

CORRUPTION IN THE SECURITY SECTOR IN SERBIA

Editor: Predrag Petrović



Belgrade Centre
for Security Policy

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Contents

<i>Abbreviations</i>	7
<i>List of Boxes, Tables and Figures</i>	8
About the Project	9
Preface	10
I Introduction	12
What do citizens need to know about corruption in the security sector?	13
<i>What can be called corruption?</i>	13
<i>Why is the security sector specific?</i>	14
<i>What are the risks of corruption in the security sector? /</i> <i>What might lead to corruption in the security sector?</i>	15
<i>What are the consequences of corruption in the security sector?</i>	18
<i>How can citizens find out more about corruption in the security sector?</i>	18
<i>What action can citizens take?</i>	20
II How do others research corruption in the security sector?	22
Corruption and the defence system in societies undergoing transformation	23
What is known about corruption in the police?.	26
<i>How is police corruption researched?</i>	26
<i>What is police corruption?</i>	27
<i>What are the causes of corrupt activity in the police?</i>	28
<i>What forms does police corruption take?</i>	30
<i>What are the consequences of police corruption?</i>	31
<i>How can the approach to researching police corruption be altered?</i>	32
Corruption and the security-intelligence services.	33
<i>Great opportunities for corruption in the security services</i>	33
<i>Failures of intelligence cycle management</i>	34
<i>The ethics of intelligence work</i>	37
III Risk map of corruption in the Serbian security sector	38
Armed Forces and Ministry of Defence	39
<i>How do defence system institutions understand corruption?</i>	39
<i>What risks are related to human resources?</i>	41
<i>What are the risks in the field of finance?</i>	44
<i>Which risks are related to the institution of internal control?</i>	48
<i>Which risks are related to the institution of external control?</i>	49

Police and Ministry of Interior	51
<i>Human resources</i>	51
<i>Finance</i>	52
<i>Operational work</i>	53
<i>Internal control</i>	54
<i>External control</i>	57
Security Information Agency	58
<i>Failures of intelligence cycle management</i>	58
<i>Human resources</i>	61
<i>Finance</i>	62
<i>Internal control</i>	64
<i>External oversight</i>	65
Case study: procurement in the Serbian security sector	67
<i>Public procurement practice in the security sector</i>	67
<i>Public procurement planning</i>	67
<i>Chief characteristics of public procurement practice</i>	69
<i>Rights protection</i>	70
<i>Confidential procurement</i>	71
<i>Conclusion</i>	72
IV The fight against corruption in the security sector	74
Unending battle	75
Corruption in the security sector: internal control	78
<i>Importance</i>	78
<i>Framework</i>	79
<i>Prevention and Suppression</i>	82
<i>Instruments</i>	88
<i>Challenges</i>	89
Independent state bodies and the fight against corruption	94
<i>Independence of oversight</i>	94
<i>Who are the main independent control actors?</i>	95
<i>Visible forms of corruption in the security sector</i>	96
<i>Oversight capacities of independent state bodies' and their problems in exercising it</i>	99
<i>Possible improvements in the work of independent state bodies in the fight against corruption</i>	102
<i>Conclusion</i>	103
Bibliography	105
About the authors	114
About the Belgrade centre for security policy	116

Abbreviations

AFC	Agency for the Fight against Corruption
BCSP	Belgrade Centre for Security Policy
CIA	Central Intelligence Agency
CSO	Civil Society Organisation
DS	Republic of Serbia Defence Strategy
EC	European Commission
FBI	Federal Bureau of Investigation
MCC	Military Construction Centre
MIA	Military Intelligence Agency
MMA	Military Medical Academy
MoD	Ministry of Defence
MoI	Ministry of Interior
MSA	Military Security Agency
NSS	National Security Strategy
PIAS	Police Internal Affairs Sector
SAF	Serbian Armed Forces
SAI	State Audit Institution
SIA	Security Information Agency
USA	United States of America
RS	Republic of Serbia

List of Boxes, Tables and Figures

Box 1:	The notion of corruption in Serbia's legal framework	17
Box 2:	Protecting whistleblowers in Serbia	17
Box 3:	Important links about corruption for Serbian citizens	21
Box 4:	The link between the use of force and police corruption.	27
Box 5:	The definition of police corruption provided by IGEC (Interpol 2002)	29
Box 6:	Case study: "The new MMA car park"	46
Box 7:	Deficiencies of the definition of corruption in the Law on the Agency for the Fight against Corruption.	81
Box 8:	Deficiencies noted by the Defence Inspectorate in the work of the Ministry of Defence and the Serbian Armed Forces	84
Box 9:	The "Milutinović" case	91
Box 10:	Special purpose furnishings.	101
Box 11:	Whistleblower protection in Serbia	103
Table 1:	Matrix for determining police corruption (Kutnjak-Ivković 2005: 32)	28
Table 2:	Indicators for determining the causes of police corruption	30
Table 3:	Forms of corrupt methods (Nield 2007: 6)	31
Table 4:	Public procurement practices in the Serbian security sector	69
Table 5:	Savings achieved by security sector institutions when carrying out high value procurements	70
Table 6:	Comparison of complaints upheld and rejected or discarded in the period 2010–2011 in security sector institutions in Serbia	71
Table 7:	Powers of internal oversight bodies in the state security sector	89
Table 8:	Overview of human and material resources of independent state bodies	100
Figure 1:	The intelligence cycle	35
Figure 2:	Confidential and public procurement at the SIA	63
Figure 3:	Internal control bodies in the Serbian state security sector	82

About the Project

With the project “Risk Map of Corruption in the Security Sector”, the Belgrade Centre for Security Policy team has charted, analysed, explained and presented to the public a map of the corruption risks in the army, the police and the security services in Serbia. The data used for this research, collected from interviews, focus groups and questionnaires sent to security sector institutions in Serbia, is publicly available.

Initial methodological and empirical assumptions for further comprehensive in-depth research into the forms, trends and consequences manifested by corruption in the Serbian security sector have been formulated on the basis of this project’s results. The findings obtained can also represent a good basis for more active participation by other civil society organisations, the media and citizens in the fight against corruption in the security sector.

Participating in the successful completion of this project were: Project Co-ordinator Miroslav Hadžić; Belgrade Centre for Security Policy researchers Marko Milošević, Marko Savković, Predrag Petrović and Saša Đorđević; and contributors Bogoljub Milosavljević, professor at the Law Faculty of Union University and Danilo Pejković from Transparency Serbia.

The Risk Map of Corruption in the Security Sector in Serbia is available online at: <http://korupcija.bezbednost.org/>. English version of the web portal will also be available by the end of 2013.

Preface

It is very likely that for some observers or participants in public or political life in Serbia, corruption appears to be a plague for which there is no cure. Even more so as corruption is merely another word (a codename) for simple robbery. This country's inhabitants are provided with a shocking daily dose of unverified news about the who, the when, the how and the how much regarding theft from the state and community served by those guilty of the crime. The average Serbian citizen is also constantly exposed to the danger that he will be robbed personally when attempting to exercise some right guaranteed to him by law or to satisfy some interest or need. If pressed by need, he will be tempted grab the other's and slide it into his own pocket. If he is in terror, even to the smallest degree, of someone who possesses power, he gladly takes the role of silent witness to corruption, thus becoming a passive collaborator in theft from his fellow citizens and their common state.

Worse, numerous politicians, journalists, all-knowing analysts and other public figures constantly scare this country's inhabitants with claims that their survival and that of their families is threatened by corruption. If they listened only to these claims, they would guess that the Serbian state finds itself in even greater danger. This is because Serbia is allegedly unable, due solely to corruption, to supply the people with basic public goods and services in the areas of the economy, finance, education, health, social affairs and finally security. Subjected to this fear, it escapes the inhabitant of today's Serbia that those in power have used these linguistic manoeuvres to transform corruption from a consequence into one of the chief causes of mass poverty and hopelessness. This is evidenced by the fact that the National Security Strategy¹ ranks corruption among the threats which pose a danger to the security of Serbia and its inhabitants. Admittedly, the new holders of power are offering ample salvation from this pestilence to the above mentioned individual, as, after all, their predecessors did. Each day they make an abundance of announcements, promising and threatening to use all their power and pay any price, although that price is unknown, to fight corruption and overcome it. Of course, all this is at the expense of current and future citizens of Serbia.

A slightly more careful observer, however, will not miss the fact that among the things former and current rulers have failed to tell their voters is the extent to which they and their parties are responsible for the spread of corruption and its entrenchment in Serbia. No wonder then that they generally present corruption as a separate and isolated illness of our society which grows wild, not caused by anybody in particular. Hence, their alleged therapy ultimately comes down to occasional arrests of various individuals and groups, which very rarely result in legally binding court judgements. Moreover, recent experience shows that each new government wishes to prove its performance in preventing corruption by organising live or recorded TV transmissions of public arrests. In contrast, there is a deafening silence from our leaders about the true extent of corruption in state bodies, and particularly in those bodies which have the legal powers and jurisdiction to prevent, detect, prosecute and punish the producers and perpetrators of corruption. Our virtuous leaders, with special care and love, say nothing about whether by any chance the armed forces, police and security forces and their employees are involved in corruption. Instead of finally speaking publicly

1 Republic of Serbia National Security Strategy: <http://korupcija.bezbednost.org/upload/document/strategija_nacionalne_bezbednosti.pdf>

(or at least beginning to), they continue to spread and reproduce the myths according to which the chief symbols and almost the only perpetrators of the evil of corruption in Serbia are street and traffic police, military backroom staff, customs officials, teachers, university lecturers, doctors, counter staff and so on.

As they have very little trust² in state bodies and their heads, Serbia's citizens are forced to deal with corruption themselves or accommodate to it. Of course, nobody can prevent them from participating in this act for reasons of necessity or personal gain. Just as it seems they must resist the existing corruption, if they wish and are able to, with all means available. In this event, their chances of success are increased if they work together or join one of the civil society organisations³ already in existence. Before deciding whether they want to do this at all, and then when choosing with whom and how to begin this enterprise, it will not harm them to learn something more not only about corruption in Serbia, but also about citizens' associations which, at least according to their own statements, wish to assist in restricting and/or preventing it.

Miroslav Hadžić

2 <http://www.bezbednost.org/Sve-publikacije/4927/Gradjani-Srbije-izmedju-EU-Rusije-i-NATO.shtml>

3 <https://docs.google.com/open?id=0B3GsyncrBBm-RGZjNk5kVHFRaktuWnA3MjI2emxOZw>

I Introduction

What Do Citizens Need to Know about Corruption in the Security Sector?

Author: Marko Savković

What do citizens need to know about corruption in the security sector?

Marko Savković

There is no such thing as a society without corruption. However, it is most widespread where laws, rules and procedures are unclear and mutually inconsistent, where there is a large degree of discretionary authority in state administration and where there are weak mechanisms of oversight and control – internal or external, executive or independent¹ – of those in power. In other words, where the judiciary is inert, ineffective and dependent on the executive authorities.

What can be called corruption?

Corruption is a complex phenomenon. Many different people may be corrupt, and there is an even greater variety of corrupt practices. In order to understand it we will begin with the roots of the word itself. According to the Dictionary of Foreign Words and Phrases (Vujaklija), the term “corruption” comes from the Latin word *corruptio*, which is translated variously as: “turpitude, [...] bribery, buying off, subornation; decay, spoilage, [...] forgery”. Nemanja Nenadić finds that corruption is in fact a compound “in which the first part (*cor*) indicates agreement, while the second part comes from the verb *rompere*, meaning ‘break, violate, disrupt’. Broadly speaking, [...] corruption can then be seen as a conspiracy to disrupt some kind of order” (Nenadić et al. 2010: 1).

There is no generally accepted definition of corruption. In the widest sense, corruption is taken to mean any kind of deviation from established rules and norms. In the narrower sense, it implies that a holder of public office misuses the authority with which they are entrusted in order to obtain certain benefits, whether tangible (e.g. money) or intangible (e.g. services). In this paper we use both definitions of corruption.

The simplest corrupt practice is bribery. It is the easiest to detect. It is sufficient, for example, to mark the money paid to a corrupt person. Thus, the closer we get to high level decision makers, the more complex the corruption mechanisms become. The benefits cease to be solely financial. At these levels money is no longer necessarily part of the game, rather influence, ownership of goods, promises, *quid pro quo* or favourable treatment are traded. All of these are ways to ensure that a decision is made or measures are taken which work for the benefit of the person who initiates corruption. Hence, in our understanding, any unwarranted expenditure, “fixing” of tenders and favouring of bidders or bypassing of existing control mechanisms or of the critical public (above all the media and civil society organisations) may indicate corruption. When all of the above is done alongside appeals to protect the country’s security interests, we are on the trail of corruption in the security sector.

As citizens we are aware of the level of corruption that exists in Serbia, and of how widespread it is. The problem is that we are not familiar with all its possible causes and influences, that is: the risks. We often reduce the concept of corruption to bribery, which is a result of our objective position

¹ We are thinking here of independent regulatory bodies (such as Ombudsman institutions, the Commissioner for Information of Public Importance and Protection of Personal Data, the State Audit Institution and many others), whose practice has significant influence on raising the level of transparency of the work of Serbia’s state administration.

as a party willing to become involved in corruption in order to avoid our interests being adversely affected. At the same time, we are all users of the services which security sector actors offer us: of their ability to prevent the challenges that bring our security into question. In regard to who initiates corruption and how it is manifested, we distinguish corruption at the lower levels of authority – which we also call “petty” – from corruption at higher levels of authority – which among the expert community is often termed “systemic”.

Corruption at lower levels of authority – petty corruption. Citizens are most frequently exposed to the risk of becoming involved in corruption when they seek to use the administrative services offered by individual actors. Here we are talking about situations which are generally seen as “typical” for corruption: issuing of personal documents, certificates and permits or the payment of fines. These are usually cases of “petty” corruption,² although this is persistent and difficult to eradicate.

Many people participate in corruption, whether initiating it or just going along with it. In societies with poor living standards, low levels of remuneration are often given as justification for acts involving individuals at lower levels of authority. The price of corruption is thus included in the so called “full price” of the service sought. Where the bureaucracy in a given society is inefficient, the conduct of corrupt individuals will be construed as socially acceptable as well as cost-effective, as the job is completed in a shorter time. Finally, and here we come to actors in the Serbian security sector, petty corruption is used to avoid being reported for some misdemeanour, or paying a fine.

Corruption at higher levels of authority – systemic corruption. The Serbian public loses sight of the important difference between corruption at lower and higher levels of decision making. Just as citizens experience petty corruption as part of everyday life, the established mechanisms of corruption at higher levels of decision making are not being dismantled. At the same time, no matter how detrimental the effects of petty corruption may be, they cannot be compared to the consequences when those in power engage in acts of corruption.

Corruption is always an opportunistic activity. However, in contrast to the “petty” corruption described above, which makes use of the circumstances in which it occurs, systemic corruption creates the circumstances. In other words, it is no longer possible to determine whether corruption is an unacceptable type of behaviour (and work) or an integral part of the economic, social and political system, a norm. Systemic corruption is, therefore, a situation in which “institutions and processes are so dominated by corrupt individuals and groups that other policies are eliminated.” (Anti-Corruption Resource Centre 2007).

Why is the security sector specific?

The chief characteristics of the work of security sector actors are secrecy and discretionary powers. Above all, the way in which the actors are organised remains hidden from the public, as does an important part of their work. These are highly centralised and closed organisations which are based on principles of hierarchy and subordination. Management imposes a demand of confidentiality on their employees, which helps retain a culture of secrecy in the organisation and conduct of security sector actors. More than this in fact, so called “super secrecy” is evident in the security services and police. When an employee takes on the role of undercover agent, his (her) colleagues and supervisors do not have access to all the details of operational activities. For instance, the identities of the connections and informants used by the employee remain secret to all.

2 It is important to note that the networks which “worked”, for example, on illegally issuing personal documents were highly organized and made plenty of money. See, e.g.: “Uhapšeni zbog nezakonitog izdavanja pasoša i ličnih karata”, *Beta*, 7th May 2011 <<http://www.24sata.rs/vesti/aktuelno/vest/uhapseni-zbog-nezakonitog-izdavanja-pasosa-i-licnih-karata/738.phtml>> 19th Jul 2012.

Another characteristic of the work of security sector actors is their right to act in a *repressive* manner. They are entrusted with a monopoly of the use of force in order to combat challenges, risks and threats to security.

The relative *complexity and specificity of security tasks* additionally hinders public insight. The actors themselves, conditioned by a particular organisational culture, insist on their own “language” and structures which are difficult for citizens to understand, if they know them at all.

A particular problem is the phenomenon of the *law of silence*, which, depending on one’s viewpoint, can be interpreted as a high level of comradeship arising from very risky circumstances. In other words, it can be interpreted as a mechanism which further facilitates corruption and all other types of misuse of power.

Finally, *as a rule decisions are made by a narrow, privileged circle*. As an example we will take the procedure for carrying out confidential procurements at the SIA and MoD. The procedure is initiated by the Agency’s director or an employee authorised by him. In order for the procurement to be carried out after the need for it has been established, it must be foreseen in the annual procurement plan (which is required by law), as well as in the budget execution plan for the given budget year. We already encounter a problem here, as these two documents are not publicly available. Finally, due to the confidential nature of the procurement, not even the decision to initiate the procedure will be publicly available.

Opportunities for the public to intervene are also reduced due to the mechanism for evaluating tendered bids, a procedure which is based on the work of the Procurement Commission and used by all security sector actors. At the MoD, the Public Procurement Committee always has an odd number of members, of which one must be from the organisational unit responsible for implementing the annual procurement plan, one must be an economics graduate and one a law graduate. After the tender process is opened, a report is issued in which an expert assessment sets out which minister or authorised employee will decide on the selection of the most favourable bid, and conclude the contract. The only public control possible here is a freedom of information request, which in the case of confidential procurement will be refused. It is thus clear that this is a closed process.

What are the risks of corruption in the security sector? / What might lead to corruption in the security sector?

The existence of corruption might be indicated by any missed opportunity to manage some area of activity according to the law; any lack of capacity of control and monitoring bodies, or even attempts by executive authorities to hinder their work; or any practice which is not transparent or available to citizens and, especially, which does not act in their interests.

In our understanding, there are several reasons why corruption might arise in the security sector. The first of these are actions which undermine the mission and aims of specific security sector actors. Next, corruption may be caused by the material and financial dealings of security sector actors (so called financial risks), or dealings in the domain of industrial relations and the actions of security sector employees (human resources risks). Corruption may also arise when regular duties are being carried out (operational risks) and, finally, due to deficiencies in security sector control mechanisms.

The first group of risks is based on actions which *undermine the mission and aims of specific security sector actors*. Here we are talking about risks in the widest sense of the term. These risks arise when security sector institutions are given priorities which are in conflict with their missions and

tasks or in cases where a particular benefit is derived from abandoning a previously announced security policy despite that policy being in the interest of citizens. An example is a situation in which the executive authorities require the security services to collect information about their political opposition and/or when they set the fight against crime as their chief task, all of which is contrary to the mission and tasks of these services. These risks may arise indirectly, or alongside particular financial risks (see next paragraph). Thus, for example, a decision maker may (intentionally) manage the funds which are entrusted to him badly or procure something which is unnecessary.

Financial risks derive above all from the allocation of assets and resources. Thus, organisational units, or individuals in the security sector, may make use of so-called “black funds” in order to prevent criminal acts or find their perpetrators.³ Usually these units and individuals are answerable to no one other than their immediate superiors for the money they spend. Security sector actors may also be majority or exclusive owners of businesses which have no connection with their responsibilities. In Serbia, the Ministry of Defence (MoD) and Ministry of Interior (MoI) manage tourist complexes and hunting lodges. A particular indication of corruption may be the outsourcing of certain activities, justified by the need for rationalisation.

A particular dimension of financial risks is constituted by those occurring *in the domain of planning and implementation of public procurement*. Particularly so because in the Republic of Serbia’s state administration, the MoD and the MoI are among the most significant users of goods and services.⁴ Simply the decision of what to procure and under what conditions can represent an opportunity for risk. When the characteristics of the subject of procurement are known only to a narrow circle, the number of those who can question the need for that procurement is very small. The subject of procurement may be tailored to a specific bidder on the basis of a prior agreement. Finally, a procurement procedure may be applied which by its nature prevents competition. Such procurements are, for example, all those which we are told are “urgent” or carried out using a shortened procedure because a supposed “urgent and unforeseen” need for the procurement of some good or service has been announced.

Likewise, alongside public procurements, security sector actors carry out so-called confidential procurements. According to the law currently in force, a procurement will be declared confidential if there is a risk that the disclosure of information about the good or service (including its specification) would threaten the security of the state or citizens.⁵ Purchasers most frequently cite precisely the protection of state, military or official secrets as the reason for using closed procurement. In Serbia, an additional condition for declaring a procurement confidential is the decision of a high official (the Minister of Defence, the Minister of Interior or the SIA director). It is thus important that no procurement of a specific type may be declared confidential in advance.

3 Article 22 of the Law on the Military Security Agency (MSA) and Military Information Agency (MIA) allows the MSA to “take measures to conceal the ownership of property and legal entities” and to “found legal entities and manage their work in a manner which does not bring them into connection with the MSA”. The nature of defence system budgets is such that it is impossible to conclude from the section, or from individual items, where the money has gone, as it is not shown under its correct purpose, a characteristic of “black funds”.

4 Among the 44 largest purchasers listed in the Public Procurement Office’s 2011 report, the MoD sits in 20th place with 470 procurements amounting to 4,745,442,000 dinars (45.2 million euros according to the January 2011 exchange rate), while the MoI is in 36th place, with 104 procurements worth 1,721,909,000 Dinars (16.4 million euros).

5 “Public Procurement Law” *Official Gazette RS, no. 116/08, art. 7, para. 4.*

BOX 1: THE NOTION OF CORRUPTION IN SERBIA'S LEGAL FRAMEWORK

Alongside the objective complexity of the phenomenon of corruption, the fight against it is hindered by the fact that the term is not found in our criminal law. In order to prosecute a crime it must be defined as precisely as possible, and its full nature must be understood. Corruption as such was defined for the first time in Serbia only in 2008, with the Law on the Agency for the Fight against Corruption (AFC).

Turning to *human resource management*, any decisions on pay, promotion, rewards or appointments to a specific position in the security sector may be a source of corruption. “Thus the employment, social and economic position of an individual, including his prospects for advancement in the service, are decisively determined by the will of his superior”, who “additionally disciplines the subject by using various means of employment and social coercion [...] using them for their own purposes” through “numerous mechanisms for social corruption” (Hadžić 2011: 10). Social corruption, thus, is the most difficult to detect. The reason for this is that it does not leave behind incriminating documents, so any corrupt action can be masked and represented as regular procedure.

Operative risks, as stated above, occur during the carrying out of regular duties. Due to the specific nature of the work they do (see previous section), employees in the security sector may be more susceptible to corruption than others. Thus, the nature of the tasks entrusted to them may require that employees initiate corruption while working as undercover agents. Operatives may be tempted to benefit by covering up or even planting evidence. Likewise they may also use their connections for their own personal gain. Citizens caught in an illegal act may try to evade responsibility through bribery.

Risks arising from deficiencies in control mechanisms can result from the fact that all, or at least some, of the security mechanisms in the security sector – internal or external, executive or independent – are weak. For example, any missed opportunity for the executive authorities to allocate the necessary human and material resources to the institutions responsible for carrying out internal or external control represents a chance for this risk to arise.

BOX 2: PROTECTING WHISTLEBLOWERS IN SERBIA

A particular problem is the protection of “whistleblowers”, citizens employed in institutions in which corrupt acts take place who have sufficient moral and professional integrity to report them. The protection of “whistleblowers” is defined in a legal instrument of lesser force – the Rulebook on the Protection of Individuals Reporting Suspected Corruption (Whistleblowers). This secondary legislation protects an individual solely in his/her capacity within the institution in which he/she reports corruption, meaning that “whistleblowers” may be deterred by transfer or assignment to a different workplace.

What are the consequences of corruption in the security sector?

Due to corruption in public administration, taxpayers' money is spent for purposes which are not justified in the budget. Likewise, specific policy objectives remain unfulfilled, integrity is damaged, institutions' capacity is reduced and, finally, citizens' faith in the political system is undermined. Free competition is restricted and foreign investors are discouraged. All this together brings economic growth into question.

As the security sector is among the largest "public spenders", the damage which may be done to the budget is far greater. This is also the case in Serbia, where in 2012 nearly 13% of the whole state budget will be allocated just for the financing needs of the armed forces, the police and their parent ministries.⁶ High opportunity costs are a particular problem, as is awareness of what may be obtained if money is invested in other sectors. Thus, the procurement of a single modern fighter aircraft can cost as much as building, no more or less, 10 health centres, each of which can satisfy the needs of almost 50,000 residents.⁷ This comparison becomes significant under the conditions of extended economic crisis, and budget deficit in particular, which face Serbia.

The key, then, is in the responsible allocation of already scarce resources. In the wider context of material and financial operations, just as in the narrower context of public procurement carried out by security sector actors in Serbia, corruption leads to a situation where more money is paid for an inferior product.

From the perspective of human resource management, the principles of integrity and responsibility, which are the standards of the profession, are rendered meaningless by the establishment of a system of clientelism, where a service (provided by a person in a superior position and able to offer it) is paid for somewhere else by a favour in return (by someone in a subordinate position who is seeking the service). Positions of responsibility are taken by an inadequate cadre, composed of individuals who carry out the work entrusted to them badly. In the end, the consequences we have listed undermine the capability to respond adequately to security challenges.

How can citizens find out more about corruption in the security sector?

However, potential researchers and "whistleblowers" should not be discouraged by this. No matter how much security sector actors differ from other bodies of state administration, they are similar in one way: they spend taxpayers' money. Those in authority who govern them carry out public functions. They propose particular policy priorities for which we – the citizens – can and must hold them responsible for meeting, in particular because they are allocated significant resources which they readily spend. Citizens, then, have the right to know what kind of security "product" they are receiving. They have available to them both direct and indirect means of fighting corruption, which will be discussed below.

6 In 2012 the planned allocation for the financing requirements of the defence system (the Ministry of Defence and Serbian Armed Forces) was 53.2 billion dinars (almost 507 million euros according to the January 2012 exchange rate), while the planned allocation for the MoI's requirements was 61.8 billion dinars (almost 589 million euros). Altogether, almost 1.1 billion euros is allocated annually for the requirements of the two security sector actors, amounting to (again almost) 13% of the Republic of Serbia's 2012 budget.

7 This calculation is based on the construction of a health centre in the Belgrade suburb of Mirijevo, with costs estimated at the time of the completion of works in October 2009 at 416 million dinars (4 million euros at that time). Mirijevo has an estimated 56,000 inhabitants. The modern fighter aircraft used as an example for comparison is the JAS 39 Gripen, for which the air forces of both Hungary and the Czech Republic opted. The "fly away cost" of a Gripen armed with modern weapons is 40 million euros (which does *not include subsequent maintenance and spare-parts costs*).

An important source of data and one method of “entry” for interested individuals are the reports of civil society organisations involved in monitoring budgetary spending and public procurement practices. Although the reports of Transparency Serbia and the Coalition for Monitoring Public Finances do not concern themselves with the practice of security sector actors, they are indicative as they offer guidance on what activities by state bodies to look at for evidence of corruption.

The main “tool” available to citizens, as indicated above, is their right to access information of public importance. All information held by the authorities should be available to citizens, either on request or in information books. The request form is available on the website of the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: Commissioner), and also in the information books which security sector actors are required to issue. The type of data which can result from the submission of requests can be seen in the work of the web portal Pištaljka (“Whistle”), which recently discovered facts indicating flaws in the material and financial operations of the Ministry of Defence and SIA.

During 2011, security sector actors have made some progress in this regard, evidenced by the fact that the Commissioner announced that the MoD information book was the clearest and most complete. In 2011, on the initiative of the BCSP, the SIA decided for the first time to include the total amount spent on confidential procurements in its information book. This is significant progress. As they are publicly available, information books offer us a “window” on the way in which institutions are managed and how they work and thus can be an important source of knowledge for citizens.

Government bodies in the Republic of Serbia are obliged to issue information books about their work, as are security sector actors. Laws and secondary legislation dictate which information must be contained in the information book, as well as how frequently it must be updated.⁸ For example, information about the budget and public procurement (amounts approved and spent and their purpose) are required for each budget and is one of the more effective instruments of external control. There will be less information in the section dealing with confidential procurements, but even here it is possible to draw some conclusions. Bad practice, say, may be indicated by a disproportionately high share of confidential procurements, or procurements carried out through urgent procedures. Simply, in large systems where there are employees whose job it is to plan spending, it is difficult to accept the argument that some need unexpectedly arises.

The correctness of such conduct can only be determined after the fact by reading the State Audit Institution (SAI)’s report. An important development is the publication of its audit report for the Ministry of Defence and Ministry of Interior’s annual financial reports in December 2011. Although they are detailed and written in specific language, the SAI’s reports offer unprecedented insight into the workings of the defence and internal affairs systems.

Restrictions of the right to access to information of public importance

However, there are two restrictions of the right to access to information of public importance. Information classified as secret, the disclosure of which could threaten the security of the state, is not publicly available. Citizens, likewise, cannot access personal information. For example, the map of property owned by any minister is publicly available, as this is a matter of someone who holds public office. Citizens can access this by searching a register available on the web presentation of the Agency for the Fight against Corruption (AFC).⁹ However, a map of property owned by the members of a minister’s family, say, is available only to internal and external control and oversight bodies which have the authority to investigate the origin of the property of related individuals.

8 See: <<http://poverenik.rs/sr/pravni-okvir-pi/podzakonski-akti/947-uputstvo-za-izradu-i-objavljivanje-informatora-o-radu-drzavnog-organa-i-komentar-uputstva.html>>

9 See: <http://acas.rs/sr_cir/registri.html>

Citizens are unable to access secret information either. We have said that they have the right to request all information, but institutions have the right to refuse in cases where the information is secret. In this case, citizens are able to complain to the Commissioner, who is able, following inspection, to confirm the institution's decision or order the removal of secrecy from all or part of the document. For precisely this reason, citizens do not need to give up if institutions inform them that a document is secret.

What action can citizens take?

Citizens can report corruption themselves. If they suspect corruption in the police or if they wish to report a particular case, they can contact, in order: the commander of the local police station, the chief of the local police department (there are 27 in Serbia), and if they do not trust the direct superiors of those they are accusing, one of the four regional centres of the Internal Affairs Sector. In particular they may express their suspicions to the Bureau for Complaints and Grievances, located at the MoI's headquarters.

If the complaint is about corruption in the armed forces, citizens can contact the commander of the unit to which the complaint relates. If they do not trust him, the Defence Inspectorate accepts complaints from citizens relating to "the work, the material and financial operations and the construction activities of commands, units and institutions of the SAF and bodies and institutions of the MoD". If it determines that the measures it has suggested have not remedied the issue at hand, the Inspectorate can bring criminal charges with the relevant prosecutor.

As well as security sector actors and independent regulatory bodies, citizens may also turn to the local prosecutor's office. Finally, corruption can be reported anonymously as well as on the above mentioned web portal "Pištaljka".

Things are somewhat different when it comes to reporting corruption in the security services – the SIA, and the two Ministry of Defence bodies, Military Security Agency (MSA) and the Military Intelligence Agency (MIA). In theory, citizens can complain directly here as well. However, the websites of these institutions do not provide telephone numbers or email addresses of internal control bodies – Internal and Budget Control for the SIA and the General Inspector for the MSA and MIA – meaning that citizens must complain first of all to the director's cabinet or the minister, which may discourage them.

Earlier in the text we mentioned "whistleblowers", employees who have sufficient integrity to raise their voices against corruption. If, due to their actions, they are exposed to pressure and intimidation, they can turn to the AFC for protection, as well as to the Ombudsman.¹⁰ An example from

10 A particularly interesting example of the Ombudsman's new practice is the case of a major employed by the MIA. He was asked to investigate certain irregularities and illegalities in the work of some of his colleagues. After having complied and submitted the requested analysis, he found himself threatened, subject to "informative conversations", his safe was broken into and he was threatened with dismissal. Finally he was moved, by order of his superior, from the workplace where he lived with his family to another place, several hundred kilometres away. At the same time his work was for the first time – according to him – assessed as unsuccessful. This MIA employee turned to the Ombudsman, claiming that his transfer, taking into account his family situation, was a kind of punishment intended to force him to leave the MIA and the Serbian Armed Forces. On 14th March 2012, the Ombudsman provided his decision and recommendation, in which he recommended that the MIA return the employee to his previous place of service, overturn the controversial assessment of his work and establish the circumstances of the break-in. The outcome of the Ombudsman's recommendations is unknown at the time of writing. See: Ombudsman, "Utvrđenje i preporuka Zaštitnika građana" 14th Mar 2012. <http://www.ombudsman.rs/attachments/2220_Preporuka%20VOA.doc> 20th Jul 2012.

the new practice¹¹ of the Ombudsman shows that it is possible to be a “whistleblower” even in the security sector.

It is very important to encourage citizens to report cases of corruption, all the more so if they are employed in the security sector. Practice in developed countries shows that it is precisely the bravery of whistleblowers which has ended well established corrupt practices and avoided damage worth millions. Serbia is currently lacking the political will to deal with corruption at the high levels of decision making. Clear support for internal control bodies, and particularly cooperation with independent regulatory bodies, is lacking. Finally, it is in the interest of the state to support initiatives coming from civil society aimed at raising transparency and responsibility in the security sector, as they lead to the detection and possible elimination of the causes of corruption. The “Risk Map”, available at the link below,¹² is one such initiative.

BOX 3: IMPORTANT LINKS ABOUT CORRUPTION FOR SERBIAN CITIZENS*

Websites of internal control bodies in security sector institutions:

- PIAS, <http://prezentacije.mup.gov.rs/sukp/sukp.htm>
- Bureau for Complaints and Grievances, http://www.mup.gov.rs/cms_cir/ministarstvo.nsf/hiro-za-prituzbe-i-predstavke.h
- Defence Inspectorate, <http://www.mod.gov.rs/lat/organizacija/inspektorat%20odbrane/inspektorat.php>

Information books about the work of security sector institutions:

- MoI, http://www.mup.gov.rs/cms_cir/sadrzaj.nsf/informator.h
- MoD, http://www.mod.gov.rs/lat/aktuelno/informator_2010/inf_index.php
- SIA, <http://www.bia.gov.rs/download/dokumenta/Informator.pdfdf>

Websites of independent regulatory bodies:

- Ombudsman, <http://www.ombudsman.rs/>
- Commissioner, <http://www.poverenik.rs/>
- SAI, <http://www.dri.rs/>
- AFC, <http://www.acas.rs/>

Civil society initiatives:

- Glossary, Anti-Corruption Resource Centre, <http://www.u4.no/glossary/>
- Coalition for Monitoring Public Finances, <http://www.nadzor.org.rs/>
- Pištaljka Portal, <http://pistaljka.rs/>
- Risk Map of Security Sector Corruption, <http://korupcija.bezbednost.org>

11 See: <http://www.ombudsman.rs/attachments/2220_Preporuka_VOA.doc>

12 See: <<http://korupcija.bezbednost.org/>>

* See: <<http://korupcija.bezbednost.org/Korupcija/253/Linkovi.shtml>>

II How do others research corruption in the security sector?

Corruption and the defence system in societies undergoing transformation

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What is known about corruption in the police?

Author: Saša Dorđević

Corruption and the security-intelligence services

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Corruption and the defence system in societies undergoing transformation

Marko Savković

Authors have set out their understanding of corruption in case studies and studies of specific policies. Corruption is not considered as a separate phenomenon here, but rather is interpreted with an eye on the forms in which it occurs and its consequences. Expert interest in the forms and consequences of corruption is a recent phenomenon, and in fact such research is found only in the literature which post-dates the end of the Cold War. (Pyman 2009: 1). The primary reason for this is the reluctance of political elites in the developed democracies to support this type of research at a time of global ideological conflict. In addition, actors in whose interest it was for the arms race to continue – the military-industrial complex, various lobbyists and intermediaries – found ways of discouraging potential researchers. Investment in improving defence capacity was considered a defence policy priority, while investigating the often enormous costs was seen as a betrayal of the national interest.

However, following the end of the Cold War, and particularly as the role of the armed forces changed, research into the problem of corruption – in various contexts – increased in importance. Radically different demands were now placed on decision makers and planners. The following thus became necessary: established mechanisms of democratic civilian control; an effective system, capable of responding in full to the missions and goals assigned to it; and effective management of the resources allocated to a particular system (Ratchev 2011: 4). The changing nature of the threat (primarily the disappearance of the Soviet bloc) led to the first “cuts”. States began to dissolve whole formations, close bases and discard weapons systems which were no longer considered necessary. Both expert and non-professional opinion began to take more interest in defence finance and spending.

With the arrival of the global recession, the opportunity costs of investment in the armed forces began to rise, increased further by corruption. Thus, chief military prosecutor Sergei Fridinsky claimed that one fifth of Russia’s defence budget was being misused, an amount equal to the entire budget allocated to employment stimulus. (Galeotti 2012: 2). Hence, decision makers began to examine development and assistance programmes, considering how to achieve more by spending less. This chapter, then, takes as its subject key works arising from research on the process of defence system reform under conditions of social and economic transformation.

Analysing the range of defence system reforms in societies in transition, authors conclude that the domain of defence policy represents the “last bastion which [anticorruption initiatives] must conquer” (Transparency International 2007). The sensitive nature of defence system activities offers decision makers a convenient excuse for restricting public access. Strategic decisions are made which set the future direction of defence system development without prior public discussion. Such lack of transparency may lead to the armed forces acting other than in the best interests of citizens and the state (Pyman, Foot/Fluri 2008: 3). At the highest level of politics, “corruption affects decisions about war and peace” (Reiling 2009 quoted in Kilaz/Hayri 2011: 1). In the worst case, “corruption networks embedded in national and transnational economies can engender [...] conflicts” (ibid.).

Certain authors understand defence system corruption as “part of organisational culture” (Vendil Pallin 2012: 75). Attempting to predict Russia’s military capacity, Vendil Pallin asserts that the phenomenon of corruption is deeply embedded in the value matrix of the country’s armed forces, as well as that of her military industrial complex. This is aided by the fact that “huge” sums are

involved, while the level of transparency is “low”, and also because “the political leadership is reluctant to encourage independent oversight, or even allow parliament to access information” (ibid.). In this author’s view, the longstanding “perversion” of the system by corruption in Russia has led to the institutionalisation of practices worthy of scorn, the so-called *dedovshchina*, an integral part of the “initiation” process in which new recruits suffer physical violence (ibid.: 101), as well as widespread bribery, with each service having its price.

Corruption dramatically reduces the capability of the armed forces “at home” as well as when taking part in peacekeeping operations (Pyman, Foot/Fluri 2008: 21). Vendil Pallin also highlights this reduction in defence capacity. She wonders how Russia’s armed forces will be able to “recruit soldiers, officers and non-commissioned officers who are sufficiently qualified to handle the modern equipment which in the run up to 2020 will become more common, in accordance with the state armaments programme” (ibid.: 124). Thus, the extent of corruption in the defence system makes military careers less attractive to young people.

Tsurko’s analysis of Ukrainian defence policy agrees with this. Corruption “significantly affects Ukraine’s capacity to protect its national interests” (Tsurko 2012: 12). However, Tsurko does not consider corruption to be part of organisational culture, but rather a form of behaviour which is simply reproduced from the top down, even becoming a regular economic activity. “Corruption destroys everything which is not in the private interests of Ukraine’s political and financial-economic elites. These elites see the state and the armed forces as profit-making entities. The national interest should always come after private gains (ibid.).

In its report on the situation in Azerbaijan, the International Crisis Group describes the elite discussed by Tsurko as a “network” of influential individuals who control the so called “power ministries” – internal affairs, defence and national security. “The narrow circle of this ruling clique is deeply engaged in a broader network of allies who do not share power, but participate in the control and distribution of financial and economic resources” (International Crisis Group 2010, quoted in Borzel & Pamuk 2012: 14). This network consists of businessmen – so called oligarchs – who are placed in “secondary decision-making positions” (ibid.). The weakness of the state in the face of these informal networks was even acknowledged by (then) Russian president Dmitry Medvedev who, in answering a journalist’s question about the success of the state’s anti-corruption policy, said that results were “modest” and that “officials are like corporations: they don’t want anyone interfering in their business” (Galeotti, 2012: 1). However, the existence of such a relationship is no surprise. The defence budget is an “easy target” for ambitious politicians hoping for a new mandate (Pyman 2009: 1). It is easy to find a common interest, while opportunities for making connections with various actors are numerous.

A particular problem is a phenomenon we will term “corrupt expenditure” or “taxation”. This is money which, rather than being spent on something of use to the defence system (ranging from investment in the development of new armaments to salaries and employees’ expenses), ends up “in someone’s pocket”. Such things were possible at the time reforms were begun in the states of Central and Eastern Europe, as mechanisms of budgetary control did not then exist. Thus a series of corrupt arrangements emerged: the sale of assets, and even armaments, without any kind of oversight; abuse of power for private business purposes; the “hiring” of soldiers for money. In this way, standards of training, discipline, morale and even quality of life were eroded for both officers and enlisted personnel (Donnelly 2004: 56).

Consequently, “if reforms aimed at ensuring stable funding sources for the salaries of professional military personnel are not carried out successfully, it will be more difficult to keep all positions filled” (Vendil Pallin 2012). This brings into question the process of converting recruits into a professional army – possible the most visible change brought about by the transformation of the defence system.

The services which a newly appointed official provides for his political patrons and financial sponsors represent a particular type of “taxation”. This kind of corruption is seen in both transitional and developed societies. After it was discovered that Georgian defence minister Irakli Okruashvili had “fixed things” for his party friends, he was forced to leave his position (Kaputadze 2011: 2).

Finally, authors are concerned about the slowing effect which corruption has on economic growth and the inflow of foreign investment, the central pillar of development in transitional societies. In defence systems where competition (not only between bidders, but also between ideas and programmes) is restricted, “informal agreements” and “work for commission” are prevalent. Consequently, expenditure on defence and the armed forces rises, which can mean additional pressure on decision makers to reconsider their priorities (Agostino, Dunne/Pieroni 2011: 2) and in particular to reject foreign investors. All this makes the “social burden” of transition “more difficult” (Chavdarova Galabinova 2012: 1).

The most complete description of corruption to date can be found in the methodology developed by the experts of Transparency International’s Defence and Security Programme. They identify five groups of corruption risks in the armed forces (or the defence system). These are: political risks, risks in the field of public procurement, risks arising from the actions of employees, financial risks and, finally, risks arising from participation in peacekeeping operations (Pyman 2011: 10).

Political corruption risks occur at the highest levels of decision making. The first such risk is the exclusion of the public – both expert and wider non-professional – from public discussions over priorities for reform and specific defence policies. Thus those whom such decisions concern most of all are excluded from the discussion process. If elites are orientated towards permanent closure of the field of security policy to non-state actors, the formulation of any security policy will represent a corruption risk. Elites likewise attempt to keep the defence budget “closed” to independent control through the use of imprecise accounting (*ibid.*: 11). In particular, political risks arise due to the conditions under which contracts for the trade in weapons and military equipment are agreed.

There are numerous risks in the field of procurement. Merely the decision over what to purchase and under what conditions (i.e. identifying the “capability gap”) is an area of risk (*ibid.*: 15). The relative complexity of the subject of procurement makes it possible for procurements to be “fixed” to fit a particular bidder, which can be done with minimal alterations to the specification. A particular problem is a conscious decision to procure from a specific “source” (“single sourcing”) through the application of a process which prevents competition. Finally, responsible individuals in the defence system may consciously favour a particular bidder, even when it is clear that it is incapable (does not have the work capacity) to fulfil the agreed obligations (*ibid.*).

The case studies presented above have shown that all decisions on pay, promotion, rewards and appointments are areas where corruption may arise. In recent practice, risk also arises when employees undertake work in their spare time which is incompatible with their duties in the defence system.

In Pyman and Wegener’s interpretation, financial risks are primarily forms of irresponsible management of defence system assets and resources, for financial gain. The budget’s lack of transparency is a problem here too. More precisely, the system of “black funds” which organisational units and individuals may make use of represents a problem. Likewise, the defence system may be majority or sole owner of businesses which have no connection with its basic activities. In particular, the phenomenon of outsourcing, justified by the need for rationalisation, can be a hotbed of corruption.

The risks of taking part in peacekeeping operations are the same as those which exist “at home”, but they are linked to the level of conscious disregard for corruption in the country hosting operations (*ibid.*: 14), as well as the occurrence of corruption in the contingent deployed. Finally, corruption may occur due to (intentionally) unregulated relations with private security companies, increasingly common in such operations (*ibid.*).

What is known about corruption in the police?

Saša Đorđević

There is a significant number of studies of the phenomenon of police corruption. However, practitioners and scholars have still not agreed on how to define the term. There is also insufficient research on police corruption occurring during procurement. Studies on this subject are generally similar to those dealing with state administration as a whole, and they lack indicators specific to the police such as the existence of confidential procurement. Likewise, it is evident that police corruption has received significantly more attention than corruption in the army and security services. One reason for this is the constant everyday contact which citizens have with police officers, making it possible to obtain a larger amount of data to work with.

How is police corruption researched?

Police corruption is researched in three ways: (1) research on public opinion; (2) individual and comparative analysis of practices of prevention and suppression of police corruption; (3) scholarly research. Although this text uses the third of these methods, it is necessary to outline the first two methods of researching corruption.

Public opinion research is used to determine trends in the manner in which citizens understand the phenomenon of police corruption, this type of research generally being linked to studies which show citizens' level of trust in the police. Citizens' attitudes to police corruption are examined in order to determine the frequency with which they encounter the phenomenon and detail their experiences of it.¹³ The final aim of public opinion research is to provide the necessary information for future activities aimed at capacity building, education and consciousness raising for citizens and police officers.

Individual and comparative analysis of the legal and institutional framework for combating police corruption is particularly important for practitioners and professionals in the police service.¹⁴ In addition to establishing a framework for combating police corruption, it is also important to research practice. The main objective is to determine the positive and negative characteristics of each system for preventing and combating corruption, as well as successful solutions and ways of resolving problems.

The third approach to research consists of scholarly analysis of the concept of police corruption and its causes, consequences and the forms it takes.

This text answers five questions: (1) what is police corruption; (2) what are the causes of police corruption; (3) what forms does police corruption take; (4) what are the consequences of police corruption; (5) how can the approach to researching police corruption be altered?

13 In 86 states around the world the police are identified as extremely corrupt, more so than political parties, state officials, members of parliament and judges.

14 Examples of good practice in implementing anti-corruption strategies include actions undertaken in Singapore and Hong Kong.

What is police corruption?

Corruption is largely defined by highlighting two key elements: (1) violation of legal norms through the abuse of authority; (2) personal profit thus acquired (Zekavica 2010).

Authors agree that it is generally difficult to define police corruption (Miller 2003; Punch 2000; Newburn 1999), as it is linked to other forms of illegal work by police officers. The wider definition of police corruption includes dishonest, improper, immoral and criminal activities by police officers, or behaviour which deviates from basic social norms (Roebuck, Barker 1974). The narrower definition of corruption distinguishes between corrupt activity, such as accepting bribes, and criminal actions which are not corrupt – robbery, burglary or theft while working (Miller 2003).

According to Kutnjak-Ivković (2005: 16), police corruption is any action or failure to act (or promise to act or to refrain from acting) by a police officer or group of police officers during their work, the leading aim of which is to benefit personally. The main factors which constitute corrupt activity are: (1) actions; (2) deliberate failure to act; (3) activity contrary to an assigned task; (4) agreement between a police officer and an individual who offers something in return for a service; (5) the moment of payment; (6) determination of potential benefits.

The given definition insists that police corruption must involve police officers, while an arrangement with an individual who is offering some benefit (who of course is not necessarily a police officer) is not an essential element of police corruption, due to the possibility that the arrangement is a voluntary act. The main factor in the definition is the abuse of police authority for personal gain. It is possible for someone to gain through a voluntary agreement with an individual who is offering something, by a request expressly addressed to an individual who has transgressed, through forced extortion or by threatening that some authority will be exerted in order to obtain what is being sought. This definition sees the moment of payment as an essential element of police corruption. There is also a strand of opinion in the literature which does not see payment as a necessary element of corruption in the general sense, but rather sees corrupt activity as starting at the moment a benefit is offered, regardless of whether it is realised.

According to the same author, police officers who are inclined to use force are more susceptible to corruption, and often more likely to use violence for personal gain (Box 4).

BOX 4: THE LINK BETWEEN THE USE OF FORCE AND POLICE CORRUPTION

If we accept this reasoning, we can conclude that police officers in Serbia are more susceptible to corruption, given that between 2006 and July 2010 there was a rising trend in the use of force. It should be added that police officers in Serbia are constantly dissatisfied with their working conditions, one cause of corruption, for which reason they have made use of their right to strike.

Table 1: Matrix for determining police corruption (Kutnjak-Ivković 2005: 32)

Abuse of authority	Agreement	Use of force	Illegally obtained benefit	Determination
+	+	-	+	Police corruption
+	+	-	-	Form of illegal work
+	-	+	+	Police corruption
+	-	+	-	Excessive use of force
+	-	-	+	Police corruption
+	-	-	-	Form of illegal work

Direct abuse of authority through exchange of services with other individuals, independently or in collusion with employees of organisational units, is also classed as police corruption. By exchanging services, a police officer acts for the personal gain, not necessarily monetary, of an internal or external actor. Finally, police corruption is a violation of the rule of law (Miller 2003: 2).

Police corruption is also defined as a prohibited act, including the abuse of police authority in order to obtain real or expected material reward or gain (Barker, Carter 1986). According to Barker and Carter, corruption is an act: (1) which is forbidden by law, internal regulations or ethical norms; (2) which is related to the abuse of power or of the official property of a police officer; (3) which includes a real or expected material reward or favour in return. Police corruption exists, then, when a police officer accepts money, some material gift or a service for doing something he would be required to do anyway (Sherman 1974).

The Interpol Group of Experts on Corruption (IGEC) defined the term in Article 2 of their Global Standards to Combat Corruption in Police Services (Box 5). This is a comprehensive definition which includes all actors alike, as well as all possible forms of corrupt police practice.

What are the causes of corrupt activity in the police?

Prenzler (2009: 53–56) considers that there are two basic groups of causes of corrupt activity in the police. Structural-financial causes have their roots in the working conditions experienced by police officers, and in the internal organisation of work. Cultural causes are the values accepted by police officers and the role played by tradition in the work of law enforcement bodies.

According to Kutnjak-Ivković (2005: 64–95), there are three basic groups of causes of corrupt activity in the police: (1) individual; (2) organisational; (3) external (Table 2). An individual's propensity for corruption is changeable rather than static, as it can be altered by the influence of the surroundings or the experience of a police officer. Because of this it is important to pay attention to candidates' past when hiring. A police officer's propensity to corruption consists of a cost-benefit analysis, as well as risk analysis, of carrying out corrupt activity. This assessment, considers Kutnjak-Ivković, is influenced by the police officer's perceptions, his superior's authority, possible consequences of any disciplinary action and the state and efficiency of the judiciary. An officer's superior has a particularly important role in combating and preventing corruption, as his conduct can serve as an example. However, it is not sufficient for his conduct to remain within the boundaries of moral standards, but rather he must also keep to organisational standards of management.

The political, social and economic surroundings are most likely to be the key factor in the occurrence of corruption.

BOX 5: THE DEFINITION OF POLICE CORRUPTION PROVIDED BY IGEC (INTERPOL 2002)

Article 2

1. The solicitation or acceptance, whether directly or indirectly, by a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.
2. The offering or granting, whether directly or indirectly, to a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage for the police officer or other employee or for any person, group or entity in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.
3. Any act or omission in the discharge of duties by a police officer or other employee of a police force/service which may improperly expose any person to a charge or conviction for a criminal offence or may improperly assist in a person not being charged with or being acquitted of a criminal offence.
4. The unauthorized dissemination of confidential or restricted police information whether for reward or otherwise.
5. Any act or omission in the discharge of duties by a police officer or other employee of a police force/service for the purpose of obtaining any money, article of value, gift, favour, promise, reward or advantage for himself/herself or any other person, group or entity.
6. Any act or omission which constitutes corruption under a law of the Member State.
7. Participation as a principal, co-principal, initiator, instigator, accomplice, accessory before the fact, accessory after the fact conspirator or in any other manner in the commission or attempted commission of any act referred to in the preceding provisions of this Article.

Table 2: Indicators for determining the causes of police corruption

Individual Causes	Organisational Causes	External Causes
<ol style="list-style-type: none"> 1. Propensity for corrupt activity 2. Cost-benefit analysis 3. Risk analysis 	<ol style="list-style-type: none"> 1. Bureaucratic organisational structure of the police force 2. Management 3. Human and material resources 4. Legal regulation and clarity of measures to combat corruption 5. Recruitment process 6. Training of police officers 7. Support for colleagues and police associations 8. Effectiveness of internal control systems 	<ol style="list-style-type: none"> 1. Prospects for corruption to arise 2. Public opinion of police corruption 3. Existence of corruption in the judiciary 4. External methods of control of the police 5. Political, economic and social situation

What forms does police corruption take?

The forms which police corruption takes vary somewhat, ranging from those with less damaging consequences to those which the law defines as criminal acts. The best known typology of corrupt methods is that provided by Roebuck and Barker. However, there is no single classification of types of corrupt police activity, meaning that the situation is very similar to that when defining police corruption itself.

According to Roebuck and Barker (1974: 428–434), there are eight groups of corrupt police methods: (1) “Corruption of Authority” encompasses cases where gifts and services of low value (free drinks or food in restaurants, free tickets for sporting events) or other free services of low value and importance are accepted; (2) “Kickbacks” are a typical form of corruption in which gifts or services are accepted in return for carrying out or refraining from carrying out particular actions within the scope of an officer’s authority; (3) “Opportunistic Theft” encompasses cases in which a police officer takes money or some other benefit, at a crime scene, from an arrested individual or a citizen responsible for a traffic violation; (4) “Shakedowns” are situations in which a police officer accepts a bribe in return for not taking action following the commission of a criminal act, or for preventing an individual being deprived of freedom; (5) “Protection of Illegal Activities” encompasses situations in which police protection is provided to individuals carrying out criminal activities, thus facilitating the performance of those activities; (6) “The Fix” is a situation in which a police officer prevents investigation of a crime by intentionally losing evidence, in order to gain personally; (7) “Direct Criminal Activities” are situations where police officers are those who carry out criminal acts; (8) “Internal Payoffs” are situations in which police officers pay each other for services such as promotion, extra holidays or favourable work shifts.

According to Prenzler (2009: 49–51), there are six groups of illegal conduct by police officers, of which three are based on corrupt methods: (1) “Classic corruption”, including blackmail and bribery; (2) “Process corruption”, which involves the planting of evidence during police investigation; (3) “Internal corruption”.

Neild (2007: 3–6) classifies corrupt activities into four groups (Table 3).

Table 3: Forms of corrupt methods (Nield 2007: 6)

Petty Corruption	Bureaucratic Corruption	Criminal Corruption	Political Corruption
<ol style="list-style-type: none"> 1. Accepting bribes from civilians 2. Accepting free gifts and services 3. Selling police information 4. Intentional loss of evidence 5. Theft during police investigation 6. Accepting seized contraband 7. Helping prisoners to escape 8. Using police resources for personal gain 	<ol style="list-style-type: none"> 1. Contracting, accepting bribes and services 2. Theft of police assets and other resources 3. Selling information, such as criminal records 4. Intentional loss of evidence 5. Illegal issuing of documents (identity cards, gun licences etc.) 6. Undermining internal investigations 7. Accepting and contracting bribery for training, recruitment and promotion 	<ol style="list-style-type: none"> 1. Accepting and contracting bribery from criminal groups 2. Extorting regular payoffs from criminal groups 3. Providing support for criminal activities 4. Direct participation by police officers in criminal acts 5. Theft of seized contraband 6. Protecting individuals involved in illegal economic activities 	<ol style="list-style-type: none"> 1. Obstructing the investigation of crimes 2. Initiating false investigations 3. Disclosing confidential information to politicians 4. Suppressing freedom of speech and association 5. Carrying out and supporting political assassinations 6. Suppressing freedom of the press 7. Disclosing police information to illegal armed groups

What are the consequences of police corruption?

Police corruption, above all, leads to the emergence of police officers of a particular character, which damages the reputation of the police service. The famous Knapp Commission (1972) classed those involved in corruption into two categories. “Grass Eaters” are passive officers who do not look for opportunities for corruption, but do not refuse when something is offered. Such police officers are far more numerous and usually hinder the identification of cases of corruption as they respect the “code of silence” and create a “blue wall”, thereby implicitly accepting the existence of corruption in the police. “Meat Eaters” are much more aggressive, consciously and actively creating opportunities to take advantage of corruption. In addition, it is harder to expose corruption in which “Meat Eaters” are involved.

Regardless of the type of officer involved, corruption is analysed in two ways: (1) as a problem inherent to all states, regardless of their economic, social and political situation; (2) as part of research on ethics, oversight and accountability in the work of police officers. In addition to scholarly research on the problem of police corruption, the reports of other bodies which investigated and resolved cases of police corruption during the 20th century are also important.¹⁵

One of the basic problems occurring during the process of police reform is the prevention and suppression of corruption (Bayley 2001: 6). The reform process through which corrupt practices in the police are resolved is significantly hindered in the situation which obtains in states of a post-conflict or post-authoritarian character (Bayley 2011: 1). Thus the strengthening of the organisational culture for the prevention of corruption is one of the basic tasks for decision makers in the police as well as for senior officers (COPS 2008: 1).

¹⁵ The most important are the Knapp Commission (1971), the Mollen Commission (1994), the report of the Lexow Committee (1997), the Wood Commission (1994) and the Fitzgerald Commission (1987).

According to Kutnjak-Ivković (2005: 3), police corruption distorts the work of police officers, encourages respect for the “code of silence” and resistance to principles of accountability, as well as undermining the legitimacy of the police and the executive authorities responsible for oversight and supervision of the police. The legitimacy of the police derives from the principle that it is a service for citizens, offering the same services to all (Prenzler 2009: 43).

Kutnjak-Ivković considers that police corruption is constantly on the rise, while methods of corrupt practice have been perfected and are now harder to detect (Kutnjak-Ivković 2005: 7). One reason for this is that the level of corruption which police officers see as acceptable has significantly increased in recent years. In addition, police corruption is difficult to detect. In order to be discovered, corruption must be reported by civilians or the colleagues of police officers, and neither wants to admit that they are involved in corrupt practice. All mechanisms of control of the police are reactive, meaning that investigations usually find only the most visible forms. Preventative mechanisms are lacking, while organised corrupt activity is hard to uncover (ibid.: 8–11).

How can the approach to researching police corruption be altered?

Due to advances in the manner in which corruption occurs, it is necessary (Klockars et al. 2006: xii) to alter the research approach, moving from individual analysis of the causes and consequences of corruption to a general explanation. It is also necessary to include in the analysis both external and internal factors in the misuse of police powers.

When considering police corruption, it is necessary to take into account the prevalent approach to integrity and analyse the factors which explain why police officers misuse their powers and become involved in such activities.¹⁶

The aim is to establish an early warning system (ibid.: xvii), based on the following principles: (1) police services are responsible for the services they offer; (2) police services are responsible for the legality of their actions; (3) police services promote individual integrity by setting accountability guidelines for abuses of authority and the inability to maintain and improve working conditions; (4) police services work on building the integrity of the police and on minimising the code of silence.

Research on police corruption should address four themes (Miller 2003): (1) the most common forms of corruption; (2) the causes and effects of corruption; (3) establishing good practice; (4) development of preventative measures.

16 Police integrity is a normative tendency for police officers to resist the urge to misuse the rights and privileges of their profession.

Corruption and the security-intelligence services

Predrag Petrović

There are no systematic domestic or foreign studies of corruption in the security-intelligence services (hereinafter: security services). This is because the work of the security services is rooted in strict secrecy, significantly greater than the other state apparatus of force (e.g. the police). This makes research on this and other themes very difficult. Nevertheless, some studies of corruption in the security services have been undertaken, and they can be classified into three groups, which will be presented briefly on the following pages.

Great opportunities for corruption in the security services

Think-tanks and organizations whose main concern is the phenomenon of corruption, as well as authors dealing with reform and reconstruction of the security services, most frequently point out the great opportunities for corruption in these services, offering general principles for their elimination (which can also be applied to other security sector actors). However, these studies do not concern themselves with the forms and types of corruption¹⁷ which exist (are dominant) in the security services, nor with their causes and effects. Case studies and examples of corrupt conduct in the security services are similarly rare.

Corruption is also discussed in analyses of oversight and accountability in the security services¹⁸, where it is described as one of the main obstacles to reform of these services in new democracies (Matei, Bruneau 2011). Thus, for example, Transparency International's analysis indicates that the risks of corruption in the security services are directly linked to the principles underlying their work. The most important of these is the high level of secrecy existing in both external dealings and its internal structure, where the various parts of the security services do not have all the information possessed by the other parts of the organisation. In addition, the security services are entrusted with significant powers, above all the right to collect information secretly, which significantly infringes the privacy of both natural and legal persons. This not only creates a large space for corruption to take place, but also makes combating this problem more difficult. Transparency International thus considers the fight against corruption in the security services to be "very important and urgent", and suggests that action be taken to "begin a dialogue aimed at, for example, initiating

17 There is no generally accepted classification of corruption. In both research and among the general public, the most common forms of corruption mentioned are bribery, extortion, embezzlement, fraud, nepotism and "kickbacks". However, this classification is not systematic, nor is it constructed according to clear standardised criteria. Stephen Morris sought to systematically and clearly classify types of corruption in his article "Types of Corruption". According to Morris, there are several different approaches to classifying corruption. The first is institutional, using the institution affected as the chief criterion for classification, as well as whether it takes place at higher or lower institutional levels. So, there is corruption in the police, the armed services, the customs service etc., and at higher and lower levels. High level corruption is referred to as political, low level corruption as administrative or bureaucratic. The second approach takes the direction and type of transaction as the basis of classification. Thus, when corruption is instigated from below, by civilians, it is bribery, while when it is instigated from above, by public servants, it is extortion. This approach also distinguishes between grand and petty corruption, depending on the size of the transaction. Finally, there is also a systematic approach which classifies corruption according to the extent to which it affects society and the state. Thus there is individual corruption (individual cases), institutional corruption (which affects a particular institution) and systematic corruption (which affects the whole system). For more on this see: Morris 2011.

18 See for example: Born, Leigh 2005; Caparini 2007; Born, Leigh 2010.

further research and organising round tables” (Kunczik 2006).¹⁹ As the basis for the suggested action, Transparency International suggests a diagnostic guide to defence corruption (Integrity Self-Assessment Process: A Diagnostic Tool for National Defence Establishments) (Pond, Pyman 2009). This is rather general, however, and largely deals with the field of defence. The word “intelligence” is used just twice in the guide, and only when listing defence system actors and describing the role of parliament in relation to them (ibid.). In addition, Transparency International attaches great importance to budget transparency in the fight against corruption, asserting that “deferred transparency” may result from the necessity of maintaining a balance between the need to keep the work of the services secret (as well as information about the resources allocated to them) and the need to keep the public informed about their work. Deferred transparency enables confidential documents to be declassified after the expiration of a legally defined period of time.

Transparency International’s researchers also suggest internal budget audits for the security services as an important instrument for oversight of correct and legal handling of security service budgets. All the more so as internal auditors are able to access confidential information and so can scrutinise even the most sensitive parts of the budget (so called secret funds and black budgets).

Failures of intelligence cycle management

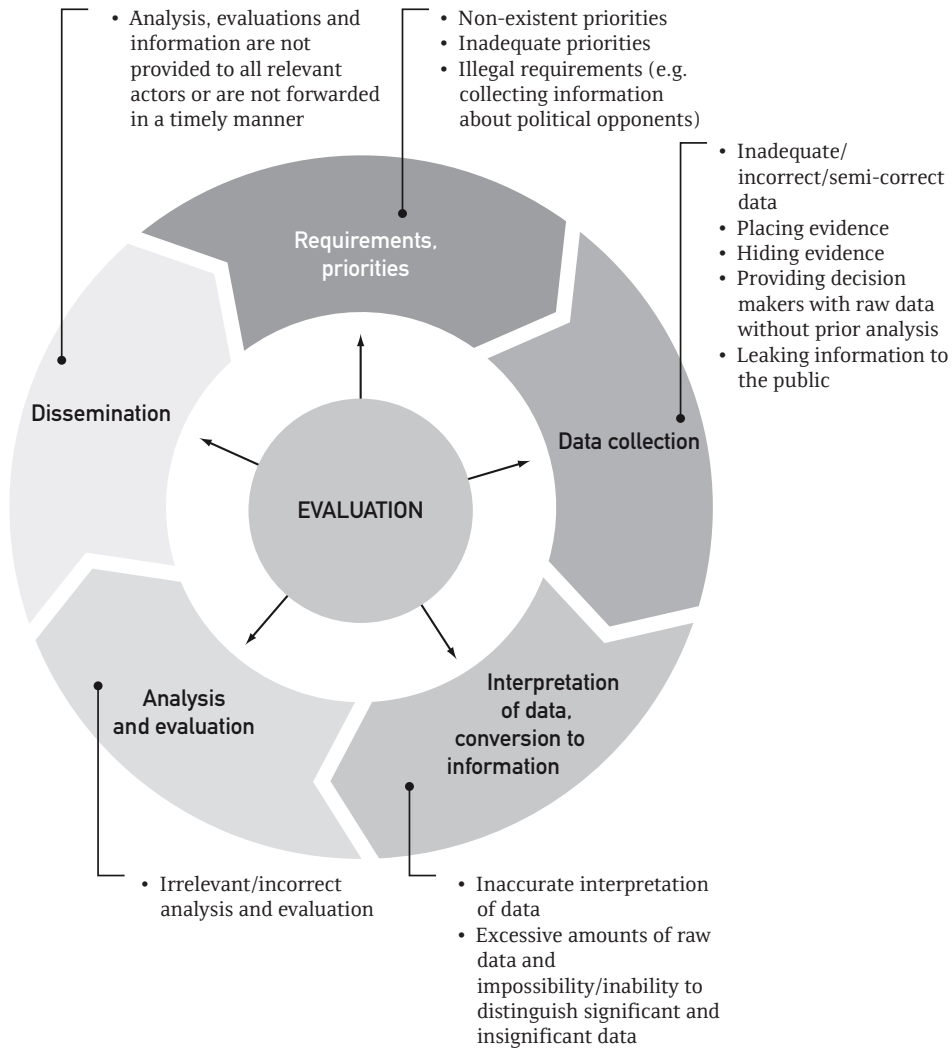
The essence of the security services’ work is collecting and processing data, interpreting it and converting it into meaningful information. The aim of this work is to keep the highest state decision makers informed accurately and in a timely manner so that they are able to make the best decisions. Thus, those the state authorities decide on the work priorities for the security-intelligence services, and the security-intelligence services enjoy autonomy in carrying out their work. This whole process can be described as the “intelligence cycle”. For it to be successfully implemented, it is very important that all its phases are correctly carried out. However, in reality this is often not the case, leading to failures at all stages of the intelligence cycle.

Thus, some researchers dealing with reform and reconstruction of the security services discuss corruption indirectly, talking in a general sense of “failures of intelligence cycle management”.²⁰

19 For more on this see: <<http://www.ti-defence.org/our-work/defence-corruption-risks-typology/political/intelligence-services-control>>.

20 There is a large literature on failures of intelligence cycle management, as both authors writing on reform of the security services and those writing about their reconstruction have discussed this problem. See for example: Hulnick 2006; Gill, Phythian 2006; Caparini 2007.

Figure 1: The intelligence cycle²¹



According to these authors, corruption may arise at any stage of the intelligence cycle, the two most common reasons for this being politicisation of the security services²² (along with their excessive autonomy) and lack of democratic control of their operations.²³ Thus, irregularities may occur even at the first stage, if for example the security services are required to collect data about some opposition group (Caparini 2007: 11). The danger of politicisation also exists at the data collection stage, when operatives may submit data which is biased or contains value judgements about the subject being observed, to the possible satisfaction of the operative's superiors. Managers in the services commonly hold particular views which may be known to operatives, who may attempt to adjust their data to suit those views and thus ensure that their superiors are satisfied with their work.

21 For more on the intelligence cycle see: FBI 2012; Johnson 2007.

22 For more on the various aspects of politicization of the security services see: Roger, Bruce 2008.

23 For more detail about corruption in all phases of the intelligence cycle see: Gill, Phythian 2006: 103–123.

Irregularities may also arise when raw intelligence material is forwarded directly to the politicians in power (“stovepiping”), thus bypassing processes of checking and filtering, interpretation, contextualisation and analysis carried out by trained intelligence analysts.²⁴ This not only leads to inappropriate decisions being made,²⁵ but can also significantly jeopardise the privacy of a wide range of individuals and entities, as the raw data is available to a larger number of users rather than being hidden in the service’s archives until destruction at the close of operations.

Next, politicisation may occur during data analysis, evaluation and report writing if intelligence analysts write reports which are agreeable to political decision makers, rather than letting their conclusions result from the collected raw material (“intelligence to please”). Very important information which is potentially disagreeable to political decision makers is thus neglected, possibly resulting in bad decisions being made.

Finally, irregularities may also occur when intelligence information, evaluations and reports are not forwarded to all relevant security institutions, which may jeopardise the security of citizens and the state.²⁶

The sections of the security services most susceptible to politicisation of their work are those which are located within the structure of ministries (Shulsky, Schmitt 2002: 135–141), and particularly security services in transitional societies in which a partocratic form²⁷ of government is dominant.²⁸ In such societies, political parties place loyal people in the highest positions of state administration, who then employ loyal people themselves. Those who have gained their positions in such a way are aware that they depend on the political party in power. They know that a change of government will lead to the loss of their position within the organisation, and so they are willing to pursue a policy in the interests of the party rather than the state.

In order to prevent politicisation of the security services, it is recommended that they enjoy professional autonomy from executive bodies, and that legal limits are set for what they can be asked to do. It is also recommended that the executive authorities be required to submit all requests to the security service in writing, that the directors of the security services enjoy independence and that the service’s employees have mechanisms for reporting bad practice available to them, as well as that all types of control of the executive authorities are strengthened (Caparini 2007).

However, if the security services are given too much autonomy in carrying out their tasks, abuses may occur, especially as they do their work in utmost secrecy. Thus, the security services may collect data and information illegally and/or in pursuit of their own ends. Data about individuals or business entities may be misused or used for blackmail, extortion or for the personal benefit of senior personnel in the services. The security services may also produce flawed reports, for example overstressing the threat posed by terrorism in order to obtain more material and financial resources. A high degree of autonomy for the security services may also suit political decision makers, who can thus more easily deny responsibility for individual (unsuccessful) operations or for a poor state of affairs in the security services such as mismanagement of resources (“plausible deniability”)

24 The best known example is the supply of raw material about the (non-)existence of weapons of mass destruction in Iraq to Bush’s cabinet, which was the basis for the decision to invade. A separate Office of Special Plans was even formed for this purpose. For more on this see: Hersh 2003.

25 Expert terminology uses the acronym GIGO (“garbage-in, garbage out”) to describe cases in which political decision makers issue bad requests for the performance of intelligence tasks and then involve themselves in intelligence operations.

26 The terrorist attack on New York’s Twin Towers was the outcome of the failure of all relevant actors in the USA to share intelligence information with each other (in particular the CIA and FBI).

27 Partocracy is defined as democracy featuring partisan politicisation of the state bureaucratic organs, in which competing parties try to capture and dominate posts and institutions. Golubović, Z. Sociološko-antropološka analiza deficita tranzicionog procesa u Srbiji. U: *Filozofija i društvo*, 2/2006. Beograd: Institut za filozofiju i društvenu teoriju.

28 For more on this see: Matei, Bruneau 2011: 602–630.

(Shulsky, Schmitt 2002: 92). Thus, the executive authorities often claim not to be aware of certain shortcomings in the work of the security services, as their work is shrouded in great secrecy, or that it is a matter of certain parts of the services which are out of the control of either the civilian authorities or the security services themselves. In fact, the executive authorities often do not wish to know about certain operations in order to facilitate denial of responsibility for their (lack of) success (“wilful ignorance”) (Gill 1991: 76).

The ethics of intelligence work

Due to the great difficulty of achieving effective control of the security services and preventing all irregularities through legal or institutional mechanisms, some authors consider the best method of control of the security services to be the establishment of a system of values and the strengthening of integrity.²⁹ These authors are therefore committed to strengthening the ethics of the work of the security services. Thus, one group of authors, consisting of former security service employees from Western states, experts in the field of ethics and the wider public, has developed a draft code of ethics for employees in the USA’s security community (Snow, Brooks 2009: 30-32). The authors’ starting point was the knowledge that, in carrying out their work, security sector employees are faced daily with difficult ethical choices of a kind faced by no other public servants. Because of this, the code of ethics in force for the rest of the state administration in the USA cannot be successfully applied to security services, making it necessary to devise a separate code (ibid.: 30).

The authors consider that this code of ethics ought to be based on several principles. First of all it should be aspirational and not prescriptive, i.e. it should provide values to be upheld rather than stating what is permitted and what is not. Secondly, it should not be a law but a guide for making difficult decisions. Thirdly, it should consist of short, easily understood, unambiguous sentences. Finally, the code of ethics must be publicly available. The final characteristic gives force to the code of ethics as it allows the public to make a judgement on controversial acts carried out by security service employees. If the code were kept secret, decisions about the ethical conduct of security service employees would be made exclusively by their superiors, usually in secret (ibid.: 31).

Based on these assumptions, the authors have developed a draft code of ethics consisting of eleven points. The most important principles listed are: commitment to the human rights values contained in the constitution, respect for legality and the rule of law, accountability of work, putting these values before efficiency and commitment to resolving problems in advance, before they occur (ibid.).

One group of Serbian authors working at the Centre for Security Studies and relying on prior research insist likewise that in reforming the security services and fighting corruption emphasis must be placed on strengthening integrity and work ethics. To this end they have produced a publication entitled “Ethical standards for criminal intelligence work” (Fatić, Korać, Bulatović 2011). The basic elements of their ethical code are commitment to the public interest, respect for the rule of law and human rights, governance, conflict between public and private interests, accountability, recognition of failures, protection of “whistleblowers”, the conduct of public officials in private life and resolution of ethical dilemmas. This publication represents a pioneering endeavour in research on the phenomenon of corruption in criminal intelligence work among the Serbian expert community.

29 There is no generally accepted definition of the integrity of public officials. It is most commonly defined as the honesty or probity of public officials in carrying out their duties, focused on serving the public interest and managing the community’s resources in the best possible way. In other words, integrity means that a public official acts independently of any external financial or other influence in carrying out his/her duties. For more on this see: Armstrong 2005.

III Risk map of corruption in the Serbian security sector

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The defence system portion of security sector reform in the Republic of Serbia has been in progress since 2003. The first step was to introduce basic institutions of civilian control (such as for example bringing the General Staff under the control of a civilian ministry). Defence reform has long been focussed on modernisation and optimisation (right sizing) and on inclusion of these in the flow of security integration. Decision makers began to take an interest in the problem of corruption fairly late, after the “Satellite” and “Body armour” affairs in 2005 and 2006 respectively provoked a negative public reaction. The adoption of key laws on the armed forces and defence in 2007 set in place the first mechanisms of internal control, and specified the powers of the following actors: the Military Security Agency (MSA), the Defence Inspectorate and the General Inspector for the MSA and the Military Intelligence Agency (MIA). Taking into account the activities of other state administration bodies – both judicial and independent regulatory bodies – it is possible to say that a framework exists for the fight against corruption. The state’s activities in this field are gaining in importance in the context of the latest conditions set by the European Commission (EC) on the “road to Europe”, as well as in the context of the declared willingness of the new/old governing elite to set a policy of suppression of corruption as one of the priorities of its programme.

In the understanding of the BCSP team involved in preparing the Map, the risks of corruption in the defence system include: risks arising from inadequate understanding of the phenomenon; risks arising from the material and financial operations of security sector actors (so called financial risks); risks arising in the field of employee relations and working conditions in the security sector (human resources risks); risks which arise during the performance of regular duties (operative risks); and finally, risks which arise due to deficiencies in control mechanisms in the security sector, whether internal or external.

How do defence system institutions understand corruption?

Neither the National Security Strategy (NSS) nor the Republic of Serbia Defence Strategy (DS) contains a definition of corruption. Moreover, the understanding adopted in the NSS does not see that corruption in the defence system has any consequences. The conclusion that corruption “threatens the core values of society and leads to a loss of trust in state institutions [...]” (Republic of Serbia, 2009: 11) is undeniable, but a more precise description is lacking, both of its defining characteristics and of its consequences.

No single anti-corruption policy exists which is tailored to the specificities of the Serbian defence system. Instead, critical areas where corruption may occur are listed, such as for example, “deviations from the public Procurement Law, the adverse effects of bad contracts, improper management and use of assets, and incomplete implementation of regulations governing specific areas of material and financial operations and construction work,” (Odbrana, 15 Jul 2011) while the involvement of military security bodies in suppressing corruption³⁰ is given as evidence that a concrete policy is in place (Glas javnosti, 17 Nov 2010).

30 The last organized criminal group to be “broken up” by MSA action, in March-April 2009, consisted of eight active and six retired military personnel, involved in illegal allocation of military housing and pensions.

In reply to a questionnaire sent by BCSP, the Defence Inspectorate states that, “as an administrative body within the MoD, its jurisdiction does not include tasks falling within the fight against corruption,” adding that, given that “the detection of corruption in the public sector is a complex and demanding task” which leaves no “documentary evidence”, the Inspectorate is not provided with such authority, rather it is given to the Military Intelligence Agency in accordance with Article 6, Paragraph 2, Item 3 of the Law on the Military Security Agency and Military Intelligence Agency. (BCSP 2012: 12).

Some, but not all risks of corruption and places where it may occur have been identified. In undertaking risk analysis, Ministry of Defence (MoD) experts chose the correct approach, focussing on “the use of discretionary powers” (BCSP 2012: 2) and on the places where corruption occurs. They thus identified the following four groups of risks: (1) the risk of corruption occurring during procurement, (2) the risk of corruption occurring during the allocation of budgetary resources, (3) the risk of corruption occurring during the signing of contracts, (4) the risk of corruption occurring during the selection of personnel (Ibid.).

A somewhat more precise definition was provided by the (former) director of the Inspectorate in an interview with *Odrbrana* magazine in July 2011: “[...] inferior quality or lack of an inventory of movable assets (weapons and military equipment) and fuel; deviation from prescribed procedures for public procurement (at particular phases); the carrying out of preparatory work for the building and adaptation of military facilities on the basis of incomplete investment programmes and the tactical-technical demands of the beneficiaries, without a prior decision being made to build (for new premises) or harmonisation of urban planning with authorised planning permission (which often leads to contract changes); superficial or lack of oversight by superior officers and management during and following liquidation of the material and financial operations of disbanded and reorganised units” (*Odrbrana*, 15 Jul 2011). However, the stance of the system is that this is a matter of “cases not a phenomenon”, and that there is a trend of “reduced occurrence” (Ibid.).

Finally, the subject of the first three reports produced by internal auditors between January 2010 and January 2012 were, in order, “calculation and payment of military pensions, international business travel and public procurement” (BCSP 2012: 6).

The problem is that it is not clear from the MoD’s reply to the BCSP questionnaire whether this analysis results from a specific document (or list of recommendations) and further, it is not possible to conclude whether (and when) it will become publicly available. At the same time, the groups of risks provided should be broken down further in order to clarify where corruption can occur. Thus, in the foreign literature (to be precise, in the understanding adopted by Transparency International) as many as ten subgroups of risks are identified just in the field of public procurement. (Pyman and Wegener 2011: 10).

The Ministry of Defence controls military-commercial establishments whose activities are those of hotel-touristic-recreational businesses, which does not represent the basic activity of the defence system. In the foreign literature, a situation in which the military owns businesses is interpreted as a corruption risk (Transparency International 2012). The Ministry of Defence controls the military establishments “Tara” (two hotels, one annex and one motel on Tara mountain and one hotel in Vrnjačka Banja), “Morović” (a hunting lodge, bungalows and two villas) and “Dedinje” (eight restaurants and a hotel). The SAI’s report emphasises that the financial reports of these military institutions (as well as that of “Beograd 2”, a military institution for the maintenance of buildings and housing) have not been audited (State Audit Institution 2011: 181), meaning that data on the financial management of these institutions is not available.

The available official MoD and SAF documents do not even mention the risks of corruption in peacekeeping operations. Likewise, it is not known whether the MoD or SAF have undertaken risk analysis for corruption in peacekeeping operations. The significance of this omis-

sion increases when it is taken into account that, following the deployment of a platoon-sized unit (50 troops) to the United Nations (UN) operation in Cyprus, it is now planned to deploy a company (150 troops) to the peacekeeping mission in Lebanon (Politika 2012). The experience of the region's countries shows that the risk of corruption increases along with the size of the units which are deployed. The larger the number of soldiers, non-commissioned officers and officers present in a zone of operations, the more opportunities there are for engaging in corrupt relations with local actors. It is therefore necessary to take into account the fact that members of the SAF are to be deployed in south Lebanon, where there is no organised state. One of the basic aims of the UN force is to "follow and support" the Lebanese Army during its deployment south of the Litani river, along the so-called "blue line", the border between Lebanon and Israel. (United Nations 2006: 3). In its 2011 Annual Plan for the Use of the SAF and Other Defence Forces in Multinational Operations (hereinafter: Annual Plan), the MoD provides an "overview of multinational operations in progress and an assessment of their status" (National Assembly 2011: 3–4), but "assessment of their status" does not cover risks of corruption. The Assembly did not even discuss the Annual Plan for 2012.

What risks are related to human resources?

On the basis of the available data and responses received, we note that the greatest risk of corruption in the field of human resources is the system's personnel taking other work outside their normal working hours. However, corruption also occurs during education, recruitment and specialised training, as well as during assessment and promotion.

In November 2010, the SAF Chief of General Staff introduced a Code of Honour for Serbian Armed Forces personnel. This document is particularly significant for us, because it "sets the general moral principles of the military profession, its core values and the standards of conduct of Serbian Armed Forces personnel" (BCSP 2012: 2). Thus, "carrying out one's duties in a competent and professional manner" (Serbian General Staff 2010: 2) is declared as one of the three general moral principles of the military profession, while "dedication to the profession", "discipline" and "dignity" (Ibid.: 3) are three values which we see as linked to the fight against corruption. Amongst the standards of conduct which according to the Code an SAF employee must "nurture" and "develop", we single out the endeavour (of the employee) to "harmonise one's own interests with the general interest" (Ibid.: 4).

The principles, values and standards set out in the main text of the Code are given their fullest expression in four appendices – the Officers' Code, the Non-commissioned Officers' Code, the Soldiers' Code and the Code for Military Officials and Personnel. The provisions of the Officers' Code which are directly related to the fight against corruption include the requirements for officers to "refrain from dishonest means of advancement" and "to prevent conflicts of interest; not to accept gifts, other than as dictated by protocol; to rationally manage financial and material resources and to prevent their illegal allocation" (Ibid.: 6). The Code for Military Officials and Personnel likewise contains a general prohibition of conflicts of interest, but it also forbids "abuse of power and of access to official information" (Ibid.: 9). All four codes or appendices permit personnel to be engaged outside their normal working hours, but only in work which is "worthy of SAF personnel", i.e. in work which does not represent a conflict of interest.

From the standpoint of combatting corruption, we would consider the Officers' Code even more complete were it to contain a closer definition of "dishonest means" of advancement. Likewise, it should have been additionally specified precisely what is meant by "worthy" employment outside working hours, as security forces personnel (armed forces, police, security services) are often engaged as bodyguards or security advisors, a phenomenon which has long been present in Serbia. All the more so, paragraphs 20-25 of article 149 of the Law on the Serbian Armed Forces, which regulate disciplinary violations within the framework of the disciplinary responsibilities of Serbian

Armed Forces personnel, already state that such work is incompatible with the performance of one's duties.³¹

Charges of misconduct in the defence system in 2010 and 2011 were most frequently filed against senior officers (14 charges) and civilian personnel serving in the SAF (8 charges). 4 charges were filed against junior officers and 5 against non-commissioned officers (BCSP 2012: 3).

According to the number of charges brought by the Military Police during 2010 and 2011, **the most frequent crime of misconduct** occurring in the work of the Serbian defence system is **abuse of authority** (13 charges brought against 22 persons). It should be remembered that article 359 of the Criminal Code of the Republic of Serbia (Official Gazette, no. 85/2005, 88/2005 – corr., 107/2005 – corr., 72/2009 and 111/2009) defines abuse of authority as any act in which an official or a responsible individual uses their official position or authority, or in which they exceed the limits of their authority or do not carry out their duties, in order to gain for themselves or for another natural or legal person any benefit or in order to inflict any injury against or seriously infringe the rights of another (person). This is followed by dereliction of duty (2 charges brought against 4 persons), fraud (1 charge against 1 person) and finally, bribery (2 charges against 4 persons). Military Police bodies have not brought charges for criminal acts such as making and receiving illegal payments; illegitimate use of budgetary funds; fraud in office; trading in influence; offering and accepting bribes; and leaking official secrets (BCSP 2012: 3).

During 2010 and 2011, disciplinary procedures have been initiated and carried out against 31 SAF personnel on suspicion of carrying out disciplinary procedures involving some element of corruption. 10 cases resulted in disciplinary sanctions, implying termination of service in the SAF (BCSP 2012: 7).

The MoD organisational unit responsible for human resources has no data about the number of MoD and SAF personnel involved in work incompatible with their official duties between January 2010 and January 2012 (BCSP 2012: 4), from which we conclude that the MoD does not collect such statistics. In fact, it is not even possible, as "Military Police bodies do not keep data on the outcome of the criminal charges which they file" (Ibid.: 3). It is logical that specialised prosecution departments should hold data on the status of the criminal charges which they file, and it is not clear why the Military Police is not aware of this.

A significant number of SAF and MoD personnel have sought and received permission to perform another job outside their working hours, while in some cases such requests have been refused. Thus, in the MoD Human Resources Department in the period between January 2010 and January 2012, 89 professional military personnel and 157 civilian personnel sought the written consent of their superior to perform another job outside their working hours. Interestingly, all these requests were resolved positively.

31 Work which is incompatible with carrying out one's duties is: additional work of SAF personnel which is contrary to the conditions prescribed by law; assuming the duties of director, deputy or assistant director of a legal entity without the approval of the competent state body or violation of restrictions on membership of the bodies of legal entities by professional SAF personnel; the founding of businesses and public services and engaging in entrepreneurship by professional SAF personnel; failure to transfer legal ownership of a business to another person; failure to provide a superior with information about the person to whom legal ownership has been transferred or failure to provide a superior with proof that legal ownership has been transferred by a professional employee of the SAF; accepting gifts for work carried out in contravention of the provisions of the law; accepting services or benefits for oneself or another person or using one's position in a manner which affects the exercise of one's own rights or the rights of person associated with an employee of the SAF; failure to report an interest which an employee of the SAF or a person associated with an employee might have in connection to a decision of a state body with which that employee is involved.

In the organisational units of the SAF General Staff in the same period, 73 professional personnel sought consent to perform another job outside their working hours, of which 9 were refused. Finally, in the Material Resources Department in the same period, 9 persons sought consent to perform another job outside their working hours, all of which requests were resolved positively (BCSP 2012: 5).

The MoD asserts that during 2010 and 2011, no MoD and SAF personnel have started a business (BCSP 2012: 5).

Procedures for the receipt and recording of gifts in the defence system have been established, which meet the recommendations of the Agency for the Fight against Corruption. In accordance with the Rulebook on Gifts to Officials (Official Gazette Republic of Serbia, no. 81/10), by order of the minister of defence, commissions for recording gifts and preparing reports on gifts given and received have been formed in all MoD organisational units. (BCSP 2012: 3). This is an obligation arising from article 39, paragraph 5 of the Law on the Agency for the Fight against Corruption.

The above mentioned Rulebook defines a gift as “money, an object, a right or a service provided without payment of an appropriate fee” or “any other benefit given to an official or associated person in connection with the carrying out of their public function, which has monetary value” (art. 3). It is specified that the value of a gift may not exceed 5% of mean monthly income in Serbia (art. 4), and also that receipt of money or financial instruments may not be considered a gift (art. 3-4). The Rulebook does not specify who may be considered an “associated person”, but does contain a detailed explanation of the procedure for receiving and recording gifts and, particularly importantly, includes examples of forms for declaring the receipt of gifts, and a list of examples of gifts given to officials.

The content of anticorruption training undergone by defence system personnel – if they undergo any at all – is unknown. BCSP’s findings indicate that anticorruption training is organised irregularly and is very selective. At the same time, in order to undergo training organised by civil society organisations, professional SAF personnel must first obtain permission from their superior (to which article 14a of the Law on the Serbian Armed Forces imposes additional restrictions).³² The training programme available on the website of the Agency for the Fight against Corruption foresees no content aimed at combatting corruption in the defence system, but only in the judiciary and police.³³

32 Article 14a states: “Professional Serbian Armed Forces personnel are not permitted to take part in activities aimed at achieving the following goals: reform of the Serbian defence system and Armed Forces; harmonization of regulations with the generally accepted standards and regulations of the European Union; formulation of the defence strategy and Doctrine of the Serbian Armed Forces which determines the composition, organization and formation of the Serbian Armed Forces, operational and functional capacity, use and staffing of the Serbian Armed Forces, preparedness and mobilization, supply of weapons and military equipment, command and control of the Serbian Armed Forces and defence system management, participation in multinational operations and internal relations in the Serbian Armed Forces.” The part of civil society in Serbia which is dedicated to security sector reform, including BCSP, has severely criticized this article.

33 See: http://www.acas.rs/images/stories/program_2011-1.pdf 25th Jul 2012

What are the risks in the field of finance?

The Ministry of Defence has not changed over to the so called program budget. The defence budget is linear in character. Allocations are grouped in two ways: according to their basic functions (e.g. salaries, construction, maintenance, travel expenses); and according to their primary beneficiaries, where allocations to the Defence Inspectorate, the Military security Agency and Military Intelligence Agency are recorded separately. A line budget does not allow us to determine which policy goals will be achieved through any given allocation of money, and so verify whether a particular policy has been effective. This cannot be deduced from the “lines” dedicated to organisational units of the Ministry, such as “employees’ expenses”, “contracted services”, “specialised services” and particularly an entry termed “material”, for which 103 million dinars were planned for 2012 alone³⁴ (National Assembly 2011: 87–88). Only by comparing the wording of the relevant bylaws, such as for example, the Rulebook on Salaries and Other Income of Serbian Armed Forces Personnel, can we establish exactly what “employees’ expenses” are.³⁵ Finally, moving over to a programme budget would make internal and external audits easier.

It is not possible to determine from the defence budget what constitutes the Ministry’s “own income”. The public is thus prevented from following the “cash flows”. The Republic of Serbia’s 2012 budget states that the defence system will be financed, income from the budget aside, from “its own income” (1.29 billion dinars) and “income from the sale of non-financial assets” (0.91 billion dinars). Only by reading the report on the audit of the MoD’s Annual Report for 2010, prepared by the SAI, can we discover that the Ministry’s own income derives in large part from: the Military Medical Academy (546.1 million dinars); the aeronautical institute “Moma Stanojlović” (94.8 million dinars); the Military-Technical Institute (25.4 million dinars); the Military Printers (239,000 dinars) and the Technical Overhauling Institution “Čačak” (237,000 dinars) (State Audit Institution 2011: 52).

On the other hand, non-financial assets are largely sold, transferred or exchanged real estate, i.e. military premises – barracks, clubs, housing, warehouses and firing ranges. In 2010, the total income from transferred property reached 625 million dinars (Ibid.: 65).

The Ministry of Defence does not have complete and accurate records of the real estate used and managed by the MoD and SAF. The SAI report on the audit carried out in 2010 states that “an inventory of general purpose real estate has not been carried out” (i.e. housing, workplaces, garages, parking places), while the “inventory of special purpose real estate and real estate investments had not been completed” (Ibid.:7). The inventories of special purpose real estate and real estate investments give only their values, while the inventory is not complete. (Ibid.: 50). Finally, the financial reports and balance sheets of the MoD, the Defence Inspectorate, the MSA and the MIA issued on 31st December 2010 do not show non-financial assets and capital (Ibid.: 8).

Documentation on movable property used and managed by the MoD and SAF is likewise not complete. Above all, the report of the Central Inventory Commission of the MoD does not give both the real values of movable property and those which are recorded in the accounts. This is a problem which arises in the financial reporting of senior MoD organisational units: the value of movable property is given according to its cost as purchased, without deduction for depreciation.

34 Millions and billions of dinars and euros are given in shortened form, to at least one decimal place in order to save space. The precise figures are known to the authors.

35 Remuneration costs include those incurred: 1) when taking on new personnel; 2) through business travel; 3) through the movement of troops; 4) during service at special military facilities; 5) due to living away from one’s family; 6) to recover part of the cost of renting housing; 7) when resolving housing matters; 8) during training; 9) when moving house; 10) when recruiting personnel for reserve forces; 11) for travel; 12) for non-business travel; 13) in case of death of a person or a member of their family. Quoted from the SAI report, 2011: 77.

Thus, the real state of affairs established by an inventory does not agree with that shown in the accounts (Ibid.: 50).

A particular problem is presented by the fact that an overview of movable property is actually a cumulative representation of reports submitted by no more or less than 121 defence system units, which “creates jobs for material accountants” (Ibid.: 49-50). It is clear that a unified documentation system for immovable and movable property must be a priority for the defence system.

Secondary legislation in the defence system regulates the provision of services according to the requirements of natural and legal persons. However, the public is not aware of even the approximate amount charged for services offered by the MoD and SAF, nor where that money ends up. The Ministry of Defence, in the Rulebook on Material Operations in the Ministry of Defence and Serbian Armed Forces (Official Gazette of the Military, no. 3/09, 2/10 and 19/11) regulates the provision of 24 different types of services to legal and natural persons. However, the Rulebook does not contain prices for the services which the system offers (article 129 of the Rulebook). Instead, article 133 of the Rulebook entrusts the right to determine the price for services to “the officer responsible for making decisions on carrying out services”, who should be guided only by “market conditions” in making his judgement. Thus, the public remains ignorant of the real cost of services, while officers are granted significant discretionary powers. We consider that a better solution would be that chosen by the MoI: the “Regulation on the Level of Fees Charged for Services Offered by the Ministry of Information for the Acquisition of Income” (Official Gazette of the Republic of Serbia, no. 3/09). This Regulation, adopted in January 2009, gives prices for each service listed, as well as methods for payment.

In carrying out an audit, it was noted that, in part of the defence system, calculation and payment for overtime work is carried out beforehand. Articles 85 (para. 1) and 127 (paras. 2 and 3) of the Law on the Serbian Armed Forces provide for increased pay for hours worked beyond full working time. According to the above mentioned Rulebook on Salaries and Other Income, rates of pay are increase by 26% for professional personnel – 20% for a professional driver.³⁶

In carrying out an audit it was established that **employees of the defence system were being reimbursed for travel expenses even during annual leave and other absences from work** Ibid.: 108-109). In addition, due to the manner in which travel expenses are accounted for, and also because of the way in which presence at or absence from work is recorded, as well as the large number in receipt of such expenses, the SAI was not able to determine the total incurred (Ibid.: 109).

There is no internal MoD document which regulates the manner in which real estate is leased out. This is done in accordance with the provisions of the Law on Public Property (Official Gazette RS, no. 72/2011, especially articles: 22, 26, 27, 34), and through the Republic Directorate for State Property (articles 21 and 87). However, as highlighted in the MoD’s response, the leasing of real estate is advertised publicly.

The criteria according to which military real estate is exchanged and disposed of are not clear. Hence, two cases (<http://korupcija.bezbednost.org/Slucajevi/302/Vojska.shtml>) of the most recent practice of the MoD and SAF show just how the exchange and disposal of military real estate represent a risk of corruption. These are the disposal of the “Ledinci” warehouse belonging to the state company “Transnafta” and the building of a new car park for the use of the MMA.

36 Which is again not in accordance with the Law on the Serbian Armed Forces: it is not clear why drivers receive a lower percentage of compensation.

BOX 6: CASE STUDY: "THE NEW MMA CAR PARK"

The lease agreement through which the newly built car park in front of the MMA was given for the use of the state company "Parking servis" is an example corruption risk. There was controversy from the outset of work on building the new car park, with a capacity of 874 spaces. First of all, for a long time it was not known who had ordered the work, or even if permission to build had been granted. Only when the deputy mayor announced that "the army is building a car park" (Politika, 2 December 2009) was the company "Šumadija put" engaged as contractor for the work. However, the City of Belgrade Agency for Budgetary Audit filed a lawsuit against the company on suspicion that the responsible individuals were involved in violations of the public Procurement Law (Press, 25 November 2009).¹

On 2 December 2009, the Ministry of Defence announced that the reason for building the car park was "to overcome the existing problems of the community in the immediate vicinity of the MMA, and to benefit citizens living in this part of the city", and also said that "the car park is being built on land which belongs to Serbia" (Smedia.rs, 2 December 2009). The work was ordered and invested in by the Directory for Construction and Urban Planning Consulting, and the Military Construction Centre (MCC) "Beograd". The Ministry denied that "Šumadija put" was involved, pointing out that prescribed procedures were followed, and an agreement signed with the best bidder, the company "Termomont" (Ibid.).

However, construction work on the car park stopped without explanation one year after it has begun, and after the majority of work had been completed. Reportedly, some of the Ministry's money had gone missing. A journalist for "Blic" was told that work on the car park would be completed "within 10 days of securing additional funds and contracting of works" (Blic, 23 December 2010). At the same time "the process of establishing a strategic partnership with Parking servis" was in progress (Ibid.), after which it was expected it would be known how the car park would be managed and paid for.

Clearly, "establishing a partnership" took some time. The car park did not open until 27 December 2011, almost four years after work had begun (MMA, 27 December 2011). This was property in which the defence system had invested significant resources (according to some estimates 100 million dinars, instead of the originally estimated 41 million) being handed over to "Parking servis". In return, the MMA had received 113 parking spaces for the use of its staff. Again, the logic according to which the disposal of property took place is not clear. Judging from its investment, it is clear that the MoD was capable of building a car park independently to ensure car parking space for its staff. "Parking servis" gained the use of 669 parking places (comparable to the capacity of three public garages) without expenditure and apparently without participating in the financing of the project.

The June 2009 inspection report by the Ministry of Finance's Internal Audit Department – which reports on checks on the implementation of public procurement at the MoD – points to several serious flaws in the material and financial operations of the MoD.

There are indications that building works which are not foreseen in the annual procurement plan are being agreed and carried out. The former director of the Defence Inspectorate³⁷ highlighted this problem in his July 2011 overview of corruption risks. **The cause is above all the fact**

37 "[...] the implementation of procedures for carrying out preliminary work for construction and adaptation of military premises on the basis of incomplete investment programmes and the tactical-technical demands of beneficiaries, without a prior decision to build being made (for new premises) or alignment of urban planning with the planning permission provided (which is a frequent cause of changes to contracts)." As reported by *Odbrana*, 15 Jul 2011.

that construction works are contracted without prior completion or coordination of urban planning and project documentation. For this reason, contracts are changed and the price of works increases. Hence frequent items in the Ministry's annual procurement plan are so called "transitional obligations" and "transitional tasks" (Ministry of Defence 2012: 1-4), which amount to demands for additional payments for already completed works. In 2012, "transitional obligations" and "transitional tasks" applied to at least 60 military premises.³⁸ It thus remains unclear how large the total price of contracted works is, given that projects which should be completed in 2011 are carried over to 2012.

The Regulation on Special Purpose Movable Property (Official Gazette SCG, no. 28/2005), and the **Regulation on Special Purpose Assets** (Official Gazette RS, no. 82/08 and 47/10) **enable the acquisition of a wide variety of goods through so called confidential procurement, which is by its very nature restricted, i.e. it does not permit free competition.** The items which may be acquired through confidential procurement are listed in regulations on special purpose assets³⁹ and vary from institution to institution. According to the regulations in question, the legal procedure does not apply to procurement of certain types of movable property, rather a procedure is used which is not announced publicly. However, the public Procurement Law does not permit absolute exceptions according to the type of goods to be procured.

Lists of goods which can be procured by confidential procurement are generally fairly exhaustive, and as a rule institutions declare a procurement confidential as often as then can, carrying it out without a public call. Data on confidential procurement at the MoD, where confidential procurements amount to 15% of the total, testifies to this practice (BCSP 2012a: 19).

A textbook example of a confidential procurement, for which there is no justification for the claim that it was necessary to declare it confidential, is the procurement of official vehicles for the use of the MoD and SAF. This was noted in the above mentioned report by the Ministry of Finance Auditor. Here we present the case (<http://korupcija.bezbednost.org/Vojska/319/Poverljiva-nabavka-19-putnickih-automobila-za.shtml>) of the procurement of 19 passenger vehicles.

The average number of bidders for an open tender contest under the jurisdiction of the MoD Material Resources Sector Supply Directorate is eight, while at the MoD Material Resources Sector Infrastructure Directorate the average number of bidders is between 4 and 5, depending on the type of procedure (BCSP 2012: 9). The average number of bidders is a significant indicator of corruption: the lower it is, the more this indicates that the procedure is restrictive in nature, and bidders are being discouraged from entering the contest, as well as the possibility of signing prior, cartel agreements. Given that the average number of bidders in public procurement procedures in Serbia has fallen – from eight in 2003 to three (Tanjug, 21 June 2012) – the MoD's practice can be taken as relatively positive.

We have noted a statistical discrepancy regarding records of cases in which only one bidder answered a call to tender. According to the PPO, only one bidder enters as many as one third of procurement processes (33%) run by the MoD (BCSP 2012: 1). According to the MoD's information, only one bidder answered calls to tender by the MoD's Supply Directorate in as few as 1% of cases. In all such cases, a procurement contract was signed with that bidder (BCSP 2012: 9).

The Ministry of Defence does not have a single unit which as part of its responsibilities monitors the implementation of public procurement contracts. Instead, depending on the subject of procurement, the MoD monitors implementation through the beneficiary (BCSP 2012: 9). For ex-

38 We say "at least" because procurements are linked to specific MoD organizational units, and may comprise several premises.

39 "Regulations on Special Purpose Resources" (Official Gazette RS, no. 29/2005); "Regulations on Special Purpose Resources" (Official Gazette RS, no. 82/2008) and "Regulations on Special Purpose Resources for the Use of the SIA" (Official Gazette RS, no. 21/2009).

ample, evaluation of construction works may be the responsibility of the MoD Material Resources Sector Infrastructure Directorate's Department for Technical Control and Supervision. However, according to this Directorate's organisational chart, responsibility for exercising control of works belongs to the above mentioned MCC "Beograd".

Again, it seems to us that responsibility for monitoring implementation of public procurement should be shared between the Defence Inspectorate and the newly established unit for internal auditing or allocated to one of these two units. However, we also note that we are talking here about new institutions within the defence system.

During 2010 and 2011, confidential procurements represented almost 15% of all MoD procurements (BCSP 2012: 10). The Belgrade Centre for Security Policy is unable to take a position on whether this share is excessive (there is no generally recognised, internationally applicable standard), but it is able to note that a significant amount is spent through highly opaque procedures.

A very worrying practice of the MoD is that an absolute majority of public procurements are carried out using low value procurement procedures. During 2010 and 2011, 13,700 low value public procurement procedures were carried out under the authority of the MoD, compared to 461 high value procedures. Low value procurements thus represented 96.76% of the total (Ibid.) This confirms the findings of the BCSP's 2011 research entitled, "Regular Mapping and Oversight of Security Sector Reform in Serbia", which noted that the largest budget beneficiaries resort to low value procurement much more often than using high value procurement – the SIA five times, and the MoI and MoD up to ten times more often.

The essence of corruption in public procurement comes down to the evasion of mechanisms which ensure true competition. (Dobrašinović 2011: 3). One example is "breaking up large procurements into smaller parts, where the purchasers choose the providers themselves" (Ibid.). According to the interpretation of one of the few organisations which have attempted to monitor public procurement practice in state administration, the Toplica Human Rights Centre (and the wider Coalition for Oversight of Public Finances), "it is necessary to abolish low value public procurement, and so eliminate one of the most significant sources of corruption" (Ibid).

We note that there is a statistical discrepancy when it comes to records of cases in which a shortened procurement procedure has been carried out due to urgency. The MoD's answer states that no such cases are recorded for 2010 and 2011 (BCSP 2012: 10). However, the PPO's reply states that the MoD has implemented 8 procurements through a "negotiated procedure, without a public call for tenders, due to urgency" (BCSP 2012: 2). This is significant, given that the Director of the PPO, in his last public address (25 July 2012), announced that in the current year the number of "urgent" public procurements had increased, noting that in the first six months of 2012, budget losses due to irregularities had reached eight billion dinars – three times more than in the whole of 2011. Jovanović judged this situation to be "alarming" (Blic, 25 July 2012).

Which risks are related to the institution of internal control?

The Defence Inspectorate does not have jurisdiction to perform tasks falling within the sphere of the fight against corruption (BCSP 2012a: 12). In a separate reply submitted to the BCSP, the Inspectorate says: "[...] the detection of corruption in the public sector is an exceptionally complex and demanding activity, because the majority of cases of corrupt activity leave no documentary evidence, making it difficult not only to detect, but also to carry out investigative and evidentiary proceedings, thus such jurisdiction is not granted to the Inspectorate, but to the Military Security Agency [...]" (Ibid).

According to information available on the Ministry of Defence's website, The Inspectorate is granted the task of inspecting the "work, material and financial operations and construction activities of the command, units and institutions of the SAF and the bodies and institutions of the MoD" (Ministry of Defence 2012). We conclude that the authority of the inspectorate has thus been widened and strengthened, given that oversight of any kind of material-financial operations or public procurement is not among the inspection work set out in articles 16 and 17 of the Law on Defence (Official Gazette of the Republic of Serbia, no. 116/2007 and 88/2009).

The first results of establishing an internal audit institute in the defence system will only be seen in 2012-2014. Following the recommendations of the State Audit Institute (SAI), in 2011 the MoD established an organisational unit dedicated to internal audit and issued an Internal Audit Charter (Ministry of Defence, 2011), as well as an Ethical Internal Audit Code (Ibid.). Previously, the minister of defence had issued "Guidelines for Implementing the Financial Management and Control System". The first internal auditors were appointed at the MoD Internal Audit Department, starting work on 25 January 2010 (BCSP 2012: 5). In February 2011, the jobs of head of the Internal Audit Department and two internal audit executives were advertised internally. By August 2011, two training courses were carried out aimed at establishing and developing a system of internal auditing. However, according to the words of finance minister Goran Cvejić after a training course held in May 2011 (Ministry of Defence, 2011), a modern internal audit system will be established in the MoD and SAF only after two years of preparation (thus, in the middle of 2013). Internal Audit Reports will be available to the SAI.

The three audit reports prepared so far by the internal auditors should be considered in the context of these preparations (BCSP 2012: 6-7).

By January 2012 the above mentioned two internal audit executives had still not been appointed (BCSP 2012: 5), something which remains a priority for the Internal Audit Department. When they are employed, the MoD's requirements will be deemed to have been met. The MoD expects further help in the form of recommendations from the Ministry of Finance Harmonisation Unit, otherwise responsible for harmonisation of internal audit institutions in Serbia's state administration.

Internal auditors in the defence system will be enabled free and unrestricted access to all activities, managers and their staff and finally to all property, electronic and other data. In particular they will be issued with certification allowing them to access secret data. (BCSP 2012: 6).

Both external and internal audits will be concerned with assessing the appropriateness of expenditure in the defence system only from 2013-2014. In this regard, a particular task of the Internal Audit Department will be to establish the "economy, efficiency, and effectiveness of activities and do this through a system audit, an audit of results and an audit of compliance with regulations" (Ibid.).

Which risks are related to the institution of external control?

In their last term, the relevant committees of the National Assembly did not exercise oversight or control of the financial operations of the defence system, nor did they express interest in the fight against corruption. In its last term (June 2008-March 2012), the Defence and Security Committee did not discuss the content of the draft budget, its accompanying Memorandum or the financial plans of Serbian security sector actors, including the defence system. In the context of proposed amendments to the Budget Law, the Finance Committee did discuss the overall allocations intended for the MoD, but not individual items. According to the SAI's 2011 report, the Finance Committee's discussions did not relate to the defence system (BCSP 2011).

There are too few employees in the relevant expert services of the National Assembly. Employees are not trained to offer support to MPs in their efforts at oversight and control of the financial operations of the defence system. The only official source of information available to them was a brochure published in 2010 by the Information and Research Department entitled “Parliamentary Control of Budgetary Resources” (Ibid.). According to employees, the brochure offers only the most basic information and insight into comparative practice.

The new Rules of Procedure of the National Assembly stipulate that the Finance Committee, “supervises the implementation of the republican budget and the accompanying financial plans in the sense of the legality, expediency and efficiency of public spending, on which it submits a report including recommendations to the National Assembly” (National Assembly 2010). Article 55 of the Rules of Procedure affirms this Committee’s right to consider “other questions” in the areas of the “system of financing [...] final budget account [...] loans, guarantees [...] public procurement [...] property rights and expropriation [...] accounting and auditing” (Ibid.). Thus, **if the National Assembly’s Finance Committee began to apply its powers in relation to security sector institutions – which it has not done until now – another instrument of external control would be introduced.**

No doubt that corruption exists is expressed in rights protection requests submitted by bidders to the Republic Commission for the Protection of Rights in Public Procurement Procedures during 2010 and 2011. Six demands were submitted in total. In all six cases, the reason for submitting the demand given by the bidder was “rejection of bid due to improprieties”. However, there is a significant discrepancy between the statistics of the MoD and those of the Republic’s Commission. According to data available in the “decisions” section of the Republic’s Commission’s web page, there were as many as 20 demands for protection of rights.⁴⁰ It is not clear what criteria were used by the MoD to determine the number of demands submitted (against the MoD).

In the Serbian public procurement system, the State Audit Institute (SAI) is the only body which can decide whether a procurement has been carried out or not. This is the important task of establishing whether the resources allocated in the budget have been used for the correct purpose or spent on something else. The audits carried out by the SAI, important as they are, are of a supplementary and selective character, and do not meet international standards. This deficiency must be rectified by rapid capacity building of internal audit institutions in the defence system, which will be able to cover/test far more procurements than the SAI could in its audit of the financial operations of the MoD in 2010.

The State Audit Institution has still not begun to assess the adequacy of procurement in the security sector (BCSP 2012c: 4). It will begin to do this once two conditions are met: first when the auditors undergo the necessary training; and second, when it is anticipated by the audit programme (Law on the State Audit Institution, article 35).

The State Audit Institution “still lacks sufficient human resources to carry out the work which is its responsibility” (Ibid.: 3). The reason, according to SAI representatives, is “the high standards set”, which “rather hinder the taking on of adequate auditing staff” (Ibid.).

Likewise, the SAI does not possess adequate work space, carrying out its functions in four locations in Belgrade. This “creates problems in communicating both internally and with customers” (Ibid.).

40 See: <http://www.kjn.gov.rs/odluke.html>

Police and Ministry of Interior

Saša Dorđević

Human resources

The MoI's human resources management system entails a strategic approach to managing processes of targeted recruitment, selection, classification, hiring, training, deployment, evaluation, motivation, leadership, promotion, replacement and dismissal of employees (Žilović 2012). Human resource management is a key instrument for realising missions, goals and tasks as expressed in the MoI's strategy for development up to 2016. Preventing corruption through human resource management and removing corruption risks during the commencement of employment, promotion and dismissal is an additional step towards realising the mission of the police. Four corruption risks have been identified at the MoI.

The secondary legislation which brings article 133 of the Police Law into operation has not been adopted. This forbids police officers from undertaking work or activities outside working time which is incompatible with the work of a police officer. It is a significant problem that individual police officers carry out economic activities or other independent professional activity alongside their police work, which is in contravention of the Police Law. To these ends they use both their police powers and police resources. A significant proportion of disciplinary proceedings undertaken for serious misconduct involve police officers accused of involving in so called "moonlighting" through various private security companies and individuals with money. This can potentially amount to the criminally corrupt act of offering protection to individuals who are involved in illegal economic activity, in addition to disclosure of official information. Senior management bears responsibility for such practices as they are obliged to monitor the work of their employees and impose sanctions on such cases. The Ministry of Interior does not currently keep data on the number employees involved in entrepreneurship, nor whether they have sought permission from management to carry out other activities outside working time (answer to BCSP questionnaire 2012).

A sufficiently developed system for external advertisement of MoI vacancies does not exist, leaving open the possibility of corrupt activities such as accepting and contracting bribes or services in return for employment. Up to the end of May 2011, the MoI publicly advertised vacancies at ministerial headquarters on 12 occasions, and at police departments 17 times (answer to BCSP questionnaire 2012). However, these 29 public recruitments were for posts which did not have the status of police officer, but were for positions such as administrative personnel and cleaners. This allows corruption to enter the MoI's process of recruiting personnel with the status of police officers and those who are responsible for carrying out police work. Recruitment takes place in large measure on the basis of membership of a political party, and no attention is paid to candidates' qualifications and training. There are instances of individuals with inadequate work experience and education being employed as police station commanders. (Interview, police officer, anonymous 2012).

There is no system for internally advertising vacancies at the MoI, leaving open the possibility of corrupt activities such as accepting and contracting bribes or services in return for training, transfer or promotion. Police officers wishing to progress up the scale or be transferred have no information about vacancies at the MoI even if they have the permission from a superior which is necessary in order to be transferred. Vacancies and calls for additional training are not

advertised in a way which clearly sets out the criteria for application. Transfer is usually carried out according to membership of a political party or links with family or friends.

A sufficiently developed system of oversight and control of employment of new personnel at the MoI does not exist. This makes corruption possible through employment of individuals convicted of crimes committed in carrying out their official duties. This is in contravention of the Police Law (art. 110), because there is suspicion that police officers who have been previously convicted are returning to duty (interview with police officer, anonymous 2012). In addition, it is not clear precisely how many individuals started work at the MoI between January 2010 and January 2012 as the MoI did not respond to the BCSP's question. Serbia's Independent Union of Police provided information⁴¹ stating that in the last three years 10,000 people have started work at the MoI, among which the smallest number were police officers and operatives, for which there is the greatest need. According to estimates by the director of police in October 2008,⁴² Serbia then required 14,000 police officers, while in April 2011 the chief of police announced that 3000 new police officers were required.⁴³ It is impossible to determine whether 11,000 new police officers were employed in three years or if this is a sufficient number for carrying out the tasks of the police in Serbia. Finally, representatives of the Police Union of Serbia asked question and dilemma in the PIAS report about human resource management at PIAS due to the employment of inexpert, staff, appointed through nepotism, as well as staff who have not built up credibility (Strategic Intelligence Assessment of Corruption 2012: 97).

Finance

Successful management of finances increases the transparency and accountability of the MoI, which is one of the largest spenders of Serbia's budgetary resources as well as having the right to generate its own income. When undertaking asset management it is always necessary to begin with transparent cost estimates as well as analysing legal loopholes for carrying out procurement. The aim is to provide information about the financial situation, opportunities and actual capacity to adapt to an environment in which there is always evidence of a lack of resources. An additional aim is to build methods of internal and external control of the use of disposable assets. (Broadbent / Cullen 2003). Transparent and accountable finance management reduces the risks of corruption at the MoI, of which there are six.

Implementation of large scale procurements for the MoI is carried out on the basis of vague estimates rather than on analysis based on the actual requirements of the ministry. Procurements at the MoI such as those for motor vehicles or training for MoI employees are based on estimates carried out using MoI documents without regard to the situation on the ground or the real needs of police officers. There is a high possibility that such procurements will be unfit for purpose and fail to provide what is actually required to carry out police duties. An example would be the procurement of SUV (such as Ford Transit) for city conditions.

So far, oversight and control of confidential procurement at the MoI (accounting for 55.51 percent of that ministry's total procurement) has not been carried out. Although there is no internationally recognised standard which sets the proportion of total procurement which confidential procurement should represent, it should be asked why there is no control of more than half of MoI procurement.

41 See: <<http://www.vesti011.com/2012/01/mup-za-tri-godine-zaposlio-10-000-poslusnika-u-kancelarije/>>.

42 See: <<http://www.vreme.com/cms/view.php?id=731364>>.

43 See: <http://www.rtv.rs/sr_lat/drustvo/kuribak:-srbiji-nedostaje-3.000-policajaca_249589.html>.

The MoI Internal Audit Service's report is not always available to the Ministry of Finance Central Harmonisation Unit. This deficiency was observed in the reply to BCSP's questionnaire. The report is not always available to the public sector's external assessor of internal audits, the Ministry of Finance's Central Harmonization Unit. Every organisational unit has a legal obligation to carry out internal audits, as this is the basis on which external assessment and control of their work takes place.

All positions within the MoI Internal Audit Service foreseen in the job classification have not been filled. Nine persons are currently employed in the Internal Audit Service (answer to BCSP questionnaire 2012), while the classification foresees thirteen (State Audit Institution 2011). This prevents several internal audits being carried out simultaneously which, given that the MoI is the largest spender of Serbia's budgetary resources, are necessary for proper oversight and control.

Oversight and control of procurement carried out according to a shortened procedure is hindered because the head of the organisational unit in which such procedures are carried out is authorised to initiate them. Given the complexity of the MoI's organisational structure, there is a risk of corruption when urgent and exceptional situations arise in which a police station commander, acting as the head of an organisational unit, initiates procurement according to a shortened procedure, something he is authorised to do (Answer to BCSP questionnaire 2012). This gives the heads of MoI organisational units significant powers which are not subject to adequate control and oversight. It is clear that in certain exceptional situations there is a need to carry out procurements according to a shortened procedure, but there is no clear evidence to show that this process is subject to control and oversight. Thus the unit head can arbitrarily determine when to initiate a shortened procedure, which is a corruption risk. An additional problem is that there is no control of transfers to regional police directorates. This contributed to the lack of consistency between the MoI's accounts and the ministry of finance's books (State Audit Institution 2011: 17).

It has been established that the procedures, directives and instructions adopted by the MoI have not set up a system of financial management and control. The State Audit Institution has found that the MoI, due to a lack of internal procedures and functional weaknesses of the system stemming from inconsistent application of existing procedures, has not established a system of financial management and control in accordance with the Law on the Budget System and the Regulations on Common Criteria and Standards for the Establishment and Functioning of the System of Financial Management and Control (State Audit Institution 2011: 17)

Operational work

The police service is characterised primarily by practical work to combat crime or issue personal identification documents. The police are the state security actors which have most frequent contact with civilians and so represent the greatest risk of so called petty corruption, which is seen most often amongst traffic or border police. In combating police corruption it is necessary to deal with the culture, values and behaviour of police officers, based on accountability and respect for the rules. There are four groups of corruption risks in the police's operational work.

Over 75 percent of police officers do nothing on discovering that their colleagues are involved in corruption (Strategic Intelligence Estimate of Corruption 2012: 37). In closed systems such as the police there is an unwritten rule that one does not report colleagues' mistakes, misconduct or offences. In the rare cases in which reports are made, they are usually directed to a superior in the organisational unit concerned, and there is little chance that corruption will be reported to somebody responsible for external control. In cases in which a police officer is unable to work in a

given environment, he will usually seek transfer to a new police station or organisational unit (Interview, police officer, anonymous 2012).

Illegal issuing of documents (e.g. identity documents, weapons licences, vehicle registration) is the most common form of corruption seen in performing administrative tasks in the MoI. Through such activities, MoI employees represent an integral part of an organised criminal group, using their authority for personal gain. During 2011, one such group was involved in illegally supplying individuals of Albanian origin from the region of Kosovo with biometric identity cards and travel documents (Answer to BCSP questionnaire 2012). Such activities represent direct involvement by MoI employees in criminal acts.

Evidence of corruption in the traffic police is difficult to obtain due to a lack of recording equipment (lapel microphones, cameras to record conversations with drivers). Research⁴⁴ on corruption in the traffic police has established that drivers initiate bribery in the majority of cases in order to avoid paying fines, receiving points penalties or losing their licences, and that police officers are willing to accept bribes between 1000 and 3000 dinars. PIAS research shows that 30 percent of citizens surveyed stated that they had bribed traffic police (Strategic Intelligence Estimate of Corruption 2012: 16).

Police officers are willing to take part in corruption in return for small sums (1000 dinars), low value items or promises of services. PIAS research (Strategic Intelligence Estimate of Corruption 2012: 21) has provided worrying data which indicates that police officers usually accept small amounts of money or (in a smaller number of cases) gifts or promises. Although this appears to be merely petty corruption, the data is far more striking when aggregated and analysed on a monthly and annual basis, especially considering that the MoI is one of the largest ministries in Serbia. For this reason, further research on the extent of petty corruption in the police is necessary. Police officers are prepared to refrain from depriving an individual of their freedom for only 10 euros (Interview, police officer, anonymous 2012). Of course, the background to this story is the inadequate social and economic standards suffered by police officers, which, in conjunction with the underdevelopment of police culture, can be the cause of much harm.

Internal control

Internal control is a system of rules, regulations, procedures and bodies existing within the structure of an institution. Its primary aim is to protect and promote the organisation's integrity by preventing and eliminating any illegality or irregularities which occur within the organisation.⁴⁵ Internal control in the police is the first line of defence in the fight against fraud and corruption. The work of internal control bodies is important as it reinforces the effectiveness of the police's managerial structure by building an early warning system which influences management and other employees. Thirteen groups of risks have been identified in the work of internal control in the police.

There is no document in the police which gives a detailed operationalised definition of police corruption. The MoI's response to the BCSP questionnaire provided no explanation of how the MoI defines police corruption. In the "MoI Development Strategy 2011-2016", the fight against corruption is part of the fourth pillar of MoI development. The Strategy sets the creation of a system of internal and external control and achieving transparency of work as goals. However, this section of the strategic plan does not provide a definition of police corruption. In addition, the National Strategy for

44 See: <http://www.b92.net/biz/vesti/srbija.php?yyyy=2011&mm=12&dd=29&nav_id=569776>.

45 For more information on internal control in the security sector see the fourth section entitled "Corruption in the security sector: internal control".

the Fight against Corruption is not singled out as a programmatic document for combating corruption in Serbia. Nor does the plan highlight the Law on the Agency for the Fight against Corruption, which contains a descriptive definition of corruption which ought to be a guide for the crystallisation and operationalization of the term corruption for all state administration bodies. This devalues the legal obligation for the MoI to create the necessary initial conditions for combating corruption, and to apply national and international standards for the fight.

The independence PIAS's work in the police is compromised by the minister's authority to remove a subject from PIAS's purview and transfer it to another organisational unit. Also, the responsibilities of the three internal control bodies in the MoI – PIAS, the Department for Control of Legality and the Section for Control of Legality in the Gendarmerie – are not delineated. This situation is harmful not only because the minister has excessive discretionary power, but also because internal control is fragmented, which together helps to reduce the effectiveness of internal control.

Neither the risks of police corruption nor their sources have been systematically identified by the MoI. The risk analysis for police corruption currently in force is based on the Strategic Intelligence Assessment of Corruption carried out by PIAS in 2012 as part of the project "Police Reform – Internal Control". This assessment was based on data collected through a survey of civilians and police officers, taking into consideration submissions from civilians and criminal charges which have been brought. Although this document identifies certain areas where there is a potential risk of corruption in the police, these are associated with only petty corruption. In addition, PIAS has only recently begun to initiate criminal and disciplinary proceedings against MoI management.⁴⁶ Because of this, risks of police corruption in higher positions have still not been clearly identified. Finally, PIAS used this document to identify deficiencies and difficulties in its work, while failing to present a clear list of corruption risks in the police.

The MoI has not carried out an analysis of legal norms and procedures aimed at identifying deficiencies and eliminating potential corruption risks in the police. There is currently no evidence that a valid and current analysis of existing legislation is in place, particularly regarding the secondary legislation which regulates the work of the police services. In 2006, the Police Internal Affairs Sector proposed amendments to regulations which could be a source of corruption, but steps have yet to be taken towards implementing these changes. It is currently illogical to begin implementing the recommendations for amending legislation given that the analysis was carried out six years ago, since when new regulations have been adopted. According to active police officers, the existing secondary legislation is outdated and hinders the fight against police corruption (Interview, police officer, anonymous 2012).

The MoI has not initiated a debate about potential corruption of police officers in peacekeeping operations. There is no evidence that MoI representatives or internal control bodies have discussed potential corruption risks in peacekeeping operations. Although participation by police officers in such operations is so far modest, the methods through which police officers can apply to participate in peacekeeping have not been identified and specified. In addition, no control mechanisms exist for police officers taking part in peacekeeping, especially taking into account the fact that there are more opportunities for involvement in corruption in collusion with local actors.

The MoI has not established mechanisms of horizontal coordination between the four internal control bodies. Replies to BCSP's questionnaire establish that there is no single complete database of criminal liability of police officers, given that criminal charges against police officers are brought to the Criminal Police Directorate by both regional police directorates and the Service for the Fight against Organised Crime (SFAOC). In addition, there is no single complete database which testifies to the number of submissions, appeals and complaints made by civilians and police officers about the misuse of police powers. This hinders realistic risk analysis of police corruption.

46 See: <<http://www.politika.rs/rubrike/Hronika/Unutrasnja-kontrola-zavodi-red-u-MUP-u.lt.html>>.

The MoI's strategic reform plan does not specify the control role of the control mechanism, i.g. internal control bodies. According to the "MoI Development Strategy 2011–2016", the basic purpose of control mechanisms is responsible oversight, but not control, of the application of police powers and the impartial implementation of measures against those who commit offences in exercising their powers. Thus PIAS, as the key factor in control, is made responsible merely for oversight.

The MoI has not developed a system of zero tolerance of police corruption, which would consist of a set of measures for eliminating weak points in the police service. There is currently no clear evidence that the MoI foresees a zero tolerance mechanism for police corruption. The fourth pillar of the "MoI Development Strategy 2011–2016" makes no mention of this, even though PIAS has recommended the development of the zero tolerance plan (Strategic Intelligence Assessment of Corruption 2012: 14). Such measures would be significant, as police leadership may have positive influence on the attitudes of police officers by establishing good communication and acting as role models, as well as supporting the view that offences committed by police officers cannot be tolerated. This is an integral part of the development of police culture.

The Police Internal Affairs Sector has not participated in the preparation of integrity plans for MoI employees. It is not clear why PIAS representatives have not participated in the development of integrity plans, as they are the primary control bodies for preventing and combating police corruption. All state bodies and organisations, bodies of territorial autonomy and local self-government, public services and state-owned companies are required to prepare their own integrity plans before the end of December 2012.

The majority of criminal charges brought by PIAS up to the end of 2011 were for criminal abuse of office. According to the European Parliament's report on Serbia, its definition of criminal abuse of office is not compatible with European standards. Thus it is possible to class a variety of acts as criminal, and it is not in fact clear how abuse of office is defined, nor what authority police officers possess according to the Police Law.

A system for protecting whistleblowers in security sector institutions, an essential measure for eliminating corruption risks, has still not been established. Systematic protection for whistleblowers does not exist in Serbia. Only individual legal provisions exist, found in various legal acts. There is no appropriate legal and practical protection for those who report corruption. For now, there is only the modest Rulebook on the Protection of Persons Reporting Suspicions of Corruption. This consists of seven articles, and was adopted in order to operationalize the Law on the Agency for the Fight against Corruption. An example of the inadequate protection of whistleblowers is the case of police officer Milovan Milutinović, who was involved in investigating the "traffic mafia" suspected of falsifying records of the investigation of traffic accidents. This group caused losses totalling around 200 000 to several firms euros by exaggerating reported damage to vehicles. Despite guarantees from the state that his and his family's identity would be protected, the officer's family was subject to threats for an extended period, culminating in his house being set on fire.

There is almost no publicly available information about the work of the Section for Control of Legality in the Gendarmerie, nor is there any legal aid. The Department is the part of the Department for Security and Legality which is, most likely, responsible for ensuring order, discipline and harmonious internal relations in commands and units, as well as the legality of their work (Information book on the work of the MoI-a 2012: 36). The most recent amendments to the Police Law, adopted in December 2011, provide for the organisation and function of special police units, as well as the status of their members, to be defined by secondary legislation which has not yet been adopted. This situation is a significant corruption risk given the large number of civilians taking part in PIAS's research on police corruption who claimed that they had given gifts or bribes to Gendarmerie officers (Strategic Intelligence Assessment of Corruption 2012: 16).

External control

External oversight and control are carried out by institutions which are both organisationally and operatively external to the police service in order to assess the work of police officers (Born et. al. 2012: 183). All such institutions ought to be independent. Because of the strengthening of democratic governance of the police, external oversight and control are significant, and can have a role in increasing the public's trust in police officers as well as helping to improve the work of the police service. Certainly, a major role for external oversight is to ensure compliance of police work with international standards. External control of the work of the police service in Serbia is carried out by Parliament, independent state bodies and civil society. Five deficiencies in external control of the police have been found.

Citizens are not prepared to report police corruption, nor are they informed whether their reports have been acted upon. Only one third of citizens from whom police officers have sought bribes reported the case to the relevant police department, while the remainder told the media or their acquaintances (Strategic Intelligence Assessment of Corruption 2012: 14). In addition, citizens generally do not know whether their reports have been acted upon (Strategic Intelligence Assessment of Corruption 2012: 15). The passivity of citizens and the lack of transparency of work show that a sufficient level of trust that the MoI can respond to the needs of citizens has still not been built. At the same time this fact is paradoxical as, according to MoI research from 2011,⁴⁷ Serbian citizens have the greatest trust in the church, with police officers in second place. To this should be added the results of BCSP's research entitled "What Citizens Think about their Security and the Security of Serbia",⁴⁸ according to which the majority of Serbian citizens feel personally secure, but do not consider that state bodies contribute to that feeling. All this shows that a clear relationship between citizens and the police is yet to be built.

The Republic of Serbia National Assembly's Finance Committee has not begun to exercise the powers which enable it to exercise control of the implementation of the republic's budget and the accompanying financial plans, as well as the legality, appropriateness and efficacy of spending of public resources on the state portion of the security sector. In its last session, the Internal Affairs Committee did not once consider the MoI's spending of budgetary resources.

The State Audit Institution does not possess sufficient material and human resources. The SAI does not currently possess adequate work space. The Institution carries out its duties in four locations in Belgrade, which creates problems in both internal and external communication as well as increasing the total cost of operations (Answer to BCSP questionnaire: 6). In addition, the SAI does not have sufficient staff to carry out its responsibilities (Answer to BCSP questionnaire: 7).

The State Audit Institution still lacks the capacity to examine the appropriateness of spending of public resources. The SAI's strategic plan 2011–2015 foresees the introduction of assessment of appropriateness in 2013, after the implementation of auditor training (Answer to BCSP questionnaire: 14). Assessment of the appropriateness of spending of public resources in the security sector will be achieved with the adoption of the audit programme at the end of each year (Answer to BCSP questionnaire: 15).

There are no clear mechanisms for cooperation between the four internal control bodies within the MoI and Serbia's internal control mechanisms: the National Assembly of the Republic of Serbia, the Ombudsman, the Commissioner for Information of Public Importance and the Agency for the Fight against Corruption.

47 See: <http://www.mup.gov.rs/cms/resursi.nsf/Istrazivanje_javnog_mnjenja_2011.doc>.

48 See: <[http://www.bezbednost.org/upload/document/bcbp_\(2011\)_sta_gradjani_srbije_misle_o_svojoj_i_o.pdf](http://www.bezbednost.org/upload/document/bcbp_(2011)_sta_gradjani_srbije_misle_o_svojoj_i_o.pdf)>.

Security Information Agency

Predrag Petrović

Failures of intelligence cycle management

The essence of the security services' work is collecting and processing data, interpreting it and converting it into meaningful information. The aim of this work is to keep the highest state decision makers informed accurately and in a timely manner so that they are able to make the best decisions. Thus, those who hold power in the state decide on the work priorities for the security-intelligence services, and the security-intelligence services enjoy autonomy in carrying out their work. This whole process can be described as the "intelligence cycle". For it to be successfully implemented, it is very important that all its phases are correctly carried out. However, in reality this is often not the case, leading to failures at all stages of the intelligence cycle. More on this can be seen in the above section entitled "Corruption and the security-intelligence services".

Deviations from main tasks and duties

The main tasks and duties of the SIA are generally set out in article 2 of the Law on the SIA. They include: protection of the security of the Republic of Serbia and prevention of activities aimed at subverting or overturning the constitutional order of the Republic of Serbia; seeking, collecting, processing and evaluating security-intelligence data and information important for the security of the Republic of Serbia and informing the responsible state bodies about this data; and other tasks specified by law. From this it can be concluded that the SIA simultaneously undertakes security, intelligence and counter-intelligence work.

The fight against (organised) crime and corruption are not among the tasks listed, nor does the Law specify the manner in which the Agency should participate in preventing and fighting these security threats. It does mention, however, that Agency employees assigned (in their separate organisational units) to the fight against organised crime, among other tasks, possess police powers (art. 12). But the fight against (organised) crime and corruption has in recent times been one of the Agency's most important tasks. This is shown by the Agency's activities and also by statements from government officials, first and foremost Boris Tadić, the former president of Serbia (two terms in the office from 2004-2012), who on the day of the Agency's annual celebrations mentioned that one of the SIA's chief tasks was the fight against organised crime and corruption and that the Agency had been very successful in this, while saying that he expected further work from the SIA in the fight against these threats (for more on this, see the SIA's webpage).⁴⁹ That this is still today the main task of the SIA, following the formation of the new government in July 2012, is shown by statements from Aleksandar Vučić, first deputy prime minister of the Republic of Serbia responsible for defence, security and the fight against corruption and crime, minister of defence and secretary of

49 Speech by the president of the Republic of Serbia Boris Tadić at the reception marking SIA Day, 17th October 2011, Security-Information Agency: <<http://www.bia.gov.rs/rsc/medijski-materijal/video-001.html>> 20.8.2012.

the National Security Council, who set the fight against organised crime and corruption as a work priority for all of Serbia's security services (including the Military Intelligence Agency).⁵⁰

It follows from the above that the SIA is a law enforcement agency, and not a counter intelligence, security and intelligence agency. The Serbian ombudsman Saša Janković has raised criticisms on several occasions, recommending in a document entitled "Legal, organisational and practical recommendations for improvements"⁵¹ that the police powers of the intelligence/security services be considered, as well as their participation in criminal proceedings. To this we add that part of expert opinion is severely critical of these priorities in the SIA's work, such that Goran Petrović, former head of the State Security Agency has called the SIA "Banjica Police Station"⁵².

The SIA has indisputably achieved significant results in the fight against organised crime.⁵³ However, if this is going to be its chief task in future, regulations are necessary to clearly define the SIA as a law enforcement agency (as with the UK's SOCA for example)⁵⁴. All the more so as the nominal chief carrier of the fight against organised crime in Serbia is the Service for the Fight against Organised Crime at the Criminal Police Directorate.

In democratic systems similar agencies have clearly defined tasks, and it is clearly set out whether and in what manner they participate in the fight against (organised) crime and corruption. For example, the British security service MI5 carries out security and counter intelligence tasks and since 2006 it has not offered support (emphasis added) to the fight against organised crime.⁵⁵ On the other hand, an integral task of the American Federal Bureau of Investigation (FBI) is not only offering support to, but actually participating in the fight against organised crime, but this is clearly indicated in the relevant regulations. U Srbiji bezbednosno-obaveštajnu politiku utvrđuje Vlada Srbije⁵⁶, a Savet za nacionalnu bezbednost utvrđuje prioritete bezbednosno-obaveštajne delatnosti⁵⁷. Međutim, nije poznato da li je do sada Vlada Srbije utvrdila bezbednosno-obaveštajnu politiku, dok smo o prioritetima bezbednosno-obaveštajnih službi mogli nešto saznati od čelnih ljudi Saveta za nacionalnu bezbednost – bivšeg predsednika Republike Borisa Tadića i sadašnjeg sekretara Saveta za nacionalnu bezbednost Aleksandra Vučića. Ovde se postavlja i pitanje da li Vlada Srbije ima (značajnu) ulogu u formulisanju politike, odnosno prioriteta, kako je to predviđeno propisima, ili to zavisi od političara, pojedinaca koji u trenutnoj raspodeli političke moći imaju kontrolu nad službama bezbednosti, bio to predsednik Republike ili pak ministar odbrane.

In Serbia, security-intelligence policy is set by the Serbian government,⁵⁸ while the National Security Council sets the priorities of security-intelligence work.⁵⁹ However it is not known whether the Serbian government has yet set security-intelligence policy, while we have been able to find out something about security-intelligence priorities from the top names on the National Security Council – former president of the Republic Boris Tadić and the current National Security Council secretary Aleksandar Vučić. This raises the question of whether the Serbian government has a (significant) role in formulating policy or priorities, as set out in the regulations, or if it depends on the

50 See, for example, the press release from the meetings of the Bureau for Coordinating the Work of the Security Services: "Vučić: Neće biti zaštićenih." Vesti online, <<http://www.vesti-online.com/Vesti/Srbija/248061/Vucic-Nece-bitizasticenih>> 20.8.2012.

51 The document is available on the ombudsman's web page: <[http://www.ombudsman.rs/attachments/2398_kzs%20\(2\)%20\(5\).doc](http://www.ombudsman.rs/attachments/2398_kzs%20(2)%20(5).doc)> 20.8.2012.

52 Banjica is the district within the Serbian capital of Belgrade where SIA headquarters is located

53 For more on this see: Petrović, P. *Nadzor službi bezbednosti na Zapadnom Balkanu: slučaj Srbija*, Geneva: DCAF, 2012.

54 Serious Organized Crime Agency (SOCA): <<http://www.soca.gov.uk/>> 20. 8. 2012.

55 For more on this see the MI5 web page: <<https://www.mi5.gov.uk/home/about-us/what-we-do.html>> 21.8.2012.

56 „Zakon o BIA.” *Službeni glasnik RS*, br. 42/2002 i 111/2009 – izmena: član 18.

57 „Zakon o osnovama uređenja službi bezbednosti.” *Sl. glasnik RS*, br. 116/2007: član 5.

58 “Law on the SIA.” *Official Gazette RS*, nos. 42/2002 and 111/2009 – amendment: art. 18.

59 “Law on the Organisational Basis of the Security Services” *Official Gazette RS*, no. 116/2007: art. 5.

individual politicians who in the current distribution of political power have control of the security services, whether this is the president or the minister of defence.

Operational work

When raw intelligence material is collected, various irregularities may occur. For example, security service operatives may supply inaccurate, incomplete and/or semi-correct data which does not reflect the real situation in the field. There can be various reasons for such irregularities, ranging from operatives being careless in their work to intentional submission of inaccurate, incomplete and/or semi-correct data. Operatives may submit incorrect data because they are unobjective, because they have particular opinions about the subject of the data, or even in order that their superiors are satisfied with their work. Superior officers themselves frequently have particular opinions which operatives may be aware of, leading them to adjust the data to fit those opinions in order that their superiors are satisfied with their work. This was frequently the case during the existence of the Serbian State Security Service (and Department), which is evidenced by the reports of numerous public figures who have had the opportunity to access the records which the Service kept on them and who have seen that much of the data collected about them is incorrect.⁶⁰

When the security services are involved in pre-trial or criminal proceedings (particularly against organised crime and corruption), the reason for corrupt data may simply be material gain. It can also be the case that a successful conviction of individuals who are known to be guilty is desired, but sufficient incriminating evidence has not been obtained, leading to such evidence being planted.

It is not possible to state with certainty what the situation in the SIA is regarding irregularities in the collection of data over the past two years. On the one hand, the Agency claims that all legal and administrative mechanisms and procedures for protection against abuses and irregularities of this kind are in place, and that these risks have been reduced to a minimum (SIA's answer to BCSP questionnaire). On the other hand it is possible to conclude from interviews and articles in certain media outlets that the situation is not so good, as human resource management at the Agency is subject to politicisation. The consequence of this is the employment of unsuitable staff, which further increases the risks mentioned above.⁶¹

“Extraction” of raw intelligence material

Raw intelligence material can frequently be “extracted” from the security-intelligence agencies and made public and/or passed to individuals, most frequently those holding state office. In this way the rights of individuals are violated as their sensitive personal data becomes available to a much wider circle of people than is necessary. This also threatens the integrity of the intelligence cycle and the services themselves, as raw data is interpreted by inexperienced individuals in a way which suits them. We have recently witnessed confidential data (not only from personal files) being made public through the media. For this reason, one important task on taking office for Rade Bulatović, director of the SIA from 2004 to 2008, was to stop information leaking from the agency.⁶² Dragan Todorović, former president of the National Assembly of Serbia's Defence and Security Committee, has talked of a similar problem: “[...] it would frequently happen at the Committee that we would receive

60 For example, Nenad Konstantinović testified to this in his article, “Police Records, a view from Otpor's perspective”, Hereticus: <<http://www.hereticus.org/arhiva/2004-1/policijski-dosijeji-pogled-iz-ugla-otpora.html/2>> 17.7.2012. as did Čedomir Čupić at a round table on the Draft Law on Data Secrecy.

61 See for example the article: “Why the president publicly denounced the SIA” *Akter*, <<http://www.akter.co.rs/weekly/34-bezbednost/9262-zato-je-predsednik-javno-isprovizao-bia-u.html>> 10.7.2012.

62 “Bulatović ends SIA ‘leaks’” *B92*, <http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=12&dd=08&nav_category=12&nav_id=157443> 10.7.2012.

strictly confidential documents, but before this almost all the newspapers and electronic media would have published information about this which we had received as strictly confidential.”⁶³

Two facts fuel suspicion that the possibility of raw data being “extracted” still exists today. First, the security services are heavily influenced by political parties, who place people loyal to themselves in key positions. Second, the head of the Bureau for the Coordination of the Security Services, Aleksandar Vučić, is a prominent official of a political party who is in personal charge of activities to fight organised crime and announcing publicly the arrest of individuals.

Inadequate intelligence reports

The security-intelligence services may supply state authorities with reports containing unimportant, irrelevant and/or incorrect information and assessments. The reason for this can be unprofessional work by the service or even an attempt to hide information or the service’s failures from decision makers. The services may also write their reports in order to agree with the opinions of political decision makers, presenting what they want to hear (“Intelligence to please”), in order to maximise their satisfaction with the services’ work. Statements such as those of Dragan Todorović (quoted above) and Republic of Serbia president Tomislav Nikolić increase suspicions that the Serbian security-intelligence services write inadequate security-intelligence reports and assessments. Nikolić has expressed much dissatisfaction with the information supplied to him: “Judging by the reports I receive from the intelligence services, nothing happens in Serbia. I’ve even stopped reading them, some days I don’t even open them, I just send them back... If this is the SIA, well then I give the SIA, the MIA, the MSA to whoever wants to run them.” As an example he analysed the situation in Greece, where reports mention civilians who have been detained for being intoxicated, which (Greek) military units are on exercises etc.⁶⁴

Human resources

Party control of human resources management

Recruitment decisions are made by the Agency’s director. Previously such decisions in the State Security Service were decentralised, under the authority of local offices. Consequentially, “the state security chiefs employed their own relatives and friends”⁶⁵. For this reason, the right to make these decisions was centralised and placed under the authority of the head of the State Security Agency. However, this has not reduced the risks of this type of corruption occurring. In fact, in the past decade a partocratic political system⁶⁶ has emerged (Golubović, 2006), characterised by the sharing out of the spoils – the right to manage state institutions – among the ruling political parties. In consequence parties have strong control over the institutions whose management they have been allocated.

63 “SIA: We told Nikolić everything.” <http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=07&dd=03&nav_category=11&nav_id=623466> 10.7.2012.

64 “Nikolić: If the SIA only knows what they tell me, I’ll let the opposition have them.” *Blic*, <<http://www.blic.rs/Vesti/Politika/331128/Nikolic-Ako-BIA-zna-samo-ono-sto-dobijam-od-njih-poklanjam-je-opoziciji>> 2.9.2012.

65 Interview with former intelligence officer (anonymous source), February 2012.

66 Partocracy is defined as democracy featuring partisan politicisation of the state bureaucratic organs, in which competing parties try to capture and dominate posts and institutions. Golubović, Z. Sociološko-antropološka analiza deficita tranzicionog procesa u Srbiji. U: *Filozofija i društvo*, 2/2006. Beograd: Institut za filozofiju i društvenu teoriju.

After each change of government, parties have competed for the right to appoint the top people in the security institutions, particularly the post of SIA director. After the SIA director has been appointed, changes usually follow down the ranks – the appointment of new department heads and employment of new staff. This also happened following the formation of the new Serbian government in July 2012, when first the new director was named, then assistants and deputies, following which changes were made down the ranks, involving the appointment of as many as 50 new department heads and other managers.⁶⁷

Nominally, the process and conditions for appointing the Agency's director and department heads, as well as employment and promotion, are regulated by laws – the Law on the SIA and the Law on Civil Servants. In addition, the Rulebook on Internal Organisation and Job Classification contains a tabular overview which sets the required level of education and work experience for each post, including the leadership, while the Description of Employees' Responsibilities, an integral part of the Rulebook, prescribes the type and field of education and special knowledge and skills employees in each work position are required to have (SIA's reply to BCSP questionnaire). However, according to interviewees, despite the improvements to regulations, the employment of new staff and promotion in the service depend in large part on party interests, which significantly “undermines the integrity and professionalism of the Agency”⁶⁸.

Finance

Confidential procurement

Both expert opinion and the Agency itself agree that the greatest risk of corruption is in the area of confidential procurement. The reason for this must be sought in the fact that the Agency has the right to undertake procurement using a confidential procedure, in order to protect the secrecy of its work. As in confidential procurements the subject of procurement, its characteristics and the quantity required are not known to a wide circle of potential bidders, this not only restricts the principle of transparency but also the principle of competition, which presents a corruption risk. According to the public Procurement Law,⁶⁹ there are two conditions for a procurement to be carried out according to a confidential procedure: that a specific regulation permits it to be declared confidential and that a decision by the responsible body designates it as confidential. The subjects of procurement which may be declared confidential are specified in the Regulations on Selecting Special Use Resources for the Use of the SIA.⁷⁰ In addition, it is emphasised here that, “legislation regulating public procurement does not apply to the procurement of special use resources” (art. 1, para 2). A problem is presented here by the fact that the public Procurement Law does not permit exceptions according to the type of goods being procured, but rather requires that, in each individual case, it is established before confidentiality is declared whether “knowledge by unauthorised persons that such a procurement is being carried out, or knowledge that the subject of procurement has a particular specification, or that it is being carried out by a particular bidder would jeopardise the security of the state or its citizens” (art. 7, para. 1, item 4). In addition, the Regulations permit a confidential procedure to be used for the procurement of the widest possible variety of mobile and fixed assets, including means of transport, furnishings, equipment, tools, accessories, parts, small

67 See for example: “Change of SIA chiefs in progress” *B92*, <http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=10&dd=03&nav_category=11&nav_id=648217> 4.10.2012.

68 Interview with intelligence officer (anonymous source), December 2012.

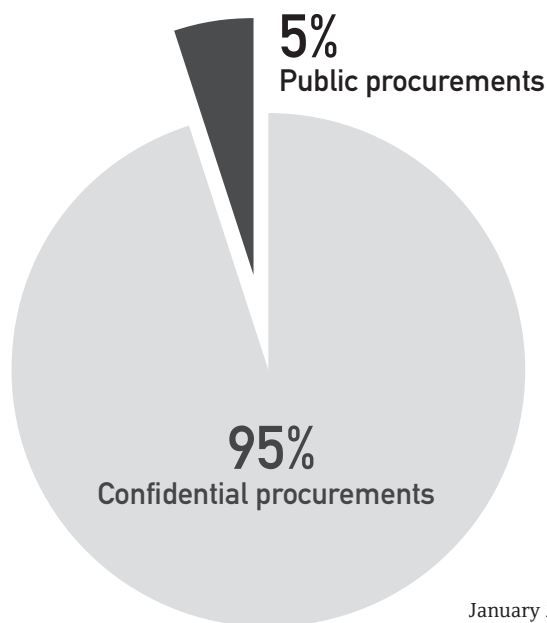
69 “Public Procurement Law.” *Official Gazette RS*, no. 116-08, 2008.

70 “Regulations on Selecting Special Use Resources for the Use of the SIA.” *Official Gazette RS*, no. 21/2009.

items and consumables used for production, maintenance and operation of special purpose moveable items (Regulations: art. 5, para. 1).

When the procurement structure of the Agency is examined, confidential procurement is seen to be dominant. The claim that the SIA uses confidential procurement for goods even when there are no reasonable grounds for this (as required by the above mentioned article 7 of the public Procurement Law) is supported by the recent scandal over procurement of furniture. Journalists from the anti-corruption web portal “Whistleblower” claimed that the SIA had used a confidential procurement process to obtain furnishings for their premises. Although this furniture was procured in accordance with the regulations, two problems are visible here. First, it should be asked whether the furniture really needed to be procured using a confidential procedure, i.e. in what way the security of state and citizens, or the Agency, would be jeopardised if a public procurement process were used. Second, public suspicion that this was a case of corruption was encouraged by that fact that the selected bidder was “Nitea”, a company whose director and co-owner, Vesna Ječmenica, was engaged to Božidar Đelić, who at the time had an important role in the Serbian government and had previously been deputy prime minister (for more on this case see the “case studies” section). It is indisputable that the security-intelligence services must procure a large proportion of their goods using a confidential procedure, but it is also indisputable that they must use this right responsibly, and only when there is a justifiable need to do so.

Figure 2: Confidential and public procurement at the SIA



January 2010 – December 2011

Internal control

Internal control is a system of rules, procedures and bodies existing within the structure of an institution, the primary aim of which is to protect and promote the organisation's integrity by preventing and eliminating any illegality or irregularities within the organisation. These are most frequently laws and secondary legislation regulating internal control and auditing, as well as integrity plans, the service's rules and codes of ethics. Legislation and the service's rules are prescriptive and define what is permitted and what is not, while codes of ethics are aspirational and express the values to be pursued. Internal control bodies, internal auditors and inspectorates are tasked with seeing that legislation and rules are complied with. When these mechanisms and bodies are well developed and function in practice, they enable all problems to be resolved "in house", preventing external oversight and control bodies from having to deal with them. Of course, this does not preclude the necessity for cooperation between internal and external control bodies, nor the need to inform the public about the results of their work. For more on internal control and corruption in Serbia and see the above section entitled "Internal control".

Weak independence of internal control

There are two internal control bodies within the SIA: Internal and Budgetary Control and Internal Audit. Their work is not regulated by law but by internal regulations, which give them sufficient authority to carry out their work properly. These two bodies are under the direct authority of the Agency's director, hence they have little independence in their work and, as the public is aware, they lack the ability to call in external oversight and control bodies in cases where their decisions to eliminate irregularities and illegalities are not complied with. Even when secondary legislation and internal regulations allow them to do this, it is much easier to change such rules than to alter the actual law, which leads to their independence being uncertain and relative. In some democratic states there are separate general inspectors who answer to the government or parliament, and not the chief of the security service, for their work, which enables them to carry out independent investigations of irregularities and illegality in the work of the services.

The SIA has only one internal auditor, despite the job classification providing for more. The Agency claims that one internal auditor is sufficient for the SIA's needs (SIA's reply to BCSP questionnaire).

No integrity plan has been compiled

At the start of 2012, the Agency began the first of three phases of development of the Integrity Plan with a decision by the Agency's director to prepare and implement the Integrity Plan and appoint a working group (answer to BCSP questionnaire). It is not publicly known what stage has been reached in the development of the Integrity Plan, but it has certainly not been completed. In September 2012, the director of the Agency for the Fight against Corruption met the new SIA leadership, as it is necessary for the two institutions to cooperate.⁷¹

The Security Information Agency does not have a code of ethics

The Agency has not devised a separate code of ethics for its employees, but rather applies the ethical code for the conduct of civil servants laid down in the Code of Conduct for Civil Servants (SIA's reply to BCSP questionnaire). However, the problem with this code is that it is prescriptive and applies to all civil servants, and does not take the peculiarities of security-intelligence work into account. In carrying out their duties, security sector employees are confronted daily with difficult

⁷¹ For more on this see the SIA press release: SIA. "Director of Agency for the Fight against Corruption visits SIA." <<http://www.bia.gov.rs/rsc/medijski-materijal/saopstenja-015.html>> 20.9.2012.

ethical choices which other officials in the state administration do not have to face. For this reason, a code of ethics which is valid for the entire state administration cannot be successfully applied to the security services, but rather a separate code of ethics must be designed for them. The best known security services have defined aims and values which they protect and which guide them in their work.

The law does not protect whistleblowers

Whistleblowers in Serbia are currently protected by the Rulebook on the Protection of Individuals Reporting Suspected Corruption, prepared by the Agency for the Fight against Corruption. However, as far as the Rulebook goes, it does not provide a sufficient level of protection for potential whistleblowers. This is particularly so for employees in the security-intelligence services, who may face long prison sentences for disclosing confidential information if they decide to report actions they consider to be illegal or improper. The position of potential whistleblowers is made more difficult by the fact that a large number of documents have not been reclassified according to the new Law on Data Secrecy (which recognises four levels of secrecy). Consequently there are many documents which are classed as confidential despite this not being justified by their nature. Clear legal regulation of whistleblowing not only protects the security services themselves, but helps to reveal illegalities in the services and also prescribes penalties for irresponsible and malicious whistleblowing. The Law on the SIA contains provisions obliging Agency staff members to protect state, military, official and commercial secrets, as well as methods, measures and actions which constitute or contain any such secrets (art. 23). These provisions are justified, but the problem lies in the fact that the Law does not also contain provisions to protect Agency staff members who uncover irregularities and illegalities, as stipulated for example in the Law on the MSA and MIA in art. 42, paras. 3 and 4. As the above case of the MIA major shows, mechanisms of internal protection in the security services are often insufficient, and need to be strengthened and linked to external mechanisms.⁷²

External oversight

Although it usually happens later, external oversight is very important, as the bodies which undertake it are those which are least dependent on the executive authorities. It is carried out by parliamentary committees and commissions, expert oversight bodies and independent state institutions. In Serbia, two committees of the National Assembly of the Republic of Serbia are responsible for oversight – the Security Services Control Committee and the Finance and Accounting Committee, as well as five independent state institutions (ISIs) – the Agency for the Fight against Corruption, the State Audit Institution, the Commission for Rights Protection in Public Procurement, the Commissioner for Information of Public Importance and the Ombudsman. Of these, the first three are directly involved in preventing and combating corruption.⁷³

Weak external oversight

However, up to now external oversight institutions have not achieved significant results when it comes to identifying and eliminating corruption risks in the SIA. The Agency for the Fight against Corruption has been cooperating with the SIA for quite some time over the development of an Integrity Plan for the Agency, but it is still not complete. According to the Agency, the first of three

72 For more on this see: "Ombudsman's recommendations." <http://www.ombudsman.rs/attachments/2220_Preporuka%20VOA.doc> 20.8.2012.

73 For more on this see the chapter on independent state institutions below.

phases of development for the Integrity Plan was begun at the start of 2012 with the decision of the Agency's director to prepare and implement the Integrity Plan and appoint a working group (SIA's reply to BCSP questionnaire). In September 2012, the director of the Agency for the Fight against Corruption met the new SIA leadership, as it is necessary for the two institutions to cooperate.⁷⁴

Significantly, the State Audit Institution is not only able to identify irregular and illegal spending of financial resources, but also to determine whether the resources have been used effectively. Until now, the SAI has only verified the financial reports of the Ministry of Defence and the Ministry of Interior, while the SIA has remained out of its control activities. Also, the SAI has verified only the legality and not the effectiveness of spending, as it does not have sufficient trained staff to carry out this work. The SAI's strategic plan for 2011–2015 foresees the introduction of auditing of appropriateness in 2013.

The Commissioner and Ombudsman are only indirectly involved in identifying and eliminating corruption risks. In 2010, the Commissioner received only one complaint against the SIA related to public procurement, which is still in the process of resolution. The Ombudsman has made one control visit to the SIA, during which he verified whether measures for collecting and keeping secret data were being performed in accordance with the law. The visit resulted in a report and recommendations.⁷⁵

Parliamentary committees have so far not shown any interest in systematic oversight and control of the security services' work. Oversight comes down to adopting reports from the security services' and parties asking questions at committee sessions. Security service budgets, as possible locations for corruption, are not considered at all. In the new parliamentary session the Finance and Accounting Committee will have wider powers for control of the budget, and so will be able to exercise control of the appropriateness of budgetary spending. This can contribute significantly to reducing the risk of corruption in the security services. In addition, the Law on the SAI (art. 46) allows parliamentarians to request special reports from the SAI.

It can be concluded from the above that the potential of external oversight institutions and bodies to prevent and combat corruption in the security sector is not fully exercised, especially if when considering the fact that the majority of these institutions have the right to access confidential data which is necessary to carry out their work.

74 For more on this see the SIA press release: SIA. "Director of Agency for the Fight against Corruption visits SIA." <<http://www.bia.gov.rs/rsc/medijski-materijal/saopstenja-015.html>> 20.9.2012.

75 The report is available on the web page: "Reform Rating": <<http://reforma.bezbednost.org/izvestaj-o-preventivnoj-kontrolnoj-poseti-zastitnika-gradana-bia-sa-preporukama-i-misljenjima/>> 8.10.2012.

Case study: procurement in the Serbian security sector

Danilo Pejović

Experts, civil society, the media, politicians and international institutions have identified public sector procurement as a location of systematic corruption. An insufficiently developed institutional and legal framework creates the possibility that society's wealth will spill into private pockets. Similarly, lapses which occur during the planning or compiling of tender documents can lead to losses in several ways. Such losses arise in cases of overpayment for services, goods and work, and when inappropriate items are procured which are unable to meet or cannot fully meet the purpose for which they have been obtained. The choice of an inappropriate bidder can even lead to the procurement not being completed successfully, and consequently not only to the reopening of the tender process and the spending of resources for that purpose, but also to changes to the terms under which the services procured are offered.

Procurement of the goods, services and work required in the security sector has certain specificities. First of all, procurements are classed as either public or confidential. While public procurements are carried out in accordance with the public Procurement Law and are subject to institutional and public control, confidential procurements are by their very nature exempt from public control, as well as from more detailed institutional control. These circumstances have led to several contentious procurements in the sector which, despite their status, the public have become aware of.

This type of procurement represents a particular risk, as procuring inadequate goods or services or selecting an inappropriate supplier will not only lead to the loss of money and time, but also to an increased security risk, and even to the loss of human life.

Public procurement practice in the security sector

Public procurement in the security sector is carried out in accordance with the public Procurement Law adopted in 2009. Procurement volumes vary from institution to institution. While ministries are large complex systems which have numerous organisational units and various needs when it comes to the goods, services and labour necessary for the institution to function, the SIA is a more unified institution with smaller procurement volumes and less variety in the subjects of procurement. The MoD and MoI have some of the largest procurement volumes.

Public procurement planning

Planning is the first step in the public procurement processes. Whether and to what degree an institution can satisfy its needs, and consequently whether it can respond to the tasks in front of it, depends on the quality of its procurement plan. A procurement plan should define the goods and services required, the funds allocated, the procedure to be used and the time frame within which the whole process will be completed. The preparation of an appropriate plan influences the level of

corruption risk over the duration of the whole procurement process. A well constructed procurement plan can significantly reduce the risk of corruption occurring at later stages of the process.⁷⁶

Public procurement plans, whether for the MoD and MoI or the SIA, are publicly available and supplied in the information books available on the institutions' websites. Some conclusions can be drawn from these plans.

The MoI's procurement plan⁷⁷ for 2012 is based on a model proposed by the Public Procurement Office and contains the necessary information. However, when assessing the values of individual public procurements, the figures given for the value of each procurement are sometimes rounded to the nearest ten thousand dinars, while in other cases they are rounded to the nearest million. These figures indicate not only that a cost estimate based on detailed market research has not been undertaken, or not completed, during procurement planning, but also that approximate amounts have been included. The procurement plan's designers in this case could also have made use of data about previous procurements carried out for the same goods or services in order to determine more accurately the value of the planned procurement.

The MoI's procurement plan for 2012⁷⁸ has a significantly different format from that proposed by the Public Procurement Office.⁷⁹ It can be concluded from this document that the MoD carries out procurements for a whole series of institutions under its authority, ranging from the Military Medical Academy and other education institutions to individual barracks and airfields. The document is more a list of requirements than one to be used as a basis for procurement, as it lacks estimated procurement values and projected time frames for carrying out and completing procurements as well as a planned procedure. However, in some individual cases the document gives procurement volumes in per unit terms.

The Security Information Agency presents its procurement plan in four documents: Public Procurement; Low Value Procurement; Negotiated Procedures Without Public Call for Tenders; and Confidential Procurement (procurements to which the Law does not apply). The first three documents contain all the necessary data specified by the model proposed by the Public Procurement Office. The fourth document contains information about the predicted value of confidential procurement as well as the amount spent on procurements of this type up to the date on which the information book was updated.

With the caveat that, besides the documents in the MoD and MoI's information books, other more detailed documents about public procurement plans also exist, it can be concluded that public procurement plans are written more as lists of institutions' requirements than as documents which should govern the procurement of goods, services and labour. The reason for preparing procurement plans is not only to specify the subjects of procurements, but also to define the time frames and resources necessary to carry them out, so as to best use the institutions' capacities. The MoD's procurement plans do not contain information which would allow them to completely fulfil their purpose, and rather serve to inform the public about what taxpayers' money will be spent on.

76 A properly selected procedure and a well estimated value for procurement are the first barrier for corruption.

77 Available at: <<http://www.mup.gov.rs/cms/resursi.nsf/InformatorMUP-cirilica.doc>>.

78 Available at: <http://www.mod.gov.rs/cir/aktuelno/informator_2010/inf_index.php>.

79 Available at: <<http://www.ujn.gov.rs/ci/documents/models>>.

Chief characteristics of public procurement practice

Za ocenjivanje prakse javnih nabavki koristi se niz pokazatelja koji ukazuju na slabosti tenderskih procedura. S obzirom na raspoložive podatke i na obim ovog rada, za ocenjivanje uspešnosti uzeti su podaci o prosečnom broju ponuda po tenderu i o stepenu ušteda u sprovedenim postupcima za period 2011–2012. godine.

Table 4: Public procurement practices in the Serbian security sector

Institution	Average number of bids per tender	Percentage of tenders with one bidder
Ministry of Defence *	8.9	33%
Ministry of Interior **	3.4	33%
Security Information Agency ***	3.5	6%
National average 2010 ****	3.5	34%
National average 2011 *****	3.2	40%

It can be seen from the above data that the average number of bids received by the MoI and SIA is close to the national average. When interpreting the data it must be borne in mind that formally invalid bids are also included here, so it can be claimed with few reservations that there is no competition in these institutions when it comes to public procurement, as is the case in the whole system of public procurement in Serbia. On the other hand, the MoD has an exceptionally large number of bids per public tender. On the basis of reports on procurements carried out (Ministry of Defence Information book 2012), it is possible to separate out procurements which have an extremely high number of bidders. For example, the number of bids for supplying vehicle maintenance services is 49 as a rule, while in two tenders for fuel oil, the number of bidders reached 316 and 317 respectively (Ministry of Defence Information book 2012). This data should be taken cautiously given the size of the market and the number of companies who do this kind of business. These procurements have certainly raised the average number of bids given in Table 4.

It is possible to pose several hypotheses to explain the large number of bidders for MoD contracts. The first is based on the traditionally high level of trust in the armed forces, military procedures and control, which convinces potential bidders that they will be treated on an equal footing with other bidders and that they will not be the victims of corruption or negligence, as well as that they will be paid within the agreed time frame if their bid is successful. The second hypothesis is possibly linked to the belief in the system of rights protection. On entering the procedure, potential bidders begin from the assumption that this is a properly ordered hierarchical system which will resolve any lapses fairly and in good time. The third hypothesis is based on the relatively modest conditions which bidders are required to meet in order to participate in the process. Which of these hypotheses are correct and to what degree is a question which remains to be answered by future work.

The percentage of ministerial procurements for which only one bid is received is likewise close to the national average, while the percentage for the SIA is significantly lower. As the ministries are large procurement entities, which procure a wide variety of goods and services, it can be assumed that these figures are similar to those on the national level.

* Public Procurement Office 2012.

** Ibid.

*** Ibid.

**** Ibid.

***** Ibid.

In evaluating public procurement practice we take the level of savings achieved compared to planned expenditure as a chief indicator. Table 5 gives a comparison of savings achieved by security sector institutions when carrying out high value procurements.

Prilikom ocenjivanja prakse javnih nabavki kao jedan od glavnih indikatora uzima se stepen ostvarenih ušteda u odnosu na planirane rashode. U tabeli 5 dat je uporedni pregled ušteda institucija sektora bezbednosti prilikom nabavki velike vrednosti.

Table 5: Savings achieved by security sector institutions when carrying out high value procurements

Institution	Planned value (in thousands of dinars)	Agreed value (in thousands of dinars)	Percentage saving (%)
Ministry of Defence 2010 *	4,801,677	4,150,252	13.6
Ministry of Defence 2011 **	5,872,314	5,023,983	14.4
Ministry of Interior 2010 ***	1,567,742	1,471,425	6.1
Ministry of Interior 2011 ****	1,675,399	1,555,774	7.1
Security Information Agency 2011 *****	42,209	39,934	5.4

The given data shows that all institutions have made certain savings compared to planned expenditure. If we compare the data from Table 2 with that in Table 1, we can establish that savings are greater where there is greater competition, i.e. a larger number of bidders per tender. The MoD achieved the largest savings compared to planned expenditure, but these results should be treated with caution because these procurement plans, as already mentioned, are presumably not carried out on the basis of market research, or at least some of them are planned on the basis of some other input. The true picture will be obtained if the price arrived at through the tender process is compared to the market price at the time of payment. This kind of comparison would show the real economies of the procedures being carried out, and answer the question of how large the savings really are, and if there really are any.

Rights protection

Rights protection in public procurement is carried out in two steps. The first step is for the dissatisfied bidder to “complain” to the body undertaking procurement. If not satisfied with the decision, the bidder can refer the complaint to the Republic Commission for the Protection of Rights in Public Procurement Procedures. The percentage of complaints upheld or rejected indicates the level of protection offered to bidders within an institution. The greater the proportion of procurements cancelled on the basis of a complaint received by the Commission, the lower the level of protection inside an institution and vice versa. The greater the proportion of complaints which are rejected,

* Public Procurement Office 2011, Appendix 2.

** Ibid.

*** Ibid. 11

**** Ibid. 12

***** Security Information Agency 2012.

the higher the level of protection.⁸⁰ Table 6 gives a comparison of complaints upheld and rejected or discarded in the period 2010–2011 in security sector institutions in Serbia.

The first conclusion is that a remarkably small number of bidders complain about tenders given the large number of procurements. The MoD for example had 461 large value and 13 770 small value procurements in the given period (answer to BCSP questionnaire 2012). This was, though, a feature of the whole public procurement system in Serbia and speaks more of insufficient trust in the institutions than of compliance with rules and procedures. It is possible that bidders are influenced by the fact that these are institutions of force which “should not be criticised”, meaning that they more easily decide against filing complaints. It is noticeable that the number of complaints upheld is significantly greater than the number of those rejected or discarded, except for the SIA. The figures show that protection for bidders inside the institutions is weak, which clearly indicates the potential risk of corruption in these institutions, as well as the need to perform additional control of procurement processes.

Table 6: Comparison of complaints upheld and rejected or discarded in the period 2010–2011 in security sector institutions in Serbia

Institution	Number of complaints filed	Number of procurements partially or entirely cancelled	Number of complaints rejected or discarded	Other
Ministry of Defence	26	19	4	3
Ministry of Interior	24	13	7	4
Security Information Agency	1	0	1	0

Confidential procurement

Competition and transparency are the chief characteristics of the use of public funds for purchasing. Confidential procurement, however, is not characterised by transparency, which cannot fail to help limit competition, given that the subject of procurement, its characteristics and the amount required are known to only a narrow circle of potential bidders. In confidential procurement, where the need to protect data outweighs the universal rule of transparency of work, there is a risk that this will lead to corruption. Given that the institution of confidentiality is prevalent in other procedures and processes in the security sector, it is no surprise that confidential procurement is most frequently carried out in these institutions.

In order for a procurement to be carried out according to a confidential procedure, it must fulfil two conditions. First, it must be designated confidential on the basis of a specific regulation and then the responsible body must make a decision declaring it confidential.⁸¹

80 Complaints upheld by the Republican Commission must be acted on by procurers, indicating a lapse on the part of the body undertaking procurement.

81 “Public Procurement Law.” *Official Gazette RS, no. 116/08, art. 7.*

Subjects of procurement which may be declared confidential are specified in the Regulations on Special Purpose Resources⁸² and vary from institution to institution. These regulations provide that the legally defined procedure does not apply to procurement procedures for specific types of mobile assets, but rather a procedure lacking a public call for tenders is used. However, the public Procurement Law does not permit absolute exceptions according to the type of goods procured, but rather requires that in each specific case it is determined prior to a declaration of confidentiality whether “knowledge by unauthorised persons that such a procurement is being carried out, or knowledge that the subject of procurement has a particular specification, or that it is being carried out by a particular bidder would jeopardise the security of the state or its citizens”.

Lists of goods which may be procured through a confidential procedure are generally very detailed, and as a rule institutions declare procurements confidential as often as they are able and carry them out without a public announcement. Data on confidential MoD procurement testifies to this practice, as the proportion of total procurement represented by confidential procedures is 15%, while for the SIA the equivalent percentage is 95%. Thus, the procurement of motorcycles for the MoI’s use in 2010 used a confidential procedure (Press 2010) as did that of passenger automobiles for the MoD’s use in 2008.

Conclusion

Procurement procedures in the security sector have the same deficiencies as procurement procedures in other parts of the public sector. With public procurement, it appears that problems start as early as the planning stage. Leaving aside the appropriateness of individual procurements, it can be concluded that there is a failure to assess the value of some procurements, or they are not evaluated on the basis of market research. Expenditure planning for procurement could be significantly improved if the value of individual procurements were more carefully determined, and the time frames for completing the procurements were set according to the institutions’ requirements and the availability of the resources required for completion. As well as potential savings and more rational use of resources, this would lead to there being significantly less space for corruption, as the limit for the acceptability of bids would approach the market value of the goods, services or labour concerned. Planning could be improved by writing guidelines defining the elements to be used as the basis for planning, such as the price of recent procurements of the same type, market prices, an index of price increases in the time between two procurements of the same type, an inventory of consumables, when the subject of procurement will be required etc.

Confidential procurement processes, to which the public Procurement Law does not apply, should be standardised. This implies writing standardised instructions, procedures and model documents which would be used in all institutions which carry out procurement of this kind. Control mechanisms would be provided within the institutions (the existing internal audit bodies, internal control bodies etc.), but also externally (the SAI). These mechanisms would exercise their functions not only after a procurement is carried out, but also during the procurement, and would follow its progress stage by stage. Highlighting and eliminating lapses would be done during the procurement process, and not left until any harm has already been caused, as is currently the case.

Building better mechanisms for protecting bidders would not only reduce the number of failed tenders, but would also increase trust in public procurement procedures, which would consequently lead to increased competition and the creation of more favourable conditions for procurement.

82 “Regulations on Special Purpose Resources.” *Official Gazette Republic of Serbia*, no. 29/05; “Regulations on Special Purpose Resources.” *Official Gazette Republic of Serbia*, no. 82/08; “Regulations on Special Purpose Resources for the use of the BIA.” *Official Gazette Republic of Serbia*, no. 21/09.

Keeping in mind the number of procurements carried out by ministries, it would be justifiable to create a commission to deal with the protection of bidders' rights within institutions, given that the commission which currently makes decisions on individual procurements ceases work once the successful bidder has been chosen. The members of this body would be permanent, and it would make decisions only on the rights protection requests which are submitted to it. Responsibility for the outcomes of requests would be defined, and the place where decisions are made would be elsewhere than where the other participants in the process are located.

Consolidation of small value procurements into larger ones would not only contribute to material savings, but would also mean that human potential would be more effectively utilised due to a reduced number of procedures and easier control of the fulfilment of contractual obligations. In cases where consolidation is not possible, a single procurement could be divided between several parties.

Confidential procurement should be standardised. This should involve the setting down of procedures, development of model regulations and definition of the circle of individuals who have access to data about procurements. Control mechanisms within institutions (internal auditors, internal control, inspectorates) and externally (the SAI) should have control of all stages of the procurement process. This would avoid lapses being noted only after the damage has been done, because then it is too late to repair or mitigate the consequences.

A particular problem in security sector institutions which is directly related to procurement is the protection of whistleblowers. As these institutions' work is generally under a veil of secrecy, and by the nature of their work the amount of secret data is greater than in other institutions, there should be a two track solution to the problem – adoption of appropriate legislation to protect whistleblowers and promotion of the idea that whistleblowing is not the same as informing, but is a useful activity for both the institution itself and for society. These documents should stipulate that as well as using mechanisms of protection (from dismissal, demotion, pay cuts, harassment etc.), it is also possible to revise the confidentiality of data and documents, so that abuses can be reported outside the institution. There would also be incentives for employees who highlight abuses and illegalities, such as financial compensation, praise, faster promotion in the service etc. The legislation should determine the difference between whistleblowing and complaints aimed at asserting one's own rights.

IV The fight against corruption in the security sector

Unending battle

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Corruption in the security sector: internal control

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Independent state bodies and the fight against corruption

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Unending battle

Miroslav Hadžić

The citizens of Serbia, regardless of their own will, constantly find themselves in a maelstrom of several of many battles in which they and/or their political representatives are fighting for or against something or someone. Regardless of the changeable goals, opponents, tools and weapons, it seems as though Serbia is always in conflict whether with others or with itself. A prolonged state of unfinished (frozen) external and internal conflict requires from a state's subjects a high level of combat readiness. If by some chance they absent themselves from the ceaseless battle, they are at least expected to wholeheartedly support their party and state leaders. At the same time they are advised to spare their brave troops and leaders any unpleasant questions about the goals, costs and results of their easy sacrifice of others for the survival and improvement of their threatened homeland. Obedient citizens are above all strongly advised to avoid carping too much about their (human) rights.⁸³ Instead, they should give the state and its potentates in advance their blind consent for even more ruthless and more frequent use of batons and rifle butts, and for the unrestricted and secret collection of data about themselves and their fellow citizens.⁸⁴ Hence, unofficial opportunities for state informers are always available, while those for whistleblowers may always be closed.

Thanks to all this, Serbian citizens are still surrounded by the aggressive language of war and conflict. Hence a significant number of them do not lack the motivation and commitment needed to take part in one of the on-going battles. Anyway, they cannot avoid the consequences, especially the bad ones, of the battles being fought in their name. An immeasurable contribution to the linguistic maintenance of the state of siege (mentality) is provided by the senior officers of Serbia's political class. In their speech and action, everything, and especially politics, is ultimately reduced to a decisive fight or battle. In accordance with this, then, even power won through elections, or subsequently purchased on the inter-part stock market, becomes the booty of the winning person or party. This allows power thus acquired to be ruthlessly and arbitrarily used, above all, for personal and party ends. Hence, in Serbia today, according to the statements of top state officials, as well as the inter-party and patriotic struggles, parallel battles are being fiercely fought against⁸⁵ (otherwise unproven) terrorism of all kinds, organised crime, drug addicts, people trafficking and the human organ trade, some kinds of extremism, hooliganism, various sects and so on. No less energy is spent in Serbia on various battles against a multiplicity of Others. On the front line against corruption are, of course, the fearless and untiring combatants of state and party and their supporters in the media.

Opting for "fight" directly indicates how our rulers understand corruption in Serbia, and how they want abolish it. This view of corruption sees it as a social weed which sprouts up suddenly, requiring only the will and the ability to pull it up. The next step is to reduce it to greater or lesser material and financial dodgy dealings and abuse. Thus, corruption, no matter how widespread, is turned into incidental and transient harm, which can be easily eliminated if only those in power seize some quixotic messianic ambition. In this approach, of course, someone else is always guilty for the emergence and re-emergence of corruption. Thus, each new team which takes power attributes all responsibility for its proliferation to its predecessors. Even if this is the case, as indicated by serious suspicions of corruption during Boris Tadić and the Democratic Party's time in power, this will not make much contribution to an understanding of the true nature and extent of corruption in Serbia. The discomfort and anxiety of citizens will of course be reduced if they at least sometimes learn something more about who is involved in corruption and how much they have profited. If by some miracle these suspicions are confirmed in court, this is a good reason for nationwide rejoicing. It is hard, then, not to get car-

83 <http://www.blic.rs/Vesti/Politika/342934/Dacic-Izem-ti-takvu-Uniju-u-koju-je-gej-parada-ulaznica>

84 <http://www.poverenik.rs/sr/saopstenja/1370-nadzor-nad-sprovodjenjem-zzpl-kod-operatora-mobilne-telefonije.html>

85 http://www.srbija.gov.rs/vesti/dokumenti_sekcija.php?id=45678

ried away with the seductive idea that corruption in Serbia, can be defeated through one-off battle acts by well-meaning and honest state leaders.

Starting this battle, no matter how welcome this is at any moment, keeps hidden from public view, intentionally or not, the key sources and long term causes of the submersion of the Serbian state and its communities in corruption. The effectiveness of the fight against corruption is more eloquently described by that which its bearers do not say than that which they speak of in public. Hence their silence about the wartime sources and producers of corruption is deafening. Similar is the harmonious silence about the participation of former military, police and secret service elites and their subordinates in the wartime destruction of the social, economic and moral fabric of the national community. Also left without proper public recognition is their wholehearted contribution to the radical criminalisation of Serbia and the comprehensive corruption of mainstream society. It is thus difficult to expect their successors to properly measure guilt and mete out appropriate penalties, because they are from the same litter. The state's silence over the role in all this of the political and military commanders of these formations is even louder. Noisier still, because their erstwhile – although by their own admission democratically transformed and purified in the meantime – party and ministerial envoys have returned to power.

Moreover, in the peace which the war imposed, the work which had been started was successfully completed through the plunderous privatisation of what little remained to Serbia and her inhabitants. Our political class, through the combined efforts of parties of all colours, achieved its final victory over its subjects with the renewal and strengthening of the party state and the privatisation of its authority and power. It is difficult, then, to avoid the impression that the campaign against corruption largely serves as a front for the continuing fight between party elites and their leaders for authority and power. And after all the same end was served by two decades of inter-party bickering over who was the greater patriot and who could inflict the most damage not only on the hated enemy, but also on the beloved Serbian nation.

Hence, the “battle against corruption” offers additional personal benefits to its strategists and commander in chief. Any battle, no matter how ruthless, and particularly one fought for a common cause and a worthy goal, always has a romantic note, because there are victims and defeats on the side of right, not only that of the enemy. It also demands personal bravery and willingness to sacrifice from its participants, while for those who survive the battle politically, it brings triumphal arches and laurel wreaths fashioned from the ballot papers of the gullible and uninformed. Thus, each participant in the battle against corruption, and in particular the leader of the battle himself, can easily seem a mighty hero in his own mirror. They should be forgiven for not resisting the captivating call of love for themselves and their historic act. But if the people remember this at the elections, the worse for them. In any case, nobody can take away from them their place in the mausoleum which celebrates their accomplishments and those who have been sacrificed for the homeland.

No less generous are the political gains that the First Fighter can attain through the constant fight against corruption. It offers immediate justification for the appropriation of almost unlimited powers over the state organs of coercion and eavesdropping. At the same time, he gain possession of secret information about innumerable inhabitants of this country, and be tempted to use them for the benefit of his party or himself. This is to leave to one side the fact that he may also, even without his knowledge, become the client of the real but hidden controller of the centre of security power. This is even easier because in the final analysis, who ends up on the list of suspect individuals depends on those who possess the secretly collected information about the largest grafters and plunderers. One should not, therefore, entirely exclude the possibility that the Head Fighter against corruption is provided with an incomplete and selective list of suspects. Hence, it is reasonable to assume that some of those missing from the list have in the meantime become (un)willing associates of our security services. This is nothing strange given that blackmail is one of the most effective ways of recruiting new and obedient informants.

However, the Head Fighter can also obtain some tactical benefit for himself from this fight. He has the ability, independently and according to his own needs, to name the enemies and set the battle aims, as well as selecting his co-fighters and the tools and weapons for the battle. In carrying out his battle plans, on condition that he has any, he can also set his sights on only some of the local producers and perpetrators of corruption. This allows him, if he finds it useful, to exempt some of them from the consequences of their actions, or to conclude an alliance with them (even if only temporarily). Above all it seems that the First Fighter has obtained (seized) powers which allow him to decide for himself at what moment the fight will begin, and when his battle campaign, regardless of actual results, will be triumphantly completed. It is no bad thing to remember that in this battle “the dead are counted at the end”.

In spite of what has already been said, any action by whichever government which intends to or succeeds in reducing the damage suffered from corruption in Serbia is more than welcome. Indisputably, any fight against corruption, no matter how intermittent and selective, may contribute at least partially to the healing of our community. Nevertheless, it should always be kept in mind that corruption is a practically indestructible plant, and that it is characteristic of all social and political communities, including our own. The on-going fight can only transcend the narrow barriers of the current campaign if the Serbian state and its inhabitants are provided as soon as possible with the procedures and tools needed for long lasting protection from corruption, or at least for its reduction to a tolerable level. To that end, it is necessary to first establish the key causes and culprits of Serbia’s decades-long collapse, and then to calculate the account balance and the price of the decline. Then, our public administration system should be equipped with protective and anti-corruption mechanisms, whose effectiveness does not depend on the (bad) will of the political officials in power. But all this requires fundamental economic, social, legal and political modernisation, and radical democratic reform of the Serbian state. Only under those conditions can both demand and supply on the wild market of corruption be expected to fall. In other words, only when the Serbian state and its rulers are able (willing) to deliver sufficient public goods to its subjects (voters), and when those goods are made available to all on equal terms (in principle), will endemic corruption be left without the most powerful fuel which drives it. These aims can only be achieved, though, through long term, planned and painstaking, and not uncoordinated action by the government and citizens. However, since this is a project which in today’s Serbia carries high political (electoral) risk, it is no wonder that this government, like all its predecessors, has bowed to the “heave ho” one-off assault model of settling scores with corruption.

Corruption in the security sector: internal control

Bogoljub Milosavljević, Saša Đorđević

It has not been so far been systematically researched whether and to what degree the armed forces, the police and the security services are affected by corruption. For this reason it is only possible to speculate as to what the sources for corruption are, how it is manifested and who its bearers are. It is almost impossible to evaluate the material and security consequences of corruption. Because of this, it is first necessary to investigate the framework within which internal control bodies work. These bodies should enable the executive authorities to exercise oversight and control of the legality of the work of the state security sector.

This chapter first establishes the importance of internal control bodies in preventing and combating corruption. Following this, it deals with the general legal framework in which internal control bodies operate in the state security sector in Serbia, as well as the way in which security sector institutions define corruption. It is necessary to do this in order to establish the environment in which internal control bodies work. Next, the “identity” of control bodies and the scope of their work is examined, and finally the challenges which will be faced by internal control bodies in combating corruption are identified.

Importance

Internal control is a system of rules, regulations, procedures and bodies existing within the structure of an institution. Its primary aim is to protect and promote the institution’s integrity by preventing and eliminating any illegality or irregularities which occur within the organisation (Petrović 2012). The internal control system should offer guarantees that the state security sector will act in accordance with the principles of democratic society. The legal and strategic framework governs, directs and encourages internal control bodies to exercise control of the legality of work, thus preventing and combating corrupt acts. Internal control bodies are an essential part of formal control of the state security sector, and are found in practice of the majority of states (Milosavljević 2004: 26). For this reason, all internal control systems in the security sector should be part of state security policy.

Security policy establishes internal oversight and control bodies, their tasks and the procedures they use in their work. When security policy is decided, it is necessary to anticipate the human, material and financial resources required for the work of internal control bodies. It is only this way that internal control bodies can take appropriate measures to combat abuses. They will then be able to comprehensively monitor the work of the security sector institutions to which they belong, and in particular the leadership of organisational units at the national and local level. In consequence, they will affect work accountability, the reputation of security sector institutions and respect for international ethical standards. Finally, the damage caused by corruption will be reduced. When a state’s security policy is designed in accordance with democratic standards and the best practice, the conditions for internal control bodies’ work are also fulfilled on three levels of security sector institutions’ work. At the individual level, all state security sector employees are aware of the control mechanisms of their own institution. At the process level, it is established that it is compulsory to document all daily tasks and their performance in accordance with the existing rules and procedures, which should be constantly amended as corruption risks are identified. At the organisational level, internal control bodies are able to identify and eliminate risk points where corruption may arise (Andersson 2012: 160).

The work of internal control bodies in the state security sector reinforces the effectiveness of the leadership structure of the armed forces, police and security services by establishing an early warning system, which influences both leaders and other employees. The existence of such a system enables leaders to identify and prevent possible abuses by their employees, as they are aware of the points of risk where corruption occurs. Leaders have twofold powers. They impose sanctions and should set standards of conduct for all other employees (McCrie 2007: 321), but they are also possible holders of corruption. Internal control bodies should conduct control of leaders while working with them, as they have responsibility for the work of other employees. Certainly, the most reliable information about illegal actions by state security sector employees comes from the institutions themselves (Born, Leigh 2005: 43). Establishing an early warning system creates a mechanism of internal control which then helps to improve the reputation of security sector institutions at both national and local levels. The work of internal control bodies helps to increase the accountability of security sector institutions, as they take account of legal and correct work by other organisational units. Finally, it is they who can encourage respect for ethical standards.

Framework

In Serbia there is a relatively developed legal framework for the fight against corruption. However, problems can be posed by the framework's suitability, its internal coherence and harmonisation with the field's strategic objectives, and particularly its effective application. This is most clearly seen when analysing the definition of corruption generally used in the security sector. Likewise, it is easy to perceive that the legal framework is emphatically directed towards repression rather than towards preventing corruption. In addition, planning for the fight against corruption in Serbia is based on an outdated document which uses a definition of corruption used only by the MSA (MSA, Answer to BCSP questionnaire 2012: 1).⁸⁶ This situation ought to change by the end of 2012, when it is expected that a new strategic document will be adopted (Novi Magazin 2012). Once it is adopted, use of this document should be compulsory for all security sector institutions.

Legal framework

In analysing corruption in the state security sector, the legal framework may be broken down into: (1) regulations which relate generally to corruption in all fields, and consequently to security sector institutions; and (2) regulations which relate specifically to state security sector institutions.

Ratified international agreements, laws and certain policy documents make up the first group. The ratified agreements are: the UN Convention against Corruption,⁸⁷ the UN Convention against Transnational Organised Crime (and the Protocols Thereto),⁸⁸ the Criminal Law Convention on Corruption (and the Protocols Thereto),⁸⁹ and the Civil Law Convention on Corruption.⁹⁰ The most important laws are: The Law on the Agency for the Fight against Corruption, substantive and procedural

86 Based on replies from the armed forces, the police and the security service to BCSP's questionnaire.

87 "International Agreements" *Official Gazette SCG*, no. 12/2005.

88 "International Agreements" *Official Gazette SCG*, no. 6/2001.

89 "International Agreements" *Official Gazette SCG*, no. 2/2002 and "International Agreements" *Official Gazette SCG*, no. 18/2005.

90 "International Agreements" *Official Gazette SCG*, no. 102/2007.

criminal legislation,⁹¹ the Law on the State Audit Institution and the Law on Civil Servants.⁹² From other legislation, the National Assembly's Rules of Procedure, the Code of Conduct for Civil Servants and certain government decrees should be noted, and from policy documents, the National Strategy for the Fight against Corruption and the action plan for its implementation.

In the second group, most importantly, are found certain provisions of the Law on the SAF,⁹³ the Law on Police,⁹⁴ the Law on the Organisational Bases of the Security Services,⁹⁵ the Law on the SIA⁹⁶ and the Law on the MSA and MIA.⁹⁷ There are also secondary ordinances from the government, the ministers responsible for defence and interior affairs and the SIA director, which regulate, within the framework of legal authority, the regime for special use resources, confidential and small-value procurement procedures, the position and work practices of internal control bodies, responsibility for employee discipline and other matters. Codes of ethics have also been adopted: the Code of Ethics for SAF employees (which is applied in both military security services) and the Code of Police Ethics (which also applies to SIA employees). Both codes, among other things, forbid corruption and insist on the integrity of armed forces and police personnel, although infringements of the codes, which are still not sanctioned in legislation as misdemeanours or disciplinary offences, are considered minor violations of work obligations.

Finally, the second group of regulations also contains internal (confidential) documents which regulate a range of issues important for the fight against corruption. Although regulation using this type of legislation can be justified by the nature of the role of the armed forces, police and security services, the fact is that it is this legislation which is generally applied, and that it is precisely there that certain procedures and conduct which is important for the fight against corruption are regulated. Examples are confidential procurement, selection, deployment and promotion of staff and allocation of special purpose resources. Because the character of confidential legislation leads to insufficient transparency and less control of its application, it is reasonable to conclude that the amount of such legislation should be reduced, i.e. brought down to a realistic level. This would not only reduce the risk of corruption, but would also strengthen the public's trust in these institutions.

Definition of corruption in use

The first descriptive definition of corruption in Serbia's legal system is provided by the Law on the Agency for the Fight against Corruption.⁹⁸ In contrast to some earlier legislation in which criminal acts of corruption were listed, this law defines corruption as "a relationship which is based on the abuse of one's official or social position or influence, in the public or private sector, aimed at attaining personal benefit for oneself or another".⁹⁹ Defined in this manner, corruption has a wider scope in our legislation, and is significant because it should represent a guideline for other laws which operationalize acts of corruption (Đ. Đorđević 2011: 99). In addition, security sector institutions should apply a provision defining corruption in this manner without regard to its deficiencies (Box 7), as well as further solidifying and operationalizing it in all security sector institutions, according to their role in combating corruption.

91 Criminal Law, Criminal Procedure Code, Law on the Organisation and Jurisdiction of State Bodies in Combating Organised Crime, Law on the Confiscation of Property Obtained through Criminal Acts, Law on the Liability of Legal Persons for Criminal Acts.

92 Also important are: Public Procurement Law, Law on the Budget System, Law on Financing Political Activities, Law on the Protection of Competition, Law on the Oversight of State Aid.

93 *Official Gazette RS*, no. 116/2007, 88/2009 and 101/2010 – other laws.

94 *Official Gazette RS*, no. 101/2005, 63/2009 – Constitutional Court decision and 92/2011.

95 *Official Gazette RS*, no. 116/2007 and 72/2012.

96 *Official Gazette RS*, no. 42/2002 and 111/2009.

97 *Official Gazette RS*, no. 88/2009 and 55/2012 – Constitutional Court decision.

98 *Official Gazette RS*, nos. 97/2008, 53/2010 and 66/2011 – Constitutional Court decision.

99 *Official Gazette RS*, nos. 97/2008, 53/2010 and 66/2011 – Constitutional Court decision: art. 2, para. 1.

BOX 7: DEFICIENCIES OF THE DEFINITION OF CORRUPTION IN THE LAW ON THE AGENCY FOR THE FIGHT AGAINST CORRUPTION

According to the Law on the Agency for the Fight against Corruption, corruption is a “relationship”. However, it does not mention between whom or what the relationship exists, nor that there is a possibility that one person may abuse their authority for personal gain without interacting with anyone else. Also, according to the definition, corruption involves the misuse of authority or influence, omitting the fact that corrupt activity begins at the moment a benefit is promised, without regard to whether it is realised (i.e. misused). The definition does not mention the victims of corruption. (Ćirić et al. 2010: 191–192).

The Ministry of Defence defines corruption as one of the contemporary challenges, risks and threats facing the security interests of the country and its defence needs (MoD, answer to BCSP questionnaire 2012: 1). Although this understanding of the consequences of corruption is entirely correct, it is unusable in practice, because it emphasizes the security risk of corruption as a purely non-military threat. An additional obstacle is that the MoD recognises neither the definition presented in the Law on the Agency for the Fight against Corruption nor the National Strategy for the Fight against Corruption as programmes which the fight against corruption in public administration, including defence, should follow.¹⁰⁰

The situation is even less clear at the MoI, which did not respond to the question of how that institution defines corruption (MoI, answer to BCSP questionnaire 2012: 1), despite being responsible for ensuring conditions for combating corruption in the police.¹⁰¹ Moreover, one of the main pillars of police reform is the strengthening of internal oversight of work, but not of the use of police powers (MoI 2010: 21). Like the MoD, the MoI has not recognised the definition of corruption provided by the Law on the Agency for the Fight against Corruption, despite being obliged to adhere to national and international anti-corruption standards in carrying out police work.¹⁰²

The security services also lack their own definitions of corruption, set out in a formal legal document. When recognising and suppressing corruption, the definitions provided in the National Strategy for the Fight against Corruption (MSA)¹⁰³ and the Law on the Agency for the Fight against Corruption (SIA and MIA)¹⁰⁴ are used. For criminal prosecution measures, elements provided by the criminal legislation for each specific crime are used.

In this regard, it would be fully justified for integrity plans to include a wider (i.e. more comprehensive) and solid definition of corruption, specifically covering those risks which are specific to the powers and position of employees, i.e. to the jurisdiction of each security sector institution. This should certainly also include forms of so-called petty corruption, which evade legal definition or which are not covered by criminal legislation due to their low risk to society. Many countries dedicate considerable attention to the problem of so-called petty corruption, because, as well as undermining the authority and tarnishing the image of a service which must have integrity, it can

100 It is interesting that the Defence Inspectorate uses the definition of corruption given in the Law on the Agency for the Fight against Corruption (MoD, answer to BCSP questionnaire 2012: 59).

101 “Police Law” *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 7.

102 “Police Law” *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 12.

103 “Corruption is a relationship involving the misuse of authority in the public or private sector for one’s own or another’s benefit.”

104 “A relationship which is based on the abuse of one’s official or social position or influence, in the public or private sector, aimed at attaining personal benefit for oneself or another.”

often be the gateway to the much more serious type.¹⁰⁵ Refining the definition of corruption as described may contribute to the overall efforts to combat this damaging phenomenon, especially its timely prevention. Likewise, it may contribute to setting clearer requirements for safeguarding the integrity of the services' employees.

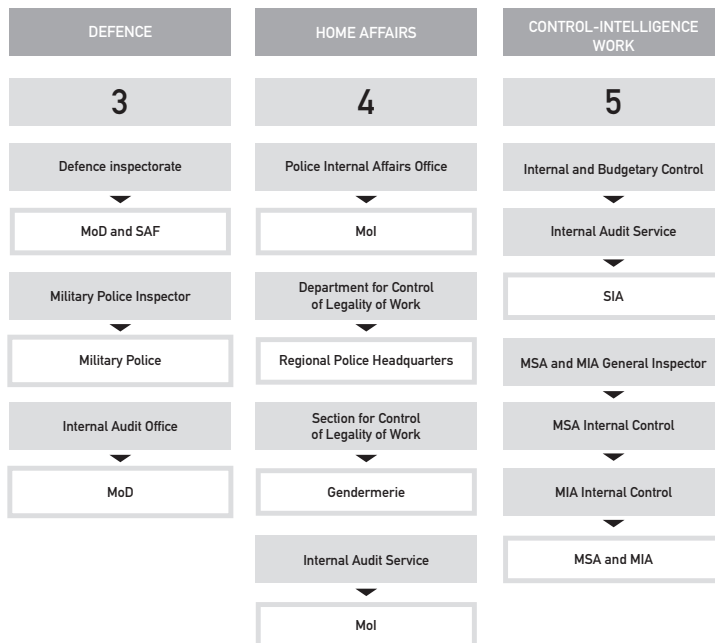
Prevention and Suppression

After the changes of 5th October 2000, significant steps towards reform were made in Serbia, above all the completion of the legal framework for the activities of the state security sector (Hadžić 2010). These steps influenced the formation of the bodies responsible for applying regulations. This allowed the executive bodies to create instruments of internal control, which exist in all state security sector institutions. In the text which follows, the internal control bodies in defence, home affairs and intelligence in Serbia are identified.

Which are the internal control bodies in the Serbian security sector?

Twelve internal control bodies responsible for fighting corruption in defence, home affairs and intelligence operate in the Serbian state security sector (see Figure 3). The most developed internal control mechanism exists at the MoD (Petrović 2012). However, it is necessary to further regulate the powers and define the jurisdiction of the MoI's internal control bodies. The greatest dilemma is posed by the internal control body for intelligence work in Serbia, as it operates according to the principle of self-control (Milenković, Koprivica, Todorčić 2011: 91).

Figure 3: Internal control bodies in the Serbian state security sector



105 See: Siegler, R. T. and Dees, T. M. "Public perceptions of milder forms of police corruption." *Izbor, Zagreb*, no. 1, 1989: 21–27.

Defence

Three internal control bodies which can identify abuse and deception operate in the defence sector. The MoD has the Defence Inspectorate, while the Military Police Inspector is responsible for military police officers. The Defence inspectorate carries out inspection work at the MoD and SAF's organisational units as well as at defence industry companies, in order to verify the application of laws, policies and plans in the field of defence.¹⁰⁶ The Military Police Inspector scrutinises the legality of the use of police powers by the Military Police.¹⁰⁷ The Internal Audit Office is responsible for oversight of financial management at the MoD.

Combating corruption is not the basic responsibility of the Defence Inspectorate. However, the Defence Inspectorate carries out inspections of material and financial operations and construction activities, and on the basis of its regular, one-off and repeat inspections it is able to detect possible abuse. It is the Military Security Agency which has the authority to detect, investigate and document criminally corrupt acts in its own counter-intelligence work. The MSA's work is restricted to investigating criminal abuses of office, trading in influence, and offering and accepting bribes within the MoD and SAF.¹⁰⁸ Other corrupt acts are not covered.

At the beginning of 2010, the organisational structure of the Defence Inspectorate was transformed. In the new structure, two of seven organisational units are linked to the detection of corrupt acts – the department which carries out inspections of SAF capabilities and the work of internal MoD units and the department responsible for financial and material work and construction activities. It is possible to create special inspection teams for particular cases, which can include employees of other state administration bodies. The inspectors and individuals authorised to carry out inspection work have the right and obligation to submit recommendations for action to be taken against anyone responsible for disciplinary offences, misdemeanours, felonies etc. The Defence Inspector answers to the minister of defence for his work, but he is required to submit a report to the president.

The Defence Inspectorate has limited powers to combat corruption, which is logical given its role. It is the MSA rather than the Inspectorate which is responsible for applying special measures and techniques. The Inspectorate lacks the ability to work on appeals, except those on which an inspection has already been started. For this reason, MoD and SAF employees, like civilians, have no legal means by which to file applications or complaints with the Inspectorate. This is supported by evidence that no cases of possible corruption have been reported to the Inspectorate over the past two years (MoD, answer to BCSP questionnaire 2012: 58). Another deficiency is that it is not within the Inspectorate's jurisdiction to propose measures to combat actions which have elements of corruption (MoD, answer to BCSP questionnaire 2012: 57). This could be done, because the Defence Inspectorate has already noted deficiencies which present a corruption risk (see Box 8).

106 "Defence Law" *Official Gazette RS*, nos. 116/2007, 88/2009 and 101/10: art.16.

107 "Law on the Serbian Armed Forces" *Official Gazette RS*, nos. 116/07, 88/09 and 101/10: art. 53a.

108 "Law on the Military Security Agency and Military Intelligence Agency" *Official Gazette RS*, nos. 88/2009 and 55/2012 – Constitutional Court Decision: art. 16.

BOX 8: DEFICIENCIES NOTED BY THE DEFENCE INSPECTORATE IN THE WORK OF THE MINISTRY OF DEFENCE AND THE SERBIAN ARMED FORCES

The Defence Inspectorate has noted some deficiencies during its work which may present a corruption risk: (1) inferior quality or lack of an inventory of weapons, military equipment and fuel; (2) deviation from prescribed procedures in carrying out public procurement; (3) construction and renovation of military facilities on the basis of incomplete investment programmes and without a prior decision to build (for new facilities) and harmonisation of urban planning with authorised planning permission, which often leads to contract changes; (4) superficiality or lack of oversight by superior officers and management during and following liquidation of the material and financial operations of disbanded and reorganised units (Mutavdžić 2011).

Control of the legality of the Military Police's application of police powers is exercised by a separate organisational unit within the structure of the Military Police Office, led by the Military Police Inspector. Military Police officers are required to allow the Military Police Inspector to exercise control and to provide him with the expertise necessary for this. However, he does not have exclusive authority for detecting cases of corruption involving Military Police officers.

In January 2010, the Internal Audit Section was formed, responsible for internal audit of public finance management in the MoD. The report produced by the Section is available to the subjects of audits and the bodies responsible for them, the SAI and the Ministry of Finance Central Unit for Harmonisation (MoD, answer to BCSP questionnaire 2012: 16). This is in accordance with the secondary legislation regulating internal audit procedures.¹⁰⁹ In January 2012, the five work positions foreseen by the classification had not yet been filled. Two individuals had been employed and had so far carried out audits of accounts, payments of military pensions, official travel abroad and public procurement (MoD, answer to BCSP questionnaire 2012: 19).

According to the MoD, the work of internal auditors fits the requirements of the ministry (MoD, answer to BCSP questionnaire 2012: 17). However, the SAI gives an entirely different assessment of the situation, saying that the internal audit process is not organised in a manner appropriate for its procedures, which does not allow consistent application of the legal framework for finance management. (SAI 2011: 18–26).

Home Affairs

There are four internal control bodies within the MoI. Operating alongside PIAS, which is intended to be the primary control body for all officials, are the Departments for Control of the Legality of Work at the Belgrade Police Department and the Police Directorate, and the Section for Control of the Legality of Work at the Gendarmerie. The Police Internal Affairs Office controls the legality of work done by the police in carrying out police tasks and using police powers.¹¹⁰ The other two control bodies at the MoI have similar powers, with the Department for Control of the Legality of Work being responsible for regional police departments, and the Section for Control of the Legality of Work dealing with Gendarmerie officers. The newest internal control body at the MoI is the Internal Audit Service, which is authorised to monitor and evaluate the management of public finances at the (MoI, answer to BCSP questionnaire 2012: 9).

109 "Rulebook on Common Criteria for Organisation and Standards and Methodological Guidelines for Conducting and Reporting Internal Audits in the Public Sector" *Official Gazette RS*, no. 99/11: art. 19.

110 "Police Law" *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 172, para. 1.

The Police Internal Affairs Office is the successor to the Public Security Department General Inspector's Service, founded in 2001, but which started work two years later when the first general inspector was appointed. When the Law on Police came into force in 2005, along with the repeal of the Law on Internal Affairs, the General Inspector's Service was renamed into PIAS. The head of the Police Internal Affairs Office is appointed by the government for a five year term following an open competition for the position.¹¹¹ The Police Internal Affairs Office is an organisational unit of the MoI responsible to the Interior Minister.¹¹² Its basic task is to carry out internal control of the police's work.¹¹³

Not all executive posts at PIAS are currently filled. PIAS's 2006 recommendation on the necessity of harmonising the legal framework for internal control at the MoI has not yet been carried out. In addition, PIAS has not undertaken control of budgetary spending at the MoI (MoI answer to BCSP questionnaire 2012: 14) and there is no indication that PIAS has sufficient capacity to exercise such task. This is particularly problematic given that confidential procurement represents 55.51% of total procurement at the MoI between January 2010 and January 2012 (answer to BCSP questionnaire 2012). Although there is no internationally accepted standard indicating the proportion of total procurement which should be confidential, it is unclear why there is no control of more than half of all MoI procurement. Control of MoI budgetary spending is carried out by the SAI, which has noted a number of irregularities (SAI 2011). Finally, PIAS did not participate in the development of integrity plans for MoI employees, which is unacceptable from a corruption prevention standpoint.

The Department for Control of the Legality of Work operates within the Police Directorate. One of the Department's basic tasks is to track and carry out control of the legality of the application of police powers by police officers in regional police departments. The Department carries out separate control of the use of force by police officers. This is an exceptionally important mechanism not only for protecting human rights but also for combating police corruption. This is because police officers who are prone to use force are more susceptible to corruption, and often to using violence for personal gain (Kutnjak-Ivković 2005: 32). If we accept this reasoning, we can conclude that police officers in Serbia are more susceptible to corruption, given that between 2006 and July 2010 there was a rising trend in the use of force (Đorđević 2012). It should be added that police officers in Serbia are constantly dissatisfied with their working conditions, one cause of corruption, for which reason they have made use of their right to strike. In consequence, it is very important to improve coordination with PIAS in order to prevent corruption, above all at the local level.

There is almost no information available to the public about the work of the Section for Control of the Legality of Work at the Gendarmerie, nor is there any legal aid available. The Section is part of the Department for Security and Legality and is probably responsible for ensuring order, discipline and harmonious internal relations in its commands and units, as well as the legality of work (MoI, Information book on the MoI's Work 2012: 36). The most recent amendments to the Law on Police in December 2011 provided for the organisation and functioning of special police units and the status of their members to be dealt with in secondary legislation which has not yet been adopted.¹¹⁴

The MoI's Internal Audit Service was formed in January 2009, as all bodies making use of public funds are required to create internal auditors in order to identify risks, assess work and scrutinise the public sector's system of finance management.¹¹⁵ This was also a consequence of the requirement for direct budget beneficiaries, such as the MoI, to establish a separate, functional, independent organisational unit for internal auditing. The MoI's Internal Audit Service conducts analyses of

111 "Law on Public Officials" *Official Gazette RS*, nos. 79/05, 81/05, 83/05, 64/07, 67/07, 116/08 and 104/09: art. 34.

112 "Police Law" *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 172, para. 2.

113 "Police Law" *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 171, para. 1.

114 "Police Law" *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 20, para. 8.

115 "Law on the Budget System" *Official Gazette RS*, nos. 4/09, 73/10, 101/10 and 101/11: art. 82, para. 1.

risks and work and carries out control of finance management at the MoI. It is under the exclusive authority of the Ministry of Interior (MoI, answer to BCSP questionnaire 2012: 9), which is in accordance with the rulebook governing the functioning of internal auditing in the public sector.¹¹⁶ The annual report on internal auditing work is available to the interior minister, while the organisational unit being audited receives a summary (MoI, answer to BCSP questionnaire 2012: 10). This fulfils the requirement set out in the rulebook governing internal auditing work.

A deficiency was noted on the basis of the BCSP questionnaire, as the report is not always and constantly available to the external assessor of internal auditing in the public sector, the Finance Ministry's Central Unit for Harmonisation (MoI, answer to BCSP questionnaire 2012, 10). This is compulsory for all organisational units responsible for internal auditing, because this is the basis for external assessment and control of work.¹¹⁷ Given the closedness of the system which exists in the MoI, and the lack of ministerial responsibility (Milosavljević 2004: 28), this may present a corruption risk. This is possibly the reason for the lack of control of budget transfers to regional police headquarters, which contributes to the lack of consistency between the MoI's accounts and the ministry of finance's books (SAI 2011: 91).

The thirteen positions at the Internal Audit Service foreseen in the work classification (SAI 2011: 18) have not all been filled. Currently, internal audit work is carried out by nine persons – one head of service, three senior auditors, four internal auditors and an analyst (MoI, answer to BCSP questionnaire 2012: 11). This is one of the Internal Audit Service's basic weaknesses, and prevents the evaluation of how well finance management functions at the MoI. In addition, there is no clear evidence that the MoI has fully implemented the recommendations of internal auditors (SAI 2011: 19). Implementing these recommendations would at least partially bridge the existing gap noted by the SAI – the lack of an established system of finance management and oversight at the MoI (SAI 2011: 17).

On the basis of the BCSP questionnaire, it has been established that there is no coordination between internal control bodies at the MoI, and that there is no unified database. Only PIAS provided an answer to the question about statistical data on the number of criminal charges brought against MoI employees for abuse of office, the number of disciplinary processes begun and reports from civilians and MoI employees about corruption, despite the fact that the data is available to the MoI as well as PIAS (MoI, answer to BCSP questionnaire 2012, 36-41). An additional problem is that prosecutors and judicial bodies have not provided feedback on the outcome of criminal proceedings.

This situation leads to two corruption risks. There is no legal definition of the responsibilities of the three MoI control bodies, with the exception of the Internal Audit Service, which is responsible for the MoI's finance management. The interior minister has the discretionary right to transfer a subject on which PIAS is working to the purview of another organisational unit.¹¹⁸ This is an illogical solution, as the interior minister, being a member of the government, takes part in the selection of the PIAS chief. It is necessary for PIAS's powers to be clearly defined if its role is to improve. Likewise, PIAS should have been updating the results of its work on its webpage for the past three years and more. Until very recently, only data up to 2008 was available. This did not demonstrate the transparent work of PIAS necessary for the public to have trust in the institution and decide to report police corruption.

116 "Rulebook on Common Criteria for Organisation and Standards and Methodological Guidelines for Conducting and Reporting Internal Audits in the Public Sector" *Official Gazette RS*, no. 99/11: art. 8, para. 1.

117 "Rulebook on Common Criteria for Organisation and Standards and Methodological Guidelines for Conducting and Reporting Internal Audits in the Public Sector" *Official Gazette RS*, no. 99/11: art. 19.

118 "Police Law" *Official Gazette RS*, nos. 101/05, 63/09, 92/11: art. 177, para. 3.

Security-intelligence work

Five internal control bodies carry out control of security-intelligence work. Internal and Budgetary Control and the Internal Audit Service operate within the SIA. The MSA and MIA General Inspector is responsible for control of the two military services, while each service also has its own internal control body.

Although internal control is not regulated by the Law on the SIA, Internal and Budgetary Control has been established in this service. Organisationally, it belongs to the SIA director's cabinet. The director issues the document which sets its work practices, as well as guidelines and work priorities. Internal Control is directly accountable to the director, and submits reports to him on its work, makes him aware of the results of control in individual cases and provides him with suggestions for eliminating observed deficiencies and initiating appropriate procedures for establishing accountability. Internal Control has the authority to examine the legality of measures undertaken and of actions by SIA employees, considers complaints from civilians and SIA employees addressed to the director or other bodies in connection with the SIA's work and carries out internal financial control work. There is also a department within the SIA responsible for internal auditing of finance management. As with the MoI's Internal Audit Service, the SIA's internal auditor's report is not always available to the Finance Ministry's Central Harmonisation Unit (SIA, answer to BCSP questionnaire 2012: 31).

Alongside the General Inspector, who exercises oversight of the work of the MSA and MIA and who answers to the Ministry of Defence for his work,¹¹⁹ both military security services have internal control bodies, which are directly responsible to the directors of those services. They scrutinise the legality of work and the use of powers by MSA and MIA officers. The head of internal control submits a report to the director about his work and any abuses and irregularities in the work of the MSA or MIA. When it is known that the director has not eliminated the detected illegalities or irregularities, the head of internal control is required to inform the General Inspector, and if needed also the relevant National Assembly committee.¹²⁰

The institutional setting of internal control bodies is much better defined in the case of the MSA and MIA than with the SIA, which can be explained by the time when the laws on these services were adopted. In the case of the SIA, the internal control body has no authority to inform external control bodies of any findings ignored by the service's director. In addition, the existence of the MSA and MIA General Inspector, a control body which the SIA lacks, indicates the superior normative arrangements of oversight at the MSA and MIA.

The fight against corruption is not explicitly included in the mandate of internal control bodies, but all aspects of the work of the services' employees which could be considered corrupt conduct are included. Such an approach is logical given that merely mentioning the fight against corruption as one of the tasks of these bodies does not necessarily mean a blanket admission that such phenomena unequivocally exist.

119 The General Inspector, as an internal or external control, certainly has a very particular position. He is under the authority of the minister of defence, despite being appointed by the government. However, he does not submit his reports to the government, but to the minister of defence and the relevant National Assembly committee. From the standpoint of the services for which he exercises oversight, he acts as an external control body, but because of his subordination to the minister of defence he is closer to the idea of internal rather than external control. This could be described as a mixed model.

120 The position and work of the General Inspector is regulated by the provisions of the Law on the MSA and MIA and the Rulebook on the Work of the General Inspector (*Military Gazette*, no. 18/10), while the position and work of internal control is regulated by the provisions of the Law on the MSA and MIA (art. 57), the Rulebook on the Work of MSA Internal Control and the Rulebook on the Work of MIA Internal Control (*Military Gazette*, no. 18/10).

The basic weaknesses, as far as they can be identified on the basis of the information available, are linked to the position of internal oversight bodies. They are conceived as auxiliary bodies to the heads of the security services. Thus they have no realistic ability to make their findings transparent, and the real question is to what extent they can do so in relation to external oversight bodies. Objectively, their position inevitably imposes on them a policy of “no making waves” and “scrutinise as little as possible”. In addition, they are not authorised to scrutinise the direction of the services’ work, as this is not part of their role description.

Instruments

For successful control aimed at combating corruption, basic powers is required, such as the ability to: work on complaints submitted by citizens and employees; access documents; access official premises; obtain statements and conduct interviews; submit requests for additional data and information required to carry out internal control.

Internal control bodies in the state security sector should, in addition to the above, be given additional authority, due to the specifics of the environment in which they work. Above all this implies the ability to use the same powers possessed by other employees of the armed forces, police and security services. Thus it is necessary, for example, for them to be able to use police powers and special measures. More specifically, they need access to confidential documents and the ability to implement security checks, carry out polygraph tests with the consent of the person being tested, and carry out tests of mental and physical abilities. It is necessary to clearly specify and clarify all these powers in law in order to protect human rights.

The legal framework governing the work of internal control bodies in the Serbian state security sector provides the necessary authority for effective oversight and control (Table 7).

Table 7: Powers of internal control bodies in the state security sector

Kontrolor	Defence Inspector-ate	Military Police Inspector	General Inspector at MSA and MIA	Internal Control (MSA, MIA)	Police Internal Affairs Sector	Department for Control of Legality	Internal Audit Service	Internal and Budgetary Control
Powers								
Security checks				✓				✓
Poly-graph testing				✓				✓
Use of police powers		✓			✓	✓		✓
Use of special measures				✓	✓			✓
Checks on mental/physical condition								✓
Work on complaints			✓	✓	✓	✓		✓
Access to documents	✓	✓	✓	✓	✓	✓	✓	✓
Access to official premises	✓	✓	✓	✓	✓	✓		✓
Request additional data	✓	✓	✓	✓	✓	✓	✓	✓
Request statements	✓	✓	✓	✓	✓	✓	✓	✓

In formal legal terms, internal control bodies have sufficient jurisdiction and authority at their disposal. As already discussed, they are not authorised to direct the security services' work, nor can they make decisions on certain matters, such as selection, deployment and promotion of staff. Those matters are under the authority of the director of the service, meaning that their control, considered systematically, is only possible through oversight carried out by external bodies, and not the activities of internal control bodies.

Challenges

Regardless of the relatively good legal framework for their work and the powers available to them, internal control bodies in the state security sector are faced with various challenges. These challenges occur during the management of material, financial and human resources, as well as in the environment itself in which they operate, given that this is in practice merely a fictional fight against corruption. "High-level" corruption is left entirely uninvestigated in this fight, while "petty"

corruption is neglected and remains outside the attention of control bodies. The basic problem stems from the status of internal control bodies in the security sector, where their independence is questionable. There is insufficient data about actions aimed at preventing corruption. However, two facts support the argument that this is an unexploited area. The legal framework is largely orientated towards the fight against corruption, while the mechanism for protecting whistleblowers is not properly regulated.

Independence

All internal control systems must be harmonised with the strategic documentation and the organisational structure of the institutions to which they belong (Andersson 2012: 158), but it is necessary for them to work independently. Independent work does not imply that there is a danger of excessive measures or a lack of accountability by internal control bodies. Moreover, in order to create a harmonised system of internal control, it is necessary for internal control bodies to be accountable to the executive authorities and external control mechanisms. This will create a framework for the work of internal control bodies.

The most difficult task in the defence sector is to set the level of independence of the three internal control bodies in the fight against corruption. It is currently impossible to determine the relationship between the MSA and the three internal control bodies, or to establish what kind of influence the MSA has on the work of, above all, the Defence inspectorate. Regarding the police, the independence of PIAS is threatened by the minister's ability to take a subject being worked on by PIAS and transfer it to the purview of another organisational unit.

The problem of the independence of control and oversight bodies in the security services greatly depends on their position, i.e. it is restricted by the fact that they are seen as auxiliary bodies to the directors of the services. This does not appear to be contrary to the basic concept of internal control. However, there is a need for them to work independently and to have sufficient authority at their disposal to effectively prevent and combat corruption. For this to be possible, the position of internal control bodies in the SIA must be regulated differently, and the necessary conditions must be provided for the desired independence of and more effective work by internal control bodies in all three services. It is impossible to draw entirely reliable conclusions about the quality of the normative solutions used to prevent conflicts of interest or the level of compliance with them. Finally, human resource management is subject to pressure from politicisation and "family ties", and it is impossible to alter this situation if the executive authorities do not allow it. *dbinskih veza*, te je nemoguće iskoreniti takvo stanje ukoliko nosioci izvršene vlasti to ne dozvole.

Whistleblower protection

A whistleblower in the security sector is an individual who reveals mistreatment or abuse of office in the state security sector. Information about fraud or abuse may be disclosed to the public, internal control bodies or the executive authorities. Whistleblowers may expose corruption, mismanagement or any type of unlawful conduct. A Council of Europe resolution (Council of Europe 2010) recommended the legal regulation of whistleblower protection in the armed forces, police and security services. This should be done first of all in the areas of labour relations, the prohibition of criminal prosecution and media legislation. This has not yet been done in Serbia despite GRECO's 2006 report recommending the legal regulation of whistleblower protection as a matter of necessity (GRECO 2006).

The introduction of whistleblower protection into security sector institutions is an essential measure for eliminating points of risk where corruption may arise. Employees in the institutions themselves are the best source for information about alleged corruption. However, it is always necessary to keep in mind the deeply ingrained thinking that “you don’t inform on your colleagues”, which leads to the creation of an environment where corruption is not talked about, known in the police as the “blue wall”. In security sector institutions, this kind of environment is more prominent than in the other parts of the public and private sectors, because of the specificities of the work of soldiers, police officers and security service officers, who are daily faced with potential threats to life. In such an environment, loyalty to colleagues is sometimes a matter of life and death. Because of this there are barriers to merely beginning the introduction of a whistleblower system in the state security sector. However, it appears that the introduction of whistleblowers into the mechanisms of the fight against corruption is unavoidable. It is of course necessary first to legislate for the mechanism and develop criteria for testing integrity.

Systematic protection of whistleblowers does not exist in Serbia. There are only certain legal provisions to be found in various legislation. There is no appropriate legal and practical protection for those who report corruption (see Box 9). For now there is only the modest Rulebook on the Protection of Individuals Reporting Suspicions of Corruption,¹²¹ consisting of seven articles and adopted in order to operationalize the Law on the Agency for the Fight against Corruption.

BOX 9: THE “MILUTINOVIĆ” CASE

Police officer Milovan Milutinović was working on the case of the “traffic mafia”, suspected of falsifying records of the investigation of traffic accidents, causing losses totalling 200 000 euros to several firms by exaggerating reported damage to vehicles. MoI employees were also involved in the deception. According to Milutinović he was the first undercover agent involved in the case. His family was subject to threats for an extended period, culminating in his house being set on fire, despite guarantees from the state that his identity and that of his family would be protected. Problems have occurred even in the Anti-Terrorist Unit where Milutinović now works. He has been a victim of prejudice, dubbed a “spy”. Disciplinary action was taken against him, leading to his suspension, later overturned by an MoI decision. According to unofficial information, the error of the disclosure of this undercover agent’s identity of happened when one of the trial judges mentioned his name in court (Vukosavljević 2012).

Such an important mechanism for combating corruption must necessarily be regulated by legislation which has the full force of law, and which should be the basis for further development of whistleblower protection. This must be done, as whistleblowers are key to gathering information on possible corrupt acts, and as such are important for preventing corruption, something which internal control bodies in the security sector are currently failing to do. Rights to guaranteed anonymity should be legally defined. This means that important sources and whistleblowers can be protected. In addition, it is necessary to develop protection programmes such as the creation of safehouses, change of identity, protection from bodyguards and provision of protected transport. Witness protection programmes require plenty of material, financial and human resources, and it is necessary to take this into consideration at the outset. However, the most important criterion is of course the security of the witness. Finally, it is necessary to ensure that whistleblowers do not become victims of prejudice or revenge.

121 *Official Gazette RS*, no. 56/2011.

Conflict of interest

The Constitution of the Republic of Serbia affirms the principle that conflicts of interest in the exercise of state or public office are prohibited.¹²² The constitution and the law forbid employees of the armed forces, police and security services from being members of political parties. The constitution and the law likewise contain rules on the incompatibility of certain state and public offices. Special rules to prevent conflicts of interest contained in the Law on the Agency for the Fight against Corruption apply to all individuals with the status of officer in the armed forces, police and security services.

As with other civil servants, the work of employees of the armed forces, police and security services who have the status of civil servants is regulated by detailed rules on the prevention of conflicts of interest contained in the Law on Civil Servants.¹²³ These rules include: (1) specific prohibitions; (2) certain obligations and duties; (3) restrictions on additional work.

(1) Civil servants are forbidden: from accepting gifts, any kind of services or other benefits in connection with carrying out their work;¹²⁴ from using use their work with state bodies for the purpose of exercising their own rights or the rights of someone to whom they are linked; from establishing businesses or public services or to engage in entrepreneurship; from accepting the position of director, deputy or assistant director of a legal entity, although they can be directors of the administrative or supervisory committee or another management body of a legal entity if appointed to that post by the government or another state body.

(2) Civil servants are obliged to inform their immediate superior in writing of any conflict of interest they may encounter in their work for a state body. This obligation is also particularly emphasised in codes of ethics, and the legislation on the disqualification of officials in administrative proceedings is directed towards the same goal (stipulated in the Law on General Administrative Procedure).

(3) Civil servants can undertake additional work as long as it is not incompatible with their official duties, the nature of such work being defined by the laws regulating particular areas and secondary legislation.¹²⁵ In other cases, additional work is possible with the written permission of a superior officer. Such work must be carried out outside working hours and on condition that it does not create a conflict of interest or affect the impartiality of work for the state body. In addition, the law allows civil servants to undertake scientific research, publish their own writings and work for cultural-artistic, humanitarian and sports organisations, on condition that they inform their superior, who can forbid such work if it hinders their primary job or damages the reputation of the state body. It can be concluded from replies received from the three security services that, in keeping with the nature of their work, they strictly adhere to the rules on additional work, and only a very small number of civil servants are engaged in additional work.¹²⁶

122 "Constitution of the Republic of Serbia" *Official Gazette RS*, no. 98/2006: art. 6.

123 "Law on Civil Servants" *Official Gazette RS*, nos. 79/2005, 81/2005 – corr., 83/2005 – corr., 64/2007, 67/2007 – corr., 116/2008 and 104/2009: art. 25-31.

124 This prohibition includes civil servants and all persons connected to them. So-called protocol or commemorative gifts, which are regulated by rules on the prevention of conflicts of interest in public office, are excepted.

125 Provisions in the Police Law and the Rulebook on Defining Work Incompatible with Jobs in the SIA apply to SIA officers, while provisions in the Law on the Serbian Armed Forces and the Law on Civil Servants apply to MSA and MIA officers.

126 There were no cases of additional work at the MSA, while only three MIA employees received permission to carry out additional work (translation), 61 SIA employees received permission for additional work (17 for membership of sports societies, 17 for scientific research, 12 for publishing their own work, 8 for refereeing sports competitions and 3 for university lecturing work). The SIA director refused permission twice, and one disciplinary procedure was undertaken against an employee for publishing a piece of work without the director's permission.

It is impossible to draw entirely reliable conclusions about the quality of normative solutions or the level of compliance with them, nor, consequently, about their practical effect in limiting or encouraging opportunities for corruption. On the one hand, neither the information provided in institutions' replies nor data from oversight bodies indicate breaches of conflict of interest rules, nor that there are deficiencies in those rules. On the other hand, it can be clearly seen that external oversight bodies do not direct particular attention to conflict of interest rules, but take them into consideration only in certain situations according to the system of ex-post oversight. It is also clear that conflict of interest rules have only recently begun to be applied in Serbia, and that they are insufficiently embedded in the consciousness of civil servants as an important and integral element of their integrity. In this regard, the social environment in which party influence is dominant in recruitment, the habit of carrying out jobs "through connections" and other negative forms of behaviour are all unhelpful for achieving the expected change in the consciousness of civil servants. Occasional cases of serious ethical and legal violations by civil servants bear witness to this.¹²⁷

Human resource management

Corruption risks in state security sector human resource management can be related to employment of new staff, promotion, pay rises and dismissal. All such risks arise from the character of security sector institutions and from the fact that recruitment, promotion and dismissal are in large part regulated by confidential legislation and carried out through generally opaque procedures, as well as the basically correct understanding that the services carry out work which is especially important and sensitive from a security point of view.

Certain deficiencies in normative regulation, and particularly deficiencies in the manner in which stipulated procedures are carried out, can be identified as indicators of possible corruption risks, although the services¹²⁸ do not see them as such. Thus, for example, answers provided by all three services state that in the last two years there has not been a single complaint or comment about the recruitment process, nor any particular complaints which would indicate the influence of political parties in recruitment and promotion. In reply to a question about whether candidates applying for jobs have the right to access records of the security checks carried out on them, and whether they have asked for this, the services claimed that not one candidate has sought such access. Allegedly, there have been no comments or complaints about deployment, promotion or dismissal either. Contradicting these assertions is the fact that great discretionary powers are used in deciding upon all these matters, and that they are not subject to the oversight of a separate body. In addition, hushed comments are sometimes heard in public, which may or may not be accorded some validity, complaining about employment and promotion through party membership, employment through family connections ("our colleague's child"), and even about dismissal, which is outside the legal framework.

In addition, it is not possible to prevent and combat corrupt actions in the police through human resource management, given that public and internal application processes for police officers are not carried out. This has been done in only 29 cases for jobs which lack the "police" prefix, i.e. for administrative, technical, assistant and sales roles. Internal oversight in the police is not able to react to this, as only two complaints about the recruitment process have been filed, although the area of resource management is one of the riskiest for corruption.¹²⁹

127 The most drastic examples are of course cases of involvement by police officers, soldiers and Ministry of Defence employees in organized crime, i.e. in carrying out corrupt acts.

128 According to the answer to the BCSP questionnaire.

129 Interview with police officers (anonymous sources), February 2012.

Independent state bodies and the fight against corruption

Marko Milošević

In transitional societies, corruption is a significant challenge to the normal functioning of the state apparatus, and consequently also to the functioning of the security sector. In the second half of the past decade, laws establishing independent oversight institutions have been adopted in Serbia. These bodies are particularly active in oversight corruption in the security sector, and their potential for oversight is increased by the fact that they have access to secret data. They are an important instrument for oversight the work of the highly secretive security sector. The fight against corruption in this sector is focussed on those dubious practices which are kept under a “veil of secrecy”, hiding abuses from the public eye.

The chief functional actor in this fight is the Agency for the Fight against Corruption (hereinafter the Agency), followed by the State Audit Institution and the Commission for Rights Protection in Public Procurement Procedures (hereinafter: the Commission). Other institutions with indirect involvement in the fight against corruption are the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner).

In the text which follows, the range and scope of the instruments available for fighting corruption will be presented, instruments which these institutions make use of, even though the majority of them do not explicitly include this mission in their own aims.

Independence of oversight

Independent state bodies have an important role in oversight and control of the work of state bodies, and also oversight of the security sector. These bodies are selected by the National Assembly in accordance with the laws which regulate their sphere of work. These laws set the independence and prohibit the obstruction of the work of these bodies. They are entrusted with access to information at all levels of secrecy in carrying out their work (while being obliged to protect secrecy), as well as data relating to all types of procurement (public, confidential and low value) and data about the human and material resources of the bodies over which they exercise control. The heads of these bodies are appointed for a term of 5 or more years.¹³⁰ The Ombudsman (5 years), the Commissioner (7 years), the State Auditor (5 years) and the Commission president (5 years) are selected by the National Assembly, while the Agency director (5 years) is selected through a public application procedure. All these bodies answer for their work to the National Assembly, to which they submit annual reports. The expertise of these institutions' staff is ensured by the conditions for accepting candidates which are set in the laws regulating their areas of operation and/or the law on Civil Servants.¹³¹ Similarly, the mandate of the heads of these institutions is longer than that of the government and parliament, which is intended to overcome the influence of the ruling parties over personnel matters in these bodies. The heads can be removed from office prematurely, but so

130 “Ombudsman Law” *Official Gazette RS nos. 79/2005 and 54/2007, art. 4*; “Law on the State Audit Institution” *Official Gazette RS nos. 101/2005, 54/2007 and 36/2010 art. 20*; “Law on Free Access to Information of Public Importance” *Official Gazette RS no. 120/2004 art. 30* (The Commissioner is appointed to a 7 year term); “Public Procurement Law” *Official Gazette RS no. 116/08, art. 102*.

131 “Law on Civil Servants” *Official Gazette RS, nos. 79/2005, 64/2007, 67/2007, 116/2008 and 104/2009*.

far (since 2005) there have been no cases of dismissal of heads over the last two electoral cycles (2008 and 2012). Practice up to this point has shown that these institutions exercise accountable, competent and impartial oversight of corruption in the security sector. This has contributed to the public's trust in the work of these institutions.

Who are the main independent control actors?

The **Agency for the Fight against Corruption**, one of the most important institutions in the fight against corruption, began work in January 2010. An institution with a strong preventative role, it is intended to improve the way in which corruption is fought, in coordination with other public administration bodies, the civil sector, the media and the public. The Agency's task above all is to scrutinise the assets of political functionaries and associated persons, resolve conflicts of interest, scrutinise spending during electoral campaigns, exercise oversight of the financing of political parties, establish international cooperation in the fight against corruption and initiate new laws and secondary legislation or amendments to existing ones in the area of the fight against corruption. The scope of the Agency's work and its powers are defined in the Law on the Agency for the Fight against Corruption,¹³² the Law on Financing Political Activities¹³³ and the Law on General Administrative Procedure.¹³⁴ In the fight against corruption, the Agency can impose cautions on officials, and then can make a public recommendation for removal of the official from office or a public announcement that a breach of the Law on the Agency has occurred. After imposing these measures, the Agency begins the process of dismissing the official, informing the body in which the official works and obliging that body to inform the Agency within 60 days of the measures taken. In cases of violations of the law, the Agency informs the responsible body of the need to take disciplinary action or to charges for misdemeanours or felonies, obliging the body to inform the Agency within 90 days of the measures taken.

The **State Audit Institution**, founded in 2005 by the Law on the State Audit Institution, is the most senior body in the Republic of Serbia involved in auditing public resources. An independent body, this institution submits regular annual reports to the National Assembly of Serbia. This institution's main tasks are to audit public resources, adopt and amend secondary legislation, suggest laws to the National Assembly, set criteria for auditing according to international standards and train auditors. The scope of the SAI's work is regulated by the Law on the State Audit Institution¹³⁵ and accompanying secondary legislation. It is within the auditor's authority to require a body in whose work irregularities have been observed to take measures to correct the existing situation. Depending on the severity of the irregularities, the auditor may subsequently bring charges for felonies or misdemeanours or seek the dismissal of the individuals responsible, as well as reporting to the National Assembly on the observed irregularities in the state body's work.

The **Commission for Rights Protection in Public Procurement Procedures** is the third independent state body which has a direct oversight role. Although this institution's work is rooted in the 2008 public Procurement Law,¹³⁶ it was not founded until two years later, more precisely in October 2010 when the National Assembly selected the Commission's first members. As a second level body, the Commission can uphold or reject appeals (with a conclusion or resolution) from bidders

132 "Law on the Agency for the Fight Against Corruption" *Official Gazette RS*, nos. 97/2008, 53/2010 and 66/2011.

133 "Law on Financing Political Activities" *Official Gazette RS*, no. 43/2011.

134 "Law on General Administrative Procedure" *Official Gazette FRY*, nos. 33/97 and 31/2001 and *Official Gazette RS*, no. 30/2010.

135 "Law on the State Audit Institution" *Official Gazette RS*, nos. 101/2005, 54/2007 and 36/2010.

136 "Public Procurement Law" *Official Gazette RS*, no. 116/2008,

and/or the Public Procurement Office, the public defender or another state body which exercises oversight of the activities of procurers (in cases of violations of the public interest). An appeal has “automatic suspensive effect” which means that the public procurement process is suspended pending the outcome of the appeal. So that this instrument cannot be used to sabotage public procurement, the law dictates precise deadlines and conditions for the submission of rights protection appeals. The suspension of public procurement does not take effect only when it would significantly damage the interests of the Republic of Serbia.

The **Commissioner for Information of Public Importance and Personal Data Protection** operates primarily on the two subjects mentioned in his title, both of which are activities which contribute to the fight against corruption. In 2004, the Law on Free Access to Information of Public Importance¹³⁷ established the institution of the Commissioner, while in 2008 the adoption of a law¹³⁸ in this area widened his powers to include personal data protection. In the fight against corruption, this instrument enables those seeking information to obtain that data in a legally regulated manner, as well as allowing sanctions to be imposed for failure by state bodies to act on such requests. This right was subsequently also included in the Serbian constitution, while the law itself also introduced an obligation for state bodies to publish an information book – a publication containing standardised information about public administration bodies – which enables control and oversight of these bodies. The Commissioner can issue resolutions which are final (i.e. there is no right of appeal against the decision), but it is the Serbian government that ensures their implementation. Likewise, the most recent amendments to the law gave this body executive authority, consisting of the power to issue fines to bodies of up to 200 000 dinars for failure to act.

The **Ombudsman** is an institution whose existence is defined in the Constitution,¹³⁹ and whose scope of work and powers are defined by the 2005 Ombudsman Law.¹⁴⁰ Most important to the fight against corruption is this institution’s work in the field of good governance. The Ombudsman can recommend the dismissal of officials or the initiation of disciplinary procedures, and can also submit requests for charges to be brought for misdemeanours or felonies, as well as suggesting the adoption of laws and secondary legislation.

Visible forms of corruption in the security sector

Citizens regularly, or more accurately once a year, have the opportunity to familiarise themselves with independent state bodies’ reports about the previous year. These reports are submitted by the bodies to the National Assembly in March of each year, and are available on those institutions’ websites. There are other opportunities when these bodies make other special reports public. Since the recent changes to its rules of procedure, the National Assembly has been obliged to consider these reports (which has not been the practice up to now), although no consequences are foreseen for observed irregularities in work.

As regards security sector actors, it is notable that the three institutions considered here (the MoD, The MoI and the SIA) are rarely mentioned in these oversight bodies’ reports. Thus, the Agency’s annual report mentions only the MoI (in the area of potential cooperation and improvements in the Agency’s operations). The Commission’s report for last year does not mention any of these actors. The State Auditor exercised control of the MoI and MoD’s work for the first time (these ministries’

137 “Law on Free Access to Information of Public Importance” *Official Gazette RS* nos. 120/2004, 54/2007, 104/2009 and 36/2010.

138 “Law on Personal Data Protection” *Official Gazette RS* nos. 97/2008 and 104/2009.

139 “Republic of Serbia Constitution” *Official Gazette RS* no. 98/2006, art. 138.

140 “Ombudsman Law” *Official Gazette RS* nos. 79/2005 and 54/2007.

final accounts for 2010), leading to requests for misdemeanour charges to be brought against 5 MoI employees and 2 MoD employees.¹⁴¹ As the auditor has pointed out, of 193 charges brought, the court issued a verdict in only 7, as well as 15 first instance verdicts. Similarly, fines of 20 000 dinars for abuses in public procurement are laughably small and ineffective, and the auditor has argued for a stricter sentencing policy.¹⁴² When the exercise of the right to good management was in question, the Ombudsman used his 2001 report to intervene, in order to reduce the risk of corruption. Due to excessive congestion in issuing identity documents, the Ombudsman suggested a series of measures which the MoI partially or entirely accepted. This ministry's quality of work was found to be somewhat improved, thus also reducing opportunities for abuse of office due to these documents being issued to citizens "through connections or in return for material gain".¹⁴³ The Ombudsman's 2010 report includes the assessment that the majority of information denied to citizens was related to the supply of public resources and suspicions of corruption.¹⁴⁴

During 2012, the Belgrade Centre for Security Policy sent a series of questionnaires to independent state bodies (to which answers were received), hoping assess more fully the range of their efforts to combat corruption in the security sector and the effects. Over the past two years (2010-2012) there have been several cases which, based on this knowledge, the BCSP can denote as "locations of corruption risk".

Following publication of its 2010 audit report, covering both the Ministry of Defence and the Ministry of Interior, the State Audit Institution submitted a request for misdemeanour charges to be brought against 5 individuals at the MoI and 2 at the MoD, although the results of these cases is unknown. Apart from those two ministries, the SAI also carried out audits of 42 other legal entities the same year and brought 181 charges against state officials, 7 of which were from the security sector.¹⁴⁵

In 2010, the Agency for the Fight against Corruption received 15 complaints from citizens related to corruption in the MoI and one related to the SIA, while in 2011 there were 15 complaints against the MoI and one against the MoD. During this period, the Agency did not exercise control of MIA, MSA and SIA employees as an "ad hoc need" for control of these bodies did not occur, nor were they covered by the annual plan for checks on officials.¹⁴⁶ In August 2012, the Agency brought misdemeanour charges against former defence minister Dragan Šutanovac for failing to declare property (which was his legal obligation). As the Agency has no mandate to conduct investigations, these charges were submitted to the authorised prosecutor.¹⁴⁷ It is possible to find public comments about the fact that proceedings against officials are begun as soon as they leave power, "which leaves a bitter taste in the mouth".¹⁴⁸

141 "SAI press release", 20.2.2012 <<http://www.dri.rs/cir/mediji/saopstenja-za-javnost/77--20-2012-.html>>.

142 "Sretenović: Nezadovoljan sam zbog malog broja presuda." *Politika*, 13.9.2012. <<http://www.politika.rs/rubrike/Hronika/Sretenovic-Nezadovoljan-sam-zbog-malog-broja-presuda.sr.html>>.

143 Ombudsman: "Redovan godišnji izveštaj za 2011. godinu." 2011: 111. <<http://www.zastitnik.rs/attachments/Redovan%20godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202011%20godinu.doc>>.

144 Commissioner for Information of Public Importance and Personal Data Protection "Annual report 2010" <<http://www.google.rs/url?sa=t&rct=j&q=izvestaj%20poverenika%202010&source=web&cd=1&cad=rja&ved=0CCAQFjAA&url=http%3A%2F%2Fwww.poverenik.rs%2Fyu%2Fo-nama%2Fgodisnji-izvestaji%2F1018-izvestaj-poverenika-za-2010-godinu.html&ei=GshAUMvjDNDesgaWnoHQAg&usq=AFQjCNHNe3uQ54Yv413XsE1J-d4oAWA9CA>>.

145 SAI, press release 20.2.2012. <<http://www.dri.rs/cir/mediji/saopstenja-za-javnost/77--20-2012-.html>>.

146 BCSP, "Reply to questionnaire sent by BCSP to the Agency for the Fight against Corruption" 19.3.2012.

147 See the Agency's press release: <http://www.acas.rs/sr_cir/praksa-agencije/odluke-odbora/728-agencija-podnelakrivicnu-prijavu-protiv-sutanovca.html>.

148 "Stojiljković – loša praksa – postupci tek kad odu s vlasti." *Politika*, 8.10.2012. <<http://www.politika.rs/vesti/najnovije-vesti/StojiljkovicLosa-praksa-postupci-tek-kad-odu-sa-vlasti.lt.html>>.

In its answer to the BCSP's questionnaire,¹⁴⁹ the Commission stated that in the period under consideration it had received one rights protection request directed against the SIA, 24 against the MoI and 26 against the MoD. Of those relating to the MoD, 19 were upheld, leading to the suspension of the public procurement process, and 6 were refused, while one was still in the process of resolution. At the MoI, 13 requests were upheld and the public procurement process suspended, while the rest were refused, as was the request relating to procurement by the SIA. Examining the resolutions available on the Commission's website¹⁵⁰ it can be established that the majority of requests are related to procurement of everyday necessities (office supplies, maintenance, food, clothing). Procurement of specific items for the use of the security sector (weapons, special equipment etc.) is usually carried out in accordance with the Regulations on Confidential Procurement.¹⁵¹

During 2010, the Commissioner registered 2 complaints against the MSA, 1 against the SIA and 167 against the MoI. Of the complaints against the MoI, 124 were resolved (93 were basic), of which 8 were related to possible corruption. The complaint against the SIA, which was related to public procurement, is still being processed. During 2011, 202 complaints about the work of the MoI and one against the SIA were submitted. Of those submitted to the MoI, 44 have been resolved, of which 39 were basic and 23 may have an element of corruption. The complaint against the SIA is still being processed, but does not relate to possible corruption. If an institution fails to ensure the implementation of the Commissioner's resolution, the Serbian government is required to ensure its implementation, although this has not yet occurred.

Over the last two years, the Ombudsman has noted several cases which present corruption risks. One of the more important activities undertaken by the Ombudsman is the publication of a special report on his preventative control visit to the SIA.¹⁵² This is not a case of SIA work which is linked to corruption, but one of the use (and interpretation) of the SIA's legal powers for the purpose of vetting candidates for the judiciary. A number of aggrieved citizens turned to the Ombudsman, asking for their rights to be protected, and on the basis of an unscheduled control visit the Ombudsman drew up a report containing recommendations. The recommendations were sent to the SIA and other bodies, and the SIA implemented the Ombudsman's recommendations in full.¹⁵³ A similar case in which the SIA was used for security checks on employees relates to the Air Traffic Control Agency, which used the SIA to carry out a security check on an employee of the Agency, who was then dismissed from employment. The problem was that the check was conducted on the basis of confidential secondary legislation dating from the time of the SFRY. The result of this act was also the adoption (through secondary legislation) of the Ombudsman's recommendations to precisely establish the circle of institutions which the SIA protects through counter-intelligence, as the Ombudsman finds "the existence of confidential secondary legislation unacceptable".¹⁵⁴ Both cases are

149 BCSP, "Reply to question aire sent by BCSP to the the Commission for Rights protection in Public Procurement Processes" 12.3.2012.

150 Web page containing the Commission's decisions: <<http://www.kjn.gov.rs/odluke.html?vrstaOdlukeId=0&searchNarucilac=%D0%9C%D0%B8%D0%BD%D0%B8%D1%81%D1%82%D0%B0%D1%80%D1%81%D1%82%D0%B2%D0%BE&position=0>>.

151 Three regulations which define special procurement for the MoD, MoI and SIA are: "Regulation on Resources for Special Purposes" *Official Gazette RS, no. 29/2005*; "Regulation on Special Purpose Resources" *Official Gazette RS, no. 82/2008*; and "Regulation on Designating Special Purpose Resources for the Use of the Security-Information Agency" *Official Gazette RS, no. 21/2009*.

152 Ombudsman, "Report on Preventitive Scrutiny Visit by the Ombudsman to the Security-Information Agency, Recommendations and Opinions" 13.3.2010. <http://www.ombudsman.rs/attachments/791_761_iz-vestaj%20finalprint.doc>.

153 SIA, "Security Information Agency Notice on Conduct" 14.4.2010. <http://www.ombudsman.rs/attachments/791_odgovor%20BIA%20o%20postupanju.pdf>.

154 Ombudsman, "The decision determining counter-intelligence work to protect federal bodies and organisations carried out directly by the State Security Agency in the Federal Secretariat for Internal Affairs is an outdated regulation which has never been published, claims the Ombudsman" 28.12.2011. <http://www.ombudsman.rs/attachments/1678_1966-10%20%20preporuka%20BIA.doc>.

indicative, as they are related to opaque and insufficiently legally defined human resource management (through abuse by security sector actors), which is a corruption risk for the security sector.

During control, the Ombudsman has made several recommendations to the Ministry of Defence (in at least 3 cases), while recommendations to the Ministry of Interior mostly relate to inhumane conduct. One recommendation relating to good management is linked to corruption risk. This is the recommendation that the ministry's work in issuing identity documents to citizens be improved, which the MoI has partially implemented. An indicative case at the Ministry of Defence is the case of an MIA employee who was transferred to a new workplace two hundred kilometres from his home because of an unfavourable assessment. The complaint was that the employee's assessment was illegal and biased, while the Ombudsman's recommendation¹⁵⁵ was for the employee to be returned to his previous workplace or to a place of the same rank within the MoD, and that the assessment be repeated and based on the law and secondary legislation. The outcome of this case is still not publicly known. Thus, the Ombudsman is primarily focussed on human resource management in the security sector.

Oversight capacities of independent state bodies' and their problems in exercising it

Considering this practice it is worth asking in what way, actually, these institutions are able to exercise control. Although the law provides certain powers, "the devil is in the details". Thus, the actions of independent state bodies are often hampered by a lack of resources. All the independent state bodies mentioned lack sufficient staff in relation to the work classification. Although the number of employees is set by secondary legislation, there are often fewer due to the insufficient or badly structured budget allocated to these institutions. Apart from human resources, they often also lack adequate space and equipment, with the Ombudsman only recently moving to occupying one address from having several (and still with insufficient space), while the Agency for the Fight against Corruption received its premises when the state purchased questionable real estate rather than being allocated space by the Department of Common Affairs, as is its legal right. This purchase also undermined the credibility of this institution, due to the controversial ownership of the property.¹⁵⁶ The auditor also has problems with both his premises and personnel, because in his words, "auditors can earn more in the marketplace than the state can afford to pay them", and they are housed in four locations in Belgrade, which hinders everyday communication and increases costs. Not even the Ombudsman has a full complement of staff, which also hinders work in this institution.

155 Ombudsman, "Ombudsman establishes lapses in the work of the Military Intelligence Agency at the Ministry of Defence" 20.3.2012. <http://www.ombudsman.rs/attachments/2220_Preporuka%20VOA.doc>.

156 "Vlada ne odustaje od sporne kupovine zgrade za 4,5 miliona evra." Blic, 27.3.2012. <<http://www.blic.rs/Vesti/Tema-Dana/314108/Vlada-ne-odustaje-od-sporne-kupovine-zgrade-za-45-miliona-evra>>.

Table 8: Overview of human and material resources of independent state bodies

	Agency for the Fight against Corruption	State Audit Institution	Commission for Rights Protection in Public Procurement Processes	Ombudsman	Commissioner for Free Access to Information and Data Protection
Number of work positions (according to work classification)	123	416	70	54	69
Number of employees	113	29	36	47/74 (+ temporary employees and replacements)	40
Work premises	Recently provided, but through controversial purchase of real estate from the wife of a "controversial businessman"	In four separate locations in Belgrade	Has premises	Recently received adequate work space, but the lift did not work, and people with disabilities were unable to visit the Ombudsman	Has premises

*According to available data from these institutions' information books

As well as these deficiencies, a problem is also posed by relations with the responsible government bodies. The government's attitude to independent state bodies most resembles that between parents and stepchildren – these institutions are a necessary evil, and they are frequently denied the help and support required by law. The measure of these institutions' independence is reflected in their allocation of work space and human and material resources, the lack of certainty that decisions will be implemented, the prolongation of deadlines for adopting secondary legislation and failures to meet deadlines for selecting and reselecting their heads. In media interviews, representatives of these institutions state that they are frequently subjected to pressure. For example, the State Auditor claims that direct and indirect pressure is exerted on his institution,¹⁵⁷ although he replied negatively to the question in the BCSP questionnaire about whether such pressure had come from the security sector.¹⁵⁸ The reselection of the Ombudsman was "hanging by a thread" at the end of the last mandate, leading to the danger that the legally defined deadline for this to be done would expire, and a similar situation occurred during the reselection of the Commissioner. A mistake led to the Agency for the Fight against Corruption's budget being denied and handed to an institution which had been closed in 2010 – the Republic Committee for Resolving Conflicts of Interest. This mistake was not corrected the following year, with the guidelines for preparing the 2011 budget reaching the Agency's address only seven days before the deadline for submission of the budget, having been sent previously to the address of the same inoperative institution. Some ministries are still sending letters intended for the Agency to the address of this Committee.¹⁵⁹

157 "Pod lupom revizora svaki javni dinar" *Politika*, 27.8.2012. <<http://www.politika.rs/rubrike/Ekonomija/Pod-lupom-revizora-svaki-javni-dinar.lt.html>>.

158 "Reply to BCSP questionnaire sent to the State Audit Institution" BCSP, 29.3.2012.

159 Agency for the Fight Against Corruption, "Statement regarding guidelines for Budget Preparation for 2011", 10.9.2010: <http://www.acas.rs/sr_lat/aktuelnosti/191-saopstenje-povodom-uputstva-za-pripremu-budzeta.html>

Another measure indicating discrimination against these bodies is the 2011 budget revision, which imposed disproportionate reductions in their funding of between 14% and 30%.¹⁶⁰

Another problem which prevents effective oversight by independent state bodies is the relative “youth” of some institutions, namely the Auditor and the Agency. The Auditor, who each year picks a sample of bodies over which to exercise control, has audited the MoD and MoI for the first time, while the SIA’s turn has not yet come around. During control, this institution has carried out checks on the legality of spending of resources, while it has not yet begun to exercise its second function, scrutinising the appropriateness of procurement. It was stated in replied to the BCSP questionnaire that the Auditor has yet to begin to scrutinise appropriateness, and will begin in 2013. In order for this to happen, the SAI requires selected personnel who are familiar with the operations of the institutions over which they exercise control, a resource which they do not yet possess in sufficient quantities. The lack of this type of control led to the case of the SIA, using the Regulation on the Procurement of Special Purpose Resources, buying office furnishings from a company belonging to the fiancée of a then deputy prime minister. It is feared that this is not the only case of improper spending of taxpayers’ money which has occurred due to insufficiently developed control and oversight capacities.

BOX 10: SPECIAL PURPOSE FURNISHINGS

In December 2011, the Security Information Agency bought furnishings for its premises worth 7 232 301 dinars.* Although this procurement was subject to the provisions of the Public Procurement Law, which prescribes procedures for announcing a call for tenders and choosing the preferred bidder, the SIA opted to rely on the Regulation,** and so avoid public oversight of the procurement and of the public money allocated to the SIA. The problem is that this Regulation is intended for the procurement of special purpose resources, i.e. various technical devices, weapons, specialised vehicles etc. It remains unknown to citizens why this furniture is special, and whether purchasing such modified (if it is such) furniture is needed (or justified). It is also indicative that the owner of the company which provided the furniture is in fact the fiancée of a then deputy prime minister. According to research by journalists from Pištaljka this was not the first time that the company had worked with state bodies, and there had already been complaints about its engagement.***

The Agency for the Fight against Corruption has been active for only two years, which affects the scope of oversight of officials’ property. Asked whether they had so far encountered any inconsistencies in declarations of property by officials (in the security sector), they replied “No inconsistencies in the property declarations of the aforementioned officials were noted during the review process, but it is necessary to bear in mind that some have submitted only one report, and some only two, meaning that it is very difficult in such a short period of monitoring to observe inconsistencies and discrepancies between property and income. It should be borne in mind that only after a period of more than two years (which is how long the Agency has been operating) is it possible to talk substantially of real monitoring and oversight of Officials’ property.”¹⁶¹

160 Marko Milošević. “Kako da izgrade integritet nezavisne institucije koje se bore protiv korupcije u Srbiji?” *BCSP, September 2011*. <http://www.bezbednost.org/upload/document/milosevic_2011_kako_da_izgrade.pdf>

161 “Answer to BCSP questionnaire sent to the Agency for the Fight against Corruption”, BCSP, 19.3.2012.

* Poslovi Đelićeve verenice (I) – BIA tajno kupuje nameštaj” Pištaljka, 22.2.2012. <<http://pistaljka.rs/home/read/195>>.

** Regulations on Special Purpose Resources for the use of the BIA” Official Gazette RS, no. 21/2009.

*** Resolution of the Commission for Rights Protection in Public Procurement Processes against “Vojvodna Investment Promotion”, in which the firm Ktitor made a complaint against the firm Nitea (Đelić’s fiancée). <http://pistaljka.rs/public/fck_files/file/ivanninic/resenje%20%204%2000%20327%202011.pdf>.

Possible improvements in the work of independent state bodies in the fight against corruption

As well as a lack of human and material resources, and sometimes also political will, the work of independent state bodies is also affected by some structural barriers, such as the existence or lack of certain powers. One of the greatest barriers to an effective fight is a provision of the Misdemeanour Law.¹⁶² As misdemeanours expire after one year, in the words of an SAI employee, “for most of the misdemeanours sanctioned by the given regulation, if the paperwork about work carried out by a beneficiary of public funds is revised, the misdemeanour expires before the audit process can begin”.¹⁶³ The operations of the Commissioner, the Agency and the Ombudsman are limited in the same manner. On this point, the Commissioner and Auditor are in agreement, in their replies to the BCSP questionnaire, that the Misdemeanour Law should be corrected, and the term of expiry extended from one to three years (Auditor’s suggestion) or five (Commissioner’s suggestion).

These boundaries can be overcome if independent state bodies undertake unscheduled control and oversight, but they need a reason for doing so. The reason is usually some type of inside information, or notification from an aggrieved individual within the system that irregularities in work have occurred. Here we come to a different type of limitation, the insufficient protection afforded to whistleblowers. It has been shown in practice that the current legislative framework¹⁶⁴ offers insufficient guarantees of protection, and thus does not encourage individuals to report cases of corruption in their work environment. The solution to this problem lies in regulation of whistleblower protection through a law (and not a rulebook as has been the case until now), and in giving that law *lex specialis* status. This would mean that the law would override other laws in areas which may be linked to corruption.¹⁶⁵ There has been some progress in this direction, as the Commissioner has created a working group for drawing up a draft Law on Whistleblower Protection.¹⁶⁶ This draft should be in accordance with Council of Europe Parliamentary Assembly Resolution 1729 from 2010.¹⁶⁷ This would mean that protection would cover a wider area in both the public and private sectors, as well as including the armed forces and special services. According to the resolution, the provisions of the law should also further codify areas relating to the Labour Law, the Law on Public Information, the Criminal Law, the Law on Criminal Procedure and specific anti-corruption practices.

162 “Misdemeanour Law” *Official Gazette RS, nos. 101/2005, 116/2008 and 111/2009, art. 76, para. 1.*

163 “Answer to BCSP questionnaire sent to the State Audit Institution”, BCSP, 29.3.2012.

164 Agency for the Fight Against Corruption, “Rulebook on the Protection of Individuals Reporting Suspicions of Corruption”: <http://www.acas.rs/images/stories/Pravilnik_o_zastiti_uzbunjivaca.doc>.

165 The status of *lex specialis* is granted to the Law on Free Access to Information of Public Importance in all areas related to free access to information. Thus, for example, the provision in article 5 of the Police Law, according to which information is provided to civilians only if there is justification, becomes void as the Law on Free Access to Information of Public Importance asserts that no justification is required for an information request.

166 Commissioner’s press release, 4.7.2012: <<http://www.poverenik.org.rs/yu/saopstenja/1383-poverenik-pocinje-sa-izradom-modela-zakona-o-zastiti-uzbunjivaca.html>>.

167 “Council of Europe Parliamentary Assembly Resolution 1729”: <<http://assembly.coe.int/main.asp?link=/documents/adoptedtext/ta10/eres1729.htm>>.

BOX 11: WHISTLEBLOWER PROTECTION IN SERBIA

Since July 2011, individuals who report corruption have been entitled to protection in accordance with the provisions of the “Rulebook on Whistleblower Protection”.^{*} This document affords whistleblowers protection from dismissal and from discrimination in the workplace where they report corruption. However, the protection measures provided by this rulebook are not serious – if an employer retaliates against a whistleblower, the Agency will publish the employer’s name publicly on its website. A case of whistleblower protection in the area of health – that of Bojana Bokorov who reported corruption in her institution – illustrates the shortcomings of the protection offered, as Bokorov was dismissed from the medical faculty^{**} where she worked. Although they are guaranteed anonymity, the names of the most important whistleblowers in Serbia are widely known, which indicates the effectiveness of this protection. Even worse, whistleblower protection in the security sector is even more complex, as whistleblowers who reveal abuses which are subject to some degree of secrecy may be prosecuted for harming national security under the Law on Secret Data (as opposed to the criminal liability which whistleblowers in other areas may face).

There is space for improving the effectiveness of the Commissioner’s work. A potential solution for the fact that the government fails to implement the Commissioner’s resolutions (not one resolution so far), could be the widening of the Commissioner’s powers. In his answer to the BCSP questionnaire, the Commissioner stated that “the best solution would be for the Commissioner to have the authority to conduct punitive proceedings himself, as is the practice in other legal systems (e.g. in Slovenia).¹⁶⁸ However, from the standpoint of existing working conditions and the consequently limited capacities of the Commissioner, this would not be realistic under the current conditions of excessive workload related to current responsibilities.”¹⁶⁹

Conclusion

From the appearance of the first independent state bodies in Serbia (the founding of the Commissioner’s office in 2004) up to today, too little time has passed to allow these institutions to settle into their work. Precious time has generally passed between the legal promulgation of a body and its actual establishment the Ombudsman was legislated for in 2005, while the first and current Ombudsman was appointed only in 2007. There has been a similar dynamic in the case of the State Auditor – a 2005 Law provided for the formation of this body, the institution’s Council was selected in 2007, and the work classification was completed in 2010. Additional delay in passing secondary legislation has only hampered these institutions’ work further. The lack of support from the government for these institutions indicates that they are more a façade for fulfilling the conditions for European integration than bodies which the government takes seriously. In contrast to these objections, the public has encountered the expertise and charisma of the heads of these institutions, the source of a good part of their legitimacy. There are of course no precise indicators of success in the fight against security sector corruption – the government and judiciary, rather than these institu-

168 Republic of Slovenia Information Commissioner, *Competencies*, <<https://www.ip-rs.si/index.php?id=235>> 12.10.2012.

169 “Reply to BCSP questionnaire sent to the Commissioner” BCSP, 5.3.2012.

^{*} Agency for the Fight against Corruption, “Rulebook on the Protection of Individuals Reporting Suspicions of Corruption”: <http://www.acas.rs/images/stories/Pravilnik_o_zastiti_uzbunjivaca.doc>.

^{**} Bojana Bokorov: kako sam ja to zaštićena?” Pištaljka, 7.6.2012. <<http://pistaljka.rs/home/read/230>>

tions, have the final word. But they are important actors in the fight against corruption, and their integrity is growing over time. This is shown by the fact that the heads of these institutions were not replaced after the change of government in 2012, a fate which befell the heads of other institutions, such as the Governor of the National Bank of Serbia. Likewise, the authority granted to these bodies, and the results of their actions to date, have offered the public insight into the activities of security sector actors and has strengthened public oversight of the same.

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About the Belgrade centre for security policy

The Belgrade Centre for Security Policy (BCSP) is a voluntary, non-partisan, non-government and non-profit association of citizens which wishes to contribute to improving the security of citizens and society in accordance with democratic principles and respect for human rights. BCSP's interest focuses on policy aims at improving human, national, regional and international security. BCSP achieves its aims through research, analysis, practical policy proposals, public advocacy, education, publications, expert support for security sector reform in Serbia and contributions to building networks among all relevant actors in the security community. BCSP's research interests encompass the Republic of Serbia's security policy and the security dynamic in the Western Balkan region and Europe, as well as in the global community. On the basis of its findings, the Centre develops proposals for practical policies intended to contribute to the realisation of human security, consolidation of domestic security sector reform and the security integration of the Western Balkans and Serbia into the Euro-Atlantic security community.

The Belgrade Centre for Security Policy was founded as the Centre for Civil Military Relations (CCMR) in 1997 in Belgrade. CCMR was created as a civil society organisation intended to support Serbia's democratisation and committed to radical reform of her security sector. In its 14 years of existence, the Centre has issued more than 50 publications and carried out dozens of projects. The Centre has concerned itself with the most important themes of security sector reform including among other topics: democratic and civilian control of the armed forces, legal regulation of Serbia's security sector, human rights protection for civilians and security sector employees and security co-operation and integration in Serbia. The Centre has thus opened up new and under-researched topics, placing them under the public view. Examples are: private security companies, the relationship between the economy and security and public monitoring of special measures and procedures applied by the security services. In order to express its now wider and deeper research orientation more truthfully, on 1st June 2010 the Centre for Civil Military Relations changed its name to the Belgrade Centre for Security Policy.

The Belgrade Centre for Security Policy has acquired significant experience in various academic research projects, as well as in alternative education and public advocacy. Thanks to this, BCSP is ranked among the leading independent research bodies in the field of security. This is particularly true of research on security sector reform in Serbia and the West Balkan region. This is evidenced by the results of some of the research projects conducted to date, including: "Mapping and Monitoring Security Sector Reform in Serbia" (2007–2011), "**Researching and Improving the Security Culture of the Young**" (2008–2009), "**Security Sector Reform and Euro-Atlantic Integration in Slovakia and Serbia: Lessons Learned**" (2007–2008), "**Private Security Companies in Serbia – Friends or Foes**" (2007–2008), "**The Armed Forces of Serbia and Montenegro and the Serbian Orthodox Church – A Search for a New Identity**" (2005–2009), "**Public Opinion and the Media on the Armed Forces of Serbia and Montenegro**" (2003–2005), "**The Violent Dissolution of Yugoslavia – Causes, Dynamics and Consequences**" (2004), "**Human Rights Protection in the SRJ Armed Forces and Police**" (2003), "**Normative Recommendations for Civilian Control of the Armed Forces of Yugoslavia**" (2001).

Among the activities recently undertaken by the centre's experts and collaborators is the preparation of several model laws in the field of security: the Model Civil Service Law, the Model Law on Private Security Activities, the Model Law on Defining and Handling Secret Data Significant for

National Security and the Model Law on the Supreme Defence Council. Based on this, the Centre has begun a public debate on the need for and importance of comprehensive and coherent legal regulation of Serbia's national security system. Similarly, the Centre has prepared a Draft Law on Democratic and Civilian Control of the Armed Forces, and its experts participated in the preparation of a Draft Law on the Serbia and Montenegro Security Services, having previously been part of the team which prepared the Law on the FRY Security Services, adopted in July 2002. In addition, in September 2007 the Centre organised a public discussion about drafts for the Defence Law and the Armed Forces Law, as well as holding a public discussion about drafts for the Republic of Serbia National Security Strategy and Defence Strategy in January 2009.

Important among the Centre's activities to date are various educational and information programmes intended for civil society activists, members of parliament, employees of Serbia's security sector and members of the academic community. These programmes have attracted more than 1800 participants. In co-operation with the Faculty of Political Sciences, BCSP has twice successfully carried out one-year specialised courses in national and global security studies. Ever since then, and on the basis of a memorandum of cooperation, the Centre has participated in organising and implementing postgraduate courses and Master's degrees in international security at the Faculty of Political Sciences in Belgrade.

The Centre is both a member and a founder of a number of national and regional civil society networks and organisations. Some of these are: the Serbian Federation of Non-Governmental Organisations, the network of non-governmental organisations partnering the Government of Serbia's Office for European Union Accession and the Security Sector Information Forum. The Centre has also signed memorandums of understanding and thus formalised cooperation with the Serbian Ministry of Defence, the Government of Serbia's Office for European Union Accession, the Institute of Comparative Law, the National Institute for Democracy, the "Jagello 2000" **Association for Euro-Atlantic Cooperation from the Czech Republic, the Centre for European and North Atlantic Affairs from Slovakia, the Centre for Democracy and Human Rights (CEDEM) from Montenegro, the RACVIAC Centre for Security Cooperation, the Institute for International Relations from Croatia, the Centre for Security Studies from Bosnia and Herzegovina, Analytica from Macedonia and the Institute for Democracy and Mediation from Albania.**

The Belgrade Centre for Security Policy possesses the first academic library in Serbia specialising in security studies. It is registered with the National Library of Serbia, and all its publications are available through the COBISS system (the unified regional system of library networks consisting of over 500 libraries). The library currently has over 2700 titles as well as specialised domestic and foreign journals.

"Mapping and Monitoring Security Sector Reform in Serbia" is a conceptually comprehensive, theoretically grounded and methodologically systematised research project by BCSP which for the first time gathers in one place analysis of the state of security sector reform in Serbia and an assessment of the progress achieved so far. During research, BCSP listed and analysed the missions and powers, the normative and systemic status and the work of all state and non-state actors in the security sector. To this end, a uniform methodology for monitoring the trends and assessing the scope of security sector reform in Serbia was devised. Special instruments were also developed for numerical expression of the progress of security sector reform, on the basis of which a reformedness index for the whole sector and/or its constituent parts was then developed. All the research results, as well as recommendations, were published in the "Yearbook of Security Sector Reform in Serbia" (DanGraf, CCMR, 2009).

The Centre also carried out the first (and so far only) empirical research into Serbia's private security sector in the period 2007-2008, since when the Centre's work in this area has been particularly recognised. During 2010, representatives of the Centre participated in public discussions about the Draft Law on Private Security and Detective Work.

As part of its co-operation with state bodies, in 2011 the BCSP began work on the "Corruption Risk Map", a project financed by the Agency for the Fight against Corruption. As part of this research, the Centre examined possible and existing corruption risks at the MoI, MoD and SIA as well as the powers and capabilities of independent state bodies in the fight against corruption. The results of this research are available on BCSP's website.¹⁷⁰

170 <<http://korupcija.bezbednost.org/Korupcija/1/Naslovna.shtml>>.

