issued the fine did not receive any punishment. But, this case was proceeded at the office of the Public Prosecutor by the Ombudsman's office and both police officers are

³⁰ Interview with the state advisor Viktor Aleksov working on police misconduct cases in the Ombudsman's office, conducted on 07.10.2015

³¹ This case was presented at the interviews with the National Ombudsman Ixhet Memeti and the State Advisor Viktor Aleksov on 07.10.2015.

facing criminal charges for torture and intimidation.

The police was subject to criticism often in 2015, when by the end of August as Macedonia was facing migrant crisis - the number of migrants and refugees passing through Macedonia as a part of the transit route from Syria and other war-torn countries to the EU increased drastically. As a result, Macedonia declared a "crisis situation" on its southern and northern borders. The situation escalated very quickly with violent outbursts from the Macedonian police at the border with Greece.³² As the migrant crisis continued, the police at the border were once again in the spotlight for using excessive force against refugees.³³ However, the SICPS since the migrant crisis has initiated investigation only in one case against a police officer that was captured in a video beating the migrants with a baton, even though violence was used several times by the police before.³⁴

Conclusion and Recommendations

Oversight of the police forces in Macedonia is mainly carried out by the Sector of Internal Control and Professional Standards. This sector often gets criticized for overly depending on the Ministry in its decision-making. A low rate of

³² Macedonian riot police fired stun grenades and tear gas to disperse thousands of [migrants](http://www.dailymail.co.uk/news/article-3205764/Police-Macedonia-fire-tear-gas-stun-grenades-break-crowd-3-000-angry-migrants-trying-force-way-border-Greece.html): <http://www.dailymail.co.uk/news/article-3205764/Police-Macedonia-fire-tear-gas-stun-grenades-break-crowd-3-000-angry-migrants-trying-force-way-border-Greece.html>, 21.08.2015

³³ Shocking moment Macedonian police officer attacks migrant families with a baton at the Greek border: <http://www.dailymail.co.uk/news/article-3238286/Shocking-moment-Macedonian-police-officer-attacks-migrant-families-baton-Serbian-border.html>, 17.09.2015

³⁴ Disciplinary measures at MoI against the violence used on the refugees: <http://alsat.mk/News/21854/disciplinski-vo-mvr-protiv-nasilstvoto-vrz-begalci>. 12.09.2015

resolving citizens' complaints further put the efficiency of this sector into question.

The external mechanisms are set to be the Ombudsman's office and the Parliamentary Committees. The first one lacks decision powers, capacity and resources, and often gets obstructed on its way to conducting investigations. The Parliamentary Committee on the other hand faced fatigue due to a two-year long boycott of the Parliament by the opposition as well the overall political crisis that has dominated Macedonia's political scene.

The frequent cases of alleged police brutality in Macedonia in 2015 make the need even more immediate for addressing the shortcomings in the existing oversight mechanisms with the purpose of improving them and paving the way for new external independent oversight bodies that could contribute to more accountable police forces.

As a result this policy paper recommends for the Sector for Internal Control and Professional Standards:

- To conduct competent, thorough and unbiased investigations;
- To complete these investigations in a timely manner;
- To ensure transparency through public reporting; reports should include how many police officers get sentenced due to criminal charges yearly, as well reports to be tailored in a way that information is organized separately for citizen complaints and separately for institutional complaints; and
- To allow the Ombudsman access to all

investigation processes at any phase of the investigation and provide him with necessary materials and data for his own investigations.

To the Ombudsman's Office:

- On its own initiative to investigate cases of police brutality and monitor the work of the Sector of Internal Control and Professional Standards of MoI; inquiries from Ombudsman's office should not be driven solely from citizens' complaints.
- To periodically publish reports and evaluation of the work of the SICPS; publish quarterly reports on cases of police misconduct and similar matters; and all reports have to be available on the Ombudsman's website.
- To engage more actively with the media and civil society in voicing cases of police brutality.

Legislative changes:

- To develop sanction measures such as fines against institutions that will obstruct the Ombudsman from carrying out his functions and constitutional role.

Committee on Security and Defence and Standing Inquiry Committee for Protection of Civil Freedoms and Rights

- To establish minimum quota of meetings to discuss the annual reports of the work of SICPS and give recommendations to them. Invite Civil Society Organizations that work on protecting human rights to its meetings.

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