

# The new model of mechanisms of police external control in North Macedonia

Research Article

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## Abstract

Today, for all democratic countries, the idea for the police to control itself, without the possibility of external control, is absolutely unacceptable. The Republic of North Macedonia is one of the few countries in Europe that still has not created independent external mechanisms for which it was criticized several times by the European Court of Human Rights, as well as by other nongovernmental organizations for the protection of human rights. In the past, the absence of external control, most certainly allows for the police to act arbitrary in specific cases, which can seriously harm the human rights and bring into question the legal safety of the citizens. With the latest changes of the law of 2018, it was decided to create new mechanisms of external control in the framework of the Ombudsman.

In this paper, we will elaborate in detail the organization and the function of existing mechanisms for police control in the Republic of North Macedonia and also the new mechanisms of external control.

*Keywords:* Police control mechanisms, internal control, external control.

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## 1. Introduction

North Macedonia is a democratic country where every individual has guaranteed rights under the Constitution and the law adopted by the assembly, while the task of the police is to equally apply it to all citizens who live in it. In the Constitution, all citizens are guaranteed the rights to submit a complaint if they feel that their rights have been threatened. Although the constitution of the Republic of North Macedonia, in any norm, not explicitly mentioned by the interior ministry and police, however, approximately one third of the constitutional matter is dedicated to the rights of the citizens, which are directly or indirectly related to policing. Indeed, the police are placed in the center of the state, it is one of the most important and most visible institutions in society. According to the constitutional and legal regulations it shall ensure the normal operation of the whole society, to constantly fight crime, but at the same time obliged to protect human rights effectively. In practice, such rights are often threatened by the police as a body that is the one who should protect such rights. We are witnessing today that more than ever before we are talking about the rule of law or the legal state in which will maximally protect and respect human rights and freedoms, particularly in the pre-trial proceedings. And indeed, when the man is facing the police officers, there is no doubt that there is potential danger his rights and freedoms to be threatened. But even if there is no such danger, yet there is a feeling of discontent, fear, excitement, etc.

The police procedure by nature is the most controversial of all criminal proceedings, because the practice shows that it is the most critical period, which can easily threaten human dignity. No reasonable person would suspect and thought that can be physically tortured by the judge, but everyone will suspect in the police officer, during the preliminary investigation, which takes place away from the public eye and where the officer is dominant figure. So any irresponsible behavior of the police may result in the infliction of great suffering and harm of citizens. The practice in many countries in a very obvious way has shown that the police which have not been under strict and effective control can become a dangerous weapon in the hands of irresponsible officials in the society. Because police actions today represent the largest barometer in terms of how high the level of democracy in a country can be and how much the democratic principles function, and the question of its control is located in the centre of attention of all democratic countries.

We live in a time when the attitudes towards the police and the law in general are changing radically. Like never before, efforts to incorporate the basic mechanisms for the control of the police are made, especially when it applies force. Thus the protection of human rights has become a favourite topic, both at global and regional level. In this regard, a set of rules and regulations has been adopted (laws, regulations, codes, declarations) which generally require police officers to be honest and have a good attitude towards the citizens, in particular they are asked not to apply undue means of coercion. But it has been shown that only legal and moral norms, are not a sufficient guarantee that the police will not really exceed official authority by using more force than is necessarily needed, and with this is difficult to violate the human rights. The practice also shows that only the officers and the institutions responsible for the fight against crime, such as the public prosecution and the judiciary are not a sufficient guarantee that will effectively protect human rights and that will reveal the crime in the police force. Public Prosecutor and the Ombudsman in Macedonia do not have enough capacity to detect this type of crime, given that the police are a separate closed system, which is difficult to penetrate from the outside. So many crimes committed by the police, remain forever undisclosed, due to the absence of other mechanisms specialized for detecting this crime.

Therefore, democratic societies have long been preoccupied with the matter how the police shall install other protective mechanisms, which will form a filter through which the passing will be difficult, and will also mean greater safety for citizens, that the legal monopoly of force, will be kept under strict monitoring. This mechanism will be activated whenever the police would step into the forbidden zone. Today every government service that implements the law must constantly be controlled, whether its conduct was lawful and proper. Assumption for successful functioning and proper treatment is to be under constant supervision or control. The need to control the police, for the first time is provided in the Code of Conduct for persons responsible for the application of the law by the UN (1977). As a result of these efforts, the police formed special services whose primary function would be the control of the performance of its function in the society. These services are called internal controls and somewhere service for professional standards and for the first time as special services occur at the end of 80s, with the task to reveal corruption within the police force. Of course one of the most difficult questions is how to build most effective strategy for responsibility of police, this is central issue and universal problem of any democratic society, which cannot be solved overnight by just filling in forms. Because of that the Republic of Macedonia has been several times highly ranked by various organizations as a country with the highest corruption. In every police in the world there are abuses, corruption and unethical working, they are the reasons why in every police must exist an internal control, which will have the authority and the capacity to successfully fight all forms of crime in their own ranks. Control is

imminent because if the police are corrupted freedom and life are not guaranteed, in such a system the citizens may be detained and released at the desire of some powerful man who pays the police and government. Such a relationship can deprive innocent people from their freedom while the criminals stay out. That is because the corrupted police protect the criminals, not the citizens. Police system where there is a lack of control mechanisms, corrupted people are in the spotlight, they actually often take up a significant function in the police. This in turn affects negatively with other police officers in the sense that "if they can do it, we can do it too" and thus between corrupted cops is reached a silent agreement of non-prosecution. In the Republic of Macedonia, in the past years, with the police were employed many people contrary to the prescribed rules and standards or significant managerial positions (chiefs) were elected people who approximately did not meet the legal and professional criteria for those positions. This approach led to significant increase of corruption among the police, while on the other hand was reduced the effectiveness of police activities.

There is no doubt that the fight against corruption within the police force is a main priority, because you cannot prevent corruption in other state institutions with corrupted police. When we talk about police in democratic and non-democratic countries, it is most likely they will abuse the power they are given. That is the reason that its work cannot be legally standardized in full, but depends on many circumstances which differ from case to case. Prerequisite for the successful execution of this function is that it should be professional, honest, impartial, and corruption-free, in one word be guided by high standards. Of the whole process of transformation, particular attention is paid to the control mechanisms that the institution could achieve by carrying out its tasks and always act in a manner that is consistent with the Constitution and the laws of the country. It must be mentioned that the international community almost never notices that the police still use prohibited methods, and that poses a serious threat to the rule of law. In particular, the police are required to be a professional service, not to apply undue coercion and should do the best to protect human rights. Compared to the past, in our country have been made significant changes to the respect of human rights, were ratified several international standards that are directly related to the protection of human rights. The Sector for Internal Control and Professional Standards refused an open cooperation with the Ombudsman and other non-governmental organizations. But today in this country are created new mechanisms in the framework of Ombudsman, which will include the civilian supervision also.

## **2. Concept of control**

Human history knows no society in which there was no need for control. In everyday life, the control is a very frequently used word and means an activity that checks other activity whose purpose is to determine whether it is within the boundaries of socially acceptable behaviours. The need to establish control over the governmental institutions (and other) was noticed a long time ago, when Aristotle noticed that the institutions that applied force can pose a threat to democracy and its institutions, unless not controlled. Also during ancient Rome, it was discussed about the danger of power given to certain state (armed) institutions causing the doubts that could serve to undermine and destroy the existing political system. Romans posed a question about Praetorians (Bodyguards of the Emperor) *Quis custodiet ipsos custodes* - And who will guard the guards.<sup>1</sup> In legal theory there are multiple definitions and views about the determination of the notion of

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<sup>1</sup> This phrase is prescribed to the last satirist and writer of the ancient Rome - Juvenal (satires, VI, verse 347), who lived about 60 - 140. BC.

control, but in our case means controlled activity based on legal regulations, in order to detect, record and remove unlawful or unprofessional conduct.

In democratic societies control is considered the opposite of freedom, so the control is bad, while freedom is good. And indeed it is, the control has a negative connotation in everyday life and it is used as synonym for many activities such as constraint, coercion, surveillance, guard, ban, punish, clamping, interference in the affairs of another, monitoring, verification, assessment, correction and more. But at the same time control means the rule of law, efficiency, quality, satisfaction of honest workers, job motivation, influence in achieving excellent results, inability to arbitrary behavior, prevention of unlawful treatment, prevention of various deviations, disabling leisurely unethical behavior operations, introducing discipline and so on. Thus, although control is poor, however it is necessary, especially when it comes to the police and the monopoly power.

In this context it will be mentioned James Madison and Alexander Hamilton's declaration which states "unless people were angels there would be no need for the government and unless humanity will be ruled by the angels then there would be no need either for internal or external control". This quote does not encourage us to think that there is no ideal man or system, over whom control is not required, and we are all aware of and we expect to happen something bad when you hear that something is gone out of control. Control, as a function of system aims to prevent erosion and remove all the anomalies in the system, in our case to reveal and prevent police abuse.

### **3. Entities responsible for controlling and monitoring of the police in North Macedonia**

Entities can carry out audits over the police, depending on the position where they are located can be divided into internal and external. While in terms of whether they are authorized by law to control formal and informal mechanisms. Formal and informal mechanisms include all the parties involved (government bodies and NGOs) that exercise control over the police. Formal mechanisms include all mechanisms that are required by law or have a duty to control the police. While informal mechanisms include all entities that do not have a legal obligation to control the police, but the nature of their work is such that it includes control of the police. This control is carried out in various ways and by various means which can usually cause major scandals and affairs in the society. The effectiveness of these mechanisms primarily depends on where the control holder is positioned and what are its legal powers.<sup>2</sup> But an interesting fact is that in both forms of control (formal and informal) there are internal and external entities.

### **4. Types of formal internal control**

4.1. Police officers control - this type of control is known as hierarchical control, which means control performed by the officer staff or police officers over their workers. This type of control is the largest and implemented immediately, every day and in every segment of policing, which is why it is known as a regular control.<sup>3</sup> This includes all employees of the police and their work in general, constantly monitored by a higher authority. This control is an integral part of the performance of current affairs and not as an independent and separate function. This means that every officer has a duty to supervise the work of their workers through official supervision and

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<sup>2</sup> These two classifications state the famous American author Bayley, D., H., *Pat terns of Policing: A Comparative International Analysis*, New Brunswick: Rutgers University Press, 1990, pp. 159 etc. quote according Milosavjevikj. B. "Nauka o Policiji" p.306 and further.

<sup>3</sup> Miletik, Slobodan. *Police Law*. Belgrade: Police academy, 200. 371

control of success. The head supervisor checks the work and professional conduct of the police officer, and through quality controlling, he checks the success of the performed tasks. If the supervisor through the process of evaluation of the work comes to the conclusion that the employee has not achieved anticipated outcomes, then he can take certain measures of responsibility. Usually there are things for minor offenses that can be solved with minimum sanctions. But if the supervisor of the body through the process, concludes that the employee committed a severe violation of collective discipline, then he should inform the PSU or submit a proposal for the initiation of disciplinary proceedings.

When talking about hierarchical control, then we have to say that lately in certain police authorities, there was a worrying phenomenon, and it is a violation of the police hierarchy, which leads to confusion and reduces police efficiency. In these administrations police hierarchical control has weakened, because the police officer (through the political party) is connected directly to the Chief or Deputy Chief and thus loses the hierarchy. This way of working has led to the first superior officer (commander, assistant or guide) literally be blocked and will not review the work of their police officers. Even in cases when we conclude illegality or unprofessionalism, the supervisor is unable to take measures against him since he is obstructed by senior officers. If the chief of police, his personal position owes to a government minister (or political party) cannot be expected that he would be impartial in law enforcement.<sup>4</sup> The effectiveness of this type of control will depend on whether it is necessary to activate other types of control.

4.2. Sector for Internal Control and Professional Standards- this type is a second level of formal internal control in PSU. This Service is to supervise the work of the Public Security Bureau and the Office for Security and Counterintelligence. As a specialized service it is exclusively for the control of work of employees of the Ministry, in cases where there is suspicion that they acted illegally or unprofessionally. Unlike the first level control (police officers) that is executed as part of the everyday things, this kind of control is performed as an independent and separate function. Thus the control exercised by the Department responds to the secondary control or a control carried out by the Ministry of Interior over the police and it is the last instance in MI. For this type of control, we will talk in details further in the text.

- i. The disciplinary Commission. In certain states disciplinary offenses committed by police officers in performance of official duties, are resolved before the disciplinary court. Within the police functions the Disciplinary Commission which is responsible for conducting disciplinary proceedings. Usually, for any unlawful and unprofessional conduct, PSU initiates disciplinary proceedings before the Commission which is located within the Ministry of Interior. This means that disciplinary offenses are an internal issue of the police organization. But employees are guaranteed the right to appeal before the court, where they can dispute the decisions of the disciplinary committee. Disciplinary Committee means the (internal) Police Court, whose activity comes into consideration in all cases when the employee will do severe breaches of the workplace.<sup>5</sup>

This committee is responsible for the decision, regarding whether the officer is guilty and what sanctions will be imposed. Accordingly, inside the Commission can be initiated proceedings (by PSU or head of office) but only for judging. Moreover, the Commission has the role of a control mechanism within the police, because it's in process of conducting the evidentiary hearing, is it able to control the operation of PSU, so if they find something illegal, they must inform in writing

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<sup>4</sup> Anthony T. KOE. *Functions of the police in the democratic society*, Skopje: Security No.4, 1994. 665

<sup>5</sup> The Commission cannot on its own initiative to initiate a procedure, its role is to judge not blame. The role of internal prosecutor, who can initiate initiative is awarded to the SICPS and the officer staff.

the Minister or Deputy Minister, while evidence gathered in an illegal way shall not be taken into consideration. In each regional Police Administration functions, the disciplinary commission, and after the procedure shall be submitted to the Minister's office to be made a decision, where also acts the Commission on notice that the decision of the disciplinary committee of regional administrations may be confirmed or modified but it cannot be sent back for reconsideration.

## 5. Types of informal internal control

The above mentioned states that in this group are all subjects that have no legal obligation to control the police, but the nature of their work is such that you can cover this segment. Otherwise as a rule in certain cases, this type of control can cause major effects on the members of the community.

- a. Self-control – Self-control means moral internal mechanism of each person, which consists in building attitudes about which procedures socially are acceptable and which are prohibited. Self-control means consciously limit on one's behaviours, in order to be acceptable and in accordance with the ethical, legal and professional standards that apply and are respected in the community. The mechanism of self-control acts in such a way that the policeman alone consciously limits their freedom and behaviours by setting the same rules and regulations learned during training and in the service.<sup>6</sup> But this kind of control primarily depends on the strength of the features of each individual, so that those police officers who have loose character traits that will surely have a weak self-control and can easily result in antisocial behaviours. This type of control is particularly important in the cases where the employees take measures in the absence of the public, even in the absence of their elders. I would put all cases of use of force, performing searches, giving bribes (corruption) and any other situation that may cause the officer to commit various illicit affairs. If in such cases, the officer refers strictly according to the legal regulations, it contributes to increase citizens' trust of the police as a serious and honest service. It requires during the training to develop awareness of personal responsibility and knowledge of the norms contained in the code of ethics of the police. The resulting police subculture<sup>7</sup> may contribute to the development of self-control, of course if it fosters professionalism and awareness of personal responsibility. But the police can be nurtured and so-called professionalism callousness, where the officer has no sense of personal responsibility in relation to the consequences caused. About self-control as consciously limiting of actions spoke Freud and his psychoanalysis. Freud's self-control is identified as super ego (id, ego, superego) which means that the individual accepts external rules and acts according to them.<sup>8</sup> Very often in the police work happens in front of the police officer to appear so-called conflict of interest.<sup>9</sup> When this interest appears in the work of the court, then the party has a right to bring an action for its removal, so you will not have any issues at stake in this body. But the situation changes when it comes to the police, it does not mean that if the superior officer learns that his employee in this particular case has a conflict of interest, he will not remove him from the action, he will certainly do. But the problem is that the conflict often is learned too late, usually after completion of the operation, because the nature of the operational work is such. Police officers are

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<sup>6</sup> Milosavljevic, Bogoljub, "Civilian oversight over the police" Center za antiratnu akciju, Belgrade, 2004. p.31.

<sup>7</sup> Stojanovski, Trpe, "Police in Democratic Societies", Astor, Skopje, 1997. p.216.

<sup>8</sup> Milutinovic, Milan, "Criminology", The new Administration, Beograd, 1985, p.109.

<sup>9</sup> SICPS in 2009, received a complaint from a citizen who stated that the officer in SIA (passports) has a private agency for the provision of intellectual services.

the ones who first arrive on the spot, first find out exactly what it was about, those are the moments when the public is very far away, so you can find out that a certain police officer is somebody's relative or close friend, and this is automatically a conflict of interest. Conflict of interest means a dilemma of how to proceed further? Hiding and destroying evidence and thus to protect the offender or to act professionally, guarding the spot, waiting for the team to come to inspect (scan) the spot. Practically there is no one to monitor that officer. Despite the fact that in such cases it is difficult for complete objectivity and impartiality in question is still his awareness and education received in the course of training or self-control. Theoretically the superior officer is the one who should think of all these questions, and to consider whether any of the officers in the present case is in any conflict of interest. But, in reality it is impossible for superior officers to have complete control over the police, especially when it comes to these details, which can be understood very late.

- b. An interpersonal control. This mechanism involves that kind of control where police officers control each other during the performance of official duties, i.e. mutual control. It is known that every police patrol is composed of at least two or three officers, except in cases when the police intervene in larger numbers. Of course one of them manages the group and he is in charge of control, but that does not mean that he can manage the group as they want, because the police are obliged to exercise control over the work of the guide, especially if his behavior is in line with the legal regulations. So if the police received orders to conduct illegal activities, they are obliged to warn the head of the group that they cannot carry out illegal orders, and of course after arrival at the police facility all are obliged to draw up official material and to inform higher levels to ascertain his liability. However, the practice teaches us that between the police there is a high degree of solidarity and they almost never testify against each other. Such beliefs and attitudes of officers additionally complicate the investigation of PSU because in almost all cases, they protect each other.<sup>10</sup> It is the result of the police subculture, but that's the mentality. It is difficult to convince a police officer to testify against another policeman. But it is interesting that a research conducted by T. Stojanovski where 80% of respondents reported that they would report the colleague if they know they committed a crime.

## **6. Concept, development and tasks of PSU**

The Sector for Internal Control and Professional Standards is an organizational unit within the Ministry of Interior, which shall perform the following duties. Its activity is located in the control and supervision of the Public Security Bureau and the Administration for Security and Counterintelligence, in order to detect and prevent all kinds of illegal and unprofessional conduct. There is no doubt that the emergence of these services is determined by the large number of criminal acts by police officers as well as unprofessional conduct and violation of human rights.

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<sup>10</sup> So SICPS in one case could not conclude exceeding official powers in respect of the complaint filed by the person AD against a police officer who was patrol service with two colleagues from the SIA-Tetovo. Namely SICPS despite suspicions that allegations made in the complaint are realistic yet other colleagues persistently protected or testified in favor of their colleague, due to which the case was locked there was insufficient evidence. (client does not provide a medical certificate or report injuries) It is interesting that in Germany (where the officer has another mentality, subculture) than to us, if cop commits misdemeanor in the workplace, it is difficult to hide, because it will not allow his colleague. Such mutual control of the police officers themselves, contributed in this state has a special service to perform control, because every officer plays the role of internal control.

This type of control is an indispensable instrument to ensure legality, respect for ethical and other humanistic principles and rules by the police. In practice, the need for control is never too perfect, especially when it relates to the enforcement authority that applies where an individual is deprived of his liberty. At these moments, each person can question the legal operation of the police, because it requires further guarantees that its guaranteed rights are maximally respected. The control aims to determine whether the police officers acted in accordance with the legal regulations which apply in the Ministry of Interior. Such control in the true sense of the word means a barrier against police abuses and guarantees that the police will not act anti-socially and illegally to achieve its function. Supervision and control over the police work, are a necessity in the operation of state law, because the police often tend to use more power than it is allowed, and the fact that each government is despotic if there is limited or if is not controlled. From the above mentioned cannot be created the impression that the function of the sector is similar to that under inquiry and that it was created only to punish officers. The function of the Department, not limited only in examining the legality and professionalism of the conduct of police officers, but the officers staff also. With the execution of the control over the officer staff, it actually protects police officers from the arbitrariness and unproved attacks that can come from their superiors. It follows that the government, and the PSU, consists in performing general duties both for the citizens and for the employees too.

But it is very important for the PSU towards achieving its role, to not act cosmetically, nor to be a service that would forgive police sins. "From this point of view, the justification of the existence of this service is that it is responsible and authorized to take measures towards all employees of the police who behave illegally and to do the justice. So if the crime committed by employees has been increasing steadily and exceeding official powers by the use of torture, it is a signal that the PSU does not work as expected, and vice versa if the employees for taking official actions would act in accordance with the rules and regulations applicable to the police, it will reduce the need for control, which means that the goal has been reached, and that this service is functioning. Indeed, good and efficient operation needs no control, but such a function can never completely disappear, because historically government institutions employ people who violate the law.

We have mentioned that the PSU has a wide range of powers to carry out its function and represents the most important internal control mechanism of the Ministry and the Police which according to the rulebook is responsible of the following:

- In the Ministry of Interior appear unlawful activities among all employees; abuse of officials and police powers;
- Breaking the human rights and freedom during the police work; violations of standard procedures and procedures prescribed in each segment of the work of the Ministry and the police;
- Emergent forms of police corruption and corrupt behaviour;
- Various forms of violation of the police code of ethics and rules of conduct in the service.
- Assess the validity of the use of forced funds by the police officers, in cases where it has caused serious bodily injury or death of the person they intervened against;
- Monitoring the legality and application of standards and procedures for
- Accession to the police;
- Monitor the standards of professional and legal actions in the services of the Ministry and the police;
- Monitor the quality of policing through the prism of professional standards established as the standard police work.



According to the above, it can be concluded that this service really has a wide range of activities. But in practice, often the question is whether the PSU as a Service is in charge of dealing with all the contradictions that may arise between the police and citizens, regardless of the intensity or severity of the charge or it will be included only in serious cases.<sup>11</sup> If you analyse the police law (article 81), then the PSU should be handled only in severe cases and when they use firearms when you are causing serious bodily injury or individual who has died or when they are used against several persons. Only in these cases, the Sector shall proceed to conclude the merits, accuracy, validity of used weapons. This means that the PSU will not engage any use of force, but only in cases when it caused serious bodily injury or death. Since this remains logical to conclude that in cases when they are causing light bodily injury, the report will provide the first level control. However, to get the answer to this question must be consulted other legal norms also, especially the Rulebook of PSU, according to which the main task of the Sector is to protect the human rights corpus. In the Constitution and by many international standards are strictly prohibited all forms of inhuman treatment which can mean torture. Therefore, the Rulebook (article 25) states that investigations relating to violations of human rights by the employee of the Ministry, corruption, excessive use of force and firearms and other severe cases of unlawful and unprofessional conduct will be run exclusively by the investigators of PSU. So in practice, when citizens will complain that their human rights are violated and that force was used on them, PSU initiates investigations regarding these allegations. The act of using force as a method to perform the service (usually during the interrogation of the suspect) is a serious act in itself, because it is only inspected by the Sector. In general, every complaint from a citizen shall be submitted to the PSU, regardless of the allegations and the seriousness of the allegations, but if the Sector considers that it is a work of minor importance, the investigation may be transferred the head of the appropriate organizational unit of the appropriate sector. (Article.4) In this case, the initial report is prepared by the first control level, then the superior authority submits an official report to the Sector, where they analyse the results of the procedure. So any report on the use of force shall be under assessment of PSU, who may not agree with the initial report, then it prepares another report for the same case, which can significantly differ from the initial report prepared by the superior body (the first level control) or to agree with the opinion of the official in charge. If this report has a significant difference from the report prepared by the first control level, then automatically ceases to be valid and in force shall be the report of the second control level.

In cases when severe bodily injury or death was caused, then the first control level is completely excluded from the investigation and from the PSU, regardless of that weather the police officers conducted a thorough, impartial and objective procedure.

The SICPS will also conduct investigations in cases when employees of the Ministry of Interior will use firearms in private life, whether it is for official or private weapon.<sup>12</sup> In all cases where the PSU will proceed under the suspicion of unnecessary used force will, will proceed under Article 3 of the Code of Conduct for persons responsible for the application of the law<sup>13</sup>, which

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<sup>11</sup> According to official UN Convention on Transnational Crime (Vienna, 2000) a serious crime is considered a criminal offense that is punishable with imprisonment of not less than 4 years.

<sup>12</sup> SICPS several times so far has implemented a procedure for determining the liability for use of O.O from police officers in their private life. Thus in 2005, according to several employees of SIA-Gostivar took some measures for responsibility and they were fired because they used O.O on a wedding, where one person sustained light injuries. And in other places also filed criminal charges.

<sup>13</sup> This Code has been adopted by the United Nations General Assembly on 17 December 1979 by resolution 34/169. In the original "code of conduct for Low Enforcement Official.

states that persons responsible for applying the law may use force if it is really necessary and to the extent that it requires the exercise of their duty. That, in turn means that officials can only exceptionally use force only when considering the specific circumstances of coercion is necessary to prevent a crime, or to commit or facilitate the lawful arrest of offenders or suspects. When we talk about the first and second level of control, then there is a need to distinguish operational from administrative operations. So when authority in the police will conduct an administrative procedure, which will bring a specific administrative act (decision), it is the first instance authority to address, in this case if the citizen is not satisfied with the decision, he has the right to appeal<sup>14</sup>, but now PSU does occur as a second instance. From this we can see that the PSU has almost no powers to the examination of individual administrative acts. Indeed, the governing body for running the administrative procedure is independent and bases its decision on confirmed facts, so that no one can be ordered in the procedure in particular administrative matter, nor any solution will be brought in that procedure.<sup>15</sup>

But if it is proven that the officer in Administrative Procedure is abusing his official position, (is corrupted) then the question is who should conduct the proceedings, PSU or criminal police? Almost in all democratic countries, the case is cleared by the criminal police, by filing a criminal complaint with the Public Prosecutor, while his superior officer will provide disciplinary action. When the situation is the opposite, for any crime or offense by an employee of the Ministry of Interior, must notify the PSU, so that submits charges and a proposal for disciplinary actions, or completely clears the case. Another task is the normative function of the PSU, so the Sector on behalf of the Ministry prepares anti-corruption program and is responsible for its implementation. The Sector shall prepare an annual work program to set priorities and annual training program and professional development. At the end of the year, the Department prepares a report on its work, this report does not constitute classified information and it shall be published on the website of the Ministry<sup>16</sup>, then the Sector shall prepare anti-corruption programs, work programs, training programs, etc.

## 7. Organization of the PSU

The Sector of Internal Control and Professional Standards is part of the Ministry of Interior and falls within the ministry. Ministry, as a body (state administration) carries out its work on the basis of legal regulations (Rules) and laws regulating this area. According to the organization, it's a central body, headed by the Deputy Minister, and it's an Independent authority because all authority is managed by one person or its chief.<sup>17</sup> As a state body PSU is located in the office of the Minister and performs on behalf of the Minister and his orders.<sup>18</sup> Accordingly, PSU organizationally is directly under the authority of the Minister, which allows such a position hierarchically to have broad authority and jurisdiction over the entire system of the Ministry.<sup>19</sup> Due

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<sup>14</sup> Article 14 of the Law on General Administrative Procedure in Republic of North Macedonia.

<sup>15</sup> Gelevski, Simeon. *Comment of the Law on General Administrative Procedure*, Skopje: Faculty of law, 2005.

<sup>16</sup> [www.mvr.gov.mk](http://www.mvr.gov.mk)

<sup>17</sup> For more read the quote book "administrative law" prof. Naum Grizo etc., 2008. Skopje p.119

<sup>18</sup> SICPS was several years with offices located in the building where the minister sat which formally meant that it was his right hand.

<sup>19</sup> By an act of the Minister of systematization of jobs and organizational structure MI, SICPS is a part of the minister's office, see organogram Ministry of Interior.

to its position, it is defined as an elite unit of the Interior Ministry. Elite Squad is not considered because of the power that has since realistically it has no physical power, like central police services have, but it is called an elite unit because it appears as a direct Protector of the Ministry and of citizens because it simultaneously protects both interests. When protecting the ministry of internal crime, the Sector appears in the role of prosecutor, and when it protects the citizen then the role of the department is similar to what lawyers have.<sup>20</sup> PSU appears to be an instrument of the minister or a tool that establishes order and discipline in the institution. In other words it is set up to help the minister to successfully run the ministry.<sup>21</sup> The Sector, according to the organizational structure is an integral part of the minister's cabinet while according to the structure it is composed of three units: Internal control-unit, Department of professional standards and Department of the City of Skopje.

**a)** Internal Control Unit or also known as the Department of Criminal Investigations: is led by the head of sector who is elected by the Minister on the proposal of the Deputy Minister for SICPS. Otherwise, after previously opened internal call, right to application have all the employees of the Ministry of Interior who have completed higher education and work experience in this ministry for at least 5 years. This department is responsible for enforcement proceedings (investigation), when on any way gets information that a person employed in the Ministry of Interior is involved in crime. Under the present set-up this unit will investigate all employees of the Ministry of Interior (except the Minister) regardless of the employee's position. It is interesting that the internal control has authority over the Office for Security and Counterintelligence, which is not the practice in other democratic countries and the right to question how it has a fair opportunity and capacity to control this service. According to the rules of PSU (Article 2, paragraph 1) internal control is defined as an activity by employees of the Department in handling the oral or written submission filed by the citizen or other entity for the purpose of determining the truth of the allegations made in the proposal for initiating a procedure for determining responsibility for breaking the work order and discipline and to establish the material, professional, misdemeanour or criminal liability of the employees in all cases of their unlawful conduct.

**b)** The professional Standards Department, which is still known as the complaints department, complaints, legal actions and application of power,<sup>22</sup> which is also managed by a Head officer, who is elected in the same manner as the Head of the above department. This unit primarily concerns law enforcement officers to be professional especially in the use of firearms or implement procedures for assessing whether the force used was in accordance with the prescribed legal criteria. In practice almost all cases when the police used coercion, there is doubt whether it is used in accordance with the rules and regulations that apply to the Ministry of Interior. These procedures were assessed by the persons who applied force or by their direct superiors (first level), when comes to mind the maxim "the judge sues you, the judge punishes you" while citizens doubt about

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<sup>20</sup> When talking about protection apprehended, then we mean of the moral protection, its dignity, protection from any kind of inhuman treatment, not that SICPS will advise and defend apprehended. For more read the book by Dr. Nicholas Matovski role of counsel in criminal procedure, Skopje, 1981.

<sup>21</sup> It should be borne in mind the pioneering work of SICPS, so our internal control will and still have enough time to become what is this service in European countries.

<sup>22</sup> The word standard means prescribing certain norms, criteria, regulations would be valid for all analogous cases. The purpose of standards is to lay down the basic principles that form the basis for the performance of police functions. Here it is not about any specific standards that apply to SICPS just the standards applicable to police officers that are defined and contained in police code. Thus the task of this unit is to control how much they are respected by police workers or how officers behave in accordance with those standards. But these standards are specific only the police function that called professional standards which means you are connected to the profession which they refer to.

the objectivity of the evaluation, leading to a loss of confidence. Therefore, in democratic societies it is required in all cases the use of physical force to undergo a procedure for determining the legality of the use of that force to enforce the authority who did not take part in the event and that provides sufficient guarantees that the investigation will be conducted very objectively. PSU is in charge of objective and straightforward way to answer whether the means of coercion are used in accordance with the prescribed standards and criteria. Because members of this unit must be good connoisseurs of the legislation and the criteria on which you can answer it, if the used tool was **based on evidence, justified and proper**. Such a procedure is performed in all cases by police officers or officials, use of force and firearms because that will cause serious bodily personal injury or a person might be dead or they will be used against several persons. If it is concluded that the force used is not established, then it comes to illegal conduct. Unlawful conduct within the PSU<sup>23</sup> Regulations, abuse or misconduct that employees endure, when performing their tasks, and during the prescribed standard procedures and procedures in each segment of the work of the ministry and the police, which violates the human rights and freedom and their corrupt behaviour and acting contrary to the provisions of the Code of Police Ethics, Guidelines for the behaviour and interrelationships of police officers in the Ministry of Interior and rules for the conduct of persons with special duties and powers

c) and any contrary behaviour legislation.

Apart from these two departments in the Sector, also functions the department of Internal Control and Professional Standards for the City of Skopje, which is also managed by a Head and the Analysis Unit.<sup>24</sup>

## **8. Development of the Sector for Internal Control and Professional Standards and material-technical supply in the present time**

In the Republic of North Macedonia for the first time in 1998 by a decision of the Minister within the Ministry of Interior was established the Internal Control in charge to carry out the procedures for determining the cases of violation of human rights and freedoms by authorized officials as well as to determine other cases of unlawful activities.<sup>25</sup> At the very beginning there were the

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<sup>23</sup> Article 2 of the Rules of doing things by SICPS, this law was enacted in 1997 and has undergone several changes, especially in 2006. Regulation does not contain provisions where you can see that sanctions can be proposed by the SICPS.

<sup>24</sup> This unit forms the record of all police officers who are penalized by the Department. It is also responsible for coordination of all complaints that come in the sector in relation to the finished investigations and investigations which are underway, linking with the adviser who worked on that subject while allowing provision of timely responses. The unit keeps records of all conducted investigations. They also perform statistical processing of data, which gives quarterly report unprofessional work of the employees in the police.

<sup>25</sup> Internal control services or professional standards units as separate services, relatively new. They are in the true sense of the word occur after the Second World War, with the adoption of a number of international standards that directly address the human rights protection of police brutality (torture). By then, the police were more inclined to protect power than citizens. Such an approach continued after this period, particularly in those countries where the power came from the Communist Party. In these countries are very significance of human rights, but priority always had state institutions. Although the law prohibited torture, yet it was one of the common methods especially during the interrogation of detainees. (especially if the person was arrested on suspicion of the country is against the socialist editing). So in that system officers and inspectors DB daily crossed official powers, which had no responsibility. But that does not mean that in these countries, the police had no control, rather it is controlled and constant, but such control had to check the protection of human rights, but how is it prepared to effectively protect existing communist regime. Such control is performed by the Communist Party. Today violation of human rights is one of the biggest

organizational unit manager and three inspectors. Later the number of inspectors reached eleven and it functioned in that way until 2003. In 2003, the Sector expanded even with one unit - known as Unit for professional standards, so that today functions as a Sector for Internal Control and Professional Standards and has around 45 employees. Employees of this office are chosen from the ranks of the police, criminal police and SIA, in order for the service to have the capacity to perform successful control over all employees of the Ministry of Interior. However, all employees have university degree and have many years of experience in the Ministry of Interior. This institution (PSU), until 2003, functioned with no defined rules for its activity, so for this period it didn't keep any statistical records, and not made analytical reviews. In the beginning, the institution functioned only at the request of the Minister or the Director of Public Safety. This was because at that time, citizens didn't know that such a service existed, since it was not very known, even the employees didn't know that there is an internal control unit in the Ministry of Interior. Therefore, citizens' complaints on police officers addressed directly to the Minister or Director, and today has a large number of complaints directly sent to the Minister. So, the received letters were submitted to the Department for Internal Control, which further implemented the procedure and finally submitted a report on the results of the investigation. The report contained an assessment of treatment officials and suggestions for taking measures, of course if it is determined that there are flaws or irregularities in the conduct of the employees of the Ministry of Interior. Based on this report, the Minister or the Director against the employee took some measures for responsibility. But the minister has no legal obligation to act upon the proposed measures given in the report, so in many cases there were taken illegal actions and measures since the last word is the Minister's word not of the PSU. But as it is, with the submission of the report all further powers PSU shall cease to exist. Despite the fact that this service in our country is not independent, but is under the command of the Minister, however a few years of operation, undoubtedly showed great results in the protection of human rights and the detection and documentation of police abuses. Today, the headquarters of the PSU is physically located in the offices of the Ministry of Interior, at NN Dimce Mircev Street, Skopje. The premises despite being part of the Ministry of Interior are located outside the main complex of buildings and as a result they are separated from the daily affairs of the ministry in all its forms. Before 2006, the department was housed in the ministry complex in the building where are located the Minister and the Director of the Public Security Bureau, which represents additional difficulties for working with parties etc. All advisors working in the seats have offices that can be locked when they are not working in them to protect sensitive materials. The Sector, except for the staff, has also advisors in several geographic locations or detached inspectors across the country: Bitola, Shtip, Veles, Strumica, Tetovo, Gostivar, Prilep, Ohrid, Kocani and Kumanovo. These detached advisors work directly under the deputy Minister of PSU, they depend on SIA chief and all other equipment, including the use of vehicles. Conditions in which they work and their access to equipment vary according to local conditions and according to the position of regional managers in some cases.

Equipment. The headquarters of PSU is more than adequately equipped with furniture in the form of desks and chairs. The Sector is supplied completely with computers, so each adviser has a computer in his office (but not the printer). The Sector has five vehicles used by employees of Skopje, while detached advisors (except Bitola) do not have vehicles, so they are forced to address the Chiefs, somewhat the Sector loses independence. They work alone and are not supervised and do not have daily support from other colleagues and heads of PSU. The atmosphere can be either

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criticisms that points towards socialism, because in those countries policeman was never concerned and educated for the protection of human rights.

too friendly or too hostile with the police officers against whom they will be able to investigate, and which are of the same SIA. Already alluded to their dependence on Heads of SIA for the resources that are needed to undertake their duties. Furthermore, in the past it was not uncommon for the local chiefs of police to interfere in the work of PSU members, even to take the cases and they do not have turned them to PSU headquarters even though the rules of PSU obligate them. The entire staff, including detached advisors are equipped with business mobile phones and SIM cards. There is a GPS unit that is equipped by ICITAP. Councillors, under 20% are ethnic Albanians and about 30% are women: the entire support staff are women.

## **9. New model of external control**

As we mentioned previously in the paper, with the latest legislative changes in Macedonia, should be formed a new mechanism for external police control. This mechanisms according to law, will work in the framework of Ombudsman. Beside Ombudsman, in this mechanism also will be part three citizens from non-governmental organizations and together they will create the mechanisms of supervision of police. The parliament of Rep. of North Macedonia will elect three non-governmental organizations, and they will propose one of them who will be part of these external mechanisms, who will be authorized to control police work especially when the citizens are not pleased with the answer of Internal control. In this case, the citizens will have the possibility to submit complaints before the ombudsman, in fact before the mechanisms of civilian monitoring. All persons who will apply to be members of these external mechanisms of police control must meet some criteria, e.g.:

- to have 5 years' experience in non-governmental organizations, in human rights, police work, and police law
- to be citizen of Rep. of North Macedonia
- not to be convicted
- to have higher education - 240 ECTS credits, etc.

The ombudsman will start investigations according to the complaint of victims, family members of the victim. These mechanisms will have access to the classified data, during the investigation process. With this model of the external control, citizens are given the opportunity to control the police, who will be more transparent and accountable to citizens.

## **10. Conclusions**

In this paper, we do not intend to point out that the Sector for Internal Control and Professional Standards, is an ideal service and that it managed for this period of existence, to completely eliminate torture and criminality from the police force. It is very clear that in the police there will be always individuals who will act contrary to the legal regulations.

But also it cannot be denied that the PSU for this period has managed to reduce the crime committed by the police, before the existence of this service it was certainly much higher. The internal police control in Rep. of Macedonia is a relatively new service and occurs as a result of progressive ideas related to the protection of human rights. The justification of these services is reflected in the fact that (the state) the police must not arbitrary and illegally use the power that is given by law. Hence these services appear as a guarantee and create legal security for citizens, that excess power will be strictly limited, channelled and used only in achieving the statutory objectives. Today, as a result of the effective and efficient operation of the PSU, the professional

conduct of police officers, especially during direct contacts with citizens, has significantly improved, so every citizen can testify that the quality of relationship with police officers is improving.

Also in the police procedures during the interrogation of a suspect, the torture is rarely used. It can be freely said that torture as a means of extorting a confession is a past. Towards this, despite punishing measures, the Department carries out educational activity of citizens, it has prepared promotional material that will be placed in a prominent place in all police buildings, which will call on citizens to report police abuses and unprofessional treatment. PSU through the mass media (press conferences) informs the public about the measures taken against employees who acted contrary to the legal regulations that strengthen the confidence of the citizens in the sense that no one is above the law.

Justification of the existence of this service is reflected in the fact that PSU not only protects citizens from the police, but also is a strong regulator of the internal relations in the police. It protects "the police from the police". This benefit of this service is not only felt by the citizens, but also by the employees, because now they have a place where can freely complain against the officers or report their unlawful activities. Furthermore, it can be concluded that the PSU in comparison with other external mechanisms, including the judiciary as a statutory body responsible for the protection of human rights, has a dominant role to the protection of human rights and the disclosure of police abuses. The sector writes report quarterly, semi-annually, and the same are published on the website of the Ministry of Interior, where are available to the public. Long period these data, and the Rulebook on doing things, PSU treated as confidential and were not available to the public, even to the ombudsman. We believe that this is a really positive progress.

Despite the positive changes, however until now no independent external control mechanism for the police leaves space for suspicion in some cases. But today we hope the new mechanisms give hope to respect human rights before police procedure. Even though this mechanism is created, we are not completely satisfied with this model. We propose in Macedonia to create an independent central panel with advisers which would conduct investigation in all cases of the use of force which causes serious bodily injury or death or serious cases of corruption. Apart from the central committee, we propose to form local committees, which would be consisted of citizens from the local government or may be of a mixed character. In case of use of force by the police, one or two members from the local committee would be part of the investigation and in all cases where the police used lethal force, then in addition to the members of the local investigation committee would also participate one member of the family of the deceased. This will be closer to the new concept of Police Community Policing, that North Macedonia pretends and all looking forward to be part of the European Union.

## References

1. AMNESTY International, "Fair Trials Manual" London, 1998.
2. Angeleski Metodija; "Criminology "student's word. Skopje" 1993.
3. Anthony, T. Which. *The function of the police in a democratic society*. Skopje: Security, No.4. 1994.
4. Bacanovic, Oliver. *Police and victims*. Skopje: 2nd August. 1997.
5. Brown, J. Waters. *Professional and research work in the police* Skopje: Security, No.1. 1994.
6. Buergental, Thomas. *International human rights* St.Paul: West Publishing CO. 1995.
7. Gelevski, Simeon. *Comment of the Law on General Administrative Procedure*, Skopje: Faculty of law, 2005.
8. Ivković, K. Sanja. *Controlling Police Corruption* Oxford. Oxford University. 2005.
9. Jankulovski, Zvonimir. *Police and Human Rights*. Skopje: Security No 2. 1994.
10. Jankulovsk. Zvonimir. *International Standards regarding the Use of Force by Law Enforcement Officials (Persons with Police Authority)*. Skopje: External oversight of the low-enforcement bodies. 1997.
11. Lepage, Christian. *Police-control is really necessary* Skopje: Security 4. 1994.
12. Milosavljevikj, Bogoljub. *Science for the Police* Belgrade: Police Academy. 1997.
13. Milosavljevikj, Bogoljub *Civilian oversight over the police* Belgrade: Centar za antiratnu akciju. 2004.
14. Miletik, Slobodan. *Police Law*. Belgrade: Police academy, 2000.
15. Milutinovic, Milan. *Criminology*. Beograd: The new Administration, 1985.
16. Stojanovski. Trpe. *Police in Democratic Societies*. Skopje: 2 August ASTOR, 1997.
17. <http://www.dksk.org.mk/>
18. <http://www.pravo.org.mk/>
19. <http://www.mvr.gov.mk/>
20. <http://www.stat.gov.mk/>