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# Editorial

Dear readers.

In the spring of 2019, four researchers from the Faculty of Criminal Justice and Security of the University of Maribor began researching the following project: *"Effectiveness of Systemic Supervision of the Police in Regard to Human Rights and the Statutory and Professional Standards of Police Work (V5-1942)"*. The research is co-financed by the Public Agency for Research of the Republic of Slovenia and the Ministry of the Interior ("the Ministry"), the latter being also the initiator of the project. Due to the scope and complexity of the field of control over the police, we limited the research to those segments of the system that were identified as a priority in the tender for the project, and on our own initiative we extended it to selected areas of external control over the police. In addition to the systematic supervision of police work within the Ministry the complaints mechanism against the police and internal control in the police, the survey also includes four external supervisors: the Ombudsman, the Information Commissioner, the Specialised State Prosecutor's Office and the Legal-Information Centre for NGOs. In this regard, we need to clarify that we have focused our research exclusively on the selected institutions of external control. Wider, all-embracing research into the supervision of the police by independent national supervisory bodies and international monitoring mechanisms, the public prosecutor and civil society was not included in our project. The same applies to parliamentary and judicial oversight of the police – these two areas were not addressed either. In our view, due to their exceptional scope and complexity, each of them deserves its own research project.

A year and a half of intensive research is behind us. Due to the outbreak of the COVID-19 epidemic, this period was quite turbulent and, during the work on the project, control of the police also became a political and media issue *par excellence*. Fortunately, the latter had no impact on our work as we were focusing all our energy and efforts on achieving our research goals. Some partial findings of the research have already been published, in one way or another. Among these, we would like to highlight the publication of a collection of papers on the organisation and control of the police in selected countries and the organisation of a one-day conference on the situation and its challenges in the field of control over the police in Slovenia.

Another of our goals from the work program was to publish a themed issue of the Journal of Criminal Justice and Security. We are therefore particularly pleased that, with some delay, this issue has finally seen the light of the day and will reach readers. In agreement with the editor-in-chief of the journal, we decided to publish the themed issue in English. In this way, we want to acquaint the interested international professional public with the partial results of the project and thus with the challenges of the current situation in selected areas of control over the police in Slovenia.

Each member of the project team either independently or in co-authorship contributed an article on current issues and challenges in selected areas of surveillance of the police covered by the research and it was agreed that my article

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would be the first in line. It focuses on the problem of the independence and impartiality of the complaints procedure against the police in Slovenia. The project team carried out an analysis of the legal regulation of the complaints procedure regarding the work of police officers and the results of previous research in the field. Based on the findings, we conducted a structured interview with a general questionnaire in written form and oral interviews with the employees of the Ministry who perform and monitor the complaints procedures. The key question that arises here is whether the conciliation proceedings before the head of the police unit as well as the proceedings before the panel can meet the imperatives of the independence and impartiality within their current formal/institutional framework, i.e. within the police and the Ministry.

Our survey revealed that the current regulation of complaints has advantages and disadvantages. According to the interviewees and in line with a wider professional consensus, complaints procedures should in future be carried out outside the Ministry and the police. This would mean that complaints procedures would gain what they lack at present, that is the appearance of impartiality and formal/institutional independence. Considering the path travelled so far, our view is that this should be a natural development. An attempt to establish a so-called state supervisor, an idea which is more than a decade old, failed in Slovenia because the planned reform did not break through to the agenda of political decision-makers. Currently the situation is unchanged – the authorities unite and weaken supervisors, instead of making them independent and more efficient.

In her article, Maja Modic focuses on the implementation of systemic supervision of police work, in particular on the operations of the Division for System Guidelines and Supervision of the Police, which operates within the Police and Security Directorate of the Ministry. Researching this segment of the system of control over the police in Slovenia, the project team first examined how systemic supervisory activity of the work of the police within the Ministry is regulated by law, limiting ourselves to the work of the Division for System Guidelines and Supervision of the Police. Based on the findings and an additional review of anonymised supervision reports, we prepared a questionnaire and conducted a structured written interview as well as oral interviews with the Division's employees.

By interviewing supervisors, we explored how they perceive their own work and the organisation, operation and effectiveness of systemic supervision of police work. More particularly, we were interested in their assessment of the regulatory framework that applies to their work tasks, as well as in their opinion on personnel issues such as staffing, occupancy and staff education and training opportunities. We asked the supervisors for information regarding the number and frequency of supervision inspections carried out, clarification on how supervision inspections are ordered and their views on cooperating with the subjects of supervision as well as the main external supervision providers. Among other things our survey revealed that systemic supervision efforts are contributing significantly to the quality of policing; however, there are certain challenges to overcome that leave some room for improvement, the main one being the inefficient implementation of supervision findings coupled with a lack of consistency in updating employees on police supervision reports.

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Branko Lobnikar and Kiara Ropoša present the findings of a survey conducted using a sample of internal surveillance providers in the Slovenian police. Internal control is a sensitive topic since it can raise questions about certain practices that are deeply rooted within police traditions and culture. As a result, improving internal mechanisms to monitor peers and identify abusive behaviour by police officers, including the most high-ranking, is not an easy task. The purpose of this segment of the research was to analyse the regulation, operation and efficiency of the processes of internal control in the Slovenian police through the perspective of internal control providers. In the empirical part of the survey, we conducted seven structured interviews with internal control providers at all levels.

We found that the implementation of internal control visibly contributes to improving the quality of police performance, but there are still challenges and opportunities for improvement. One of the main challenges is to ensure that police officers are well informed about control reports, and that the findings are applied effectively. The interviewees agreed that the transfer of surveillance findings into daily police practice contributes greatly to improving the knowledge and legality of the exercise of police powers. In this regard, our analysis drew attention to the need for systematic regular testing of police officers' knowledge in this area. According to the interviewees, this could be achieved by using methods already established and strengthening the role of police instructors in this field.

The authors of the fourth and last article in this themed issue are Bojan Tičar and Jona Koren Fric. Their paper presents an overview of audit-case studies of the Slovenian Court of Audit where the subject of the audit was police financial operations. In this segment of the research, the research team analysed legal regulation of the power of the Court of Audit to audit the operations of the police, carried out a case-study analysis and conducted a structured interview in written form with the Court of Audit's supervisors. Questions directly addressed to the Court of Audit concerned external audits of police operations by the Court of Audit and an assessment of its cooperation with the police.

Our analyses discerned that individual police units have been the subject of three audits from the time Court of Audit operations began until today; however, the Court has never carried out a regularity or performance audit of the police. While the reviews performed by the Court of Audit typically focus on the regularity of payroll accounting and the administration of the payment of salaries, public procurement, planning and investing, audits of the police were mostly limited to their financial operations. The primary reason that in-depth audits of the police are fairly rare lies in the limited human and financial resources of the Court of Audit, frequent legislative changes and the large number of users of public funds that the Court of Audit must supervise.

While exploring and assessing the efficiency of cooperation between the two entities, we found, among other things, that the Court of Audit and the police signed an agreement in 2013 following criticism of the Court of Audit for not notifying the police of audit findings often enough. The agreement contains the Court of Audit's commitment to hand over to the police certain parts of audit reports and relevant documentation. This cooperation is intended to contribute to the greater efficiency of both authorities, as all types of abuses of the financial

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interests of Slovenia and the European Union should thereby be uncovered and investigated faster and more easily.

By publishing this themed issue of the Journal of Criminal Justice and Security, we wish to contribute to further development of the professional and scientific debate on surveillance of the Slovenian police and, thus, to contribute to improving the quality and integrity of policing as a whole. After all, integrity and professionalism are core values that are essential to legitimate policing, while failure by the police to perform their role legitimately can have far-reaching detrimental consequences for society.

*Associate Prof. Benjamin Flander, PhD*  
Guest Editor

*Prof. Branko Lobnikar, PhD*  
Editor of English Issues

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# Uvodnik

Dragi bralci.

Trije raziskovalci in raziskovalka s Fakultete za varnostne vede Univerze v Mariboru smo spomladi leta 2019 začeli z izvajanjem ciljnega raziskovalnega projekta »Učinkovitost sistemskega nadzora nad policijo na področju spoštovanja človekovih pravic ter zakonskih in strokovnih standardov policijskega dela (V5-1942)«. Raziskavo sofinancirata Javna agencija za raziskovalno dejavnost Republike Slovenije (ARRS) in Ministrstvo za notranje zadeve (MNZ), ki je hkrati tudi pobudnik projekta. Zaradi obsežnosti in kompleksnosti področja nadzora nad policijo smo raziskavo omejili na tiste segmente sistema nadzora, ki so bili kot prioritetni opredeljeni v razpisnem gradivu projekta, samoiniciativno pa smo jo razširili tudi na izbrana področja zunanega nadzora. V raziskavo so bili tako poleg sistemskega nadzora nad policijo, ki se izvaja v okviru Ministrstva za notranje zadeve, pritožbenega mehanizma zoper policijo in internega nadzora v policiji vključeni še štirje zunanji nadzorniki, in sicer Varuh človekovih pravic, Informacijski pooblaščenec, Specializirano državno tožilstvo Republike Slovenije in Pravno-informacijski center nevladnih organizacij. Cilj našega raziskovalnega projekta ni bil celovita raziskava področja nadzora, ki ga nad policijo izvajajo samostojni nadzorni organi ter domači in mednarodni monitoring mehanizmi, vključujoč državnotožilski nadzor ter državljanski in civilnodružbeni nadzor nad policijo, zato smo raziskovalno pozornost omejili na izbrane institucije. Enako velja za parlamentarni in sodni nadzor nad policijo – področji nadzora, ki se jima v ciljnem raziskovalnem projektu zaradi omejenosti resursov nismo uspeli posvetiti. To pa ne pomeni, da si ti vidiki nadzora nad policijo ne bi zaslužili raziskovalne pozornosti – to delo nas čaka v prihodnje.

Za nami je leto in pol intenzivnega raziskovanja, ki je bilo zaradi razglasitve epidemije koronavirusne bolezni precej turbulentno, zaradi kontroverznih dejavnosti nekaterih nadzornikov (natančneje: enega nadzornika) pa je nadzor nad policijo prav v času izvajanja projekta postal tudi politična in medijska tematika *par excellence*. Slednje na naše delo ni imelo posebnega vpliva, energijo in napore smo vseskozi usmerjali v uresničevanje zastavljenih raziskovanih ciljev. So pa ti dogodki pokazali, kako ranljiva je lahko policija; ne glede na dejstvo, da si je v zadnjih desetletjih prizadevala za status profesije, je avtonomnost pri izvajanju policijskih nalog lahko omejena zaradi partikularnih intervencij nosilcev moči, ki imajo tudi nadzorstveno moč.

Za nekatere objave delnih ugotovitev raziskave smo poskrbeli že med izvajanjem projekta. Omembe vredna je predvsem izdaja zbornika s prispevki o organizaciji in nadzoru policije v izbranih državah in organizacija posveta o stanju in izzivih na področju nadzora nad policijo v Sloveniji. Med cilji, ki smo jih opredelili v programu dela, je bila tudi izdaja tematske številke revije Varstvoslovje, ki jo imate pred sabo.

Zelo smo veseli, da je z nekaj zamude tematska številka končno ugledala luč sveta in bo dosegla bralce. Primarni namen objave tematske številke o nadzoru nad policijo je objava delnih rezultatov raziskovalnega dela projekte skupine in njenih članov. V dogovoru z glavnim in odgovornim urednikom revije smo se

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odločili, da tematska številka izide v angleščini. Na ta način želimo z delnimi rezultati ciljnega raziskovalnega projekta ter s tem s stanjem in izzivi na izbranih področjih nadzora nad policijo v Sloveniji seznaniti zainteresirano mednarodno strokovno javnost. Vsak izmed članov projektne skupine je bodisi v samostojnem avtorstvu bodisi v soavtorstvu prispeval članek o aktualni problematiki in izzivih na izbranih področjih nadzora nad policijo, ki so bila zajeta v raziskavo.

V dogovoru s člani projektne skupine in uredništvom revije je bil v vrstni red prispevkov kot prvi uvrščen članek, ki ga je prispeval vodja raziskovalnega projekta Benjamin Flander. Prispevek se osredotoča na analizo neodvisnosti in nepristranskosti pritožbenega postopka zoper policijsko delo v Sloveniji. V prispevku je predstavljena analiza pravne ureditve pritožbenega postopka glede dela policistov, povzeti pa so tudi rezultati do zdaj opravljenih raziskav. Na podlagi teh ugotovitev so raziskovalci pripravili strukturirane intervjuje, ki so bili opravljeni z uslužbenci Ministrstva za notranje zadeve, ki vodijo pritožbene postopke. Ključno vprašanje, ki ga je Benjamin Flander v svojem prispevku analiziral, je, ali lahko pomiritveni postopek pred vodjo policijske enote in/ali postopek pred senatom izpolni imperativne, zapisane v zakonu ob upoštevanju trenutnega formalnega ter institucionalnega okvirja te obravnave. Raziskava je pokazala, da ima sedanja ureditev pritožbenega postopka nad policisti prednosti in slabosti. Po besedah sogovornikov bi morali v skladu s širšim strokovnim soglasjem postopke za pritožbe v prihodnje izvajati zunaj Ministrstva za notranje zadeve in policije. To bi pomenilo, da bi pritožbeni postopki pridobili tisto, kar jim trenutno manjka, in sicer popolni videz nepristranskosti in formalne/institucionalne neodvisnosti. Glede na do zdaj prehojeno pot bi moral biti po našem mnenju to naraven razvoj dogodkov in pritožbenega mehanizma zoper delo policistov. Poskus ustanovitve tako imenovanega državnega nadzornika, ideja, stara več kot desetletje, je v Sloveniji začasno zastal, ker se načrtovana reforma ni prebila na agendo političnih odločevalcev. Trenutno položaj na tem področju ni nič drugačen – v Sloveniji oblast združuje in/ali slabi nadzornike, zato je krepitev neodvisnih in učinkovitih nadzornih mehanizmov v Sloveniji na splošno, pa tudi na področju nadzora policijske dejavnosti, še vedno naloga za prihodnje dni.

Maja Modic v svojem članku predstavlja ugotovitve raziskave o sistemskem nadzoru nad policijskim delom. Natančno predstavi delo Sektorja za sistemske usmeritve in nadzor policije, ki deluje v okviru Direktorata za policijo in druge varnostne naloge MNZ. Na podlagi ugotovitev in dodatnega pregleda anonimiziranih nadzornih poročil smo pripravili vprašanja za strukturiran intervju z zaposlenimi nadzorniki v sektorju. Avtorica je proučila, kako dojemajo lastno delo in organizacijo nadzorstvene dejavnosti ter kako ocenjujejo učinkovitost sistemskega nadzora policijskega dela, predvsem pa jo je zanimala njihova ocena regulativnega okvira njihovega delovanja. Njena analiza je vključevala tudi vprašanja, vezana na pogoje izvajanja nadzorstvene dejavnosti, kot so kadrovanje, zasedenost in možnosti izobraževanja in usposabljanja zaposlenih. Avtorica je med drugim ugotovila, da prizadevanja za sistemski nadzor znatno prispevajo h kakovosti policijskega dela, vendar je pri tem treba primerno nasloviti določene izzive, ki puščajo nekaj prostora za izboljšave. Glavni izziv tako predstavlja



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neučinkovito udejanjanje ugotovitev nadzora in pomanjkanje doslednosti pri posodabljanju poročil o policijskem nadzoru.

Branko Lobnikar in Kiara Ropoša v svojem prispevku predstavljata ugotovitve raziskave na vzorcu izvajalcev nadzorstvene dejavnosti znotraj slovenske policije. Namen njune analize je bil analizirati nadzorstveno dejavnost v slovenski policiji skozi perspektivo izvajalcev nadzora, ugotavljala sta odnos do nadzorstvene dejavnosti, s pomočjo intervjujev pa sta analizirala priložnosti in pomanjkljivosti nadzorstvene dejavnosti v slovenski policiji v odnosu do sistemskega nadzora. V raziskavi sta ugotovila, da je nadzor, pa naj ga izvajajo nadzorovalci Ministrstva za notranje zadeve ali Policije, prepoznan kot pomemben element vodenja policijske organizacije. Intervjuvanci so poudarili pomen policijskih vodij – tako z vidika načrtovanja nadzorstvene dejavnosti kot z vidika prenosa ugotovitev nadzora v neposredno policijsko prakso. Eden glavnih izzivov je skrb za seznanjanje policistov s poročili o nadzorih in učinkovita implementacija ugotovitev nadzorov ter prenos ugotovitev v vsakodnevno policijsko prakso. Prenos ugotovitev nadzora je po ugotovitvah raziskave mogoče zagotoviti s pomočjo digitalizacije procesov dela policistov, z uveljavljanjem na standardih utemeljenih modelih policijskih postopkov ter s preverjanjem kompetenc policistov.

Avtorja četrtega članka v tej tematski številki sta Bojan Tičar in Jona Koren Fric. Njun članek predstavlja pregled revizijskih študij finančnega poslovanja slovenske policije, ki jih je opravilo Računsko sodišče Republike Slovenije. Avtorja sta v prispevku opisala pravno ureditev in pristojnosti računskega sodišča za revizijo poslovanja policije in izvedla analizo študije primera in izvedla strukturirane intervjuje z nadzorovalci iz računskega sodišča. Ugotovila sta, da so bile posamezne policijske enote v času od začetka delovanja računskega sodišča do danes predmet treh revizij, vendar pa policija kot celota ni bila nikoli predmet revizije. Medtem ko se na splošno pregledi računskega sodišča običajno osredotočajo na pravilnost obračuna in izplačila plač, javna naročila ter načrtovanje in izvajanje naložb, so bile revizije policije večinoma omejene na njihovo finančno poslovanje. Glavni razlogi, da so poglobljene revizije policije, ki jih opravlja računsko sodišče, dokaj redke, so omejeni človeški in finančni viri računskega sodišča, pogoste zakonodajne spremembe in veliko število uporabnikov javnih sredstev, ki jih mora računsko sodišče nadzorovati. Med proučevanjem učinkovitosti sodelovanja med obema institucijama sta avtorja med drugim poudarila, da sta Računsko sodišče RS in Policija leta 2013 podpisala sporazum o sodelovanju, katerega namen je bil okrepiti učinkovitosti obeh oblastnih institucij, saj bi s tem lažje in hitreje odkrili in preiskali vse vrste zlorab, ki so bile storjene proti finančnim interesom Slovenije in Evropske unije.

S prispevki v tematski številki revije Varstvoslovje želimo prispevati k strokovno-znanstveni razpravi o nadzoru nad policijo in nadaljnji krepitvi demokratičnega nadzora nad organom, ki s svojimi pooblastili lahko korenito poseže v temeljne človekove pravice, legitimnost ali morebiti nelegitimnost njegovega delovanja pa je navsezadnje tudi del identitete družbe in države. Našo raziskavo, in tudi prispevke v tej številki revije razumemo kot začetek dejavnosti, ki jo bomo v prihodnje razširili tudi na druge, zgoraj omenjene vidike nadzorstvene dejavnosti nad osrednjo institucijo za zagotavljanje varnosti v

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Sloveniji. V uredništvu upamo, da bodo tudi naši prispevki dodali kamenček v mozaik uspešnosti in učinkovitosti nadzorstvenega procesa nad oblastnimi institucijami v Sloveniji. To je naš prispevek na pogosto postavljeno vprašanje pred kratkim preminulega slovenskega kriminologa Janeza Pečarja: *Quis custodiet ipsos custodes?*

*Izr. prof. dr. Benjamin Flander*  
Gostujoči urednik

*Prof. dr. Branko Lobnikar*  
Urednik števil v angleškem jeziku

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# Complaints Against the Slovenian Police: On the Problem of Independence and Procedural Impartiality<sup>1</sup>

VARSTVOSLOVJE,  
*Journal of Criminal  
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year 22  
no. 4  
pp. 361–374

**Benjamin Flander**

## **Purpose:**

The paper focuses on the problem of independence and impartiality of the complaints procedure against police work in Slovenia. Relying on the findings of the targeted research project, we address and examine the concerns regarding the adequacy of the current format and indicate the possibilities for legislative changes and reform.

## **Design/Methods/Approach:**

We carried out an analysis of the legal regulation of the complaints procedure regarding the work of police officers and the results of previous research in the field. Based on the findings, we conducted a structured interview with a general questionnaire in written form and oral interviews with the people who perform the complaints procedures.

## **Findings:**

The current regulation of complaints has advantages and disadvantages. According to the interviewees and in line with a wider professional consensus, complaints procedures should in future be carried out outside the Ministry of the Interior ("the Ministry") and the police. This would mean that complaints procedures would gain what they lack at present, namely the appearance of impartiality and formal/institutional independence.

## **Research Limitations/Implications:**

In our research, we interviewed employees of the Ministry and representatives of the public who are involved in proceedings before the complaints panels of the Ministry. In future research, other participants (e.g. the complainants and police officers) should also be interviewed for a more comprehensive view of the issue.

## **Originality/Value:**

We examined the views of the employees of the Ministry who carry out complaints procedures in order to establish the validity of concerns regarding the

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<sup>1</sup> The article was written as a part of the targeted research project V5-1942 "Effectiveness of systemic control over the police in the field of respect for human and legal and professional standards of police work". The project is carried out by the Faculty of Criminal Justice and Security of the University of Maribor and co-financed by the Public Agency for Research of the Republic of Slovenia and the Ministry of the Interior.

adequacy of current regulation and we indicated the possibilities for reform of the current procedures.

**Keywords:** complaints against police work, procedure, independence, impartiality, Slovenia

**UDC:** 351.74:342.7(497.4)

## **Pritožbe zoper delo policije: O problemu neodvisnosti in nepristranskosti postopka**

### **Namen prispevka:**

Namen prispevka je predstaviti ugotovitve ciljnega raziskovalnega projekta »Učinkovitost sistemskega nadzora nad policijo na področju spoštovanja človekovih ter zakonskih in strokovnih standardov policijskega dela (V5-1942)«. Prispevek se osredotoča na problem neodvisnosti in nepristranskosti pritožbenega postopka zoper delo policije.

### **Metode:**

Izvedli smo analizo pravne ureditve instituta pritožbe zoper delo policistov in rezultatov raziskav s tega področja, ki so bile že izvedene. Na podlagi ugotovitev smo izvedli strukturirani intervju s splošnim vprašalnikom v pisni obliki in ustne intervjuje z izvajalci pritožbenih postopkov.

### **Ugotovitve:**

Veljavna ureditev pritožbenega postopka ima tako prednosti kot tudi pomanjkljivosti. Po mnenju intervjuvancev in stroke na splošno je treba v perspektivi pritožbeni mehanizem izločiti iz Ministrstva za notranje zadeve (MNZ) in policije, s čimer bi mu zagotovili to, česar v veljavni ureditvi nima – videz nepristranskosti in formalno/institucionalno neodvisnost.

### **Omejitve/uporabnost raziskave:**

V raziskavi smo intervjuvali sodelujoče v pritožbenih postopkih, ki potekajo pred senati MNZ. V prihodnje bi veljalo intervjuvati, poleg uslužbencev MNZ in predstavnikov javnosti, tudi pritožnike in policiste.

### **Izvirnost/pomembnost prispevka:**

Preverili smo stališča izvajalcev pritožbenih postopkov o (ne)utemeljenosti pomislov glede ustreznosti veljavne ureditve in nakazali možnosti za morebitno reformo obstoječega formata pritožbenega mehanizma.

**Ključne besede:** pritožba zoper delo policije, postopek, neodvisnost, nepristranskost, Slovenija

**UDK:** 351.74:342.7(497.4)

## **1 INTRODUCTION**

The start of the process of developing the complaints procedure against police work in Slovenia dates back to the time when the country gained its

independence. The Law on Police (Zakon o policiji [ZPol], 1998), which came into force in 1998, established a mandatory written form of complaint and introduced a procedure in front of a panel at the Ministry of the Interior (*Ministrstvo za notranje zadeve* [MNZ]). Also under the ZPol (1998), representatives of the public became members of the panels. In 2003 the Act Amending the Police Act (Zakon o spremembah in dopolnitvah Zakona o policiji [ZPol-G], 2003) introduced two levels of decision-making on complaints – conciliation proceedings and proceedings before the panel, with which the process acquired its current form. Both levels/forms of dealing with complaints have been upgraded by the Police Tasks and Powers Act (Zakon o nalogah in pooblastilih policije [ZNPPol], 2013), which has been amended twice so far. Currently, the complaints procedure is regulated by twenty provisions of the ZNPPol (2013) and in more detail by the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013).

ZNPPol (2013) states that a complainant may express disagreement with a police officer's action or his or her failure to act while performing police tasks, which could constitute a violation of human rights or fundamental freedoms. In a complaints procedure, the circumstances of the application of police procedure and the exercise of police powers shall be established. If it is found that a police officer committed violations that are the subject of other procedures, the findings shall be reported to the head of the police unit to which the police officer is attached and the head of the unit shall act in accordance with his or her powers. In the complaints procedure, the police are obliged to participate in the conciliation proceeding to try to resolve the complaint. If the complainant is not satisfied with the outcome of the attempt at conciliation, his/her complaint shall be considered by a panel of three members. The panel is headed by a civil servant from the Sector for Complaints against the Police in the Directorate for Police and Other Security Tasks at the Ministry of the Interior and the other two members are representatives of the public. In cases where the complainant alleges a serious violation of human rights and in other cases which involve para. 4 of Art. 148 of ZNPPol (2013), the complaint shall be considered directly by the panel. In a complaints procedure, the complaint shall be independently, impartially and competently examined, while the complainant and the police officer shall be provided with all procedural rights in accordance with the ZNPPol (2013).

The annual reports on the resolution of complaints against the police show that the number of complaints lodged by individuals has decreased in recent years. 797 complaints were lodged in 2008 and 358 in 2015. The annual reports for the period 2015–2019 show that during this period the number of complaints lodged fluctuated between 309 (2016) and 358 (2019), which means that it was fairly constant. Given the number of all police procedures started, the number of filed complaints is not large. This, according to the authors of the annual reports, indicates that police officers generally perform their tasks professionally and that in most cases they use police powers in accordance with the law (MNZ, 2016; 2017; 2018; 2019; 2020).

The number of conciliation proceedings initiated in that period ranges between 106 in 2016 and 158 in 2019. In 2018, more than half of conciliation procedures were

successfully completed, which was not the case in previous years. While this has reflected past efforts to improve the quality of the implementation and monitoring of the conciliation procedure, this trend continued in 2019 too. At the sessions of the panel, a more or less constant number of complaints was considered in that period, namely a minimum of 69 in 2016 and a maximum of 79 in 2015 (72 in 2017, 73 in both 2018 and 2019). The annual reports show that the share of substantiated complaints in 2018 (13.4%) decreased significantly compared to the previous year (23.6%). In recent years the largest number of complaints has concerned road safety, followed by public order and peace, the detection and prevention of crime, and finally the protection of the state border and treatment of foreigners (MNZ, 2016; 2017; 2018; 2019; 2020).

According to the provisions of the ZNPPol (2013), employees of the Sector for Complaints Against the Police (*Sektor za pritožbe zoper policijo* [the Sector for Complaints]) directly monitor conciliation proceedings. From 2017 onwards, summaries of substantiated complaints are published on the Ministry of the Interior's website. The employees of the Sector for Complaints forward the documentation to the General Police Administration, with a recommendation that the content is used in police training. In the police units where violations were committed, police officers are acquainted with cases of substantiated complaints, as well as with concrete examples of exemplary preparation and conduct of conciliation proceedings. The employees of the Sector for Complaints carry out these activities to eliminate inadequate practices of police officers in carrying out police tasks and ensuring consistent respect of the human rights and fundamental freedoms of persons involved in police procedures.

In practice, the handling of complaints against the work of police officers has improved in recent years in all stages of the complaints procedure. Nevertheless, there are serious concerns about the current system and its operation. In the 2019 report, for example, the Ombudsman of the Republic of Slovenia ("the Ombudsman") draws attention to cases where complaints have not been comprehensively considered and the facts of police proceedings have not been properly and completely established (Ombudsman of the Republic of Slovenia, 2020). In our view, these cases address the issue of independency and procedural impartiality of the current format of complaints procedure. The question that arises here is whether the conciliation proceedings before the head of the police unit as well as the proceedings before the panel can meet these imperatives within their current formal/institutional framework, e.g. within the police and Ministry.

Relying on the findings of the targeted research project (see note 1), the article discusses in more detail the problem of the independence and impartiality of the complaints process. We will address and examine the concerns regarding the adequacy of the current format and indicate the possibilities for legislative changes and reform.

## 2 COMPLAINTS PROCEDURE UNDER CRITICISM

In the public debate so far, all previous aspects of the complaints procedure have been criticized as inadequate by supervisory institutions, non-governmental

organizations and legal and other experts. The inadequacy of regulation under the Law on Police of 1998 (ZPol, 1998) was pointed out by the Ombudsman, followed by some non-governmental organizations and experts. The Ombudsman assessed that regulation at the time did not allow for objective decision-making and did not enjoy public confidence (Ombudsman of the Republic of Slovenia, 2002). Similarly, Anžič and Gaber (2004) argued that in the conciliation procedure “the police supervise the police” and that consequently these procedures involved not conciliation between the complainant and police officer, but internal control over police compliance with the laws. The latter was also shared by the Administrative Court in its decision no. U 65/2000-11 (Upravno sodišče RS, 2001).

The regulation of the complaints mechanism under the Act Amending the Police Act (ZPol-G, 2003), adopted in 2003, and the Rules on Resolving Complaints of 2004 (Pravilnik o reševanju pritožb, 2004), also raised numerous concerns. Anžič (2006) pointed out that the then regulation did not increase the level of objectivity in resolving complaints and did not eliminate doubts about the impartiality of the complaints procedure. By partially delegating authority for resolving complaints from the police to the Ministry of the Interior, the legislator allegedly insufficiently enforced the principles set out in Recommendation REC (2001) 10 of the Committee of Ministers of the Council of Europe on the European Code of Police Ethics (Committee of Ministers of the Council of Europe, 2001). According to Anžič (2006), the amendments to the Rules on Resolving Complaints (2004), adopted in 2005, worsened the situation even further because they limited the possibility of complaints to a narrower set of police tasks and powers.

The 2003 regulation sought to remove doubts about the credibility and impartiality of the complaints procedure by partially transferring the resolution of complaints from the police to the Complaints Department at the Ministry of the Interior, where, according to Anžič (2006), former police officers would retain all of their former character traits, including police cynicism. He was also critical of the complaints proceedings because no decision was issued at the end of them, but only the response of the panel, against which the appellant had no legal remedy. He proposed the abolition of the concept of conciliation and proceedings before the panel and instead proposed the introduction of an independent complaints mechanism outside the Ministry of the Interior and the police. By establishing an independent body over which the Minister, Director General of Police, and other police officials would have no influence, the Republic of Slovenia would ensure efficient, professional, and impartial handling of complaints, which would also be perceived as such by the public (Anžič, 2006).

In a survey on complainants' satisfaction with complaints procedures in 2012, Hudrič and Kuralt (2013) found that 80% of respondents had doubts about the procedures' independence, impartiality and objectivity. They attributed a high proportion of dissatisfaction to the involvement of the police and/or the ministry at both stages of the proceedings. More than 60% of respondents believed that the dispute is often not resolved in the conciliation proceedings because the head of the police unit did not thoroughly check and establish the facts and because he did not present his findings and measures correctly.



Concerns also arose regarding the current regulation and practice of conducting complaints procedures under ZNPPol (2013). The Ombudsman has pointed out that current regulation does not differ significantly in nature from its predecessor. In his 2015 annual report, he noted that he had received many complaints in which the petitioners claimed that the police officers were unwilling to accept their complaints. He emphasized the paramount importance of the conciliation procedure, which, if carried out in an appropriate manner, in his opinion could resolve most of the misunderstandings which had given rise to the applicant's dissatisfaction, especially allegations of minor police interference with individual rights. About the handling of complaints before the complaints panel, he claimed that, in the vast majority of cases, the panels trusted the police officers more than the complainants, that in some cases they were biased and that they had double standards. The Ombudsman recommended to the Ministry and the police that they should check the levels of independence, objectivity, professionalism and quality of resolving complaints before the panel on a regular basis, and, if necessary, take additional measures to improve the situation (Ombudsman of the Republic of Slovenia, 2016).

Also critical of current regulation are the employees of the Sector for Complaints who participate in proceedings before the panels as panel leaders or rapporteurs, and monitor conciliation proceedings. In their annual reports they claim that in recent years they have noticed significant progress in the implementation of conciliation procedures, but at the same time pointed out the tendency of heads of the police units to excuse or justify the conduct of police officers, even if the circumstances show that their actions were illegal or at least unacceptable. According to them, the proceedings in front of the head of the police units are not carried out as real conciliation and mediation procedures. They pointed out that more attention needs to be paid to the independent, impartial and professional handling of complaints and to raising awareness of the role of civilian oversight of police procedures (MNZ, 2016; 2017; 2018; 2019; 2020).

### **3 ON THE PROBLEM OF INDEPENDENCE AND IMPARTIALITY - FINDINGS OF THE TARGETED RESEARCH PROJECT**

#### **3.1 Method**

As part of the targeted research project (see note 1), we carried out a study of the current legal regulation of the complaints procedure and analysed the results of the previous research in this field. We then conducted a structured interview with the Head of the Sector for Complaints against Police in the Directorate for Police and Other Security Tasks at the Ministry of the Interior with a general written questionnaire. After the analysis of the interview with the general questionnaire, we also conducted an oral interview with the head of the Sector. Furthermore, we carried out an oral interview with two employees of the Sector who participate in the proceedings as the Minister's representatives as panel leaders and rapporteurs as well as with a representative of the public in the panels. In aggregate, we conducted one written and four oral interviews. The structured interview with the



general questionnaire was sent to the head of the Sector for Complaints by e-mail, after prior coordination with the supervisor of the research project at the Ministry of the Interior, who agreed with our proposal for the general questionnaire. Oral interviews were conducted at the premises of the ministry. Both the questions in the general questionnaire as well as those that were asked in oral interviews referred to different segments and aspects of the functioning of the complaints mechanism against the police. In this paper, we summarize the findings relating to the issue (and problem) of independence and impartiality in handling complaints.

### **3.2 Results of the structured interview with a general questionnaire**

The head of the Sector for Complaints expressed the view that the current regulation of the complaints procedure is not in line with the imperatives of independence and impartiality. In his opinion, this applies to both the conciliation procedure and the procedure before the panel. Because of the existence of a police subculture, it would be unrealistic to expect the leaders of conciliation proceedings not to justify certain actions of fellow police officers. He reiterated the view from some annual reports on complaints procedures (see above) that the current version of the conciliation procedure is certainly not based on the standards of independence and impartiality applicable to alternative dispute resolution. Rather, this procedure is an encounter of the complainant with the police, represented by the head of the police unit, which cannot be a mediation between equal parties of a dispute. The head of the Sector for Complaints explained that one of the tasks of the Sector's employees is to monitor conciliation proceedings with the goal of overseeing individual cases and conciliation leaders and preventing the concealment of illegal and unacceptable actions of police officers. Whilst due to staffing issues the Sector's employees cannot monitor every conciliation procedure, they are present in more than 50% of cases.

We learned from the interviewee's answers that the employees of the Sector for Complaints are trying to eliminate the tendency of police unit leaders to justify the actions of police officers and other unacceptable practices by conducting monitoring. The interviewees also confirmed that the Sector is aware of the Ombudsman's warnings about the many complaints he receives in which the initiators claim that the police officers did not want to accept their complaints. In the opinion of the head of the Sector for Complaints, it should be taken into account that a complaint against the work of the police can also be filed with the Ministry of the Interior, either in writing, electronically, or via an e-application if and when a police officer does not want to accept a complaint. In order to raise public awareness, the ministry put up instructions on how to file a complaint about the work of the police on their official website. The head of the Sector believes that the complaints procedure should be reformed so that conciliation procedures are carried out by persons who are not employed by the police or the ministry.

The head of the Sector is also critical of the current regulation of proceedings before the panel. At the moment the panel consists of the Minister's representative as the panel leader and two representatives of the public as panel members. Their participation is considered to be a form of civil control over the work of the police

and a building block of policing in a democratic state governed by the rule of law. The rapporteur is also present at the session of the panel, gathers all the evidence regarding the complaint and prepares a written report on the findings. The problem pointed out by the head of the Sector is that, in accordance with the Rules on Resolving Complaints about the Work of Police Officers (Pravilnik o reševanju pritožb zoper delo policistov, 2013), the rapporteur may also be a person employed by the police. Since in practice due to staffing constraints it is impossible that reporting activities are carried out exclusively by employees of the Sector for Complaints, they are in most cases carried out by police officers. Obviously one cannot speak of an independent and impartial complaints procedure in this respect either, if the fact-finding task is performed by a person employed by the same organization as the person who allegedly violated the complainant's human rights and fundamental freedoms.

The fundamental problem seen by the head of the Sector is that the Sector for Complaints is not institutionally separated from the Police and the Ministry of the Interior. According to the interviewee, this defect of the complaints procedure has already been questioned by some experts. The placement of the Sector in the ministry deprives the complaints procedure, which should be both independent and impartial, of the appearance of impartiality. According to the interviewee, the complainants are often of the opinion that in proceedings where complaints are handled by the police and the ministry, the saying "there is honour among thieves" applies. In an interview, the head of the Sector said that he understands their concerns and partially agrees with them, especially that it is inappropriate for a body dealing with complaints against the police to be located within the ministry. In this regard, he pointed out that the Director General of the Directorate for Police and Other Security Tasks, which includes the Sector, is directly responsible to the Minister, and the Minister is also responsible for legal and professional police work. According to the head of the Sector, the responsibility of the Minister for the work of both and both being placed under the same ministry, contradicts the idea and principle of independence and impartiality.

The idea that the procedure for dealing with complaints against the police as a whole should be excluded from the Ministry of the Interior and that a so-called *police ombudsman* or other special independent body should be established is a good one, according to the head of the Sector, but the question is whether it is feasible. In the past, such ideas and proposals have emerged, but – according to the head of the Sector – they have not been implemented. According to him, conceptual changes in this area will not take place until professional consensus and political will is reached. He pointed out that an inter-ministerial group had been set up a decade ago (in 2010) to prepare expert starting points aiming for change, but the group's goals had not been achieved. In his opinion, the introduction of a system for resolving complaints similar to the ones in Great Britain, Northern Ireland, Canada, Hungary and also Palestine is needed in Slovenia.

### 3.3 Oral interviews – key findings

Oral interviews regarding conciliation proceedings have shown that the current regulation of this part of the complaints procedure has various advantages, but

the fact that conciliators are police chiefs does not guarantee impartiality of these proceedings. From the answers of the interviewees, we discerned that in practice the heads of police units can be biased when they establish the facts within the conciliation procedure. The interviews confirmed the warnings of some complainants and critics of the existing conciliation arrangements that police chiefs did not accept the evidence submitted by the complainants. Employees of the Sector, who monitor conciliation proceedings, note that when they are present during a confrontation between a police officer and the head of a police unit, the latter makes significantly more efforts to establish facts objectively and impartially. When employees of the Ministry monitor<sup>2</sup> the conciliation procedure, this usually also positively affects the complainants, who attribute a higher degree of legitimacy to the procedure due to the employees' presence.

Regarding the proceedings before the panels, we found out that in practice the head of the Sector first reads and then, depending on the complexity of the case and the field of work, determines which of the employees authorized by the minister will take over the role of a head of the panel and who will be the rapporteur. In accordance with the ZNPPol (2013) and the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013), the head of the Sector in some cases of complaints procedures, in agreement with the General Police Administration (*Generalna policijska uprava*) or individual police administrations (*Policijska uprava*), appoints police officers to the position of rapporteur. The head of the Sector has explained that the main reason why in so many cases the role of a rapporteur is taken by a police officer is short staffing.

In oral interviews, we checked whether in practice there are cases of exclusion of members of the panel due to a conflict of interest or for other reasons, as the ZNPPol (2013) and the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013) have no provisions in this regard. The head of the Sector explained that in proceedings before the panel there are cases when the complainants claim that they have previously come across the head of the panel, the rapporteur, or a representative of the public in the past, and that they are therefore unfavourable to the complainant in the current proceedings and not impartial. The head of the Sector pays attention to such cases and makes sure that the member of the panel is replaced in time if the complainant's allegations are substantiated. There are also cases where the complainant states that a panel member was "infected" and that the panel was properly composed only after the end of the panel session or upon receiving the panel's response to his or her complaint. As a rule, such claims are not accepted by the head of the Sector.

According to the interviewees, so far there has been no case where a party or a third party, i.e. a complainant or a police officer or someone else at their request, has tried to influence the head of the panel, the rapporteur, or a representative

2 From the answers of the interviewees, we understood that there are no cases where, due to staff shortages or other reasons, police officers would participate in monitoring. Police officers cannot carry out monitoring, they can only be carried out by the Minister's representatives, who are employees of the Sector for Complaints.

of the public, in an inappropriate way. Nor has it ever happened that any of the participants in connection with their work on the panel have ever been subjected to pressure or attempted influence (for example, by a minister, director, or head of the Sector) in the course of the process. One interviewee, a representative of the public in the panels, also stated that he had never been exposed to pressure or attempts to influence the decision-making process. Also, he has never been held accountable or asked to explain why he voted the way he did. In this regard, the head of the Sector emphasized in the interview that as long as he is in charge, he will not allow external pressures or attempts to influence the decisions of the panel. However, he pointed out that they had several cases when one police officer complained about another police officer, alleging violations of fundamental rights in the exercise of police powers. These cases are specific and particularly sensitive because the police organization is a closed system whose members know each other, belong to a certain (police) hierarchy, and so on. In such cases, it has happened in the past that rumours have reached the head and members of the panel that the panel is biased and that it will disfavour the complainant due to external influences. In this regard, the head of the Sector emphasized that the employees of the Sector participating in the panels always distance themselves from such actions – their guidelines in dealing with complaints are professionalism, impartiality, and fairness.

We asked the representative of the public on the panels what he, as a direct participant in the proceedings, generally thinks about the participation and mission of the representatives of the public in the panels. According to him, members of the public are successfully fulfilling their mission as practitioners of democratic civilian control over the police. The participation of members of the public in complaints proceedings may, in his view, become less important only when all police officers exercising their powers are equipped with body-worn cameras. If the complaints panels were able to make a decision based on photographs and sound recordings, this would in his opinion significantly shorten the proceedings. It would be much more difficult to substantiate that the facts of the matter were not established objectively and impartially. He remarked that the representatives of the public and the head of the panel get acquainted with the facts of the case from the reports prepared and presented by the rapporteurs at panel sessions and that he had noticed a significant difference between procedures where the rapporteur is an employee of the Sector for Complaints and those in which the rapporteur is a police officer. As a member of the panel, he was not convinced that police officers had been reporting with complete objectivity and impartiality. When asked if he had noticed a similar bias when it comes to the heads of the panels, the interviewee said no. In the proceedings in which he took part, the heads of the panels sought to conduct the panel sessions objectively and impartially. Nevertheless, he sees a problem in the fact that the panel proceedings essentially undermine the facts established by the rapporteur. He sees this as a weakness in the current regulation of complaints procedures, which, in his view, can be remedied by strengthening the role of civil society. Although the police have become more professional over time and the legal and professional standards of police work are higher today than they used to be in the past, effective civilian control is essential for an objective

and impartial evaluation of police work. In his opinion, the introduction of video recording of panels would also improve the current situation.

Regarding the questions related to the problem of institutional independence within the current regulation of the complaints procedure, the answers of the interviewees were more or less uniform. They stated that the complaints procedure should in future operate outside the ministry and the police, so that it would gain what it currently lacks – the appearance of impartiality and formal/institutional independence. In this, the interviewees see a natural development of the complaints process. Over the last decade and a half, the complaints procedure has been constantly and successfully evolving, and now a step forward needs to be taken. However, according to the interviewees, there should be no illusion in this regard. Clearly, there is no political will for this step as other issues and problems are currently on the priority list.

The more detailed questions we asked in oral interviews also referred to the attempt to establish a so-called state supervisor. In this regard, the head of the Sector explained in a written interview based on a general questionnaire that the professional basis for this had been prepared more than a decade ago, but it did not materialize. The new institute would combine the functions of the sector for systemic control and the complaints sector. It would operate outside the structure of the executive branch. It would cover all repressive bodies, not just the police. It would include a specialized ombudsman in the field of repressive powers of state institutions. According to the interviewee, then as now there was no political will to take a step forward towards establishing the institutional independence of the complaints procedure.

In an oral interview, the head of the Sector singled out Palestine as an example of a country that has managed to ensure the institutional independence of the complaints mechanism. During a visit to the Slovenian Ministry of the Interior, the Palestinian delegation presented their arrangements for dealing with complaints. The body concerned has an autonomous and independent status, similar to that of the Ombudsman in Slovenia, and is responsible for complaints against the police, intelligence service, officials in administrative units and some other holders of public authority. The body employs between 100 and 150 people with various profiles in various fields, including academics and other external experts, lawyers and, last but not least, police representatives.

In the interviews, we did not receive an affirmative answer to our explicit question asking if a concrete proposal has been introduced recently that would amend the current legislation and would establish a complaints mechanism outside the structure of the executive branch. Proposals were prepared by the Sector for some necessary (partial) changes in the complaints procedure, but no decision has been made about more radical systemic reform. The head of the Sector estimated that the initiative for such a proposal must come from the decision-makers and that targeted and other research projects, such as those currently conducted by the Faculty of Criminal Justice and Security, could also contribute to the probability of changes.

## 4 CONCLUSIONS

In this research project, we have addressed the problem of independence and impartiality of the complaints mechanism against the work of the police. Referring to the findings of the analysis of the legal regulation of the complaints mechanism against the work of police officers and the results of the previous research in the field, we carried out a structured interview with a general questionnaire in written form and oral interviews with the people who conduct complaints procedures.

We established that, regardless of the fact that in the last decade, in terms of professionalism, objectivity and impartiality, significant progress has been made in dealing with complaints about the work of police officers, there are warnings about the current regulation of the procedure which point out that it has more weaknesses and shortcomings than advantages and that it needs to be reformed. According to the more or less unanimous opinion of the interviewees, current regulation does not provide an adequate institutional framework for the implementation of complaints procedures. In their opinion, this applies to both the conciliation procedure and the procedure before the panel. While the conciliation procedure is a welcome form of communication between the police and citizens, its current regulation does not comply with the standards of independence, impartiality and contradiction that apply in mediation procedures. There are cases of bias in the assessment of the facts and tendencies of police chiefs to justify the actions of police officers. The quality of the implementation of conciliation procedures has improved significantly in recent years, largely thanks to monitoring carried out by ministry officials. Nevertheless, the interviewees who participated in the research were more or less unanimous that conciliation procedures should be carried out by persons not employed by the police or the ministry.

We also came to interesting conclusions regarding the proceedings before the panels. The survey showed that the professionalism and integrity of the employees of the Sector for Complaints against the Police at the Ministry of the Interior, who lead the panels and perform the duties of rapporteurs, is not questionable. So far, they have not been exposed to pressure or influenced by clients or anyone else. The main problem pointed out by the interviewees is that due to the small number of employees in the Sector, reporting activities are in most cases carried out by persons employed by the police. Consequently, even in the case where the complaint is handled by the panel, one cannot speak of an independent and impartial complaints procedure.

The research showed that the organizational and institutional location of the complaints mechanism in the Ministry of the Interior and the Police was inadequate. The Director General of the Directorate for Police and Other Security Tasks, which includes the Sector for Complaints, is directly responsible to the Minister, and the Minister is also responsible for directing and supervising the police and thus for its legal and professional operation. The responsibility of the Minister for the work of both and the fact that they were placed under the same ministry is contrary to the principle of (institutional) independence and impartiality. In this respect, therefore, the Police Tasks and Powers Act (ZNPPol,



2013) is in conflict with itself, in the sense that the systemic legal regulation of the complaints procedure prevents the implementation of the provision that the complaint must be examined independently, impartially and professionally, and that the complainant (and police officer) must be guaranteed all procedural rights in accordance with the law.

Even though the Sector for Complaints carries out its mission professionally, efficiently and effectively within the existing normative regulation, the profession is unanimous: in future, the complaints mechanism should be independent of the Ministry and the police. This would provide it with what the regulation does not have in force – the appearance of impartiality and formal/institutional independence. Considering the path travelled so far, this should be a natural development of events and of the institute of complaint against the work of the police. An attempt to establish a so-called state supervisor, an idea which is more than a decade old, failed because the planned reform did not break through to the agenda of political decision-makers. Currently the situation is no different either – the authorities unite and weaken supervisors, instead of making them independent and more efficient.

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# Systemic Direction and Supervision of Police Work in the Republic of Slovenia: Current Situation Analysis<sup>1</sup>

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Maja Modic

## **Purpose:**

The purpose of this paper is to present the findings of the target research project “Effectiveness of Systemic Supervision of the Police in Regard to Human Rights as well as the Statutory and Professional Standards of Police Work (V5-1942)”. We focused on the implementation of systemic supervision of police work, more precisely, on the operations of the Division for System Guidelines and Supervision of the Police, which operates within the Police and Security Directorate.

## **Design/Methods/Approach:**

We examined how systemic supervisory activity of the work of the police is regulated by Slovenian law, limiting ourselves to the work of the Division for System Guidelines and Supervision of the Police. Based on the findings and an additional review of anonymised supervision reports, we prepared a questionnaire and conducted a structured written interview as well as oral interviews with the Division’s employees.

## **Findings:**

Systemic supervision efforts are contributing significantly to the quality of policing, but challenges and opportunities for improvement still remain. One of the main challenges is keeping police officers informed about supervision reports and effectively implementing inspection findings.

## **Research Limitations/Implication:**

In the part of the study described, we focus exclusively on the work of the Division for System Guidelines and Supervision of the Police and take a look at systemic supervision activities solely from the Division’s point of view. For a more complete overview of the matter, our findings should be compared with the perspective of those being supervised, i.e. the police officers who have undergone supervision.

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<sup>1</sup> The article was written as a part of the targeted research project V5-1942 “Effectiveness of systemic control over the police in the field of respect for human and legal and professional standards of police work”. The project is carried out by the Faculty of Criminal Justice and Security of the University of Maribor and co-financed by the Public Agency for Research of the Republic of Slovenia and the Ministry of the Interior.

**Originality/Value:**

The main added value of the paper is that it examines how supervisors perceive their own work and the organisation, operation and effectiveness of systemic supervisions of police work.

**Keywords:** systemic supervision of police work, Division for System Guidelines and Supervision of the Police, Police and Security Directorate, Slovenia

**UDK:** 351.741(497.4)

**Sistemsko usmerjanje in nadzor nad delom policije v Republiki Sloveniji: analiza trenutnega stanja**

**Namen prispevka:**

Namen prispevka je predstaviti ugotovitve ciljnega raziskovalnega projekta »Učinkovitost sistemskega nadzora nad policijo na področju spoštovanja človekovih ter zakonskih in strokovnih standardov policijskega dela (V5-1942)«. Osredotočili smo se na izvajanje sistemskega nadzora nad delom policije, natančneje, na delo Sektorja za sistemsko usmerjanje in nadzor policije, ki deluje znotraj Direktorata za policijo in druge varnostne naloge.

**Metode:**

Pregledali smo slovensko pravno ureditev sistemske nadzorne dejavnosti nad delom policije, pri čemer smo se omejili na delo Sektorja za sistemsko usmerjanje in nadzor policije. Na podlagi ugotovitev in dodatnega pregleda anonimiziranih poročil o nadzorih smo oblikovali vprašalnik ter izvedli strukturirani intervju v pisni obliki in ustne intervjuje z uslužbenci sektorja.

**Ugotovitve:**

Prizadevanja sistemskega nadzorstva vidno prispevajo k izboljšanju kakovosti opravljanja policijskih nalog, vseeno pa ostajajo izzivi in možnosti za izboljšave. Eden glavnih izzivov je skrb za seznanjanje policistov s poročili o nadzorih in učinkovita implementacija ugotovitev nadzorov.

**Omejitve/uporabnost raziskave:**

V opisanem delu raziskave smo se omejili na delo Sektorja za sistemsko usmerjanje in nadzor policije ter tako prikazali njihov vidik delovanja sistemske nadzorne dejavnosti. Za celovit pregled področja bi bilo koristno primerjati naše ugotovitve z vidikom nadzorovanih, torej uslužbencev policije, ki so bili že podvrženi nadzoru.

**Izvirnost/pomembnost prispevka:**

Bistvena dodana vrednost prispevka je, da osvetljuje pogled nadzorovalcev na njihovo lastno delo ter na urejenost, delovanje in učinkovitost sistemskega nadzora nad delom policije.

**Ključne besede:** sistemski nadzor nad delom policije, Sektor za sistemsko usmerjanje in nadzor policije, Direktorat za policijo in druge varnostne naloge, Slovenija

**UDK:** 351.741(497.4)

## 1 INTRODUCTION

The purpose of this paper is to present (in part) the findings of the target research project » Effectiveness of Systemic Supervision of the Police in Regard to Human Rights as well as the Statutory and Professional Standards of Police Work (V5-1942)«. We focused on the implementation of systemic supervision of police work, more precisely, on the operations of the Division for System Guidelines and Supervision of the Police, which operates within the Police and Security Directorate of the Ministry of the Interior. The main goal of our research was to examine how supervisors perceive their own work and the organisation, operation and effectiveness of systemic supervision of police work. In this paper, we present the regulative framework for the systemic supervision of police work in Slovenia, the work of the Division for System Guidelines and Supervision of the Police and the views of the employees of the Division regarding the current state of systemic supervision of police work.

## 2 SUPERVISION OF POLICE WORK BY THE GOVERNMENT AND THE MINISTRY OF THE INTERIOR

Supervision by the government, as a form of external supervision of the police, is carried out through the running and directing of state administration bodies. The government ensures that the ministries and their constituent bodies exercise their responsibilities in a law-compliant, professional and coordinated manner. The main instrument of supervision of the police as a body within the Ministry of the Interior is the appointment and dismissal of the Director-General of the Police (the government may dismiss the Director-General if it is determined that their work does not ensure lawful and efficient performance of police duties). The government also ensures supervision of the police through the Minister of the Interior, who is required to report on the situation in the department during government sessions. The supervision exercised by the ministry is significantly more direct and is carried out through departmental systemic supervision of the police and through decisions on complaints against the work of police officers by senates at the Ministry of the Interior. The legal framework for the systemic supervision of the police by the Ministry of the Interior is determined by the Organisation and Work of the Police Act (ZODPol, 2013) and the Rules on Directing and Supervising the Police (Pravilnik o usmerjanju in nadzoru policije, 2013). The Ministry performs supervision in all areas of police work that are essential for the successful and efficient implementation of police tasks and the exercise of police powers. Article 3 of the Organisation and Work of the Police Act stipulates, *inter alia*, that the Ministry of the Interior shall direct and supervise the performance of the tasks and the exercise of the powers of the police. Directing is further defined in Article 4 of the ZODPol, which states that directing the police shall mean the systematic and methodical provision of mandatory instructions and directives relating to the work of the police by means of written directives and instructions. The basic developmental objectives in particular areas of police work and directives for the performance of police tasks are defined by the core directives

for drafting the medium-term plan for police work and development, which is prepared for a five-year period. The annual police work plan is adopted based on annual directives. When immediate action is required to remedy deficiencies, the ministry issues particular (ad hoc) directives. The medium-term plan for police work and development is adopted based on a proposal by the Director-General of the Police. Article 5 of the ZODPol (Organisation and Work of the Police Act) stipulates that the Ministry of the Interior shall carry out a comprehensive, systematic and methodical supervision of the implementation of tasks and the exercise of powers of the police to assess the legality, professional competence and the respect of human rights and fundamental freedoms in exercising police powers. The supervision may be carried out directly by inspecting documentary or other material within police units, interviewing police officers and other police employees or individuals, or by directly monitoring the implementation of tasks at a particular location (ZODPol, 2013).

The Minister may oblige individual police officers employed with the police or other public employees of the Ministry to carry out certain tasks relating to a particular incidence of supervision of police work. Supervision of police work is carried out by the officials of the Division for System Guidelines and Supervision of the Police, which is part of the Police and Security Directorate within the Ministry of the Interior. Employees of the sector are officials and have the following special powers according to Article 8 of the ZODPol (2013):

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

However, there are certain limitations to supervision. If there is a risk that the exercise of powers in the course of the supervision of the implementation of covert investigative measures might prevent the implementation of these measures or make it considerably more difficult or endanger the life and health of people carrying them out, the police may temporarily deny access to documents, inspections of premises and communication of certain data or information.

Documents relating to the implementation of covert investigative measures and marked confidential may be only inspected by the officials of the Direction and Supervision Unit in the presence of the responsible person who has determined the level of confidentiality of a particular document or by a person authorised by that responsible person. The officials of the Direction and Supervision Unit may not inspect the documents disclosing the identity of undercover operatives and individuals who voluntarily and secretly provide the police with operational information about criminal offences, their perpetrators and other activities aimed at committing criminal offences, the perpetrators of which are prosecuted *ex officio* (Article 11 of the ZODPol, 2013).

The Rules on Directing and Supervising the Police (*Pravilnik o usmerjanju in nadzoru policije*, 2013) provide for routine, non-routine and follow-up inspections in the context of supervision over the implementation of the tasks and powers of the police, which are commissioned by the Minister by means of a written order. At least 15 days prior to a routine supervision inspection, the head of supervision must issue a supervision order to the Director-General of the Police and to the head of the police unit where the inspection is to be carried out. Non-routine or follow-up supervision may be carried out without prior notice. Routine supervision is planned ahead with the annual supervision program of the Ministry of the Interior. Routine supervision serves to assess legality, respect for human rights and the actual state of things in each area of police activity. Non-routine supervision is intended to assess legality and respect for human rights in instances that cannot be foreseen in advance by scheduling routine and follow-up supervision, while follow-up supervision is intended to ensure that any irregularities identified during routine and non-routine supervision have been remedied. The Division for System Guidelines and Supervision of the Police also carries out supervisory activities indirectly with the so-called reporting requirements, which are usually meant to assess particular police procedures. The Minister instructs the Director-General of the Police to remedy the irregularities identified in the course of supervision within a certain period and in a certain manner and to establish accountability. The Director-General of the Police must inform the Minister of the measures taken to remedy the irregularities and the procedures for establishing accountability within a specified period and in writing.

The Rules on Directing and Supervising the Police (*Pravilnik o usmerjanju in nadzoru policije*, 2013) also state that the police shall notify the Minister of the Interior of events that are relevant to national security, as specified in Article 12 of the ZODPol (2013). The police are required to submit the following to the Minister:

- annual reports on the work of the police;
- annual reports on supervisory activities and internal security;
- four-monthly reports on the implementation of covert investigative measures from the prescribed articles of the Criminal Procedure Act
- work meeting minutes of the members of the college of the Director-General of the Police;
- other reports, data or analyses required by the Minister in accordance with the provisions of the law governing the organisation and work of the police.

### 3 DIVISION FOR SYSTEM GUIDELINES AND SUPERVISION OF THE POLICE

In the following, we describe the development of the Police and Security Directorate, of which the Division for System Guidelines and Supervision of the Police is a part. The organisational structure of the Directorate consists of the following 6 divisions:

- Division for System Guidelines and Supervision of the Police;
- Police Complaints Division;
- Division for Private Security and Municipal Warden Services;
- Classified Information Division;
- Security Planning Division;
- Division for Systemic Regulation and Analysis.

The Police and Security Directorate was established in 1999 (at the time, it was known as the Office for Police Direction and Supervision as an independent internal unit of the Ministry). Within the Directorate, two of the divisions are in charge of matters related to the police – the Division for System Guidelines and Supervision of the Police and the Police Complaints Division. A rundown of the organisation and operation of the Directorate in its current and previous forms over the last two decades reveals that its scope of operation expanded to include private security, detective work, defence planning, protection of classified information and solving complaints against the police, in addition to its primary tasks of directing and supervising the police. The expansion of its scope of operations was initially mainly due to changes in legislation. Later on, it was caused by the streamlining of business processes (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

The tasks of today's Division for System Guidelines and Supervision of the Police have been performed in one way or another since the very beginning of the independent internal unit of the Ministry of the Interior, that is, since 1999, when the Office for Police Direction and Supervision was established. Since 2003, systemic supervision of police work has been carried out by the Division for System Guidelines and Supervision of the Police, under the auspices of the newly established Police and Security Office. A year later, the tasks were divided between two sectors (the Division for System Guidelines and the Police Supervision Division) of the Police and Security Directorate, which was established as a replacement for the Police and Security Office. The reorganisation of the Police and Security Directorate in 2008 results in the merging of the above-mentioned divisions and the creation of the Division for System Guidelines and Supervision of the Police. Two years later, as part of a new reorganisation, the DPDVN was given its current name – the Division for System Guidelines and Supervision of the Police. The changes described below are presented in more detail through the milestones and development of the Police and Security Directorate in the last twenty years.

### **3.1 Establishment of the Office for Police Direction and Supervision as an independent internal unit of the Ministry of the Interior (August 1, 1999)**

The Office was established to ensure the enforcement of the provisions of the Police Act (1998), which in Article 2 prescribed the relationship between the ministry and the police – in organisational terms, the police became a body within the Ministry of the Interior. The competencies of the Office were similar to those of today's Division for System Guidelines and Supervision of the Police of the DPDVN, with the sole difference that the employees overseeing the implementation of police tasks initially held the status of inspectors of the Ministry of the Interior (MNZ) (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.2 Restructuring of the Office for Police Direction and Supervision as an independent internal unit of the Ministry under the name Police and Security Office (March 1, 2003)**

In 2002, the Ministry of the Interior determined that there was a need for a reorganisation of the various activities and functions that are connected by a common denominator – security. This led to the extension of the powers of the former Office for Police Direction and Supervision from policing to other tasks related to security. With the inclusion of two independent departments that were previously headed directly by the Secretary of State, the tasks of defence and security planning, as well as private security and detective work, were relegated to the organisational framework of the new office, which was also tasked with issuing authorisations to access classified information.

The following organisational units were established within the new Office: the Division for System Guidelines and Supervision of the Police, and the Division for Classified Information, Defense and Security Planning, and Private Security and Detective Work. Both divisions were further divided into offices or services.

In the Private Security and Detective Work Division, the very first jobs to be restructured were those of the inspectors, which soon changed with the adoption of the Decree on Administrative Bodies Within Ministries (2003), which later became the basis for the establishment of the Internal Affairs Inspectorate in mid-2003. Inspector jobs within the office were re-structured into ordinary ones.

Based on the amendments to the Police Act (ZPol-B, 2003), the resolution of complaints against the police in the form of appeal boards was introduced at the level of the Ministry of the Interior in early 2004. As a result, on March 3, 2004, a third division was established within the Police and Security Office – the Police Complaints Division (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).



### **3.3 Restructuring of the Office into the Police and Security Directorate (April 1, 2004)**

With the reorganisation of the state administration and the establishment of directorates within the ministries, the former Office became the Police and Security Directorate with 43 management positions across 5 divisions. The organisational structure of the Directorate is divided into the following 6 divisions:

- Division for System Guidelines;
- Police Supervision Division;
- Police Complaints Division ;
- Classified Information Division;
- Division for Defense and Security Planning (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.4 The first reorganisation of the Police and Security Directorate (April 30, 2008)**

In 2008, an increase in the need for professional resources resulted in the establishment of the Division for Private Security and Other Security Tasks, which, in addition to private security, covered the areas of detective activities, ski resort security and municipal policing, which fall under the competences of the Ministry of the Interior. As the area of operations, including the jobs related to it, was transferred from the former Division for System Guidelines of the Police, the areas of police direction and supervision were merged into the Division for System Guidelines and Supervision of the Police. The change in the job structure of the entire directorate resulted in an increase in the number of jobs from 48 to 50, which further increased to 53 in 2009.

After the reorganisation, the organisational structure of the directorate consisted of the following 5 divisions:

- Division for System Guidelines and Supervision of the Police;
- Police Complaints Division ;
- Classified Information Division;
- Division for Defense and Security Planning;
- Division for Private Security and Other Security Tasks (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.5 The second reorganisation of the Police and Security Directorate (January 1, 2010)**

As part of a broader reorganisation and streamlining of operations project in the Ministry of the Interior (MNZ), which began in 2009, the Defense and Security Planning Office at the first level of the ministry's organisational structure and the Classified Information Office within the secretariate were established in early 2010.



As a result, the Division for Defense and Security Planning and the Classified Information Division within the DPDVN were dismantled, and the Division for Analysis, Police Law and Systemic Regulation was established. The remaining divisions were renamed as the Division for System Guidelines and Supervision of the Police, the Police Complaints Division and the Division for Private Security, Municipal Warden Services and Watch Schemes. The number of jobs within the job structure of the directorate, including management positions, was reduced from 42 to 38 jobs, while the organisational structure of the directorate consisted of the following 4 divisions after the reorganisation:

- Division for System Guidelines and Supervision of the Police;
- Police Complaints Division;
- Division for Private Security, Municipal Warden Services and Watch Schemes;
- Division for Analysis, Police Law and Systemic Regulation (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.6 The third reorganisation of the Police and Security Directorate (August 1, 2012)**

As part of the government's lean state administration objectives, the internal department was reorganized. The Division for Analysis, Police Law and Systemic Regulation within the directorate was abolished, and its duties were once again transferred to the Division for System Guidelines and Supervision of the Police. The Classified Information Office, where both the protection of classified information, which the Center for Data Protection of the Office of Informatics and Telecommunications within the General Police Directorate had previously been in charge of, and the issuing of security permits to organisations that are recipients of classified information for the purpose of carrying out the authority's orders were transferred after the 2010 reorganisation, once again became part of the DPDVN. As part of this process, the Office was once again renamed the Classified Information Division. The Division for Private Security, Municipal Warden Services and Watch Schemes was renamed the Division for Private Security and Municipal Warden Services.

The change in the job structure of the directorate resulted in an increase in the number of jobs from 38 to 46. The organisational structure of the directorate consisted of the following 4 divisions:

- Division for System Guidelines and Supervision of Police;
- Police Complaints Division;
- Division for Private Security and Municipal Warden Services;
- Classified Information Division (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.7 The fourth reorganisation of the Police and Security Directorate (July 1, 2017)**

In 2017, the independent Security Planning Office was in charge of tasks that had been performed by the Division for Defense and Security Planning of the DPDVN before 2010. The majority of the tasks were activities performed during natural and other disasters, crises, emergencies and war, with the Office cooperating with organisational units within the Ministry of the Interior (MNZ) and other ministries, bodies and entities, government services, companies, institutes and organisations. As this area of work did not change significantly during this period, it was determined that its content falls within the scope of work and tasks performed by the Police and Security Directorate, as suggested by the name of the office. Reintegrating this area of work into the DPDVN enabled a more streamlined workflow, resulting in the dissolution of the independent office, and the establishment of the Security Planning Division (Ministrstvo za notranje zadeve, Direktorat za policijo in druge varnostne naloge in Služba za odnose z javnostmi, 2019).

### **3.8 The fifth reorganisation of the Police and Security Directorate (October 1, 2010)**

Eight years after the dissolution of the Division for Analysis, Police Law and Systemic Regulation, it became apparent that the DPDVN needed a dedicated unit to be put in charge of tasks related to systemic regulation, analyses and police-security law. This led to the establishment of the Division for Systemic Regulation and Analysis, which was tasked with the systematic monitoring and analysis of regulations, court rulings and comparative legislation in order to optimise system development. The new division, which has yet to be staffed, will also produce and coordinate other materials, opinions, positions and answers that pertain to the issues that fall within the competence of the Ministry, such as answers to parliamentary questions, opinions and responses to materials and proposals from the Government, the National Assembly of the RS, etc.

Up until recently, these tasks were performed by the Division for System Guidelines and Supervision of the Police, which means that the division's employees will now be able to focus more on their main tasks – systemic supervision of police work and preparation of systemic, basic and strategic guidelines for police work.

## **4 METHOD**

In order to gain a more detailed insight into the systemic supervision of police work within the Ministry of the Interior, we have conducted interviews with the head and two employees of the Division for System Guidelines and Supervision of the Police (SSUNP) of the DPDVN within the MNZ. We started by conducting a written structured interview via a general questionnaire with the head of the

SSUNP. After analyzing the written interview, on November 3, 2020, we proceeded with an oral interview with the head and two employees of the SSUNP.

The questionnaire was based on an analysis of the legal regulation of systemic supervision of police work in Slovenia and on research material provided to us by the Division for System Guidelines and Supervision of the Police (SSUNP) after prior agreement and anonymisation. The material in question consists of system supervision reports (25 reports) and opinions based on reporting requirements (14 opinions).

## **5 FINDINGS**

### **5.1 Regulatory framework for the implementation of systemic supervision**

Systemic supervision, which is carried out during routine, non-routine and follow-up supervision, is properly regulated. According to the interviewees, so-called indirect supervision is somewhat deficient with regards to reporting requirements (Article 14 of the Rules on Directing and Supervising the Police, 2013). Supervisors do not hold the same powers in terms of reporting requirements as in the case of supervision inspections. They may only request to be handed documentation. This process can often require a lengthy back-and-forth of additional requests, demands and explanations.

According to the interviewees, the Rules should contain clearer guidance regarding the police's responses to the supervision reports. There are no specific instructions as to the procedure that the police might use to submit its comments on a report after coordination.

The DPDVN proposed certain amendments to the Organisation and Work of the Police Act (ZODPol, 2013) to address the consistency issues related to updating police officers on the reports and opinions of the DPDVN (further details on this below).

### **5.2 Staffing, education and training**

The SSUNP currently has 10 staff members (including a secretary). The interviewees stated that the SSUNP is constantly striving to expand its staff, but is facing several roadblocks, as SSUNP employees are undervalued compared to police officer jobs. Police officers who are transferred to the MNZ or the SSUNP lose various pay supplements, which is consequently reflected in a lower salary. This results in career police officers having little interest in being employed by the SSUNP. The DPDVN has repeatedly proposed amendments to the ZODPol to address this issue (to preserve certain pay supplements linked to special powers), but its proposals have been rejected thus far. The SSUNP also employs staff who are not police officers, which proved to be a welcome addition, as supervisors can exchange their knowledge with each other and examine identified systemic irregularities from different viewpoints.

The answers given by the interviewees have revealed that SSUNP employees continuously improve their knowledge by attending regular training courses

organized by the Ministry of the Interior and the Ministry of Public Administration. In addition, they monitor any changes in jurisprudence. Every two years, the SSUNP publishes a collection of police law rulings. Active participation in various internal and interdepartmental working groups that prepare changes to legislation and harmonize all internal acts of the police, which is also one of the formal tasks of the SSUNP, contributes greatly to the level of training of SSUNP employees. In addition, SSUNP employees actively participate in various expert symposia (although constrained by budget limitations) and in the training process of police officers (some SSUNP employees are lecturers at the Police College and the Faculty of Criminal Justice and Security at the University of Maribor). SSUNP employees are also encouraged to pursue additional education (postgraduate degree), especially in all areas of police law, to make a positive contribution to a better performance of the SSUNP's main tasks.

### **5.3 Number and frequency of inspections performed**

The SSUNP carries out approximately five systemic supervision inspections per year and an average of 20 indirect supervision inspections in the form of reporting requirements. Over the last five years, the SSUNP has performed 17 routine, 5 non-routine and 4 follow-up inspections. In most cases, non-routine inspections are carried out due to identified systemic irregularities over the course of the year, which are the result of unforeseen or unexpected events, circumstances or alleged irregularities in the work of the police. In practice, routine, non-routine and follow-up inspections mostly focus on the work of police units on all levels (local, regional, state).

The SSUNP has assessed that the powers of SSUNP supervisors are adequate. In the last five years, supervision has not included direct monitoring of police work on-site, as that was not required. According to the head of the SSUNP, gathering documentation, such as record data and findings from interviews with police officers, is a key component of systemic supervision.

Neither in the five-year period nor earlier has there been a recorded case when, due to reasons under Art. 11 of the ZODPol (2013), the police temporarily refused to assist in supervision, thereby temporarily or partially preventing the performance of supervision.

### **5.4 Ordering supervision**

The number of supervision orders issued by the Minister on the basis of their own assessment is low and there are no significant differences in the number of orders issued between ministerial terms. Most non-routine supervision inspections are conducted based on a proposal by the DPDVN. The SSUNP estimates that the legal framework of competencies and the limitations of the Minister in executing supervisory and directing activities are adequate.

Over the last five years, all supervision inspections have been carried out by SSUNP staff. Some of the supervision inspections involved the cooperation of staff from other sectors of the DPDVN, namely the Police Complaints Division and the Classified Information Division.

## **5.5 Cooperation of the SSUNP with the subjects of supervision**

The answers provided by the interviewees show that all communication with the General Police Directorate is done correctly and regularly, either electronically or directly by telephone. According to the interviewees, the subjects of supervision have always received them well and gave them their full cooperation and unfettered access to information.

In the course of the interviews, we learned that it would be advisable for the Director-General or his deputies to attend the supervisory group meeting after the completion of each supervision inspection, as it would enable him to get acquainted with the content before reading the report.

## **5.6 Cooperation between the SSUNP and the main providers of external supervision**

The SSUNP's cooperation with external police supervisors (the Prosecutor General's Office, the Ombudsman, the Information Commissioner, the KPK (Commission for the Prevention of Corruption), etc.) takes place mainly within the context of preparations for the development of basic and annual guidelines for the work of the police. He explained that cooperation takes place exclusively within the context of interviews for the preparation of annual guidelines. The only exception is the Ombudsman, where other (intermediate) communication on specific matters often takes place.

## **5.7 Informing the public on systemic supervision activities**

The answers provided by the interviewees have revealed that the public has so far been informed about systemic supervision activities solely through the reporting done by one of the media outlets, which had obtained some supervision reports based on the right to access public information and published some articles on police irregularities. In some instances, parliamentary committees of inquiry were given access to such information at their request. There are currently no mechanisms in place for informing the public, apart from information about supervision reports being shared with the internal professional public and other, indirect types of sharing information about the findings of supervision inspections within small-group meetings and lectures. The respondents confirmed our assessment that the sharing of information (following the example of the Police Complaints Division, where they publish summaries of appeal boards decisions) could contribute to greater supervisory transparency and increase the police's commitment to putting supervision findings into practice.

## **5.8 The main challenges involved in systemic supervision of police work**

The respondents point to the inefficient implementation of supervision findings and proposed measures to eliminate the irregularities and deficiencies identified

as one of the main issues affecting systemic supervision. From year to year, the SSUNP finds that the police are inconsistent in sharing information about supervision reports and opinions prepared on the basis of reporting requirements with police officers. This issue has persisted for many years and has prompted the DPDVN to issue guidelines to the police<sup>2</sup>. Nevertheless, the SSUNP continues to detect issues. Follow-up inspections often show that irregularities are still occurring. The DPDVN has even proposed certain amendments to the ZODPol to ensure that police officers are consistently kept informed about supervision reports and opinions prepared on the basis of reporting requirements by the police.

## 6 CONCLUSION

Following a review of the relevant regulatory framework and research material – anonymized supervision report examples – we conducted structured interviews with SSUNP employees. We were interested in their assessment of the regulatory framework that applies to their work tasks, as well as in their opinion on personnel issues such as staffing, occupancy and staff education and training opportunities. We asked the employees for information regarding the number and frequency of supervision inspections carried out, clarifications on how supervision inspections are ordered and their views on cooperating with the subjects of supervision as well as the main external supervision providers. We were interested in their opinion on the possibility of informing the public about systemic supervision activities. It was particularly important for us to gauge their opinion on the main challenges faced by systemic supervision in relation to its effectiveness.

SSUNP employees assess that their efforts contribute significantly to improving the quality of policing. However, there are certain challenges to overcome that leave some room for improvement. For example, the division is in dire need of staff expansion as well as regulatory changes and additions that would affect indirect supervision within the reporting requirements, which would allow employees to effectively do their work only if they were able to make use of their powers, as is the case for other forms of supervision (routine, non-routine and follow-up inspections). Additionally, the procedure that the police might use to submit its comments on a supervision report requires specific instructions. We also examined the issue of informing the public about systemic supervisory activities and determined that there are virtually no mechanisms in place for informing the public, with the exception of a few cases where the media were informed. We believe that informing the public about the findings of supervision inspections could increase the transparency of supervision and improve the work of the police, as well as strengthen the commitment and motivation of the police to effectively implement the findings of the inspections. The main challenge faced

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2 For example, the latest document – *Guidelines and Mandatory Instructions for the Preparation of the Police Work Plan for 2021* (Ministrstvo za notranje zadeve, 2020) provides, in the last chapter titled *Improving Public Opinion of the Police*, under point 7.3: “Shall ensure that all police officers are continuously updated on the reports and opinions of the supervisory mechanisms (e.g. the Police and Security Directorate, the Ombudsman...) and the findings of appeal procedures.”

by systemic supervision is the inefficient implementation of supervision findings coupled with the lack of consistency in updating employees on police supervision reports. It is our opinion that this challenge requires solutions that will have to redefine the supervisor-supervised relationship, if necessary, through regulatory changes.

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# The Importance and Effectiveness Assessment of Internal Control in the Slovenian Police<sup>1</sup>

Branko Lobnikar, Kiara Ropoša

## Purpose:

The paper presents the findings of a study conducted on a sample of internal control providers within the Slovenian police as part of the target research project “Effectiveness of Systemic Control of the Police in Regard to Human Rights as well as the Statutory and Professional Standards of Police Work (V5-1942)”. The purpose of the study was to analyse the control activity in the Slovenian police from the viewpoint of those carrying out control procedures. We were interested in their view of the control process and, through the interviews, we analysed the opportunities and shortcomings of the control activity within the Slovenian police in relation to systemic control conducted by external stakeholders.

## Design/Methods/Approach:

We examined the regulatory framework of control activities in the public sector and in the police and presented the approaches used across Europe. In the empirical part, we conducted structured interviews with employees at the state level, namely with the employees tasked with carrying out control procedures in the General Police Directorate, the Criminal Police Directorate and the Uniformed Police Directorate, and we also conducted interviews with two superintendents at the Police Directorate level. We conducted a total of seven interviews.

## Findings:

The research found that audits, whether carried out by the Ministry of the Interior or by the Police auditors, are seen as a vital element of the management of a police organization. The interview subjects emphasized the role of the heads of police units – both from the point of view of planning internal control activities and translating the findings of the audits into police practice. The dissemination of audit findings can be ensured through the digitization of police work processes; interviewees expressed the need for a systematic solution that would allow them to test the competencies of police officers.

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1 The article was written as a part of the targeted research project V5-1942 „Effectiveness of systemic control over the police in the field of respect for human and legal and professional standards of police work“. The project is carried out by the Faculty of Criminal Justice and Security of the University of Maribor and co-financed by the Public Agency for Research of the Republic of Slovenia and the Ministry of the Interior.

**Research Limitations/Implications:**

The article presents the findings from the point of view of the employees responsible for carrying out control activities within the Slovenian police. For a more complete overview of the matter, our findings should be compared with the perspective of those who are the subjects of the control activities, i.e. the police officers who have undergone the control process. The findings of the research are useful primarily for the purposes of planning the processes related to the management and administration of police work and from the point of view of improving the quality of police work.

**Originality/Value:**

The paper examines how the employees responsible for carrying out the control activities perceive their own work and how the processes involved in the control of police work are organized, how they function and how effective they are.

**Keywords:** audit, internal control, police, police powers, Slovenia

**UDC:** 351.741(497.4)

**Pomen in ocena učinkovitosti notranjega nadzora v slovenski policiji****Namen prispevka:**

V prispevku predstavljamo ugotovitve raziskave, ki je bila na vzorcu izvajalcev notranjega nadzora v slovenski policiji izvedena v okviru Ciljnega raziskovalnega projekta »Učinkovitost sistemskega nadzora nad policijo na področju spoštovanja človekovih ter zakonskih in strokovnih standardov policijskega dela (V5-1942)«. Namen raziskave je bil analizirati nadzorstveno dejavnost v slovenski policiji skozi perspektivo izvajalcev nadzora, ugotavljali smo odnos do nadzorstvene dejavnosti, s pomočjo intervjujev pa smo analizirali priložnosti in pomanjkljivosti nadzorstvene dejavnosti v slovenski policiji v odnosu do sistemskega nadzora, ki ga opravljajo zunanji deležniki.

**Metode:**

Pregledali smo ureditev nadzorstvene dejavnosti javnega sektorja in policije ter predstavili pristope v evropskih državah. V empiričnem delu smo izvedli strukturirane intervjuje z uslužbenci na državni ravni, in sicer z nadzorniki z Generalne policijske uprave, Uprave kriminalistične policije ter Uprave uniformirane policije, in z dvema vodjema na ravni policijskih uprav. Skupno smo izvedli sedem intervjujev.

**Ugotovitve:**

Raziskava je pokazala, da se nadzori, pa naj jih izvajajo nadzorniki iz Ministrstva za notranje zadeve ali Policije, dojemajo kot ključni element za učinkovito vodenje policijske organizacije. Udeleženci razgovora so poudarili vlogo policijskih vodij – tako z vidika načrtovanja dejavnosti notranjega nadzora kot tudi prenosa ugotovitev nadzora v policijsko prakso. Implementacijo

nadzorstvenih ugotovitev v neposredno policijsko delo je mogoče zagotoviti z digitalizacijo policijskih delovnih procesov; sogovorniki pa so izrazili tudi potrebo po sistematični rešitvi, ki bi jim omogočila preverjanje kompetenc policistov.

**Omejitve/uporabnost raziskave:**

V prispevku so prikazane ugotovitve z vidika izvajalcev nadzorstvene dejavnosti v slovenski policiji. Za celovit pregled področja bi bilo koristno primerjati ugotovitve z vidikom nadzorovanih, torej nadzorovanih uslužbencev policije. Ugotovitve raziskave so uporabne predvsem za načrtovanje procesov vodenja in upravljanja policijskega dela ter z vidika krepitve kakovosti policijskega dela.

**Izvirnost/pomembnost prispevka:**

Bistvena dodana vrednost prispevka je, da osvetljuje pogled nadzorovalcev na njihovo lastno delo ter na urejenost, delovanje in učinkovitost procesov izvajanja nadzora nad delom policistov.

**Ključne besede:** nadzor, notranji nadzor, policija, pooblastila, Slovenija

**UDK:** 351.741(497.4)

## 1 INTRODUCTION

In 2019, the Slovenian police employed 8,189 police officers, while in the current year, the police entered into 303 employment relationships, and 260 police officers terminated their employment for various reasons. On average, a Slovenian police officer was over 43 years old in 2019, and the Slovenian police spent EUR 378 million in the course of conducting their work that same year (Ministrstvo za notranje zadeve, Policija, 2020). In 2019, the Police received a little over half a million calls to the emergency number 113, processed 54,867 criminal offences of which more than half were investigated, police officers processed 335,843 traffic violations, 33,565 public order violations, 16,143 illegal border crossings and 11,150 persons handed over to Slovenian police officers by foreign security authorities. Police officers issued 48,384 warnings for minor offences, 269,196 penalty notices and 14,802 decisions in expedited proceedings, and filed 12,157 accusatory instruments. They carried out 169 protections of domestic protected persons abroad and 50 protections of foreigners visiting Slovenia. 11,607 preventive activities were carried out, and in 404 cases the Special Police Unit was deployed, and members of the SWAT Unit intervened in 77 emergencies (Ministrstvo za notranje zadeve, Policija, 2020). In 2019, police officers used instruments of restraint on 7,610 occasions in 3,479 cases against 3,945 individuals. In 2019, 395 general, professional and follow-up audits regarding the work of police officers and police units were carried out. Members of the public filed 358 complaints against the work of police officers, and seven of the complaints heard before the complaints panel were found to be substantiated. Most irregularities and shortcomings in the work of Slovenian police officers were identified during audits in 2019 in the area of management and decision-making in minor offences proceedings. Audits were also conducted in the area of material and financial operations, crime detection and investigation, maintenance of public order and the general safety of people and property, as well as organizational matters.

## 1.1 Control over the police

Police oversight is a complex process involving many stakeholders. The police are very likely the most controlled state repressive body in Slovenia, with functioning judicial, parliamentary and independent oversight, such as the oversight of the ombudsman and the information commissioner. An important part of police control is also exercised by the prosecutor's office through the guidance of police work and by the Ministry of the Interior through strategic guidance and professional supervision. In February 2019, the Prosecutor General and the director-general of the Police signed a cooperation agreement between the Department for the Investigation and Prosecution of Official Persons Having Special Authority of the Specialized State Prosecutor's Office of the Republic of Slovenia [hereinafter SSPO] and the Police, which sets out the rules regarding mutual cooperation and exchange of information between the signatories to the agreement. The agreement between the institutions is the culmination of ten years of work and the realization that timely mutual exchange of information is the basis for both bodies' rapid response and effective functioning. In 2019, the police referred to the SSPO 112 reports on reasonable grounds for suspicion that 110 officials employed by the police had committed an offence for which the perpetrator is prosecuted *ex officio*. Over the last ten years, an average of 74 such reports were filed against 72 officials (Ministrstvo za notranje zadeve, Policija, 2020).

Since the methods of police control are diverse, and we analyze them from different perspectives in this issue of the current journal, in this paper we will narrow the analysis only to those controls performed by police chiefs within a police organization. We will call it internal control. Police are generally perceived as the front line in public security provision by the state and thus the security provider that the public most frequently encounters in their daily lives. To fulfil their mission, police hold special powers that – within the frame of legally defined circumstances – temporarily allow police to limit the exercise of fundamental rights, deprive people of their freedom, and use force, including lethal force. Because of their powers and their proximity to the public, how the police fulfil their duties has a direct impact on security for individuals and communities and the character of the state (DCAF, n. d.). Internal control of police service is key to ensuring its smooth functioning. A well-structured internal control system may help in detecting and preventing corruption and unlawful behaviour among police officers. The goal of the control is to ensure that the police service operates in line with its purpose, and that its work results in an improved reputation of the police and more efficient and responsible officers (Bajramspahić, 2015; DCAF, 2019). Given the central role of the police in service provision to the population, its direct interaction with the public and the powers that are typically conferred to the police, it is vital to ensure that police officers adhere to high standards of quality and behaviour in their work. Internal control can help ensure that these standards are met, thereby preventing inappropriate behaviour or practices, abuse of power and corruption. Ideally, the work of an internal control body should be complemented by independent external oversight mechanisms (Hanin, 2014).

The tasks carried out by the internal control vary (DCAF, 2019): (a) when it comes to administration and operations: the internal control assesses whether the goals of the service, of a certain unit or a certain operation, have been met; (b) when it comes to security: the internal control checks if the police undertook all the necessary precautionary measures with a view to securing a risk zone or location, while in the police itself it checks whether confidential data have been protected; (c) when it comes to the legitimacy of the actions taken by a police officer, the internal control investigates: whether the measures undertaken were legal and proportionate, whether the relevant procedures have been followed; and (d) when it comes to ethics, the internal control stimulates and promotes the respect for values, norms and ethical rules applied in the service.

Internal control is a sensitive topic since it can lead to the questioning of certain practices that are deeply rooted within the traditions and culture of the police. Improving internal mechanisms to monitor peers, identify abusive behaviour of police officers, including the highest-ranking ones, is not an easy task. Integrity and professionalism are core values that are essential to ensuring effective internal control.

This paper consists of an analysis of the control activity in the Slovenian police from the viewpoint of the employees responsible for carrying out control activities. We were interested in their view of the control process and, through the interviews, we analyse the opportunities and shortcomings of the control activity within the Slovenian police in relation to systemic control conducted by external stakeholders (Ministry of the Interior) and bring attention to content that should be addressed in the future in the light of the findings of the interviews.

### 1.2 Police internal control in Europe

We begin with an outline of the control mechanisms employed by the police in European countries (Dzhekova et al., 2013). In **Belgium**, the main tasks of the internal control departments include supervising the operation of the local police service and all the employees of the local police with the exception of the Directorate-General, cooperating with special investigation departments, the prosecutor's office and the ombudsman, as well as investigating complaints regarding the work of the police. In 2001, Belgium changed its approach to the implementation of internal control over police work so that the new system became a management tool for guiding everyday police work (Faion et al., 2013). The organizational system of internal control thus comprises five interrelated and interdependent components, namely (a) internal environment or control environment, (b) risk assessment and management, (c) control activities, (d) information and communication, and monitoring or assessment of the internal control system (Bajramspahić, 2015). Belgium uses two approaches to ensure integrity: (a) a monitoring approach to verify the unethical conduct of police officers and to monitor police procedures, relying on the law and on a strict Code of Conduct for Law Enforcement; and (b) a stimulating approach to strengthening ethical behaviour based on providing support to police officers in responding to problematic situations. This approach involves various workshops

and training initiatives. The Permanent Committee for Police Monitoring (Comité P) was established in 1991 as an expert body that assists the Federal Parliament in monitoring the work of the police and assessing the use of police authority. It became fully operational in mid-1993. As is the case with the Inspectorate General, it is an external body vis-à-vis the police and is independent of the police. The goal of the external oversight is to verify how police tasks are performed (Bajramspahić, 2015).

In **Austria**, delinquency audits in police organizations are provided by a specialised audit unit – the Bureau of Internal Affairs, which must be distinguished from internal audit procedures; internal audit is not a part of the PIC – public internal control system (European Commission, 2011). The function directly responsible undertakes to provide for specific implementing measures within a fixed term of no longer than 12 months. Within the fixed term, this function is required to present a report to the internal audit. The implementation/failure to implement the approved measures is monitored and reported quarterly to the minister and the secretary-general. If fraud and/or irregularities are identified during an audit, the Bureau for Internal Affairs of the Ministry of Finance is notified. This bureau initiates a separate investigation. The two investigation processes run in parallel and are coordinated. A clear separation exists between a financial inspection and an internal audit. In the sense of a single audit concept, an internal audit is distinctly higher than an internal financial inspection. On the one hand, an internal audit takes into account the financial inspection results when creating the annual audit plan and when performing the individual audits.

Regarding the oversight of police in Austria, the Federal Bureau for Internal Affairs (BIA) was established. The BIA is an autonomous agency of the Austrian Federal Ministry of the Interior that operates outside the traditional law enforcement structures. In its capacity as an independent organizational unit that is not bound by instructions regarding the cases it handles, it conducts security and criminal police investigations in cases of corruption or suspected malpractice by public officers. In such cases, the BIA co-operates directly with the competent public prosecutor's offices and courts. The BIA conducts investigations nationwide and, given its sphere of responsibilities, represents a centre of competence for all other security services. Other important tasks performed by the BIA are training programmes and the prevention of corruption. In addition to organizing and conducting courses, seminars and advanced career coaching programmes at the Austrian Security Academy for their colleagues from the Ministry of the Interior, BIA staff members have repeatedly been invited to give lectures at national and international educational institutions and conferences. The BIA acts as the Ministry's contact point for all anti-corruption matters and delegates staff members to Austrian and international meetings of experts. Furthermore, it interacts with several local government bodies, NGOs and interest groups involved in anti-corruption activities (OSCE, n. d. a). Shooting incidents are investigated by the Cobra Special Forces.

In **Bulgaria** (European Commission, 2011, 2014), managerial accountability/responsibility is the foundation of the public internal control system. In accordance with the law, internal control is established as an integral process of



an organisation's activities and is carried out by the organisation's management and employees. Internal control consists of five interrelated components – control environment, risk management, control activities, information and communication systems and monitoring according to the law. An internal audit is a managerial tool for monitoring. Managerial responsibility is legally delegated to politically elected persons such as ministers, mayors or other managers. Chief secretaries carry out administrative and managerial activities assigned to them by managers. On the other hand, managers at lower levels of the organisation also have managerial responsibilities (e.g. all other senior employees such as directors of directorates and heads of departments). They are obliged by law to report to their seniors on the internal control established in the units and structures they manage. Top managers are allowed to delegate managerial responsibilities to subordinate managers. Any such delegation does not relieve top managers of the responsibility for implementing the powers delegated. Therefore, top managers request periodic reporting on the implementation of delegated powers via direct communication with subordinate persons in managerial positions and lower-level officers.

The internal audit activity is carried out by an internal audit unit, which comprises a manager and internal auditors. These persons report directly to the manager of the organisation for which they work. The manager of the organisation bears the responsibility for ensuring the independence of the internal auditors when planning, carrying out and reporting on the internal audit results. The appointment or dismissal of the head of internal audit is carried out by sanction of the minister. The internal audit unit reports directly to the manager of the organisation, which ensures the internal audit's functional and organisational independence. The law also sets out the minimum internal audit areas on which the internal audit unit is to report to the manager of the organisation and, if such exists, the audit committee. The internal auditors are obliged to report immediately to the manager of the organisation whenever indications of fraud or irregularities are identified. They also make proposals for taking steps and notifying the competent authorities. If the manager of the organisation fails to take any steps within 14 days of notification, the internal audit unit notifies the competent authorities and, if such exists, the audit committee (European Commission, 2011, 2014).

The Ministry of Internal Affairs of Bulgaria is the main governmental body tasked with enforcing laws and protecting public order in the country. It serves as an overarching authority for four directorates tasked with different areas of responsibilities: National Police General Directorate, General Directorate for Combating Organised Crime, Border Police General Directorate and Fire Safety and Civil Protection General Directorate, as well as a Special Unit for Combating Terrorism (OSCE, n. d. d). Oversight of the General Directorate Border Police activities is exercised by two Directorates: the Inspectorate Directorate and the Internal Security Directorate. In addition, the Secretary-General also has oversight responsibilities.

In **Cyprus**, the Internal Audit Service (IAS), an independent service headed by the Commissioner of Internal Audit, assumes the responsibility for carrying out



assurance and consulting activities (European Commission, 2011). The Internal Audit Service operates independently from the Audit Office, which is headed by the Auditor General. Internal Audit reports are always communicated to the National Audit Office. The findings of the audit service are taken into account when preparing the annual audit plan, and there may be an exchange of views in certain cases. However, there is no other interaction with the audit function. It is noted that certain ministries or departments have established internal audit/control functions which operate independently from the Internal Audit Service and report to the ministry/ department top managers. These services do not have a uniform structure or methodology. The Commissioner of Internal Audit is appointed by the Council of Ministers for a period of six years and reports to the Internal Audit Board. An audit report is prepared, which includes details of audit findings and recommendations covering measures to be taken by the auditee to address the weaknesses identified. Once the contents of the report have been discussed and agreed upon with the auditee, an agreed action plan is prepared, which includes details of recommendations as well as an implementation timetable.

The Internal Affairs Service of the Police became operational in March 2018, following the adoption of the Law on the Establishment and Operation of the Internal Affairs Service of the Police. The Internal Affairs Service of the Police is considered an autonomous Service under the Law. It reports directly to the Chief of Police while its powers are directly supervised by the Attorney General of the Republic. The main task of the Internal Affairs Service of the Police is to tackle the phenomenon of police corruption by preventing, investigating and prosecuting corruption offences committed by members of the Police. Regarding police oversight, the Professional Standards and Inspection Directorate (PSID) is established within the Cyprus Police. The mission of the Professional Standards and Inspection Directorate is the application of professional standards, with the improvement/upgrade of the internal practices and procedures that are followed by the members of the Police and the introduction and implementation of mechanisms for the prevention, inspection, detection and combating of deviant or delinquent behaviour by the members of the Police. Additionally, the Directorate carries out inspections for the purposes of establishing the effectiveness of both the general administration and policing system and the correct execution of police duties, according to the defined methods and procedures (Cyprus Police, n. d.).

In the **Czech Republic**, Internal audit (IA) serves as a critical and independent observer of the governance process of the chapter administrators. IA should provide the management authority of the chapter administrator with an analytical perspective on issues related to the methodical approach to risk management, control processes and governance. The internal auditor does so on the basis of its exceptional status (European Commission, 2011). Its audit reports must be completely independent of the opinions of top management, thereby making it clear that the IA system is not part of the administrative and financial services of a chapter administrator but reports directly to the management authority. IA regularly ensures that the chapter administrator abides by all the relevant legislation, that it has established effective management and control mechanisms and that it takes measures to avoid conflicts of interest, fraud and corruption. It also

regularly reports on the implementation of self-regulatory mechanisms through which the professional practice of IA is managed. Performance measurement and IA quality assurance follow standards, ethical principles and best practices. The top manager is responsible for meeting the objectives and for implementing the policies set by the management authority of a chapter administrator, who can be a minister at the level of ministries. Ministers are politically nominated. The hazy boundaries between political and administrative responsibility are a potential risk to maintaining continuity in the approaches of executives not only in the field of developing an adequate PIC by the chapter administrator but also in its implementation (European Commission, 2011).

According to previous legislation, external controls of the Czech Police corps were carried out by Police Inspection, a body of the Police charged with uncovering and investigating the crimes committed by Police officers and employees (Mareš & Suchánek, 2015). The director of this Inspection force was appointed by the government and in organisational terms, the Inspection fell under the Ministry of the Interior. The establishment of the General Inspection of Security Corps was a significant step. This new department (although many employees of the abolished Police Inspection were transferred to it) brought a change in the approach to the investigation of offending members of selected security corps. Cases of offending Police officers have been newly investigated outside of the Police of the Czech Republic itself (Mareš & Suchánek, 2015). The General Inspectorate of Security Corps (GIBS) (Generální inspekce bezpečnostních sborů) is a Czech independent government agency tasked with investigating crimes of the officers of the Police of the Czech Republic, Customs protection, Prison Service, inspection workers or civil employees of these institutions (GIBS, n. d.)

The **Danish** state (European Commission, 2011, 2014) has not set out a PIC (public internal control) framework in a separate document or in a set of rules. There is a clear framework for the responsibilities allocated to state institutions to ensure appropriate internal controls and management of the institution. Accountability is placed, to some extent, on the local institution, in particular through requirements for objectives and performance management, appropriation management and procedures for the approval of accounts. For this reason, internal control and accountability are closely linked. The Danish public sector is divided into ministerial portfolios, whereby each portfolio has a department with subordinate agencies and institutions, which together constitute a portfolio group. The minister bears the ultimate political responsibility for his/her portfolio. Powers of allocation and inspection have been delegated to the administrative level. Reporting and approval are based on a hierarchy that basically consists of central government agencies and departments. Reports are approved on a monthly, quarterly and annual basis. An internal audit unit may be organised by agreement between the minister concerned and the Auditor General. Normally, an internal audit will be part of the organisation as an independent staff function, reporting directly to the head of the institution. There is no requirement that an internal audit body must be a part of the organisation — it may also be an external auditor or audit firm which carries out the task, although this is primarily the case in subsidised non-profit institutions, e.g. schools, and public enterprises which are

mainly financed by the state. Internal auditors report to the head of department, NAO and top management of the agency being audited. Internal auditors endorse the accounts and produce the auditors' statement, notes on the audit and any management letters. On concluding the annual audit, internal auditors produce a written report on the work they have done and conclusions that may be drawn from the report for the institution's management and the head of the department.

In the Nordic countries, the primary focus of external oversight is on individual accountability. In Denmark, the Danish Independent Police Complaints Authority (IPCA) was established in 2012. It handles investigations of criminal cases committed by police officers and considers and decides complaints of police misconduct. Headed by a council and a chief executive, the Police Complaints Authority exercises its functions in complete independence of both police and prosecutors. The goal of the independent complaints against the police as an independent authority is to help ensure legal security for all parties involved in the process of complaints against the police, maximize the confidence of both the public and the police in dealing with matters relating to the police and to ensure proper implementation and rapid procedures, including decisions on an objective basis. The IPCA carries out its tasks with high-quality service and efficiency, ensuring a high degree of accessibility for citizens, information dissemination and giving citizens an overview of the management of complaints against the police (IPCAN, n. d. a; n. d. b). Holmberg (2019) reports that complainants are dissatisfied with their experience with the system. The author argues that disappointment is related to the fact that the IPCA focuses almost exclusively on individual wrongdoing (rarely finding sufficient evidence to act), whereas complainants seek recognition and wish to hold the police organization accountable.

In **Estonia**, the concept of public internal control consists of the control environment, risk assessment, control activities, management of the information and communication process, and monitoring. Internal audit departments have been established in all ministries, and a person responsible for internal audit has been appointed in the state chancellery. The internal audit function is centralised at the ministry level in the governing areas of four ministries. The final managerial responsibility in the public sector is assigned to the head of the respective authority by law (who is politically appointed at the ministry level). As a rule, the sole management principle is usually applied in governmental authorities. The chain of responsibility is such that the lowerlevel manager is accountable to a higher-level manager. The delegation of responsibilities and liability and granting officials the rights necessary for them to perform their work duties are decided upon by the head of the organisation. Internal audit reports directly to the head of the authority, although the head of the internal audit function has the right to forward audit outcomes to other persons to ensure implementation of recommendations made during an audit. According to the standards, the head of internal audit has to design and implement a monitoring system for monitoring the implementation of recommendations submitted to the management. When fraud is discovered during an audit, the internal auditor has to inform the head of the authority first (European Commission, 2011, 2014).

The institution of the Chancellor of Justice is established by the Constitution of the Republic of Estonia. Under the Chancellor of Justice Act, with regard to issues of police authorities, the Chancellor is competent to verify the conformity of legislation with the Constitution and existing statutes (i. e. constitutional review competence) and to verify the activities of Internal control in Finland (European Commission, 2011, 2014) refers to procedures included in the agency's guidance and operating processes, organisational solutions and operating methods. Risk management has the same goals as internal control. Ideally, internal control and risk management procedures are integrated into the agency's usual planning, management and operating processes. The management of each agency is responsible for the arrangement of internal control, as well as its appropriateness and adequacy. The top management of an agency bears the primary responsibility for the arrangement and management of internal control, in the same way as it is responsible for meeting the organisation's targets and arrangement of related activities. The management carries out the measures necessitated by this responsibility by delegating tasks to various levels of the organisation in accordance with their management system. The internal control assessment can be implemented in different ways. It can be carried out through self-assessment by the management group, through decentralised self-assessment, through assessment supported by internal audit or through information gathering and assessment with assistance from an external specialist. Management at ministries and agencies are responsible for the due implementation of internal control and risk management processes. There is variation between ministries and government agencies in how internal audit is arranged. Many of the smaller agencies, in particular, do not carry out separate internal audits. In many agencies, internal auditing is a function carried out by one person. The agency's management decides on the organisational status of the possible internal auditing unit. Most commonly, internal audit is directly subordinate to a ministry or the senior officials of an agency. In this case, internal audit reports directly to top management and gets its powers from the top management (European Commission, 2011, 2014).

In **Finland**, the Parliamentary Ombudsman and the Chancellor of Justice can deal with administrative complaints against the police. However, the Ombudsman is considered more specialised in police matters (den Boer & Fernhout, 2008). In the Finish police, there are mainly two types of internal control: control of legality and internal/external auditing. The independence of these types of control is achieved through reporting lines (to top management bodies) and organisational autonomy (not attached to, and distinct from, operational activities) (GRECO, 2017). Regarding the control of legality, it aims at ensuring that all exercise of public powers is based on the law; it comprises the following measures: the handling of administrative complaints and citizens' letters submitted to the authority; investigations launched on the authority's own initiative; monitoring of the processing of personal data; inspections; reporting on matters related to the oversight of legality. The Ministry of the Interior draws up an annual report on the oversight of legality. As for internal auditing, it aims at a systematic assessment of the effectiveness of risk management, control and internal governance processes. It follows the principles of the respective internal audit charter developed by the

relevant body. The internal audit function does not have any operational power, nor a genuine decision-making power, although the recommendations emanating from the control performed are followed in practice. Internal auditing processes are supplemented by external audits developed by the Ministry of the Interior and private external auditors hired for this purpose at regular intervals (i.e. every five years). GRECO (2017) expressed concern as to the efficiency and effectiveness of oversight structures in the Police regarding the various irregularities (e.g. bribery, abuse of office, conflicts of interest, mismanagement of data, witness intimidation, etc.) occurred. The Finish Police are working on implementing changes, but it remains crucial that changes are not only restricted to that police station, or the particular division in that station where corruption occurred, but rather, that lessons are learnt from this episode and improvements are made to control the procedures of the entire organisation.

In **France**, the internal control system is based on accounting and financial processes. Therefore, internal audit activity was first developed in relation to the accounting and financial functions, and was afterwards extended to the budgetary area. A draft decree lays down the organisation and functioning principles of the internal audit system within the state administration. It establishes the obligation of implementing a risk management system based on the internal control and internal audit within each ministry and provides for an internal audit harmonisation committee composed of the heads of the internal audit function from each ministry (European Commission, 2011, 2014).

The rules of professional conduct governing the work of public and private security officials alike are set forth in various codes and charters. They cover such matters as professional secrecy and discretion, integrity, discernment, impartiality, respect for the population and rules governing the use of force. In France, the Defender of Rights is the authority in charge of ensuring these rules of good practice are followed (*la Défenseure des droits*; n. d.). All security officers are covered: national and municipal police officers, gendarmes, prison administration staff, customs officers, public transport surveillance officers, and private security service officials. Since September 2018, 44 territorial delegates in the field of security ethics are responsible for ensuring, through amicable settlement, the processing of files concerning refusals to register a complaint or inappropriate remarks concerning representatives of the police or gendarmerie. A person who believes that he or she has been the victim of a refusal to register a complaint or inappropriate remarks by a police officer or the national gendarmerie, can turn to the delegate of the Defender of rights who will directly deal with the matter through the mediation process or forward it to the territorially competent delegate (*la Défenseure des droits*; n. d.).

In **Germany**, top managers assume their responsibility for establishing an adequate internal control system by setting up and supporting an organisational control unit called the 'Interne Revision', hereafter internal audit. Managerial accountability is carried out by the head of the authority. The internal audit unit does not take instructions from top management when drawing up audit reports. After completing an audit, it immediately submits the final audit report to the management of the directly superior authority. The internal audit

unit reports directly to the management, which cannot transfer its competence to other offices in authority. The authorised officer is to report directly to the head of the department. Internal audits are carried out in all departments of the federal administration. There is no legal basis, but all departments follow the '*Recommendations for internal audits in the Federal Administration*', produced by the Federal Ministry of the Interior in agreement with the other ministries. The internal audit unit does not accept duties that are outside the scope of internal audit but fall under managerial responsibility, including the implementation of rules to solve conflicts of interest. The internal audit unit takes suitable measures to ensure the quality of its work. These can include task-specific basic and further training, the exchange of experiences with other internal audit units and observing other internal audit units. The relevant ministries ensure the exchange of internal experiences, while the Federal Ministry of the Interior ensures the exchange of cross-ministerial experiences. There is no public certification procedure. Depending on their focus, the audits are carried out according to the following criteria in particular: legality, correctness, security, costefficiency, durability, usefulness/effectiveness and impact (European Commission, 2011, 2014). Regarding police accountability, police matters normally fall within the competence of the different *Länder*. Therefore, the regional Committees on Petitions or Ombudsmen deal with them. There are also federal police with certain specific competences. Oversight over the Federal Police is exercised by the Federal Ministry of the Interior, for Building and Community. The Committee on Petitions of the Bundestag (Federal Parliament) deals with complaints against these federal police institutions (den Boer & Fernhout, 2008).

In **Greece**, the internal control system as the overall system of managerial and other controls, including controls of the organisational structure, methodologies, procedures and internal audit, is implemented by the administration on the operations of an agency in order to support the pursuit of its objectives in an efficient, effective and economical manner. Other internal audit services are the Inspector-Auditors' Body for Public Administration, the General Inspector of Public Administration, and the General Secretariat of Financial Policy of the Ministry of Finance (European Commission, 2011). The Inspector-Auditors' Body for Public Administration is responsible for carrying out inspections, audits and investigations, carrying out disciplinary prosecutions and referring the individuals responsible to the competent public prosecutor's office so that accountability is attributed, conducting audits on the assets of the employees of audited bodies, carrying out preliminary examinations or investigations at the request of the public prosecutor and collecting evidence for criminal or disciplinary prosecution. The scope of SEEDD (the Inspector-Auditors' Body for Public Administration) audits covers public services, legal entities of public law, first and second-degree local authorities, state legal entities of private law and public enterprises. SEEDD is headed by the Special Secretary of the Inspectors' Body of Public Administration, who holds political office. SEEDD is staffed by 80 inspectorauditors and employees of the Secretariat Directorate and carries out audits and investigations following orders independently issued by the Special Secretary or following orders by a minister, secretary-general of a region, the General Inspector of Public Administration, the Greek Ombudsman or the head



of an independent administrative authority. The General Inspector of Public Administration on his own initiative orders SEEDD and particular inspection and audit bodies to carry out inspections, audits & investigations on public services, legal entities of public law, first and second-degree local authorities, state legal entities of private law and public enterprises, monitors the action and progress of audits carried out by SEEDD and particular inspection and control bodies and evaluates their work, carries out audits, repeat audits and investigations into public services, legal entities of public law, first and second-degree local authorities, state legal entities of private law and public enterprises, and carries out audits on the annual financial statements of all inspection and control bodies. The General Secretariat of Financial Policy of the Ministry of Finance is responsible for public internal control. Its directorates will be responsible for carrying out its audit work, including internal audit procedures of the audited bodies and an evaluative assessment thereof. The conclusions of its checks, the evaluation of its findings and the assessment of the work of the internal control teams (together with the relevant recommendations) are contained in the directorate general's annual report (European Commission, 2011, 2014). In the Police, the Police Department of Internal Affairs was established in 1999 to stamp out cases of corruption within the Hellenic Police. It is located in Athens and its responsibility extends throughout the entire Greek state. This division operates under a special statutory framework and falls directly under the Chief of the Hellenic Police. Its investigation tasks are supervised by a Court of Appeal Public Prosecutor and it reports annually through its Head to the Institutions and Transparency Committee of the Parliament. It also co-operates with the Group of European States against Corruption (GRECO) (Ministry of Citizen Protection, n. d.).

**In Hungary**, control is carried out through the so-called "Regulation pyramid", which has a four-level structure. The first level consists of the regulation of the field of control through the operation of the Public Budgetary Organizations. This is where responsibilities for the establishment of internal control and for the development, operation, monitoring of the proper functioning of the control environment are defined, as well as risk management policies, competencies of the control activity, methods of communication and monitoring of the measures implemented. The second level is the government decree level, which includes the definition of the control environment, risk management measures, specific control activities, information and communication, and monitoring. The third level represents Internal control standards and Internal audit standards, and operates following the same organizational principles as the second level. The last level consists of the Internal control manual and the Internal audit manual. The essence of the internal control system as an integrated approach to corporate governance is that it covers regulations, procedures, functional methods and organisational structures aiming to achieve the objectives of management. Internal control shall prevent, detect and/or correct events that endanger such objectives. The head of the subordinated public budgetary organisations (PBOs) must report on the functioning of the internal control system of the PBO to the head of the budgetary chapter (i.e. line ministry), who reports directly to the Minister for National Economy about the internal control systems (including internal audit)



of the ministry and the subordinated PBOs (European Commission, 2011). Since 2010 the operational head of the ministry (as a PBO) is the Administrative State Secretary. The minister is the political manager. In the case of ministries, the Administrative State Secretary is responsible for the establishment of the internal control system of the ministry and for the accountability of the organisational unit managers. The internal auditor or the internal audit unit perform their duties directly subordinated to the head of PBO and report directly to him/her. The audit team leader is responsible for drafting the audit report and drawing conclusions. Internal auditors are responsible for the trustworthiness of the audit results. The Law on Internal Affairs provides that "internal control is performed by the police officer authorized to conduct internal affairs. There is a denial of police authority to the Internal Control and a claim that the Criminal Procedure Code does not recognize police officers of Internal Control as the police. This makes it impossible for the Department of Internal Control to carry out its work in a full legal capacity, especially when it comes to more complex crimes, like corruption and organized crime cases, to which police officers are not immune either. The advantage of the Internal Control in relation to the Criminal Police Department is having focus only on the work of the police, and thus the possibility of high specialization for work on these cases, while for the Criminal Police Department these cases are just one of many varieties of cases they handle. It is of uttermost importance to enable access of Internal Control to all the instruments for collecting data on irregularities in the work of the police and put all the legal possibilities provided under the Criminal Police Department at their disposal (Bajramspahić, 2015).

In **Ireland**, the internal audit function may be required from time to time to carry out special investigations and provide a consultative role to management. An internal audit report (called hereafter the Mullarkey Report) recommends that accounting officers should ensure that the internal audit unit, including the head of internal audit (who should not have other responsibilities), has sufficient status and access within the organisation to promote the unit's independence and to ensure follow-up on its recommendations. The Mullarkey Report recommends that each department and office has, by the end of 2003, a formally constituted audit committee (or in the case of small offices that cannot justify having a separate committee, they should have access to one, e.g. a committee that covers a number of smaller offices). Systematic risk assessment and management is becoming an increasingly important part of internal control, as identification and management of risk is seen as necessary to maximise the likelihood of achieving desired outcomes. As part of this process, formalised risk management is becoming an increasingly important element of the internal control framework in central government internationally (European Commission, 2011, 2014).

The Garda Síochána Ombudsman Commission deals with complaints against the police (or Garda) in Ireland (den Boer & Fernhout, 2008). The Garda Síochána Ombudsman Commission works side-by-side with other independent agencies, notably the Garda Síochána Inspectorate and the Policing Authority, as well as with the Department of Justice and Equality, to deliver on different elements of Garda oversight. The Garda Síochána Act 2005 (as amended) sets out the legal basis for the establishment and functions of the bodies. The Garda Síochána Inspectorate

was established in 2006. Its objective is to ensure that the resources available to the Garda Síochána are used to achieve the highest levels of effectiveness and efficiency in its operation and administration, as measured against best international practice. It does this by carrying out inspections or enquiries on the operation and/or administration of the Garda Síochána. These can be done as a result of a request by the Minister for Justice and Equality, or by the Policing Authority, or on the Inspectorate's own initiative. The Inspectorate's other main function is to provide advice to the Minister and to the Policing Authority with regard to best-policing practice. The Policing Authority was established with effect from January 2016. It has a range of functions, including overseeing how the Garda Síochána performs its policing functions and ensuring that they use their resources in a way that achieves the highest levels of efficiency and effectiveness. The Policing Authority is responsible for putting a Code of Ethics in place, to set standards of conduct and practice for members of the Garda Síochána. They approve the Garda Síochána Strategy Statements and Policing Plans and setting priorities and levels of performance. They also make nominations for appointments, by the Government, to the posts of Garda Commissioner and Deputy Garda Commissioner, following a selection process undertaken by the Public Appointments Service, and appoint/remove persons to/from the ranks of Garda Superintendent, Chief Superintendent and Assistant Commissioner. The Policing Authority is also responsible for reviewing arrangements for the recruitment, training and development of Garda members and civilian staff (Garda Ombudsman, n. d.).

The **Italian** public administration has not developed a legal basis for an internal audit in the strict sense of the term. Nevertheless, many of the tasks that are part of an internal audit, above all financial and accounting activities, are performed by the offices of the Ministry of the Economy and Finance (Central Accounts Offices and Territorial Accounts Units), with the aim of increasing the efficiency and efficacy of public expenditure. No laws or regulations refer to internal audits and no apparently equivalent terms indicate the function of internal audit in the strict sense of the term. Nevertheless, forms of internal audit are found in various bodies owing to the organisational independence that they are given by the regulatory set-up, which has enabled them to be given their own responsibilities and activities under their articles of association or through their standing rules governing the organisation of offices, responsibilities and activities pertaining to their functions. This function is performed in each body or administration by an independent evaluation body (individual or collective person) that is coordinated by a central committee known as the Independent Commission for the Evaluation, Integrity and Transparency of Public Administrations. Although the function of evaluation of public employees does not coincide with that of internal audit, there are some points in common: first of all, the independent nature of the body responsible, the scheduling of the activity that is the object of the control and the planning of the control. It is thus clear that the degree of independence of the internal auditor, where this function exists, varies according to the body, how it is set up and its size. In general, this function is assigned to a manager, who is assigned a department or structure that does not have any distinguishing features as regards its position

or dealings with the directorate or administrative board of the body, compared with all the other departments or structures. If, on the other hand, the functions of the internal audit were developed as part of an independent evaluation setup, greater independence from the body would obviously be assured. The offices for departmental control collaborate directly with the head of the department and they are coordinated by the independent organisms for performance evaluation (European Commission, 2011, 2014).

Pursuant to **Latvian** law, heads of bodies are responsible for organising the execution of the functions of the bodies and for managing administrative activities so as to ensure continuity, performance and legitimacy. The head of the institution is responsible for establishing, monitoring and improving the internal control system. The head of a body is an officer who is a civil servant or an employee of the body and who is appointed or employed on the basis of professional criteria. Internal audit in Latvia is an independent and objective activity of an internal auditor resulting in the auditor's statement or consultation aimed at improving the operation of the internal control system in a ministry or an authority. The internal audit unit is independent from other units of the body in planning its operations, carrying out internal audit and reporting the results of its operation. The internal auditor is not engaged in direct functions of the ministry or body, in the implementation of programmes and projects wholly or partially financed by the European Union or implementation of foreign financial aid, in the preparation of specific projects and programmes, or in the establishment of the internal control system. The internal auditor may be engaged in performing these functions in the capacity of a consultant.

Regulations of the internal audit unit are approved by the head of the body. Regulations of the internal audit unit specify the status, aims, functions, tasks, essence of consultations, scope of work, structure and rights and responsibilities of the internal audit unit. The internal audit unit submits reports on internal audits to the head of the body. Additionally, the head of the body specifies officers to whom the contents of internal audit reports are to be made known. The head of the internal audit unit must ensure that the contents of internal audit reports are made known to the responsible officers. The head of the internal audit unit is responsible for preparing a review of the operation of the internal audit unit over the previous calendar year and submitting this review to the head of the body. The procedure for the monitoring of internal audit recommendations is specified in the internal regulations of the internal audit within each body. The head of the internal audit unit is responsible for informing the head of the body about the progress in implementing recommendations (European Commission, 2011, 2014).

In **Lithuania**, internal audits of a public legal entity performed by internal audit units (IAUs), which are subordinate and accountable to the head of a public legal entity. Other legal entities are audited by a centralised internal audit unit of a superior institution. IAUs of public legal entities report on their activities directly to the Ministry of Finance on an annual basis. In Lithuania, the responsibility for the creation and functioning of effective internal control in the public legal entities is assigned to the heads of these legal entities. Each year the top manager (the head) of the public legal entity presents a report on the state of financial

control (an annual statement) in the public legal entity, including the public legal entities subordinated to it or assigned to its management area. The principle for submission of the report is based on the principle of accounting to the superior public entity – inferior entities summarise the data on public legal entities and report on the activities they have performed. The report comprises essential aspects of financial control (European Commission, 2011, 2014).

In **Luxembourg**, the law concerning the General Inspectorate of Finance does not specifically set out an internal audit function but provides for it indirectly. Audits are performed at the explicit request of the government, usually following information on potential issues within a state administration or service. The Directorate for Financial Control is responsible for carrying out the first-level control of EU funds under Interreg, ESPON, etc. It also conducts, among others, the second-level control (certification) of all other EU funds (control of conformity with European legislation) (European Commission, 2011).

The General Police Inspectorate (IGP) is the external control body of the Police of the Grand Duchy of Luxembourg. It was created in 2000 according to the dispositions of the law of May 1999 about the Police and the General Police Inspectorate (IGP) in order to ensure the proper functioning of the police. The IGP is a service placed under the direct authority of the Minister of Internal Security and under the functional authority of the Minister of Justice, the General Attorney and the other judicial authorities (The Luxembourg Government; n. d.)

In **Malta**, control activities occur throughout the organisation, at all levels and in all functions in the form of supervisory checks and second signatures, separation of duties and delegated limited powers of authorisation. It is the duty of each unit head to ensure that such controls are observed and maintained to guarantee adequate control and that the predetermined objectives are achieved. The head of each unit carries out an annual performance management procedure with the officers under his/her remit in order to measure their effectiveness, productivity and training needs. This procedure is repeated with each public officer. Reports on progress against objectives are carried out annually through the performance agreement. Top managers have the responsibility to comply with and respond adequately to the recommendations on internal controls provided by the internal auditors in order to ensure that objectives are achieved. While all employees are responsible for the quality of their internal controls, the Internal Audit and Investigations Department (IAID) assists management in their oversight and operating responsibilities through independent audits and consultations designed to evaluate and promote the systems of internal control. Managerial accountability is not only exercised by top administrative managers. While they have a significant impact on an organisation's system of internal control, every employee of the organisation has a responsibility and a role in ensuring that the system is effective in achieving the organisation's mission. Hence, it is the responsibility of every permanent secretary, director general, chairman, chief executive officer and/or head of department to ensure that an effective internal control system is in place in order to safeguard accountability, transparency and delivery. The ministers, when charged with the responsibility for any department, exercise general direction and control over that department and, also, the

department would be under the supervision of a permanent secretary. One of the reasons for enacting the Internal Audit and Financial Investigations Act was to provide the directorate with strict functional independence from ministries, other departments and divisions (European Commission, 2011, 2014).

In the **Dutch** political system, ministers are individually responsible and accountable to parliament. Relations between a minister and parliament (external control and accountability) and between a minister and his ministerial officials/managers (internal control and accountability). There is no accountability relationship between parliament and ministerial officials (European Commission, 2011). The law foresees that the National Ombudsman is the body for complaints against the police (den Boer & Fernhout, 2008). A network of controls has been laid down in Dutch legislation so as to guarantee the manageability of the police. It is in keeping with Dutch tradition that no single body should have sole authority over the police, but that authority should be divided between the Minister of the Interior and Kingdom Relations and the Minister of Justice on the one hand and the provincial and municipal authorities, such as the Queen's Commissioner, mayor and municipal councils, on the other. The Minister of the Interior and Kingdom Relations is responsible for the central administration of the police in the Netherlands. One of the mayors ("burgomasters") in a region (often the one with the largest municipality) is the force administrator. Together with the chief public prosecutor, he has ultimate responsibility for administering the police service. Authority is vested in the "burgomaster" for the maintenance of public order and care, who is accountable to the city council. When the police are deployed to investigate a punishable offence, they follow the instructions of the public prosecutor who is a member of the Public Prosecution Department. The Public Prosecution Department, which falls under the Ministry of Justice, is responsible for maintaining legal order where it concerns violations of the Criminal Code (OSCE, n. d. c).

The Netherlands uses several types of controls to investigate various forms of police misconduct (Lamboo, 2010): external oversight and control, internal or external initiated investigations, the relevant procedures, and reactive and pro-active investigations. In 1995, the Ministry of the Interior set a number of general rules regarding a police integrity policy. One of these was the establishment by the police forces of a "structural provision for conducting internal investigations". Since then, all police forces have installed a Bureau of Internal Investigation. The police force manager, the public prosecutor and the chief officer are primarily responsible for the internal investigations. Internal investigations based on disciplinary regulation are ultimately overseen by the police force manager. Internal investigations based on criminal law are overseen by the public prosecutor. A preliminary investigation can be used to review a signal of alleged misconduct to determine if the signal warrants a disciplinary or criminal investigation. In the Netherlands, a disciplinary procedure can be held independent of a concurrent criminal investigation. Generally, the supervisor of an investigation is a district or division chief. Usually, only the more serious cases of misconduct are investigated by the BII's while the districts or divisions investigate less serious cases. The Bureau of Internal Investigation can only

conduct investigations at the request of a district or division chief; they are not allowed to conduct pro-active investigations (Lambo, 2010).

In **Poland**, the Department of the Public Finance Sector Audit of the Ministry of Finance supports managerial accountability and functionally independent internal audit (European Commission, 2011). Internal audit is an independent and objective operation the aim of which is to support the minister in charge of the branch or the head of the entity in order to implement objectives and tasks by systematic assessment of management control and consulting activities. The head of the internal audit unit reports directly to the head of the public finance sector entity and, in the government administration offices, within the remit specified in a separate statute, to the director-general. Within 14 days after having received the audit report the manager of the audited unit shall inform the management of the public finance sector entity and the internal auditor of which recommendations are considered well-founded and appropriate, when and how they will be implemented and who is responsible for implementing them. If the manager of the audited unit refuses to take action, the head of the public finance sector entity is obliged to set out when and how the recommendations considered valid will be implemented and who is responsible for implementing them. There is no unified formal procedure in the public finance sector entities as to how to inform the managers of the unit if indications of fraud and/or irregularities are identified during the course of an audit. In each case, internal audit standards require the auditor to report fraud risk to the management of the entity (European Commission, 2011).

The Minister of the Interior and Administration supervises the Chief of the Police. Supervision of the Municipal Guards is conducted by the Mayor and the *voivode* who (with assistance from the Voivodship Police Commander) control exercising of powers, the use of firearms and means of direct coercion and record-keeping. Control Bureau of the Border Guard (Straż Graniczna) HQ performs controls of the Border Guard units and departments activities and deals with complaints. Border Guard Internal Affairs Bureau is responsible for the prevention and revealing of offences and crimes committed by BG officers (OSCE; n. d. d).

In **Portugal**, *The White Book – Internal Audit in the Public Sector* was issued (European Commission, 2011) and all the ministries were grouped in three different areas: the white area (no internal audit unit at all); the grey area (lowcapacity internal audit units, not well developed, but with at least some skilled people who could work with the CHU as counterparts to develop internal audit); and the green area (where the internal audit concept and function was known and already operating, even if with different levels of professionalism). However, some internal audit units already existed in some public organisations before this reform started. Internal audit units now exist in all line ministries and throughout most of the public sector in Portugal, with the main exception being in smaller organisations (European Commission, 2011, 2014).

The Inspectorate General of Home Affairs (Inspeção-Geral da Administração Interna – IGAI) was created September 1995. The implementation of the IGAI took place with the nomination of its first Inspector General of February 1996. The



purpose of its creation was to endow the Ministry of Home Affairs with a service of inspection and supervision especially focused on the defence of the rights of the citizens and on a better and more expedited disciplinary justice in situations of greater social relevance. The IGAI is an independent organism of external control of police activity. It works directly under the authority of the Ministry of Home Affairs (Ministério da Administração Interna – MAI) and its control includes all security forces and services that depend upon this Ministry, ensuring the compliance with the rights of the citizens, with special emphasis on the protection of human rights and the maintenance of public order (Inspeção-geral da administração interna., n. d.).

In **Romania**, responsibility is an essential obligation for all the managers in the public sector and is regulated, in all cases, by legislative acts such as laws, government decisions, authorities' rules and regulations, etc. Internal/managerial control comprises the ensemble of control mechanisms exercised at the level of the public entity, including internal audit, established by the management in accordance with its objectives and the legal provisions in force, in order to ensure an economical, efficient and effective fund management; this also refers to the organisational structure, methods and procedures. Public internal audit in the public sector of Romania consists of the Public Internal Audit Committee (PIAC), the Central Unit for the Harmonisation of Public Internal Audit (CHU PIA), and public internal audit structures within public entities. Public internal audit structures/departments are established within each public entity and are directly subordinated to the manager or the collective management body. The results of the internal audit missions, that is, the findings and recommendations presented by the internal auditors, are materialised in internal audit reports, which are submitted for endorsement to the top management of the public entity, accompanied by a summary of the main findings and recommendations. The internal audit reports, endorsed by the top management of the public entity, are submitted to the audited structures, Where the management of the public entities does not assume a part or the whole of the internal audit recommendations, the current legislative framework stipulates that the public internal audit structure should inform the CHU PIA or the hierarchically superior body on the recommendations that were not assumed by the management of the audited public entity and on the consequences of their nonimplementation. Where, during internal audit missions, the internal auditors identify irregularities or possible damages, they report them immediately to the management of the public entity and to the authorised internal control structure, as they are not authorised to investigate them (European Commission, 2011; 2014).

Regarding the independence of the internal auditor, in the **Slovak Republic**, the system is set so that the head of the audited entity must ensure that no interference that could have an adverse impact on the performance of internal audits by internal auditors is in place. Internal auditors or internal audit units may not be assigned to any duties that go beyond the scope of internal audits or that interfere with the independent execution of internal audit tasks. The internal auditor/internal audit unit must have an independent position and reports directly to the head of the central authority, is independent from the activities audited,



thereby ensuring their objective assessment, which is essential for the proper performance of internal audit and impartial advice to the audited entity; and must have no internal, external and personal interests, and should be free from any political interference. The member of the audit team shall submit a partial audit report to the head of the audited entity and to the head of the relevant central authority and, if there is a suspicion of a criminal offence, the report shall also be sent to law enforcement bodies (European Commission, 2011; 2014). A Specialised body for complaints about police officers misconduct Section of Control and Inspection Service (Sekcia kontroly a inšpekčnej služby) is established within the Ministry of Interior of the Slovak Republic. In criminal proceedings, the police are subject to supervision by the state prosecutors (den Boer & Fernhout, 2008).

In **Spain**, they use the preliminary control of legality. The preliminary control of legality covers the control, prior to their approval, of acts of the state public sector resulting in the recognition of rights or the incurring of expenditure, and the revenues and payments arising therefrom, and the investment or general application of its public funds, in order to ensure that their management complies with the provisions applicable in each case (European Commission, 2011; 2014). In Spain, the national Ombudsman is competent to deal with complaints against the national Police (*Policia nacional*). However, if legal proceedings are pending, the Ombudsman will suspend all action until the judgement. As regards Pais Vasco and Catalunya, citizens can submit their complaints to the regional Ombudsmen who are competent to deal with them in view of the fact that in those regions the Police is not 'national' but 'regional' (den Boer & Fernhout, 2008).

In **Sweden**, the organisational setup of the internal audit is based on the Internal Audit Ordinance. For an agency to establish an internal audit department it requires the mandate of the government. The boards serve as the principal of the audit departments. In the absence of a board, the directorgeneral fulfils the function as principal. The internal audit department shall be led by a manager who is employed by the agency. An agency may coordinate its internal audit with the internal audit department of another agency, which however does not detract from the authority of its own management. The internal audit shall carry out an organisational and also, in relation to the activity which is being audited, an otherwise independent and objective auditing and advisory activity. To ensure the requirements of objectivity, independence and integrity, the internal audit unit shall be freestanding from the operative activity and shall administratively report directly to the directorgeneral of the agency. The result of the audit shall be reported by internal audit in the form of observations and recommendations to the management of the agency (the board or the directorgeneral). The management of the agency shall decide on measures resulting from the observations and recommendations of internal audit. At least once a year, internal audit shall submit an audit report to the management of the agency on the observations and recommendations from the audit year. The internal audit shall be carried out in accordance with generally accepted internal auditing standards and rules of professional ethics for internal auditors (European Commission, 2011; 2014).

In **Great Britain**, the Independent Office for Police Conduct (IOPC) oversees the police complaints system in England and Wales. We investigate the most

serious matters, including deaths following police contact, and set the standards by which the police should handle complaints. We use learning from our work to influence changes in policing. IOPC is independent, and make decisions entirely independently of the police and government. The IOPC was established in January 2018; before this, the police supervision was provided by the Independent Police Complaints Commission (Independent office for police conduct, n. d.). In Northern Ireland, the Police Ombudsman provides an independent, impartial system for the handling of complaints about the conduct of police officers. We will deal with those complaints in a manner which is free from any police, governmental or sectional community interest and which is of the highest standard (Police Ombudsman, n. d.).

European approaches to performing internal audits (European Commission, 2011; 2014), can be divided into two groups. Luxembourg and Spain have developed a unified control system within the framework of their public administration and all other institutions that rely on public funds. Both countries have established specialized bodies to perform control tasks; Spain – Intervención General de la Administración del Estado (IGAE) and Luxembourg – Inspection Générale des Finances, which acts independently of other bodies. These are known as *centralized internal control systems*. Other countries opt for an integrated approach by the government that aims to establish, maintain and monitor integrated internal control management processes within each public entity. These are known as *decentralized internal control systems*.

After the presentation of internal controls over the police in European countries, we will focus the analysis on the methods of implementation and the challenges faced by internal control providers in the Slovenian police.

## 2 METHOD AND SAMPLE DESCRIPTION

For a more detailed insight into the control activities in the Slovenian police, we drew on the findings of a study on the system of controls within the Ministry of the Interior (see articles by Modic and Flander in this issue of Journal of Criminal Justice and Security). Based on these findings, we conducted interviews with seven Slovenian police officers from the competent sector of the General Police Directorate, the Criminal Police Directorate, the Uniformed Police Directorate and two regional Police Directorates. The interviewees were high-level police professionals, experienced police superintendents and highly experienced auditors. We can therefore conclude that the interviews were conducted with an expert group of interviewees. All the interviews were conducted in person, the interviewees were made aware of the purpose of the interview, and participation in the interview was voluntary.

We used the qualitative research method and opted for a structured interview format as a data collection method. This research method was chosen to help explain certain behaviours, events, and understand how the organization that was the subject of analysis functions. The qualitative research approach employs various methods to obtain a large amount of primarily unstructured data, which must then be translated into a coherent report. For this purpose, we use

qualitative data analysis, which we take to mean an overview and interpretation of observations for the purposes of identifying the basic meanings and patterns of interpersonal relationships, rather than an analysis based on numbers alone. The research strategy used is inductive, constructionalistic, and interpretive in the majority of cases (Dimovski et al. 2008; Roblek, 2009).

The questions for the structured interview were formulated on the basis of a preliminary analysis of the legal framework of control systems that exist within the Slovenian police and on the basis of research material, audit reports (25 examples of reports) and opinions on the basis of reporting requirements (14 opinions), as well as interviews conducted with auditors from the Division for System Guidelines and Supervision of the Police, which operates within the Police and Security Directorate (see Flander & Modic in this issue of the journal).

### 3 FINDINGS

In the following section, we present the answers given by the interviewees, grouped into various sets depending on the topic. Each set of answers is preceded by the question posed to the interviewees. The interviews are followed by a synopsis of the main findings and recommendations for future practice.

#### 3.1 The control function

**Question:** In your opinion, how important is the control function within the Ministry of the Interior in relation to the police and within the police in relation to the employees? There are lines or two groups that perform control functions. The first line of control performed by the Ministry and the other one is the control function performed by the service of the Director-General of the Police, following along the »lines«. We are interested in your opinion and assessment of the cooperation between these two institutions that carry out the control function. From your perspective, what the current state of this function and do you find that it is appropriately integrated as a system? What are the main challenges in carrying out these audits? In the past, there was much more focus on coordination between the auditors of the Ministry of the Interior and the Police. In your assessment, how crucial is this cooperation?

*“All open issues are dealt with by the council for police administration and police powers. The council consists of a representative of the ombudsman, the criminal police, the uniformed police, the SGDP (Service of the Director-General of the Police ) and the DPDVN (Police and Security Directorate). A representative of the police serves a term as committee chair and then the next term is served by a representative of the DPDVN. We resolve controversial issues. Then, with the help of other experts, we agree on a unified opinion. It’s a mechanism. There is no final decision-maker. If we cannot agree on an opinion, the auditor’s decision basically prevails” ...“There have been attempts to follow an annual control plan, but we are not implementing it. This is a function of the SGDP. We prepare a list for the GPU (General Police Directorate) that is harmonized and cannot be duplicated. In the past, 30 auditors from the Ministry of the Interior and the GPU*

would storm one unit and stop all its operations for a month. That is why this kind of general audit was discontinued years ago. The main problem with the way audits are done now is that they are sort of scattered. I firmly believe that work should be evaluated. This means evaluating each and every segment and not just specific areas. We are interested in the whole product." So, the problem lies in the "fragmentation" of these audits? "That is correct." (Interviewee 4, November 11, 2020)

"The control function is one of the main tools for police management, as it helps ensure greater compliance with the law, professionalism and efficiency. I have to point out that the police carry out about 350 audits a year. This is the average of all audits, which includes expert, general and follow-up audits. This is quite a large number. About 30 of these audits are conducted by the General Police Directorate, where the subjects are police directorates, while all the other audits are carried out by police directorates, where the subjects are individual police units..." (Interviewee 5, 11. 2020)

"I have always viewed the control function as an opportunity for improvement in areas where mistakes occur. Evaluating certain processes, activities of individual services, and areas of work is a good thing, so I do not have any concern about any content being distracting and inappropriate. In the past, we focused only on how and in what way things are done and on whether too much or too little is done, as well as on who should do what. The choice of contents to be audited was the result of societal responses to police activity." (Interviewee 6, November 13, 2020)

"My personal opinion is that the control activity as a function in the police is very beneficial, mainly because it allows an external factor or external persons to take a look at some of the police procedures that are carried out by our police officers, with fresh eyes. Sometimes, as the chief, commander and director, you may not be able to see everything, but an auditor may see things with »different eyes«, or you may be absolutely sure that everything is as it should be. Sometimes, it may turn out that everything is not as it should be. I personally think that control is a good thing and don't see any issues with it. If a chief is self-assured and competent, he should have no concerns about an audit not being performed in line with written guidelines." (Interviewee 5, November 13, 2020).

"I think that the control function is properly integrated as a system Especially on paper, but how it is done in practice is another matter. From a regulatory point of view, I think it is properly regulated and I do not see any problem here. Of course, certain deviations occur when controls are carried out, either at the regional or local level. There are many things that could be improved there."... "The main challenges are not related to issues of expertise related to the implementation of control activities, as we start from the assumption that this is one of the four basic components of management. I have been doing this for many years and I have concluded that it all depends on the approach used and on how top management is perceived within the police. There is a noticeable difference, especially lately, as there have been many changes in leadership." (Interviewee 7, November 11, 2020)

"I must point out that they have a very specialized office at the Ministry of the Interior and plenty of time to deal with control activities. We perform regular tasks, from operational to strategic ones. In addition, we carry out about 10 audits a year. This is the system's maximum capacity. The Ministry of the Interior, on the other hand, has months and months to prepare for a security audit, which can pose a problem for an individual police officer. These auditors have master's and doctoral degrees and they come

*and conduct audits of police officers. We must understand that a police officer cannot have the same level of expertise as an auditor from the Police Directorate.”* (Interviewee 4, November 11, 2020)

The interviewees noted that the control activity is a crucial element of the management and governance of an individual police unit. The interviewees concurred that the audits performed by the auditors of the Ministry of the Interior and those of the Police are interdependent and complementary, but the audits must be coordinated and well planned. The interviewees emphasized the importance of external control as it enables us to look at police activities from different perspectives. At the same time, the auditors’ expertise in this highly specialized area brings expert insight into an individual process. The interviewees also emphasized the disproportion between the competencies of police officers, who are expected to possess a wide array of knowledge and skills and the expertise of the auditors; the latter aspect should also be taken into account in setting expectations as conveyed by audit reports.

### 3.2 Translating audit findings into police work

**Question:** Analyses of auditor reports by the Police and Security Directorate of the Ministry of the Interior show that police officers in police units are relatively poorly acquainted with the auditor’s routine, non-routine and follow-up audit reports conducted within the control system, as well as their recommendations and reporting or recommendation requests. There are some issues when it comes to communicating audit findings to police officers. What is your opinion on this?

*“I can confirm that there is an issue. On a purely academic level, everything is impeccable on paper. The problem, however, arises due to the extensive regulatory framework of all these procedures. Take, for example, the uniformed police. This area covers 22 areas and sub-areas of responsibilities, which is a lot. The problem arises when we detect an irregularity and impose measures to correct it. However, we will be going back to the old established practice in the very near future. In my view, the biggest issue lies with the unresponsiveness of senior management, which means that we are all aware of the fact that there are irregularities and are simply unconcerned with them. In a way, we want to try to find ways to make them legal. This is where I see the biggest risk, and this is what makes us very vulnerable. Police officers are convinced that they are doing things right, until something goes wrong, and an external institution decides to conduct an audit. This is where we see the role of the control activity, which has many weaknesses, in my opinion.”* (Interviewee 7, November 18, 2020)

*“As a rule, the units that have been the subject of an audit are notified and can submit their comments on the auditors’ findings. If it’s a systemic matter where the guidelines change, but in actuality, they find that the report as such has not been distributed throughout Slovenia. We must keep in mind that the amount of paperwork involved is astounding. We are talking about 30 to 60 pages. It is unreasonable to expect every police officer to read these things. That is why the main findings are then translated into practice in other ways. Not with the report itself, but with measures implemented by experts in the field – whether through guidelines or a training program. This is especially*



important in cases where we find that we interpret regulations differently." (Interviewee 4, November 11, 2020)

"The procedural rules have always been such that in cases where the audit was completed, the findings were first presented at the advisory board meeting of the director-general of the Criminal Police Directorate. This is followed by the results of the audit and recommendations on how to address the weaknesses identified, which were submitted during the Criminal Police Directorate staff working meeting. However, if decisions were made in the field of financial crime that were more important for the profession as a whole, the report and measures were further discussed by the agency and department head advisory boards. Each head who is a member of the advisory board of the director-general of the Criminal Police Directorate is obliged, according to the hierarchical function in his/her units, to inform his/her subordinates about the report and possible measures to be implemented going forward. If the nature of the problem requires certain measures to be implemented, the head is expected to implement such measures or delegate this responsibility to his/her subordinates." (Interviewee 1, November 4, 2020)

"To some extent, I agree with this, because, at the regional level, the auditor informs the immediate supervisor or commander either at the end, when he/she writes a report or during the audit. If any irregularity or shortcoming is detected, we instruct the commander to pass the information on to his/her subordinates. At the police directorate, we strive to instruct the head or the commander to pass the findings to the end-user. In the case of a systemic task discussed at a working meeting or, where appropriate, we conduct interviews with individuals who should be made aware of the audit findings. Of course, the question remains of to what extent each individual who receives this information actually understands it." (Interviewee 6, November 13, 2020)

"I believe that we should work towards eliminating administrative burdens. In this area as well, we need to establish trust in the fact that if auditors have written something, if they have pointed out something and forwarded it to the police with measures to eliminate the identified irregularities, we need to establish trust and we, as the General Police Directorate, need to ensure that the information is passed on to the regional level and from there to the local level. Should they determine, while conducting their follow-up audits or any other audits, that this is not the case, it would be fair of them to let us know and enable us to take immediate action. They have done this on a few occasions and we find this to be a positive thing. However, us having to report back to them that we have informed them seems like a lot of unnecessary paperwork to me. Trust needs to be strengthened through mutual cooperation, both formally and informally." (Interviewee 2, November 4, 2020)

"This is also the way I see the problem. I can give you a specific example. We provide guidance to police officers, in terms of how they should behave when interacting with victims of crime. We've done this many times, several times a year. This is probably what auditors had in mind when they wrote "to inform those present at the working meeting, at the director-general's extended and internal advisory board meeting" and so on. What can happen sometimes is that one of the employees was not present at any of these scheduled meetings, for objective reasons, due to being absent from work, on sick leave ... the point is that a lot of time can go by and content that is highly relevant can become obsolete after some time. I ask to be informed of who was briefed on the content in question by name. There are certainly some reservations here, but the question is whether the employees are willing to tackle this huge amount of findings, guidelines, and so on. So, the bigger

question may be how to ensure that everyone is constantly and continuously being briefed on the relevant content, by taking into account all the recommendations made based on the irregularities identified." (Interviewee 5, November 11, 2020)

**Question:** You described the organizational measure that you have implemented to ensure that at least the first briefing is conducted. You also highlighted one of the problems you have encountered: the willingness or ability (or lack thereof) on the part of police officers to familiarize themselves with all these new guidelines or findings. Do you think that another systemic change is warranted, or should we be thinking about unified approaches? It might be helpful if all the information pertaining to the audits was accessible in one place, where each and every police employee can get acquainted with it.

"That is an excellent suggestion. In the past, we have tried different approaches to grouping all the guidelines according to their individual areas. However, we are still having difficulties ensuring the information reaches everyone. To give you an example from the criminal police sector – the heads of the departments personally went to their co-workers' desks and collected all the old detention forms from them. 14 days later, the old detention form, which was no longer in use, appeared on the desk. So, having all these controls is pointless if some exceptions still occur. Because when the ombudsman visits a police unit and finds this form, it will not matter to him/her, at least not as much, whether a person has been detained properly and whether medical assistance was provided to the person – the only thing that will matter is that the wrong form was used. What kind of system should we set up is a question that always topical. In my assessment, despite everything, we have a well-functioning system. For example, border matters are dealt with by the border sector and referred to the border police units, whereas cases involving transport are dealt with by them..." ... "Ultimately, we are all striving for a certain degree of computerization of these procedures. E-police is a project that, in my opinion, has been getting good results, as it helps guide police officers and prevent them from making mistakes when filling out forms. There could be more of that. And then there is the system of continuous learning and education. Certain matters require more attention than just being read at a working meeting, because sometimes it seems, at least to me, that 15 guidelines could not have been discussed at a working meeting, even if the minutes state so. How can that be? When it takes an hour and a half or two hours, which is how long a meeting lasts, to even introduce 15 guidelines properly. Which brings us back to the same old issue. One person is interested in one thing, and another person is interested in another thing. However, it is crucial that what is found during the audits, regardless of the organizational level, is implemented in the work, to the extent that, as a rule, no errors occur." (Interviewee 5, November 11, 2020)

**Question:** We have found that one of the most challenging areas is conveying audit findings to the police officers. What changes can be made in this area?

"The heads are tasked with passing on the information. But they have to deal with so many different instructions, guidelines, recommendations and procedures. Additionally, they lack persistence. Too often, they just pass the information on to a lower level, to the executors of police procedures, and their involvement stops there. I dare say that monitoring our own work is a weak spot within the police, monitoring the work of the heads, to their direct subordinates, the executors, the direct heads." (Interviewee 7, November 18, 2020)



*"I will share our police directorate's experience. Typically, a report is sent to the police unit, that is, the unit, the commander, and their subordinates are briefed. Our practice at the police directorate is to inform all police units and internal organizational units of all irregularities from other units every six months or at the end of the year, which means that the commander is not only made aware of the irregularities or shortcomings found at his/her unit but also of any shortcomings or irregularities occurring in other police units. The commander can then extrapolate from these irregularities or shortcomings, to determine whether there might be "something fishy" going on in his/her unit." (Interviewee 6, November 13, 2020)*

**Question: Do you think that this is related to employee performance reviews or how they might be impacted?**

*"We have recently changed the rules for conducting audits. We went from numerical assessment to descriptive assessment. Having numerical ratings almost escalated into "negotiating for ratings". It makes sense for this rating to be taken into consideration during managerial staff performance reviews. We have shifted from very good, excellent, good, satisfactory, to legal, illegal, professional, unprofessional. But once again, there was the question of who would assess the legality, as this is a matter that can only be decided by a court. We decided that we would be assessing the compliance of part of the unit with the regulations. It sounds less harsh, and by doing that, I wanted to motivate the managers, so that they would not resist the audit, but welcome it. If you accuse someone of doing something illegal in the course of doing their job, they can take that personally. In a negative sense. Instead of being motivated by it, they are discouraged from implementing the findings of the audit." (Interviewee 7, November 18, 2020)*

Passing on the findings of the audits, especially those carried out by the auditors of the Ministry of the Interior, is seen as a crucial point of the control activity. The reason lies in the sheer volume of the documentation involved, making it impossible to be shared with the police officers in a satisfactory and efficient manner. From the point of view of internal control as an element of the management of a police organization, the interviewees emphasized that conveying the findings is the responsibility of police unit leaders. Audit findings should be directly included in guiding daily police work, in the processes of continuous training, and it is imperative that managers constantly check to make sure that the findings have been implemented in daily police work. The process of passing on the findings of the audits can also benefit from the digitization of the work processes of police officers, where the findings could be entered into ready-made form templates within the framework of the e-police project.

### 3.3 Knowledge of police powers

**Question: Knowledge of police powers and quality performance of police tasks is the basis of police work. The auditors have found, among other things, that police officers have relatively limited knowledge of police powers. Do you think that the introduction of mandatory qualifications checks for police officers, which used to be done in the past, could be one of the possible ways to maintain quality standards in police work?**

*"Managers are obliged to ensure that their staff have the necessary professional qualifications, through internal training, which, for example, we are actively implementing*

in the field of economy. However, as police officers, we have been noticing that younger members of the staff in particular or those who came into the police from outside, possess much less knowledge in this area, which means that we have to put in a lot more effort to ensure that they have this knowledge." (Interviewee 1, November 4, 2020)

"Yes, I do. It could be replaced by another approach, which has not taken root. This approach is regular monitoring of the police officer's work by his superiors. When a police officer returns from work, on his return from work, if he and his superior, whoever that is, or the shift manager, the assistant commander, or any other head at the regional level, if they could promptly resolve individual problems on the spot, the matter would be very simple." (Interviewee 7, November 18, 2020)

"Definitely. I think this could also be done under the AIDA program that the police are implementing, at least once a year. Just as we perform confirmations in order to access classified information when we have to pass an annual test, in order to be able to extend the validity of access to classified information. I think that it would be sensible to perform a basic test of basic police powers in the police once a year." (Interviewee 2, November 4, 2020)

"This used to be prescribed by law but was not enforced. When we had the "milica", this was carried out, but later they discontinued it. What was then Article 71 now existed only on paper, and it was determined that there were no material resources and "sports equipment". Which meant that the practical part would be very difficult to carry out. That is why they introduced the system of mandatory attendance at training on police powers with the basics of self-defense. We could have a system that allows an instructor to require someone who is not qualified enough or has not attended the training to take an exam." (Interviewee 4, November 4, 2020)

"I thoroughly support this idea. A very good example is AIDA, which allows us police officers to test our knowledge in the field of data protection from time to time and there haven't been any problems, which means that we do actually read things and go into all the details. You can log in with your password and answer some questions. One additional question arises for me. We always conclude that this should be done during working hours. However, it would be very interesting to start a conversation about whether a person who wants to be in this profession and do this job, whether this person would be willing to look at the questionnaire and fill it out at home. In the end, someone will always say "during working hours", but when we talk about this time that could be spent adopting and implementing findings, including audit findings and all these regulations, innovations, and then this is the time that covers operational activities, which break down our models and schedules for training and knowledge testing. These are organizational problems that should also be addressed appropriately." (Interviewee 5, November 11, 2020)

"I don't think so. In principle, I have nothing against such a system. In the police, we have the AIDA system, which we use to test peoples' knowledge on classified information and other areas. You could use this system." (Interviewee 1, November 4, 2020)

"I find it interesting that we are always talking about police officers not being familiar with their powers. We never mention that prosecutors and judges should also be trained. On the other hand, we can have a police officer who has also taken the bar exam. The question is whether the police officer has an adequate decision model to help him decide. There are no decision-making models for police officers to use when making decisions." (Interviewee 3, November 4, 2020)

**Question:** We also found that the problem is that police officers carry out police duties based on a very large number of regulations that are constantly changing and they cannot be expected to simply internalize these regulations in order to perform their duties well all the time.

*"That is true. This is a big problem, the constant influx of regulations. I sometimes ask myself whether we are even giving the profession a chance to develop. We have made things so that they are too "set in stone" and prescribed in the tiniest detail. Sometimes I get the feeling that police officers are just crossing things off their to-do list without even thinking. But these are people we are dealing with, with a constantly developing human mind. All we can do is set some frameworks and prescribe some standards, but we cannot prescribe them in detail. You have asked me a serious question, but on the other hand, I wonder how long can we keep issuing regulations and instructions, or have we already crossed a line and are we now hindering the development of the profession." (Interviewee 7, November 18, 2020)*

**Question:** Do you think that part of the solution could also be found in relieving the police of some of their current workload by transferring it to some other organization, even if it is not the state police, such as a private security organization? Could we improve the quality of policing by reviewing all police procedures and determining what could be simplified or eliminated altogether, so that it would no longer be done by the police, but some other body or agency?

*"Absolutely. Vehicle damage cases are one such example. These are minor issues that involve two parties. A police officer who comes to the scene is there because of the insurance case that is behind the whole policing process. The police officer spends about an hour or two at the scene and then spends even more time entering data into various applications. I think that this kind of work could be done by someone else. "... "By eliminating this "administrative junk", we could take some of the weight off peoples' shoulders. I think that this is our biggest burden. It consumes a lot of our valuable time, which is why police officers are not on road sections where traffic accidents occur, it's why police officers are not out there, where they should be. I would say we are rarely seen among people and people are no longer used to us." (Interviewee 7, November 18, 2020)*

**Question:** Should police training institutions, such as the Police Academy, be included in the process of promoting awareness of police powers?

*"A school program that only takes two years results in a very busy schedule. However, it is the constant changes in legislation that represent the biggest problem. Each year, we "experience" 10 new laws or amendments, and keeping up with all these changes is a big problem. Changes in laws and by-laws did not use to happen this fast and case law was much more of a constant. There should be a body in charge of summarizing all court decisions, to help us keep everyone updated on the latest case law. Auditors can be prepared on these subjects. We, on the other hand, do not have a legal unit within the service of the Director-General of the Police to monitor this closely."... "The AIDA program enables distance learning and solving various tests. Especially on the subject of working with classified information. It is currently being extended to include individual police powers." (Interviewee 4, November 4, 2020)*

**Question:** In what way could the current mandatory training in practical procedure and police powers be used to improve knowledge of police powers? Could this be done with the help of instructors?

*“That is one possibility. But there is also the question of how training is organized. It should be tailored to individual groups. There should be more emphasis on specific content. One type of content for patrol officers and a different, more advanced one for criminal investigators (detectives). Of course, combined with the right approach on the part of the instructors who should possess the appropriate references. I think that the instructors’ qualifications should be checked first. And these instructors would pass on this required knowledge on the subject to the police officers. In my opinion, it would be pointless and a waste of time to train a police officer on the subject of certain powers that are exercised exclusively by specialized units. Because, as we know, certain special operational methods and means are mainly used by criminal investigators. A police officer should know the basics, but in-depth knowledge is pointless.”*

*“During self-defence training, instructors convey a great deal of knowledge, including some theoretical bases. This knowledge is then upgraded, mostly with the use of physical force and other powers. This is definitely an upgrade. At our police directorate, we have two instructors who are very well-versed on their subjects and have a very pragmatic way of conveying information, as well as giving certain recommendations, preparing training exercises and training officers. We definitely have all that, but the theoretical part is missing. For example, in the field of financial crime, or in the field of all these innovations in road transport, when you’re required to fill in forms; filing an accusatory instrument for a truck driver requires more work than filing criminal charges. This minor offense procedure is quite gruelling and even though we are training new criminal offense inspectors, we are still often not up to the task because the procedures are so complex. We often wonder whether it would be possible to simplify these procedures a little bit.”* (Interviewee 5, November 11, 2020)

The interviewees acknowledge that ensuring a good understanding of police powers is essential and should be a crucial content of any future activities. The interviewees agree that there should be a system in place for monitoring the level of police officers’ knowledge on this subject, which could be done using the systems that are already in place, such as the AIDA platform and the instructors. The Police Academy could provide adequate training and guidance for the instructors, who would then transfer the content to police officers divided into groups, according to the competencies they require to perform their tasks. While there is a strong consensus among the interviewees on the need to regularly test the police officers’ knowledge on the subject of police powers, they are yet to reach a consensus on exactly how this would be implemented. In addition to the use of digital platforms (AIDA), it has been suggested that instructors should play a key role in this area. In addition, there should be an examination board or any other way of evaluating the knowledge of police officers and identifying any gaps in it. The evaluation of competencies in the area of police powers should be systematically regulated. In any case, it would be a good idea to consider introducing various decision-making models that police officers could use in individual police procedures – the introduction of such decision-making models would facilitate the standardization of police procedures. Any such models should be supported by databases, which would make it possible to monitor all current events promptly and directly in a particular area – the lower quality of knowledge on the subject of police powers among police officers is also a result of constant

changes in police work legislation. Constant changes and ill-conceived legislation are thus also some of the causes of insufficient knowledge about police powers.

### 3.4 Internal security measures

**Question:** The next question is related to internal security measures. When criminal conduct by police officers is detected, the case is automatically referred by the police to a specialized state prosecutor's office, while the police continue their proceedings in terms of ensuring the integrity of the institution. In your opinion, is the existing internal security set-up adequate, or are substantial changes necessary, based on experience gathered so far? Do you believe that the powers once held by investigators should be transferred back to the police in this area as well, at least in part?

*"In my assessment, the current set-up and the measures that are taken when we detect deviations are adequate. Speaking for our police directorate, we have tried to recruit people who are competent and capable, who have the necessary knowledge, abilities and skills to do the job to point that we can be confident, regardless of the final outcome. Ultimately, when there is a suspicion that a crime has been committed, which is then reported to the specialized state prosecutor's office, we are still required to implement certain measures to determine whether the individual in question can continue working with us at the moment. And here I have to say that our team does everything in its power to respond to the slightest violations and investigate any suspicions, which means that the matter is dealt with both in terms of personnel and procedure. Believing that things cannot be improved on is unacceptable, of course. Given the current scale of the problem, I believe that we are up to these challenges." ... "One thing is the resignation alone, and the other is the fact that it is in our interest to perform any actions we can perform on our own. While the specialized state prosecutor's office is in charge in these matters, the current system of procedures allows us to perform certain checks. Especially in cases when an event or a police officer's misconduct can affect the entire unit, meaning that it has an impact on the organization's efficiency and performance. We try very hard not to limit ourselves to reporting the matter and thinking "it's someone else's problem now" – we don't just sit and wait but try to get things done. The same goes for labour law procedures, where we are bound to very tight deadlines and have no time to wait around. Perhaps I would like for the specialized state prosecutor's office to be more cooperative, as they tend to view everything as interfering in their work or exerting pressure on them. Exchanging information should perhaps be faster and more open. I do not remember any instance of anyone abusing anyone. If there are procedures to be done, perhaps they should try answering the phone sometime and let us know. Sometimes some things are done less formally." (Interviewee 5, November 11, 2020)*

*"I would say that it is adequate. The internal security procedure is meant to monitor all the circumstances and actions of a police officer or employee, up to the point where he crosses a line and commits a crime, a misdemeanour or commits any other form of misconduct, which is where our jurisdiction ends. At that point, the matter is taken over by the specialized state prosecutor's office or some other body." (Interviewee 6, November 13, 2020)*

*"We don't keep our findings secret. However, when we are talking about a police officer and a citizen, it's obvious that the matter should be dealt with by an external body. There is a huge handicap here. Nothing happens for a long time. When we report that a*



police officer has done something wrong, we do not get any feedback. At the same time, we are dealing with labour law procedures. I think that our investigators could handle the matter better than they do. There should be a distinction between the exercise of powers against third parties and what are the procedures within the police or in a situation where the police officer does not exercise his powers."...*"The specialized state prosecutor's jurisdiction should perhaps be limited to offenses committed by a police officer in the performance of police duties."* (Interviewee 4, November 11, 2020)

*"Legislative changes in this area would be worth considering. I think that the police have the leverage and the instruments to solve certain problems on their own. It just seems unnecessary to me that these activities must be handed over to the specialized state prosecutor's office. I do not see such a problem here because, in the end, most of the cases that are taken over by the specialized state prosecutor's office are first identified by the police themselves. However, the law requires us to hand over these cases."* (Interviewee 7, November 18, 2020)

*"In doing our work, we are constantly deciding what is more important from the point of view of the final procedure – the police officer's accountability or better oversight over his work, or perhaps something in between, which we tried to achieve with our internal security rulebook. We make sure a police officer is accountable for his actions and striving for integrity, and we then try to guide him with guidelines regarding gifts, conflicts of interest, and sideline activities. I personally do not see a problem with the specialized state prosecutor's office itself. As soon as someone says, for example, that officer NN has committed a crime, we are required to refer the case to them, and they then have to investigate. Which is not a problem, because the rules of internal security are designed in such a way that they do their thing, while we have our own parallel system that allows us to move the matter forward. Why have we organized our work in this way? Because we can't wait a year for someone to investigate and say that there isn't enough evidence in the end. That is, someone decides that a police officer is not guilty from a legal standpoint or the prosecutor decides not to prosecute the case. Meanwhile, we still have to deal with an individual who poses a problem. The officer is found not guilty, but I know that this person has disclosed the information. To give a specific example: Someone tells someone else that a certain license plate belongs to you, which results in you being the victim of extortion. No threats were made, but we know for a fact that this police officer gave your information to individual B and individual B came to you and tried to blackmail you. We can determine the exact order of events. In line with current practice, the prosecutor will say that it's a case of misuse of personal data, a criminal offence under Article 143, but for the time being, he will not prosecute because it's a first offence, which also means that he will not notify the information commissioner. Meanwhile, we have someone who is disclosing personal data in our midst. The state prosecutor determines that the matter is a misdemeanour and decides not to prosecute. According to Article 162 of the ZKP (Criminal Procedure Act), the state prosecutor has this option because the individual does not pose great danger. But for us working with this individual is a problem. The individual must come back to work and work with the same people as before who now barely tolerate him. And suddenly, all the trust is gone. And then we need to manage and guide the manager on how to manage these risks and, on the other hand, motivate the employees."* (Interviewee 3, November 11, 2020)

**Question:** Could such a situation be handled through disciplinary proceedings?

*"No. These are mainly terminations without notice. Recently, we have started to monitor the phenomenon from the point of view of strengthening integrity. And we also monitor offences such as a police officer driving without a seatbelt in their personal vehicle or parking in parking spaces reserved for the disabled. These are minor offences that can also be interpreted as part of a subculture. If we have police officers committing these offences, for example, driving under the influence of alcohol, driving too fast or aggressively, then these minor deviations from the rules could be an indication of other types of criminal conduct or some other risks that we should be investigating. We then try to insert this data into predictive models. I do not think that the number of internal security procedures in one police unit is a relevant piece of data. The data on how many internal security procedures are currently open doesn't tell us anything. The correlation between risky behaviours and risky individuals, however, tells us something entirely different. Our work is designed in such a way that we are able to identify risky behaviours and try to act in accordance with predictive analysis."* (Interviewee 3, November 11, 2020)

The interviewees deem the internal security measures set-up as adequate. They understand the importance of handing over investigations to the specialized state prosecutor's office but emphasize that from the point of view of ensuring the integrity of the police organization, this does not mean handing over accountability. Therefore, they propose, at the very least, enhancing cooperation between the police officers carrying out internal security measures and the employees of the specialized public prosecutor's office, and believe that this cooperation should be based on partnership and direct and continuous communication. This is the only way to ensure both a proper investigation of the incident and the preservation of the integrity of the police unit. Given the experience gathered so far, it may also be time to consider systemic changes in this area, by enabling police investigators to investigate deviant behaviours of police officers that are not related to the exercise of police powers. This would mean that the investigators of the specialized state prosecutor's office would have to deal with fewer cases of police misconduct, resulting in improved efficiency, while police investigators would be empowered to ensure the integrity of police units fully.

## 4 DISCUSSION

If we compare the Slovenian system of internal control in the police, we can see that this system is decentralized, as in most European countries. At the same time, we point out that internal control is also overshadowed by other forms of control, which puts Slovenia in a comparable position with the analysed European countries.

The purpose of internal control over the work of police officers, according to the Police Rules (Pravila Policije, 2013), is to determine the compliance of police officers with regulations, evaluate their professionalism, assess the quality and timeliness of their tasks and economy in using resources used by police officers in the course of their work (Pravila za izvajanje nadzora v Policiji, 2020). The purpose of internal control is to determine whether individual police units are achieving their goals set at the level of organization with regards to the work of



an individual police unit. Through the process of routine, expert or follow-up audits, the reasons for deviations from expected work standards are identified, audited police units and police officers are provided with professional assistance to eliminate any irregularities. In addition, measures for the systemic elimination of irregularities and shortcomings are prepared based on audit outcomes. Audits also serve the purpose of incorporating examples of good practice into the work of other police units (Pravila za izvajanje nadzora v Policiji, 2020).

The research found that audits, whether they are carried out by the Ministry of the Interior or by the Police auditors, are seen as a vital element of the management of a police organization. The interview subjects emphasized the role of the heads of police units – both from the point of view of planning internal control activities and from the point of view of translating the findings of the audits into police practice. The dissemination of audit findings can be ensured through the digitization of police work processes – the interviewees mentioned the AIDA project and the e-police project. The use of various digital platforms is also essential in enhancing knowledge of the subject of police powers. Here, the interviewees expressed the need for a systematic solution that would allow them to test the knowledge of police officers on this subject – this is another area that could benefit from the use of established processes such as the AIDA system. The interviewees also emphasized the role of police instructors in this area. They also emphasized the need for various decision-making models that police officers could use in individual police procedures – the introduction of such decision-making models would facilitate the standardization of police procedures. Decision-making models could be derived from the catalogue of standards of police procedures already established in the Slovenian police. Any such models should be supported by databases, which would make it possible to monitor all current events promptly and directly in a particular area – the lower quality of knowledge on the subject of police powers among police officers is also a result of constant changes in police work legislation. Constant changes and ill-conceived legislation are thus also some of the causes of insufficient knowledge about police powers. The interviewees assessed the current internal security set-up within the police as adequate but nevertheless suggested strengthening cooperation between the police officers carrying out internal security measures and the employees of the specialized state prosecutor's office. Cooperation should be based on partnership and direct and continuous communication. However, we also found that based on experience gathered so far, a discussion on systemic changes in this area is warranted, whereby police investigators would regain some competencies to investigate those deviant behaviours by police officers that are not related to the exercise of police powers. This would allow the investigators of the specialized state prosecutor's office to deal with fewer police misconduct cases, while police investigators would be empowered to ensure the integrity of police units fully.

Internal control is a sensitive topic since it can lead to questioning certain practices that are deeply rooted within the traditions and culture of the police. Improving internal mechanisms to monitor peers, identify abusive behaviour of police officers, including the highest-ranking ones, is not an easy task. Integrity and professionalism are core values that are essential to effective internal control (Hanin, 2014).

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# Case Studies of Independent Audits of Police Financial Operations by the Court of Audit of the Republic of Slovenia<sup>1</sup>

Bojan Tičar, Jona Koren Fric

## **Purpose:**

This paper presents an overview of audit-case studies of the Slovenian Court of Audit where the audit subjects were Police financial operations. In relation to other state authorities, the Court of Audit of the Republic of Slovenia is an autonomous and independent state authority that supervises the use of public funds. The Court of Audit supervises all bodies and authorities in Slovenia that are users of public funds, including the Police.

## **Design/Methods/Approach:**

Research design of this paper is the set of three research methods used in collecting data and analysing findings. First method is descriptive analysis of legal regulations. Second research method is case-study analysis. Third research method is observational study based on direct interview. Synthesis is presented in the conclusions.

## **Findings:**

The Court of Audit reviews the credibility of the response report of auditee after audit. If the Court of Audit assesses that the remedial actions were not satisfactory and that the user of public funds violated the obligation to ensure operational efficiency, the Court of Audit may issue a call for remedial action and serve such on the competent authority, which can take measures against the auditee. As the Police are a direct user of public funds, the Court of Audit has the power to carry out an audit of the operations of the Police based on the law. The Police as whole have never been the subject of a regularity or performance audit by the Court of Audit.

## **Research Limitations / Implications:**

We have limited analysed in details only those cases where police units were subjects of audit performed by Slovenian Court of Audit.

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1 The article was written as a part of the targeted research project V5-1942 „Effectiveness of systemic control over the police in the field of respect for human and legal and professional standards of police work“. The project is carried out by the Faculty of Criminal Justice and Security of the University of Maribor and co-financed by the Public Agency for Research of the Republic of Slovenia and the Ministry of the Interior.

**Originality/Value:**

The Police have been the subject of three audits in time from beginning of Court of Audit operations and today. These cases are presented in the quality analysis. Based on this quality analysis, authors have also addressed some questions directly to the Court of Audit of the Republic of Slovenia, i.e., in the form of a directed interview. The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. Our research results are presented in the end of this article. In conclusion, the standpoints of the Court of Audit in fact support our previous findings presented in this paper.

**Keywords:** Slovenian Police, Slovenian Court of Audit, mandatory audits, regularity audits, performance audits, legal regulation of the Court of Audit

**UDC:** 3.073.526:351.74(497.4)

## **Študije primerov neodvisnih revizij finančnega poslovanja Policije s strani Računskega sodišča Republike Slovenije**

**Namen prispevka:**

V prispevku raziskujemo pooblastila in postopke veljavne ureditve Računskega sodišča Republike Slovenije, posebej na področju neodvisnih revizij nad finančnim poslovanjem policije. V primerjavi z drugimi državnimi organi je Računsko sodišče RS avtonomni in neodvisni organ, ki nadzira javno-finančno porabo. Računsko sodišče nadzira druge državne in nedržavne organe in institucije pri zakonitosti ter smotnosti porabe javnih sredstev, sem pa sodi tudi policija. V prispevku so prikazane tri študije primerov teh revizij.

**Metode:**

V okviru metodološkega pristopa smo uporabili kombinacijo treh raziskovalnih metod in zbiranje ter analizo in sintezo pridobljenih ugotovitev. Prva metoda je gramatikalna razlaga pravne ureditve delovanja Računskega sodišča, druga metoda je študija primerov nadzora Računskega sodišča nad policijo in tretja metoda je neposredni intervju s predstavniki Računskega sodišča pri nadziranju policije. Sklepi so predstavljeni v sintezi na koncu prispevka.

**Ugotovitve:**

Računsko sodišče Republike Slovenije je neodvisni državni organ, ki preverja učinkovitost in zakonitost porabe javnih sredstev na vseh področjih. Med drugim lahko preverja tudi finančno poslovanje policije, ki je organ v sestavi Ministrstva za notranje zadeve. Vendar pa policija kot celota ni bila nikdar revidirana.

**Omejitve/uporabnost raziskave:**

Omejitev raziskave, prikazane v prispevku, je v tem, da lahko podamo ugotovitve le za tiste notranje organizacijske enote v policiji, ki jih je revidiralo Računsko sodišče.

**Izvirnost/pomembnost prispevka:**

Policija je bila v času od ustanovitve Računskega sodišča do zdaj predmet treh revizij Računskega sodišča. Na podlagi pregleda literature, kvalitativne analize

pravnih virov in pregleda objav Računskega sodišča smo pripravili vprašanja za Računsko sodišče v obliki neposrednega intervjuja. Njihove odgovore v zvezi z revizijskim nadzorom policije in načinom sodelovanja s policijo pri prijavi kaznivih dejanj in prekrškov, zaznanih pri delu Računskega sodišča, smo predstavili v tem prispevku. Prispevek smo zaključili s sintezo svojih ugotovitev in primerjavo le-teh z odgovori Računskega sodišča.

**Ključne besede:** policija, Računsko sodišče Republike Slovenije, obvezne revizije, redne revizije, revizije učinkovitosti, pravna ureditev Računskega sodišča

**UDK:** 3.073.526:351.74(497.4)

## 1 INTRODUCTION

The Police, as an authority within the Ministry of the Interior, are a user of public funds. Every year, the Ministry of the Interior proposes the proportion of funds to be allocated to the Police and for what purposes such funds are to be used. As the Police are a direct user of public funds, the Court of Audit has the power to carry out an audit of the operations of the Police based on the law. The Police have never been the subject of a regularity or performance audit by the Court of Audit.

In this paper, the legal regulation of the Court of Audit will be outlined first by applying a quality analysis of the regulations, followed by a presentation of the audit practice of all audits carried out thus far in which the auditee was the Police. Three concrete cases are analysed in detail.

Based on quality analysis and case studies, we have addressed some questions directly to the Court of Audit of the Republic of Slovenia. The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. In letter No. 032-1/2020/28, dated 4 September 2020, the Court of Audit answered the questions (Računsko sodišče Republike Slovenije, 2020b). Our findings are compared with their answers in conclusion of this paper.

## 2 THE LEGAL POSITION OF THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA

The Court of Audit is an independent state authority that supervises the use of public funds. It audits all public institutions that receive public funds and all those that receive European funds in Slovenia. The Court of Audit cannot be categorised within any of the three branches of power, which ensures the Court its autonomous and independent position (Računsko sodišče Republike Slovenije, 2018b).

Article 150 of the Constitution of the Republic of Slovenia (Ustava Republike Slovenije [URS], 1991) determines that the Court of Audit is the highest authority for supervising state accounts, the state budget, and all public spending. The Court of Audit is defined as an institution for the supervision of the financial



operations of all users of public funds. These are the following: the ministries and all the units thereof, the municipalities – local self-government, public agencies, public institutions (e.g., kindergartens, schools, primary health care centres), and state-owned commercial companies. This also includes the Police, as an authority within the Ministry of the Interior. Auditors employed at the Court of Audit are independent in selecting subjects to be audited. They are bound only by a few statutory obligations determined in the Court of Audit Act. Based on an audit, which is usually carried out over one year or more, the Court of Audit issues an audit report providing its opinion on the financial operations of the auditee. In audits, compliance with legislation in financial operations as well as the effectiveness and economy of financial operations is supervised. Thus, what is examined is whether an authority is using public funds economically and efficiently. In its report, the Court of Audit may express its opinion and provide advice on how to improve financial operations; therefore, it has an auditing and advisory role (Zakon o računskem sodišču [ZRacS-1], 2001).

The position and operation of the Court of Audit are determined in the Court of Audit Act (ZRacS-1, 2001). The Act determines that the acts under which the Court of Audit exercises its auditing powers may not be challenged before the courts or other state authorities. The independence of the Court of Audit entails that no authority, institution, or other entity may order it to carry out tasks nor give it instructions on how to perform tasks, what sort of audit it should carry out, or what it should audit, except for mandatory audits. The independence of the Court of Audit is also reflected in the fact that it is an independent budget user and receives budget funding under a special part of the budget; the funds must be used in accordance with the provisions of the legislation regulating the implementation of the budget.

According to the Court of Audit Act, the deputies and working bodies of the National Assembly, the Government, ministries, and local community authorities may propose that an audit be carried out. From among these proposals, the Court of Audit selects for its annual work programme at least five proposals from the National Assembly, two of which must come from opposition deputies and at least two from the working bodies of the National Assembly. The Court of Audit can also, at its own discretion, consider proposals for audits from individuals and civil society organisations (ZRacS-1, 2001).

Each year the Court of Audit submits to the National Assembly its annual report concerning its past activities (ZRacS-1, 2001). The Court of Audit audits the financial operations of the users of public funds determined in the Court of Audits Act; it carries out regularity and performance audits.

The users of public funds are the following (ZRacS-1, 2001): any legal entity of public law or a unit thereof; any legal entity of private law if it has received financial support from the budget of the European Union, the state budget, or a local community budget; if it performs public services or provides public goods on a concessionary basis; if it is a commercial company, bank, or insurance company in which the state or a local community holds the majority share; any natural person provided that one of the following applies: he/she has received financial support from the budget of the European Union, the state budget, or a

local community budget; or he/she performs public services or provides public goods on a concessionary basis. The Court of Audit may audit any act concerning past operations as well as any act concerning planned financial operations of any user of public funds. Pursuant to the Court of Audit Act, the auditing of financial operations entails obtaining relevant and sufficient data to issue an opinion on the financial operations of the auditee; regularity audits provide relevant and sufficient data to enable the issuance of an opinion on the compliance of operations with regulations and guidelines that any user of public funds is required to observe in the conduct of financial operations; performance audits provide relevant and sufficient data to enable the issuance of an opinion on the economy, efficiency, and effectiveness of financial operations.

Every state authority, local community, and user of public funds to whose operations the opinion refers must respect an opinion on financial operations issued by the Court of Audit. One of the tasks of the Court of Audit is to provide advice to users of public funds on how to increase the efficiency of operations and to prevent and remedy errors, irregularities, and inefficiencies in financial operations. The Court of Audit also issues views and opinions on public finance, such as a change in the value added tax rate, an increase in the prices of services, and the awarding of in-house contracts (ZRacS-1, 2001).

In addition to the powers determined in the Court of Audit Act, the Act also imposes obligations on the Court of Audit that are determined in certain other statutes and regulations. Other statutes that determine the special powers of the Court of Audit are the following (Računsko sodišče Republike Slovenije, 2018a): Article 97 and the fourth paragraph of Article 100 of the Public Finance Act (Zakon o javnih financah [ZJF], 2011); Articles 29 and 30 of the Election and Referendum Campaign Act (Zakon o volilni in referendumski kampaniji [ZVRK], 2007); Articles 24a and 24b of the Political Parties Act (Zakon o političnih strankah [ZPolS-UPB1], 2005); Article 71 of the Slovenian Sovereign Holding Act (Zakon o Slovenskem državnem holding [ZSDH-1], 2014); Article 19 of the Act Regulating Measures of the Republic of Slovenia to Strengthen the Stability of Banks (Zakon o ukrepih Repulike Slovenije za krepitev stabilnosti bank [ZUKSB], 2012); Article 52a of the Bank of Slovenia Act (Zakon o Banki Slovenije [ZBS-1], 2006); Article 6 of the Legal Protection in Public Procurement Procedures Act (Zakon o pravnem varstvu v postopkih javnega naročanja [ZPVPJN], 2011); Articles 45a, 185, and 190 of the Electronic Communications Act (Zakon o elektronskih komunikacijah [ZEKom-1], 2012); and Article 32 of the Management of State Forests Act (Zakon o gospodarjenju z gozdovi v lasti Republike Slovenije [ZGGLRS], 2016).

The Court of Audit is headed by its President, who is appointed for a term of nine years. The National Assembly elects him/her; the National Assembly also elects two Deputy Presidents. The President of the Court of Audit acts for and represents the Court of Audit; he/she is the State Auditor General and the Head of the Court of Audit. The Deputy Presidents of the Court of Audit carry out the functions of the State Auditor General as authorised by the President of the Court of Audit (ZRacS-1, 2001). Article 12 of the Court of Audit Act determines the powers of the President of the Court of Audit as the State Auditor General. In his/her capacity as State Auditor General, the President of the Court of Audit has

the following responsibilities: to direct and approve the exercise of the powers of the Court of Audit by determining its programme of work and signing the acts of the Court of Audit; to prescribe the rules for the phases of audit activity and to issue guidelines and instructions to that end; to order, as appropriate, official supervision of audit assignments and to issue a supervision order to that end; to convene and conduct the sessions of the panel of the Court of Audit; and to conduct any other business in accordance with the Court of Audit Act (ZRacS-1, 2001).

The powers of the Court of Audit are determined in Articles 20 to 23 of the Court of Audit Act. Article 20 determines that the Court of Audit audits the financial operations of users of public funds; namely: *it may carry out regularity and performance audits; it may audit any act concerning past operations as well as any act concerning the planned financial operations of any user of public funds*. The auditing of financial operations under the Court of Audit Act entails obtaining the relevant and sufficient data to issue an opinion on the financial operations of the auditee. Regularity audits provide relevant and sufficient data to enable an opinion to be issued on the compliance of operations with regulations and guidelines that every user of public funds is required to observe in the conduct of financial operations. Performance audits provide relevant and sufficient data to enable an opinion to be issued on the economy, efficiency, and effectiveness of financial operations (ZRacS-1, 2001). The Court of Audit Act also determines that every state authority, local community authority, and the relevant user of public funds (ZRacS-1, 2001) must respect an opinion issued by the Court of Audit on the financial operations of an auditee.

Article 21 of the Court of Audit Act defines the provision of advisory services to users of public funds. The Court of Audit provides advisory services to users of public funds as follows: it provides recommendations at the time of performing an audit and in the audit report; it may make comments on working drafts of laws and other regulations; it may participate in meetings and seminars on public finance issues; it may put forward proposals in its annual report, which is submitted to the National Assembly; it may express opinions on public finance issues (ZRacS-1, 2001).

The Court of Audit issues by itself or in cooperation with the Slovenian Institute of Auditors, auditing standards for reviewing the financial operations of users of public funds in the Republic of Slovenia; the auditing standards apply to the exercise of the auditing powers of the Court of Audit, including audit manuals and other professional literature important for the development of the audit profession. The Court of Audit is thus not only responsible for carrying out audits, but also for issuing certificates for the titles of State Auditor and Certified State Auditor as well as audit manuals and other professional literature. This indicates that the institution promotes the training and professional competence of its staff and contributes to professional publications in order to assist everyone who is the subject of an audit or is interested in the field of auditing (ZRacS-1, 2001).

Finally, the Court of Audit has the *powers of a minor offence authority*, which decides on minor offences and imposes fines. Minor offence proceedings are conducted and decided on by an official of the Court of Audit who meets the

conditions stipulated by the Act governing minor offences and the regulations adopted on the basis thereof (ZRacS-1, 2001). From the overview of the powers that the Court of Audit exercises pursuant to the Court of Audit Act, it is apparent that, in addition to the above-described powers, it also has the power to carry out supervision of minor offences. Regardless of this fact, the Court of Audit cannot issue binding measures or impose sanctions on auditees. In the event of grave violations, the Court of Audit may propose to the Government the dismissal of an individual official; it may also, the same as other authorities; file a motion for prosecution with the appropriate law enforcement authority.

In 2019, the Court of Audit received 395 proposals to carry out a specific audit; it issued 62 audit reports and 23 post audit reports. It reviewed 112 auditees and issued 85 opinions in total (28 descriptive opinions in performance audit reports, and 56 opinions on the regularity of operations and on financial statements, while in one case it declined to issue an opinion). There were 18 unqualified opinions, 25 qualified opinions, and 13 adverse opinions). The Court of Audit also issued 123 written responses providing guidelines to public fund users (Računsko sodišče Republike Slovenije, 2020a). The Court of Audit, which employs fewer than 100 persons, cannot carry out audits of all users of public funds, of which there are approximately 2,755 (Uprava Republike Slovenije za javna plačila, 2020). Taking into consideration the powers of the Court of Audit, the number of issued audit reports throughout the years, and the average number of employed auditors per year, there is a gap between what the Court of Audit could do (in accordance with the law and the expectations of the public) and what it is actually able to do (given the number of employees).

The Court of Audit must conduct audits in accordance with generally accepted auditing principles and rules and in accordance with international auditing standards published in the Slovenian language. The Court of Audit must protect all obtained information that constitutes a state, official, business, industrial, or military secret (ZRacS-1, 2001).

### **3 REGULATION OF THE AUDIT PROCESS CARRIED OUT BY THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA**

The Court of Audit independently decides which audits it will carry out in a certain period. In determining the audits to be carried out in a certain calendar year, the Court of Audit considers proposals made by deputies and working bodies of the National Assembly, the Government, ministries, and local community authorities. It must include in its annual work programme at least five proposals from the National Assembly, at least two of which must be from opposition deputies and a further two from the working bodies of the National Assembly. An audit process commences by planning the outline of the audit. A proposal to initiate an audit may be either a pre-audit inquiry or a proposal for an audit (Računsko sodišče Republike Slovenije, 2018d).

A pre-audit inquiry is determined in Article 26 of the Court of Audit Act, which stipulates that the Court of Audit may, prior to the commencement of the audit, demand that the user of public funds provide all information it considers relevant

to the audit, including bookkeeping documents, data, and other documentation, and make other enquiries necessary for the planning or performance of the audit. A request for the submission of data must be fulfilled within eight days from the service thereof. If a user of public funds who has received a request fails to satisfy the request in due time, the responsible person of the user of public funds shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

A pre-audit enquiry is not a condition for the commencement of an audit but a procedure in which an auditor collects information required for an assessment of the risks in the financial operations of a user of public funds. Based on the information gathered, it is decided whether to include the audit in the annual work programme of the Court of Audit. If the proposal is approved, a plan for the implementation of a pre-audit is drawn up. When a report on the pre-audit has been compiled, a proposal as regards whether to commence an audit is issued (Računsko sodišče Republike Slovenije, 2018d).

The audit process begins with the preparation of a detailed plan. After it is approved, a decision is issued to carry out an audit, which is included in the annual work programme of the Court of Audit. This is followed by carrying out the audit at the auditee, a draft audit report is issued, and disputed audit findings are cleared up with the auditee in a clearance meeting. Thereafter, a proposed audit report is compiled, the auditee has the opportunity to object to the findings of the audit, and the Panel of the Court of Audit performs its work. The audit process is concluded with the issuance of an audit report (Računsko sodišče Republike Slovenije, 2018d). A post-audit process is initiated if any material irregularities or inefficiencies were disclosed at the user of public funds and it is not stated in the audit report that appropriate measures were taken during the audit to remedy those irregularities or inefficiencies.

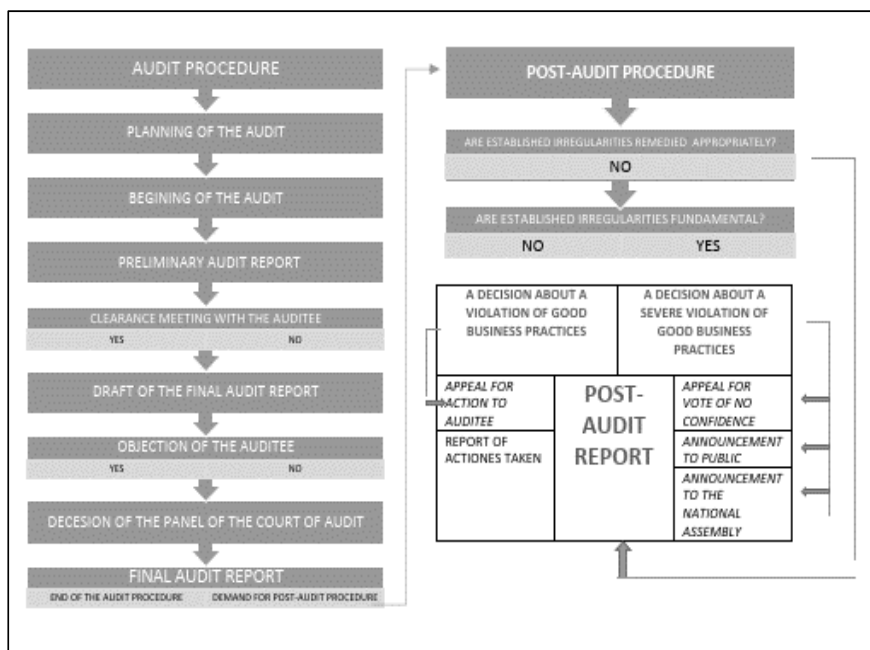
The auditee must submit a response report to the Court of Audit, where the corrective actions undertaken must be presented. Should the auditee fail to submit a response report to the Court of Audit in due time, the responsible person of the user of public funds shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

The Court of Audit reviews the credibility of the response report. If the Court of Audit assesses that the remedial actions were not satisfactory and that the user of public funds violated the obligation to ensure operational efficiency, the Court of Audit may issue a call for remedial action and serve such on the competent authority, which can take measures against the auditee. The competent authority must decide on the necessary measures and report its decision to the Court of Audit within 30 days. If an authority on which a call for action has been served fails to submit to the Court of Audit a report on the actions taken or an explanation of the omission of an action in due time, the responsible person of the authority shall be fined EUR 2,000 for such violation (ZRacS-1, 2001).

If a user of public funds commits a severe violation of the obligation to ensure operational efficiency, the Court of Audit notifies the National Assembly. The relevant committee of the National Assembly reviews any severe violations in the presence of the auditee and adopts a decree on measures to be taken in such cases (ZRacS-1, 2001).

In cases of severe violations of the obligation to ensure operational efficiency, or if an auditee prevents or hinders the implementation of the audit, the Court of Audit may issue to the competent authority a call for the dismissal of the responsible person and inform the media thereof (Računsko sodišče Republike Slovenije, 2018d). If during an audit, process there is a suspicion that an offence has been committed; the Court of Audit proposes the initiation of minor offence proceedings or files a motion for prosecution with the relevant law enforcement authority (ZRacS-1, 2001).

**Figure 1:**  
Audit Process  
of the Court  
of Audit  
(Računsko  
sodišče  
Republike  
Slovenije,  
2018d)



In the opinion of the Ministry of Finance and the Court of Audit, the Court of Audit Act currently in force no longer provides a sufficient legal basis for the effective performance of the Court of Audit's tasks; therefore, both institutions jointly prepared a draft of a new act whose main objective is to accelerate and increase the effectiveness of regularity and performance audits of public funds. On 9 January 2020, the Government approved the draft of the new Court of Audit Act (Slovenska tiskovna agencija [STA], 2020).

#### 4 CASE STUDIES: SUPERVISION OF THE FINANCIAL OPERATIONS OF THE POLICE BY THE COURT OF AUDIT IN THE REPUBLIC OF SLOVENIA

From 1996 until the present, the Court of Audit carried out the audits listed below, which deal with the operations of the Ministry of the Interior as a whole; however, in certain parts they refer to the Police or individual organisational units within



the Police as an authority within the Ministry of the Interior. These are (Računsko sodišče Republike Slovenije, 2018c):

- 1) 1996 – a selective audit of inventory consumption for 1995 at the Slovenj Gradec Internal Affairs Administration, with an emphasis on the documentation trail;
- 2) 1996 – an audit at the Ministry of the Interior.
- 3) 1996 – an audit at the Ministry of the Interior, Koper Internal Affairs Administration
- 4) 1997 – an audit of the investment maintenance of buildings in 1996 – budget heading 5311, at the Ministry of the Interior.
- 5) 1998 – an audit of the financial operations of the Postojna Internal Affairs Administration in 1996 at the Ministry of the Interior.
- 6) 1998 – an audit at the Ministry of the Interior to the extent of the selective audit of the enforcement of fines imposed by authorised officers at the Ministry of the Interior.
- 7) 1999 – an audit of the purchases and maintenance of vehicles in 1997 and 1998 at the Ministry of the Interior.
- 8) 2000 – a regularity audit of the Ministry of the Interior in 1999.
- 9) 2001 – a regularity audit of the implementation of the financial plan of the Ministry of the Interior in 2000.
- 10) 2003 – a regularity and performance audit of the investments of the Ministry of the Interior, Ptuj and Vrhnika Police Stations.
- 11) 2003 – a regularity audit of the use of the service vehicles of the Ministry of the Interior in 2002.
- 12) 2006 – a regularity audit of the Celje Police Administration in 2003 and 2004.
- 13) 2007 – a regularity and performance audit of confidential procurement at the Ministry of Defence and the Ministry of the Interior in 2005 and in the first half of 2006.
- 14) 2008 – an audit of the management of apartments owned by the Republic of Slovenia in 2006 and in the first half of 2007.
- 15) 2011 – a regularity and performance audit of the acquisition of business premises for the needs of the Ministry of the Interior.
- 16) 2014 – a performance assessment of the implementation of the goals- and results-oriented budget process of the ministries in planning, monitoring, and reporting on the performance of tasks and on achieving set goals at selected sub-programmes within the framework of the state budget.
- 17) 2014 – the transboundary movement of waste; and
- 18) 2017 – a regularity audit of real estate management in the period from 1 January 2014 until 30 September 2015. On the website of the Court of Audit, three reports can be found that refer to audits of the Police carried out by the Court of Audit.

#### **4.1 Case 1: Report on the regularity and performance audit of construction investments of the Ministry of the Interior, Ptuj and Vrhnika Police Stations (2003)**

The first case is chronologically the oldest. The objective of the audit was to provide an opinion on the regularity and performance of construction investments at the Vrhnika and Ptuj Police Stations. An inspection of the business premises and basic design documentation was carried out and the Court of Audit established that both buildings were adapted to the needs of the Police in terms of their functionality. In the case of the Vrhnika Police Station, the norms were complied with in accordance with the objective possibilities of the reconstruction of the existing building. In the case of the construction of the Ptuj Police Station, essential non-compliance with the norms was not established. The Court of Audit did not establish irregularities in the audit of the eligible use of funds. The audit did not reveal any important irregularities. In addition, public procurement procedures were carried out without irregularities (Računsko sodišče Republike Slovenije, 2003). The opinion was positive. As the recommendations of the Court of Audit were fully observed during the audit, a response report was not necessary.

#### **4.2 Case 2: Report on the regularity and performance audit of the Ministry of the Interior, i.e., the Police, in the part that referred to the operations of the Celje Police Administration (2006)**

In the second case, in the report on the regularity audit of the operations of the Ministry of the Interior, i.e., the Police, in the part that referred to the operations of the Celje Police Administration in 2003 and 2004, the Court of Audit issued a qualified opinion. As the irregularities and inefficiencies identified were not remedied during the audit, the Court of Audit required the auditee to submit a response report. The irregularities were as follows: the Celje Police Administration did not select suppliers of goods and providers of services in compliance with the public procurement regulations in force, as it used funds for goods that were not included in a contract concluded on the basis of the public procurement procedure; it did not check the price and quality of the subject of a tender by acquiring, as a general rule, three offers; subsequently it acquired offers, but a contract had already been awarded; it awarded a contract to a supplier on the basis of an issued purchase order whereby it cumulatively exceeded the sum under which goods and services may be ordered by a purchase order; in collecting offers it stated a desired brand and thereby restricted competition between suppliers; in an invitation for the submission of tenders it did not provide a correct technical description, i.e., a list of services and goods, and thereby insufficiently defined the subject of public procurement; it increased the value of the main procurement which was not a result of additional works due to unforeseeable circumstances; and it concluded annexes to a contract following a negotiating procedure without prior publication of the contract notice (Računsko sodišče Republike Slovenije, 2006a, 2006b).

The Celje Police Administration adopted and implemented measures for setting up internal controls and thereby it fully complied with a requirement to improve the control environment, which the Court of Audit assessed as a satisfactory corrective measure. The Ministry of the Interior, i.e. the Police, set up corrective measures in order to remedy irregularities in the field of public procurement, assuming obligations (i.e. concluding a contract for an indefinite duration), ensuring the right of workers to rest, and planned budget use (i.e. the reimbursement of the costs of training). The Court of Audit assessed that the corrective measures taken by the Ministry of the Interior and the Police, as an authority within the Ministry, to remedy irregularities in the operations of the Ministry of the Interior and the Police in the part which referred to the operations of the Celje Police Administration in 2003 and 2004 were satisfactory (Računsko sodišče Republike Slovenije, 2006a, 2006b).

#### **4.3 Case 3: The efficiency of the operations of state authorities, including the police, in the implementation of procedures for the transboundary shipment of waste (2014)**

The Court of Audit audited the efficiency of the operations of the competent ministries and the Police in the transboundary shipment of waste. The audit objective was to issue an opinion on the efficiency of the operations of the Ministry, the Customs Administration, and the Police in the implementation of procedures for the transboundary shipment of waste in the period from 2009 until 2011. The Court of Audit also assessed the efficiency of the operations of the Police, in that it sought to answer the question of whether the Police had ensured efficient control over the shipment of waste across the borders of the Republic of Slovenia (Računsko sodišče Republike Slovenije, 2014).

In most states, the transboundary movement of waste is a result of insufficient capacity for the recovery and disposal of waste, as well as a search for economically more advantageous options for the recovery or disposal of waste, particularly in less developed states. As these more favourable options are often found to be environmentally inadequate or harmful, Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste was adopted for the Member States of the European Union on 14 June 2006 (Uredba (ES) št. 1013/2006 Evropskega parlamenta in sveta z dne 14. junija 2006 o pošiljkah odpadkov, 2006), which determines detailed conditions and procedures that must be complied with and implemented by consignors and consignees regarding the import, export, or transit of waste. For the implementation of the principles of and procedures for the transboundary shipment of waste to be efficient, the Member States are obliged to provide several data and facilitate the exchange of data between the institutions responsible for the implementation of individual procedures. It can be seen from the data of the Statistical Office of the Republic of Slovenia that 12% more waste was processed and disposed of in 2011 than the amount of waste produced that year in the territory of the Republic of Slovenia, while the Ministry did not provide an explanation for that. The data on the transboundary streams

of waste can be established from the records of the Customs Administration, the Slovenian Environment Agency, and the Statistical Office.

The institutions responsible for monitoring the transboundary shipment of waste, including the Police, did not perform monitoring thereof based on the conducted common risk analysis. The competent inspection services, the Customs Administration, and the Police planned their monitoring of the transboundary shipment of waste within the scope of their powers, based on a partial risk analysis, notably based on the findings of the previous inspections and the analyses of the waste shipment notifiers. In order to eliminate the established inefficiencies, the Court of Audit of the Republic of Slovenia demanded that the Ministry implement corrective measures pertaining to the establishment of the regular monitoring of data on the transboundary shipment of waste, the adoption of operational waste management programmes, the preparation of proposals for the supplementation and amendment of regulations to determine all the conditions for the issuance of consents, as well as proportionate, dissuasive, and efficient penalties for violations of the regulations on the transboundary shipment of waste, the adoption of proposals regarding the criteria for imposing penalties due to violations of the Environmental Protection Act and regulations adopted on the basis thereof, a review of all procedures for the transboundary shipment of waste, together with a definition of the time and human resources needed for the implementation of all the prescribed procedures and the efficient transboundary shipment of waste.

The Court of Audit provided *recommendations* to the above-mentioned state institutions and the Police to improve the efficiency of their monitoring of data on transboundary streams of waste, the procedures performed, and the monitoring exercised regarding the transboundary shipment of waste as well as to enable the real-time exchange of data between the competent institutions (Računsko sodišče Republike Slovenije, 2014).

## **5 SOME STANDPOINTS OF THE COURT OF AUDIT REGARDING AUDITS OF THE FINANCIAL OPERATIONS OF THE POLICE AND REGARDING COOPERATION OF THE COURT OF AUDIT WITH THE POLICE IN CRIMINAL INVESTIGATIONS**

Based on the quality analysis presented in this paper, we addressed some questions to the Court of Audit of the Republic of Slovenia (i.e., in the form of a directed interview). The questions concerned external audits of Police operations by the Court of Audit and an assessment of the cooperation of the Court of Audit with the Police. In letter No. 032-1/2020/28, dated 4 September 2020, the Court of Audit answered the questions (Računsko sodišče Republike Slovenije, 2020b). The standpoints of the Court of Audit, which in fact support the findings presented in this paper, are summarised below.

The Court of Audit stated that the current normative framework is sufficient to conduct effective regularity and performance audits of Police operations. The Court of Audit assessed that its key power lies in its statutory power to access all documentation of the auditee. This also applies to documentation that is protected

under other statutes (e.g., personal data, classified information under the Classified Information Act) (Zakon o tajnih podatkih [ZTP-UPB2], 2006). The Court of Audit believes that certain amendments to the Court of Audit Act are necessary and therefore it has proposed specific amendments to the Act currently in force, which mostly relate to exercise of its auditing powers in general. Amendments concerning the Court's competence to conduct audits of the business operations of the Police are not envisaged. Within the framework of regulatory audits, the Court of Audit may express an opinion on the compliance of the auditee's operations with the regulations and guidelines that every user of public funds is required to observe in conducting its business operations. Regulatory audits also encompass reviewing the compliance of operations with the required standards as to the observation of fundamental rights. The decision on which segments of the business operations of the user of public funds the Court of Audit reviews is based on a prior risk analysis. The risk analysis provides data regarding which business operations or parts thereof entail a greater risk or an inappropriately managed risk of irregularities or inefficiencies, so that the Court of Audit can focus the audit on more risk-prone operations (Računsko sodišče Republike Slovenije, 2020b).

The business operations of the Police, as an authority within the Ministry of the Interior, are subject to an annual compulsory audit of the regularity of the implementation of the state budget. Within the framework of such audit, as a rule, a review of the regularity of all prior procedures that lead to individual expenditures from the state budget is carried out. The review typically focuses on the regularity of payroll accounting and the administration of the payment of salaries, public procurement, planning and carrying out investments, etc. As already established in the paper, the Court of Audit also stated that hitherto audits were not directed at the performance of Police operations or the exercise of police powers but were mostly focused on the financial operations of the Police. The primary reasons that in-depth audits of the Police by the Court of Audit are fairly rare lies in the limited human and financial resources of the Court of Audit, the large number of users of public funds that the Court of Audit must supervise, frequent legislative changes, and the obligation of the Court of Audit – despite in principle being independent – to carry out compulsory audits (e.g., audits of the operations of political parties, of election and referendum campaigns, etc. (Računsko sodišče Republike Slovenije, 2020b).

With reference to the cooperation of the Court of Audit with the Police in criminal investigations, the Court of Audit stated that the legislation in force does not contain any provisions limiting cooperation between the two authorities, i.e. the Court of Audit notifying the Police of audit findings. Throughout the procedure – while carrying out audits – the Court of Audit is attentive to whether a specific established irregularity (or, rarely, inefficiency) also constitutes the objective elements of a criminal offence. If the authorised representative of the Court of Audit performing the audit believes that there exists a suspicion that a criminal offence has been committed, he or she notifies the Police thereof.

Established irregularities that are also determined to constitute minor offences in the areas in which the Police are a minor offence authority are very rare; the

Court of Audit more often notifies other minor offence authorities (mostly various inspection services) of established violations of legislation (Računsko sodišče Republike Slovenije, 2020b).

In the opinion of the Court of Audit, cooperation between the Court of Audit and the Police has been exemplarily and no criticism has been noted in this regard. Such cooperation is carried out in the form of notifications as to findings, meetings of contact persons, participation in training courses organised by the respective authorities, etc. (Računsko sodišče Republike Slovenije, 2020b).

Similarly, as for other state authorities, the declaration of the pandemic has had a great impact also on the operations of the Court of Audit. The Court of Audit reorganised its operations in a manner to enable its employees to work from home to the greatest extent possible and reduced the number of face-to-face meetings and other gatherings of a larger number of persons in order to lower the risk of the spread of Covid-19. Due to similar changes in the operations of the auditees, the Court of Audit has been facing delays in preparing and obtaining the required documentation. The Court of Audit expects that its operations will continue to be slower, which will also be reflected in a delay in completing pending audits. This could particularly affect audits that are not compulsory. Regardless of the aforementioned, the Court of Audit believes that the current cooperation with the Police is satisfactory and it does not expect that the Covid-19 crisis will significantly affect such (Računsko sodišče Republike Slovenije, 2020b).

## 6 DISCUSSION AND CONCLUSIONS

The Court of Audit has a formal legal basis to supervise the financial operations of the Police; however, regularity and performance audits of the operations of the Police or the organisational units thereof have been the subject of an audit in total only three times. The Police as a whole have never been the subject of an audit. Furthermore, an overview of the case law indicates that neither the Supreme Court of the Republic of Slovenia nor the Constitutional Court of the Republic of Slovenia has ever reviewed the supervision of the financial operations of the Police performed by the Court of Audit.

Attention must also be drawn to *The Agreement on Periodic Notifications on Audit Findings* (Ministrstvo za notranje zadeve, Policija, 2013). The Court of Audit and the Police signed the Agreement in 2013; the Agreement was a result of criticism of the Court of Audit for not notifying the Police of audit findings often enough. The Agreement contains the commitment of the Court of Audit to hand over to the Police certain parts of audit reports and relevant documentation. This cooperation is indented to contribute to the greater efficiency of both authorities, as all types of abuses carried out against the financial interests of Slovenia and the European Union would thereby be uncovered and investigated more easily and faster. Such entails uncovering and investigating the unlawful use of state budget funds and local community funds as well as European funds (Ministrstvo za notranje zadeve, Policija, 2013).

The objective of *The Agreement on Periodic Notifications on Audit Findings* is to strengthen the cooperation between the Court of Audit and the Police, which



would contribute to even stronger cooperation and consequently to the greater efficiency of both authorities in carrying out their tasks.

The stated mission of the Court of Audit is as follows: "The Court of Audit informs the public of important audit findings concerning the operations of state authorities and other users of public funds in a timely and objective manner. It provides recommendations to state authorities and other users of public funds for the improvement of their operations." While it is true that the main objective of the operations of the Court of Audit is to carry out performance audits of authorities and bodies that use public funds, the Court of Audit does not, however, have a great influence on the future operations of the auditees and their criminal accountability for grave violations of the law.

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<b>General notes</b>	The Journal of Criminal Justice and Security is a scientific magazine fostering interdisciplinary discussion and exchange of findings in the field of safety and security studies. In its effort to shed light on legal, organisational, criminological, politological, sociological, psychological, and criminal-policy aspects of security-relevant concepts and phenomena, it facilitates a deeper understanding of the roles and the functioning of society, organisations, and individuals cooperating in the provision of security.
<b>Title of a paper</b>	Title: font size 14 pt. <b>bold</b>
<b>Authors</b>	The first and last name of the author (and co-authors) should be stated (font size 12). The remaining information including their academic title, position, and institution is to be provided under <b>About the Author(s)</b> at the end of the paper.
<b>Abstract</b>	<p>To write an abstract, please complete the following fields about your paper. There are four fields which are obligatory (Purpose, Design, Findings and Value); the other two (Research Limitations/Implications and Practical Implications) may be omitted if they do not apply to your paper. Abstracts should contain no more than 250 words. Write concisely and clearly. The abstract should reflect only what appears in the original paper.</p> <p><b>Purpose:</b> What are the reason(s) for writing the paper or the aims of the research?</p> <p><b>Design/Methods/Approach:</b> How are the objectives achieved? Include the main method(s) used in the research. Define the theoretical approach to the topic and the scope of the subject.</p> <p><b>Findings:</b> What was found in the course of the work?</p> <p><b>Research Limitations/Implications: (if applicable)</b> If the paper reports on research, this section should include suggestions for future research and any limitations identified in the research process.</p> <p><b>Practical Implications: (if applicable)</b> What outcomes and implications for practice, applications and consequences have been identified? Not all papers will have practical implications but most will. What changes to practice should be made as a result of this research/paper?</p> <p><b>Originality/Value:</b> What is new in the paper? State the value of the paper and to whom.</p>
<b>Keywords</b>	4–6 keywords
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<b>Text</b>	<p>Papers should be between 3.500 and 7.500 words in length. The papers should be written in MS Word format, Times New Roman, font size 11 pt., 1,5 spacing, with the following margins:</p> <p>Top – 3 cm, Bottom – 3 cm Left – 2 cm, Right – 4 cm</p>
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