

# POLICY REPORT

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## “Mechanisms for Fighting Police Corruption in the Republic of Macedonia- Legal and Institutional Set Up”

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## 1. Introduction

One of the biggest obstacles in the proper functioning of democracy is ignorance of the rule of law by institutions meant to enforce it. The presence of corruption in public institutions causes multiple fractions in the country, while some officials obligated to serve the public well-being (inspired by various motives), choose to neglect the values of their service. Step by step, the coordinated work of the institutions that the system requires is disabled and the basic principles of democracy are impaired. Consequently, it is almost impossible to promote and protect human rights and freedoms in an environment where basic moral principles are neglected. Needless to say, corruption is an occurrence that systematically destroys the country from the inside. This is one of the leading problems in our country which prevents any kind of prosperity. Facing the challenges of the transition period, on a struggling path to full membership to the European Union, Macedonia has to put in significant effort in order to fulfill certain criteria. The demand to establish stability in the political, economic and social system is especially difficult when dealing with high level of corruption in the country. The disruptive nature of this phenomenon appears in every segment of the state apparatus. The abuse of official power and authority, in order to gain personal benefit seems to have taken a sway on every level of hierarchy in the public administration. Given the complexity and chain-structure of criminal organized groups involved in corruption, it takes a number of well established and coordinated mechanisms to tackle it. According to the experts, a successful combination would be one of suitable and fully implemented legislative on one side, and democratic institutions working in compliance with it, which will put theory into practice on the other.

When an individual is given the authority and power to execute the law, and simultaneously has the freedom to determine when and how will he use this authority, it might not always be easy to make the right call without exceeding any ethical boundaries. Once the phenomenon of corruption is drawn into the ranks of the police, it causes disruption in the work of all law-enforcement institution. Seriously jeopardizing the cycle of institutional coordination and cooperation in the national agenda, police corruption is the most harmful type of corruption, whether it is a ground point (corruption comes from within the police) or a stepping stone (involved in the chain of political, judicial or other type of corruption). Corruption in the Ministry of Interior and the Police organization represents “each action or negligence committed by an official while performing on duty, for which he demands or receives certain benefit for himself or other persons, as well as any other kind of violation of standard procedures, abuse of official power or misconduct while using authority, in order to (directly or indirectly) gain

promised, offered, demanded or expected advantage by a representative of the Ministry of Interior, which will distract him from fulfilling his lawful duty”.<sup>1</sup>

In order to construct mechanisms for implementation of a national anti-corruption policy in the country, there is a primary need to acknowledge the very presence of it. To do so, the public is facing the necessity to openly discuss this issue, and more importantly to have a perspective on the measures and activities that the public institutions are taking to prevent and suppress corruption. In reference of this matter, the paper will contain an effort to address the issue of police corruption by introducing the baseline of the national anti-corruption policy. Through explaining the basic legal provisions, structural and operative set up of the institutions meant to fight corruption in the police, a general impression can be made about the overall effort that the country puts in tackling corruption, the level of political willingness and institutional commitment. In between, an assessment of the planned activities of specialized bodies for countering police corruption will show how serious this institutional approach is. Furthermore, the opinion and criticism of international organizations must be taken into consideration, for it helps us to gain an outside perspective and judge the results (or lack thereof) of the national policy. Overall, the text would lead to nothing else but logical inference of two important standing points: one, the properness and suitable set up of the mechanisms for fighting corruption in the country (do they have wide enough scope of authorities, human resources capacity, independence or budgetary strength); and two, the amount of political and institutional willing to fight corruption in the country, as one of the most threatening occurrences to the functioning of democratic institutions.

A much broader research project would represent one investigating the effectiveness of the national institutions for fighting corruption. By an in-depth analysis of official documents during the investigation process (such as court approvals, authorization for conduct of special investigative measure etc.), the human and technical capacity involved in the fight against corruption, comparing the numbers of reported, investigated, proceeded and ruled cases of corruption, as well as the realization of punishment in accordance with the criminal act, would give an overall perspective of the suitability and character of the national anti-corruption policy and the institutions meant to implement it. However, this kind of research would require more time, capacity and resources. Given the time-frame and availability of information for our research, this paper would represent a suitable ground, an introduction for such a research, by explaining and criticizing the legal and regulatory framework of specific anti-corruption mechanisms in the country.

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<sup>1</sup> Definition on police corruption by the Ministry of Interior, the Sector for Internal control and Professional standards used in the annual Anti-corruption program

## 2. Research and rankings on police corruption

Unfortunately, the international statistics and reports show that Macedonia has not reached a level of success when it comes to dealing with corruption. This for example, can be seen in the annual ranking by Transparency International, which in 2011 and 2012 has placed Macedonia on rank 69 (out of 176) (unlike 2010 where it was 62<sup>nd</sup>). With a 3.9 index<sup>2</sup> this puts Macedonia in the rank of highly corrupt countries. Additionally, the recent Transparency International Global Corruption Barometer has shown that it is the people's perception that corruption in Macedonia is a serious problem (51%). Furthermore, 53% of the respondents think that the police are corrupt/extremely corrupt and 19% of the respondents say that they (or a member of their household) have paid a bribe to the police in the past year.<sup>3</sup>

In its reports, the European Commission addresses the progress of Macedonia<sup>4</sup> in the creation and implementation of the anti-corruption policy. Throughout the years, the EU Commission has recognized progress in amendments of the national laws, which is a key priority for accession. However, even though there has been improvement in the capacity of relevant institutions for fighting corruption, such as the Sector for internal Control and professional standards, the lack of implementation of the laws is rather concerning<sup>5</sup>. As the reports say, a direct impact of the measures against corruption is still missing, as well as dealing with corruptive behavior in separate areas. The EU Commission appoints to weak inter-institutional cooperation and coordination which makes corruption a serious and prevalent problem in many areas. It has also addressed the implementation of the recommendations of the Council of Europe's Group of countries against corruption (GRECO). The main problem that the EU Commission continuously mentions throughout each year's report is the insufficient implementation of the legal framework (which is in progress) and the weak coordination of law-enforcement institutions dealing with corruption.<sup>6</sup>

Given the evident results in the past few years, the proper functioning and the ability to control the phenomenon of corruption by the respective institutions is rather questionable. A four-year research study on police corruption perception in Macedonia, conducted by the Faculty of Security- Skopje, has shown concerning results, which are in compliance with the marks of Transparency International, that the rate of corruption in the country has significantly increased

<sup>2</sup> On a scale from 0 to 10, where 0 is the most and 10 the least corrupt countries.

<sup>3</sup> More details on [http://www.transparency.org/gcb2013/country/?country=macedonia\\_\(fyr\)](http://www.transparency.org/gcb2013/country/?country=macedonia_(fyr))

<sup>4</sup> Annual reports are available at: [http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index\\_en.htm](http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm)

<sup>5</sup> A special attention is given on the prolonged application of the new Law on criminal procedure, which has been postponed twice until (final) December, 2013. The EU Commission notices weak institutional preparation and lack of recourses for the implementation of this, as well as other laws on anti-corruption (such as the Law on Financing of Political parties, Law on prevention of Conflict of interests) which has become an obstacle in the progress of prevention of corruption.

<sup>6</sup> EU reports on Macedonia (2009, 2010, 2011, 2012)- Chapter 2.1 Democracy and the rule of law- *Anti-corruption policy*

in the past few years, especially among the ranks of the police organization.<sup>7</sup> The research shows the people’s perception, which testifies that almost 28 % of the interviewed have been directly interfaced with corrupt police officers, asking for bribe or other convenience in order to release from criminal responsibility or avoid misdemeanor. As it was publically presented, the research has shown that “petty corruption” is mostly present in the police. According to the researchers, experts claim that the alarming point is in the inability to detect high-level corruption, or corrupt officials of higher ranks, which oftentimes control the organized groups.<sup>8</sup> In the fight against corruption, petty corruption should not be underestimated, but the addressing of high-level corruption is of particular importance, since the damage and negative social reflections of the latter are much more serious and destructive.

### 3. National statistics

Providing us an insight of its work as an initial point for detecting corruption in the police lines, the Sector for internal control and professional standards (furthermore SICPS) within the Ministry of Interior issues annual reports which contain statistical information on: how many applications have been submitted to the sector, who submitted those applications, including how many individuals have decided to report anonymously and how many shared their details, how many measures were taken and the number of prosecuted profiles where irregularities were confirmed. The qualitative information of the report refers to: what kind of misconduct was noted (whether there was a misdemeanor or criminal act), what kind of measures were executed or suggested<sup>9</sup> and especially appoints in which section or department and of which rank were the police officials where misuse of authority was confirmed.

Since the corruptive behavior of police official is the main point of our research, further on will be presented some of the information contained in the reports of the SICPS in the past 4 years.

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<sup>7</sup> People’s perception on corruption is only one way to look into this phenomenon; it is definitely the easiest one. It is based on the testimonials of corruption- victims directly, or other actors who have been engaged or experienced corruptive behavior. Conducting other type of corruption research would require an insight in official documents, access to confidential information, or institutional approval to interview officials. Regarding the available sources and information that we have, our research study would focus on national legal and regulatory framework of the mechanisms for fighting corruption, and propose possible improvements by reforming it.

<sup>8</sup> Full information and results of the research were publically unavailable. Some of the results have been obtained from a newspaper article on police corruption,

<http://www.novamakedonija.com.mk/NewsDetal.asp?vest=21511853412&id=12&setIzdanie=22207>

And some were available at:

<http://fb.uklo.edu.mk/aktivnost%20Frosina/policija%20i%20javnost/Sudir%20na%20interesi.pdf>.

<sup>9</sup>According to the law the Sector for internal control and professional standards has the authority to: appoint to disciplinary hearing in front of Commission for disciplinary responsibility, suggest to the Commander in charge of the Unit to suspend or to the Minister of Interior to release from duty, to issue a warning to the police officer or letter of notice;

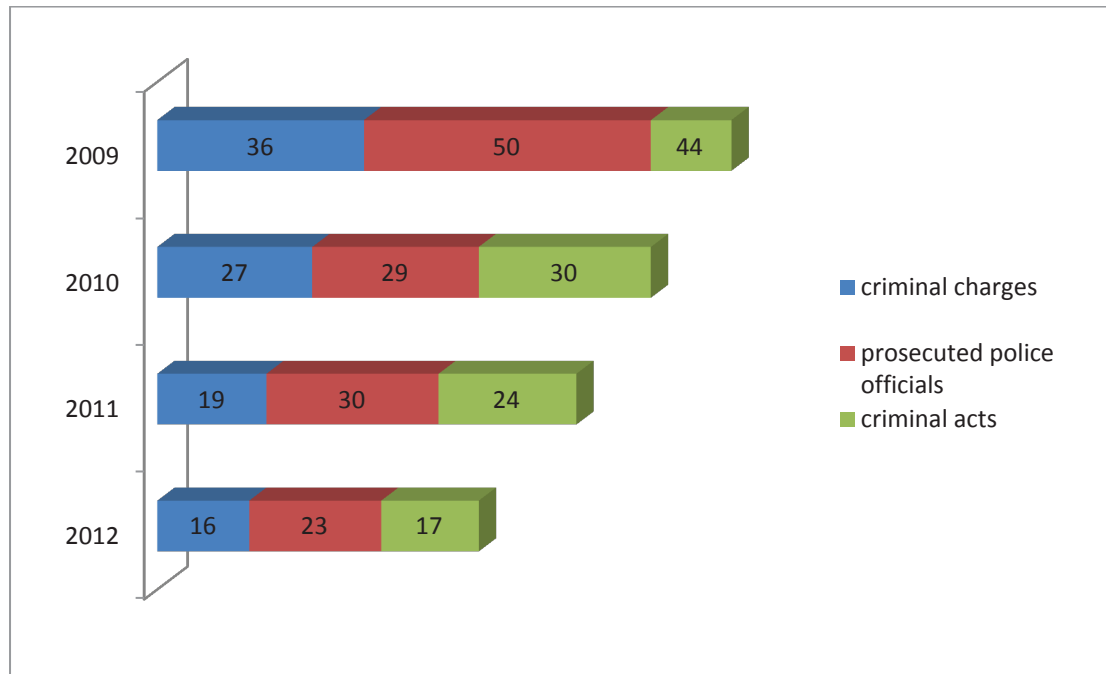


Chart 1: Criminal Charges submitted by the SICPS<sup>10</sup>

In the chart shown above, we can see the number of criminal charges that the SICPS has submitted in the past year, the number of police officials that have been accused for the number of criminal acts that have been noted. What we can obviously conclude from the chart is that since 2009 the numbers of criminal charges, prosecuted police officers and criminal acts which have been registered has been continuously decreasing. This raises the question: what are the reasons for the decreasing of these numbers? There are two possible versions to answer this question. Either the work of the Sector for internal control has been successful at its work, and year after year the effectiveness has shown results which is reduction of criminal activities among the police officers; or, the measures and activities of the SICPS have proven as ineffective and their ability to prevent and detect misconduct, so the decreasing number in statistics is a sign that corrupt officials have found their way to avoid repression by internal control. According to the statistics in the reports of SICPS, the number of submissions by citizens who complain about the work of police officers has drastically increased, but the number of criminal charges is still small (in 2012 there were 103 telephone reports of corruption, and only 3 criminal charges of police officers).<sup>11</sup>

In order to focus our attention on corruptive behavior, we have selected the numbers of criminal activities reported by the SICPS, which have the characteristics of corruptive behavior. When comparing the number of registered criminal acts throughout the year, we can see that the number of corruption cases has decreased almost by half. For example the complete number of

<sup>10</sup> The chart is prepared according to the annual reports of the SICPS

<sup>11</sup> Report of the work of the Sector for internal control and professional standards 2012; also elaborated in *Towards 2<sup>nd</sup> generation of Security Sector Reforms in Macedonia*- A. Bogdanovski, M. Lembovska



criminal acts in 2009 is 44, from which 28 are the result of corruptive behavior. Then in 2010 the overall number of reported criminal cases has decreased, reaching a number of 30, while 18 of those were acts of corruption. In 2011, 17 out of 24 criminal acts were registered as acts of corruption, and in 2012, a surprising number of 17 acts were reported, and 10 of them had the characteristic of corruption. The decrease in the number of reported acts, as well as in the number of corruption cases, raises the question whether the mechanisms for fighting corruption are performing really well, or in order to improve the credibility of the police organization, the real number of cases is misleadingly shown.

	<u>ABUSE OF OFFICIAL POWER AND AUTHORITY</u>	<u>RECEIVING BRIBE</u>	<u>ASSISTANCE IN CRIMINAL ACT</u>	<u>FRAUD</u>
<u>2009</u>	<u>25</u>	<u>1</u>	<u>/</u>	<u>2</u>
<u>2010</u>	<u>16</u>	<u>1</u>	<u>/</u>	<u>1</u>
<u>2011</u>	<u>13</u>	<u>2</u>	<u>2</u>	<u>/</u>
<u>2012</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>

Table1: Corruptive activities reported by SICPS<sup>12</sup>

As we can see through the years, the number of cases of abuse of official power for personal gain has significantly decreased, leading to only 4 reported cases in 2012, while the criminal act of receiving bribe has increased, and assistance in criminal act and fraud have only been reported one or two times.

Given the nature of the types of criminal acts of corruption that have been registered, one can reasonably speculate about the reasons for them. Abusing authority to satisfy the desire (or need) to easily gain access to a significant amount of financial or other material benefit might point to dissatisfaction of personal income or in other words, the feeling of underpayment and underappreciation. The disregard of ethical boundaries or simply the unfamiliarity with the work-place ethics and code of conduct are other reasons for police officers to engage in unlawful actions. Furthermore, once they commit an act of corruption for the first time, feel the “benefits” that they can have from their position, and succeed to avoid punishment (or to be noticed by internal or external controlling mechanism) they usually repeat the action, or even exceed the violation. This calls for focusing the attention towards the personality and integrity of the police officers, and having a tendency to improve the working conditions and the level of awareness for the nature of police work.<sup>13</sup>

<sup>12</sup> Source: SICPS

<sup>13</sup> More on causes of police corruption in Macedonia in “Conflict of Interest and Corruption in the police”- PhD Frosina T. Remenski, Faculty of Security- Skopje  
<http://fb.uklo.edu.mk/aktivnost%20Frosina/policija%20i%20javnost/Sudir%20na%20interesi.pdf>

## 4. Legal and institutional setup

### 4.1. National legislation

The Republic of Macedonia, according to its national legislative and international standards, has created mechanisms responsible for oversight and control of the police organization with the intention to prevent and detect corruptive behavior by implementing the national anti-corruption policy. The national legislative covers a wide range of authorities of the institutions in the fight against corruption, encompassed in the provision of the Criminal Code, the Law on criminal procedure, the Law on Internal Affairs, and most important of all, the Law on prevention of corruption and conflict of interests. This represents the legal ground upon which is created the State commission for prevention of corruption, as the leading instrument in the fight against corruption. A more important role however, in prevention and detection of corruptive behavior in the police organization has the Sector for internal control and professional standards, functioning within the Ministry of Interior. In order to increase the success in the fight against corruption, a Public prosecution for organized crime and corruption has been established within the prosecution system.

The Law on preventing corruption has been enacted in 2002.<sup>14</sup> In its content, the legislator predicts possible measurements to tackle corruption. In other words, it points out which acts are not allowed to be committed by officials- carriers of public authority and if committed will be prosecuted as corruption. Although the provisions of the Law do not explicitly address police officials, article 7 appoints to article 122 of the Criminal Code, which (in point 4, b) explains the term by saying that “a public official is a person conducting specific, lawful assignments, executive and administrative work, in accordance with the Constitution and the law”<sup>15</sup>. Since this definition is in compliance with the definition of police official (determined in the Law on Internal Affairs), it can be inferred that police officials are also subjected to these measures for prevention of corruptive behavior. Further on, in different sections the Law enhances measures for preventing corruption in politics, execution of public duty and conflict of personal interest with official authority. The significant importance of this Law is that it sets the legal grounds for forming the State commission for prevention of corruption.

In compliance with the Criminal Code of the Republic of Macedonia, the Ministry of Interior recognizes several criminal acts which are incriminated in the chapter of Criminal acts against official power and fulfill the characteristics of corruptive acts. For example, act of police corruption represents every Abuse of official power (article 353 of the Criminal Code), when the official power is in the hands of police officers and includes misconduct of authority for the

<sup>14</sup> Закон за спречување корупција Сл. Весник на РМ бр 28/2002 *Law on prevention of corruption*, *Official Gazette of Republic of Macedonia No 28/02*

<sup>15</sup> Кривичен законик на РМ Сл. Весник бр 37/1996 *Criminal Code of the Republic of Macedonia*, *Official Gazette No 37/1996*

purpose of gaining material or other kind of benefit. Article 354 Embezzlement in the service and article 355 Fraud in the service, indirectly enhance the police organization, when police official fit the profile of perpetrators. One of the very often committed criminal acts, which represents a fundamental characteristic of corruption is Receiving bribe, incriminated in article 357 of the Criminal Code. Namely, the absence of bribery (which can be expressed as material property, personal interest or any kind of other benefit) in a criminal act of abuse of official power makes it difficult to prove an act of corruption. Also, other criminal acts which underline as acts of corruption in the police might be: illicit intercession, falsification of official identification, revealing classified information etc.

#### 4.2. State Commission for Prevention of Corruption

One of the crucial instruments in fighting this socially disruptive occurrence is the State Commission for Prevention of Corruption (further on: the Commission), based upon the provisions of the Law on preventing corruption. Facing the need for existence of a more efficient and effective anti-corruption policy, the Government constituted an independent body with a scope of authorities that enable direct insight in the work of public administration. The Commission was formed in 2002 (along with the inaction of the Law on prevention of corruption) to ensure the legitimate use of public authority and to prevail abuse of power by politicians, as well as to take specifically predetermined actions to prevent conflict of interests and misconduct in the work of legal entities. The members of the Commission are appointed by the Assembly and the Commission is obligated to report before the Assembly.

The Commission consists of seven members, all of which are required to be respectable individuals with expertise in law or economics. Their mandate in the Commission is four years. The president of the Commission is appointed by majority of votes of the member of the Commission, with a mandate of one year, after which he returns as a member. However, neither the law nor any rulebook sets the necessary qualifications for a person to be chosen as a member, or therefore a president of the Commission, which is a weak point.<sup>16</sup> Even though it is stated that the Commission represents a legal entity, not an organ of the Government, or a body of the Assembly, its autonomy and independence is questionable, since there is no guaranteeing mechanism that the election of members is politically unaffected and they are chosen by majority of votes in the Assembly. Consequently, one can reasonably argue that additional regulations are needed in order to provide impartial and uncompromised election of the members.

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<sup>16</sup> The Commission was under heavy criticism by the opposition and the media, when in 2012 appointed Ms. Ljubinka Koraboska as president of the Commission. She was accused of not having enough experience or the right education for the job and that under her presidency the Commission was politically biased. <http://www.utrinski.com.mk/default.asp?ItemID=6CF19405BF610C449CC8F26BEDE5EE13>

According to the Law, the Commission has the leading role in the system for prevention and initiating suppression of corruption. This should be expected, given the range of authorities that the Commission holds. Besides the planning of activities for dealing with corruption over the period of 4 years, the Commission also has the authority to keep records of the financial assets and property of public officials, to locate conflict of interest when present and to initiate investigation on political parties, unions or other legal entities, upon the suspicions of corruption.

The annual plan of activities foreseen for the Commission to carry out is concisely put together in the National Program for prevention and repression of corruption. Along with it, as crucial component which ensures practical implementation of the Program, the Commission prepares an Action plan. It represents a scope of useful guidelines for performing anti-corruption measures in the sector of public administration, the private sector and the civil society.

In 11 sections, the National Program addresses individual institutions or areas concerned with the fight against corruption. One of them encompasses the law enforcement agencies, in which the anti-corruption commission states that in Macedonia has been implemented a successful system of anti-corruption measures, with suitable legislative and doable activities for prevention and suppression of corruption. However, as it is stated in the National Program, lack of cooperation between law-enforcement agencies (the police, the prosecution and the court)<sup>17</sup> is considered a risk factor and a problem, which represents a disadvantage in the fight against corruption, since it takes a unified attitude and consisted practical work to tackle it. Learning from the experience of the previously implemented National program (2007-2011), the Commission has been able to establish that difficulties in this sector arise from three points:

1. lack of transparency in their work;
2. Insufficient coordination and efficiency in the institutions;
3. Insufficient transparency and accountability in exposing the property status of officials with public authority.

The Anti-corruption Commission further explains that the inefficiency to fully and properly conduct a criminal procedure is oftentimes due to the uncoordinated work of the police, prosecution and the courts, which leaves the impression of incapable or corrupt officials.<sup>18</sup>

However, the crucial disadvantage of the National Anticorruption program is that it does not plan activities which will target the detection, prevention and suppression within the institutions, but locates the causes for corruption and plans activities and measures to improve the fight against corruption in general terms. More specifically, it does not address the fight against corruption committed by police officers directly, but focuses on improving the image and integrity of the

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<sup>17</sup> National program for prevention and suppression of corruption with Action plan, 2011-2015 pg 28, available at: <http://www.dksk.org.mk/images/stories/pdf/drzavna%20programa/dprograma%2026.12.11.pdf>

<sup>18</sup> *Ibid* pg 29

police organization. This may be a useful measure to prevent corruption, but the suppression of it requires a far more strict policy and more serious repression measures.

The activities in the Action plan are not concrete enough and many of those which have been planned to be executed by the end of 2013 have no evident result of their implementation. After mapping the exact weak points of the law-enforcement agencies in dealing with corruption, in its program the Commission has planned 11 activities to be conducted, whose implementation will be observed by 20 indicators of realization- which are superficially mentioned (but not concretely explained) and 10 indicators of efficiency- which lack in some of the measures and are not familiar to the public in others. For example, in order to improve the transparency of the work, a publically open web site of the Financial Police should have been functional by 2013 and containing full information on its operation on corruption cases. Such base of information still does not exist. Thereby, the inconsistency of the measures, the indicators of realization and the indicators of efficiency only cause more confusion between the general public and cast doubt upon the successful realization of the action plan.

#### 4.3. Sector for Internal Control and Professional Standards

As it can be obviously inferred from the summary of the structural organization, the scope of authorities and practical experience of the Anti-corruption Commission, that there is a lack of attention and specifically appointed measures towards detecting and prevention of corruption among the police officials. Therefore, the fight against corruption in the police, demands a body which would have a single and oriented duty, to inspect and identify actions of corruption within each rank of police officials.

According to the Law on organization and work of the public administration<sup>19</sup> such a body is constructed within the Ministry of Interior i.e. the Sector for Internal Control and professional standards (SICPS). The SICPS is situated as an organizational unit for conduct of professional matters. It is in its authority to document and report any kind of misconduct detected in the units of the Ministry of Interior, conducted by police officials of any rank. As a controlling mechanism of the MoI, the SICPS takes action upon submitted complaint by individual citizens or officials of the MoI (reporting anonymously), applications received from the public prosecutor, institutions for external control of the MoI, non-governmental organizations and other entities, which have the need to report irregularities in the work of officials with public authority. The SICPS has legally determined authority to investigate whether there has been a violation of authority by officials of any kind, such as unprofessional behavior or misuse of power, as well as to determine the level of efficiency in their work and the justification and lawfulness of conducted measures.

<sup>19</sup> Закон за organizacija i работа na organite na javna administracija Sl. Vesnik 58/2000 *Law on organization and work of public administration, Official Gazette No. 58/2000*

The work of the Sector for Internal Control and Professional Standards is supplemented by the Public prosecution for organized crime and corruption. In the Law on public Prosecution has been set up the legal ground for the functioning of an organizational unit meant to deal with cases of organized crime and corruption. Therefore, the cooperation between the Sector for internal control and professional standards and the Prosecution of organized crime and corruption is of crucial importance, since the SICPS reports the registered cases of misconduct in the police work to the Prosecution, further on working alongside in the criminal procedure in order to establish firm evidence and guarantee the proper prosecution of the corrupted individuals. Unimpaired cooperation between these two institutions is among other, one of the necessities for the fight against corruption to make progress.

An important step forward in the fight against corruption was made in 2011, when the Sector for Internal Control and Professional Standards made organizational changes, meant to improve the operative and tactical work of the unit. When in 2011 the new organization and systematization of the MoI was enacted, in addition to the three already existing, two more departments were added. The importance of the reorganization is, for one, the new department (Department for operative work) which has the authority to conduct operative and tactical measures in order to detect and suppress corruptive behavior and two, the Department for regional coordination assigned with the authority to synchronize all national units of the SICPS. Also, with the new systematization the number of the executives has been enlarged from 40 to 60, which should be taken as an improvement that might secure more effectiveness in the work off the Sector.

Towards improvement have also been held regular training programs and seminars for the staff, in order to achieve higher level of professionalism.<sup>20</sup> Usually, the trainings are conducted with participation of NGOs and the office of the ombudsman, discussing on issues concerning human rights, police work and violation of authority and other subjects which are important for the internal control to perform without any difficulties. Through multiple national and international donations, the Sector is improving its material and technical capacity. In 2010 though, in its report, the SICPS has appointed that they are facing a deficiency from vehicles, which sometimes interferes with their work, especially when it comes to coordinating working activities with all national units of the SICPS. However, no activity or measure has been mentioned or taken in the following years, towards overcoming this problem.

One of the rather significant roles of the SICPS standards is that each year it prepares an Anti-corruption program along with an annual Action plan. This Anti-corruption program represents a composition of preventive and repressive measures, which are foreseen to either reduce the possibility for engaging in criminal acts of corruption, or to punish or reduce the destructive consequences of corruptive behavior.

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<sup>20</sup> For example, the Sector for internal control and professional standards was participating on a two-days workshop in September 2012 organized by TAIEX on “Fight against corruption” sharing experiences with experts from Catalonia



The content and structure of the Program is rather the same each year. It initially elaborates the definition of corruption and gives a detailed description on which acts of abuse of official power and authority represent acts of corrupt behavior. Further on, it gives the general guidelines of the national anti-corruption strategy i.e. in separate points it explains the activities which are meant to prevent, detect and suppress criminal acts of corruption among the police officers.

Employment in the Ministry of Internal Affairs according to strictly determined professional standards and continuous educational and practical training of the staff in the police organization are only some of the preventive measures. Their implementation should provide professionalization of the police staff and effective fulfillment of duties, making them immune to abuse of their power for personal, material or other, gain. Article 128 of the Law on Internal affairs clearly determines that a police official cannot be a representative or hold a governing position in any political party, or bring into question the effectiveness of his work by his membership in a political party. In this context, the Anti-corruption program of 2012 as a preventive measure suggests that there should be a strict policy regarding the respect of this article. It would provide unbiased work and would keep political interests out of the police lines.

Since one of the factors for engaging in acts of corruption by police officers is the low payment and oftentimes the “spoils system” that is highly present in the public administration, the Anti-corruption program recommends/requests a rightful implementation of the system of career, which means, a guarantee for earned progress and promotion in the hierarchy in the organization by ranks, paid overtime working hours etc. If this measure is encouraged in the police organization, police officials would be more motivated to perform in a legitimate manner since they would have a proper compensation for it. An attempt to improve the system of career was the completely renewed Collective agreement for the police organization introduced in 2010, which was signed by the Ministry of Interior and with the Macedonian Police Union. One of the significant changes is the formation of Economic-Social Council, assigned to locate and resolve the ongoing issues in the police (including the implementation of the system of career). Since then however, no information has been introduced in the public, about the activities of this Council towards improved system of career or any involvement in the police work.

Strengthening the integrity and complete implementation of the Code of police ethics<sup>21</sup> is also one of the promoted measures. If the police behavior is guided by the principles of ethics in the work place, than the criminal acts of corruption would be avoided. The complexity of this measure however, is that its implementation depends on the individual behavior and choice of action by the police official, since the Code of ethics consists of ethical guidelines rather than rules or obligations (thereof sanctions). Even though the ethics code is regularly promoted and presented in details on seminars or trainings, there is no existing body (such as committee, special unit or individual) which will estimate the existence or intensity of unethical behavior

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<sup>21</sup> The Code of police ethics was enacted in 2004, approved by the Minister of Interior. It consists of 65 articles which address the legal provisions for the police, structure and organization, police training, qualification and selection of police officers, guidelines for police intervention, responsibilities and control etc.

(except when besides unethical it is also unlawful behavior, so the SICPS has the power to sanction or when the disciplinary committee confirms violation of the Collective agreement of the police organization).

Among others, the inter-institutional cooperation of the Ministry of Interior with other national units and institutions whose jurisdiction is investigating criminal acts in the area of organized and economic-financial crime, such as, the financial police and the Directive for Financial intelligence<sup>22</sup>, the Customs service, the Organized Crime Unit within the Ministry for Interior, is also addressed to as an important activity. The nature of this cooperation is such that the SICPS acts within the range of its mandates, asking for information and technical support from these units. For example, when the Organized Crime unit detects involvement of police officials in an investigation of a criminal case, it informs the SICPS, which further on takes measurements of its own authority.<sup>23</sup> Towards improving this cooperation, the Program suggests that a unified data-base system would be created, as it would provide useful and updated information related to corruptive behavior, available to all institutions who take part in tackling it.

In the Anti-corruption programs of 2010 and 2012, the SICPS has predicted a measure for prevention of conflict of interest while performing on duty, based upon the provisions in the Law on prevention of corruption of 2002. Namely, this measure is pointed towards prevention of officials to have their personal interests interfere with the purpose and meaning of their work, and consequently, use their power and authority for personal instead of professional interest. Due to the implementation of this measure, the SICPS has taken action in two ways: preventive, by introducing the police officials to what the conflict of interests represents, and repressive, by creating a mechanism for detection and overcoming of this kind of conflicts. In order to detect the conflict of interest among the police force, when entering in the police, the officials must fulfill a questionnaire about their general interests. These so called “statements of interest” are kept in the archive of the service, so that the SICPS can have insight and possibly detect conflict. Among others, one of the most important measures for prevention of corruption in the police, which goes through every year’s program is constantly improving the level of transparency of their work, by maintaining a relationship with the media and sharing information on the activities against corruption via informative campaigns, participation in public debates etc. It is foreseen for the Sector for public relations to continuously share information about the preventive measures that have been taken and hopefully inspire the people to cooperate. According to the SICPS, the openness of the police organization towards the public and transparency of their work would provide for higher level of awareness of the police officials and will overturn them from engaging in acts of corruption. At the same time, by having an overview of the complete work at

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<sup>22</sup> Formed in 2002, until 2012 functioned as Directive for prevention of money laundering and financing terrorism.

<sup>23</sup> What is important here is that other units do not have the authority to investigate organized crime or the presence of corruption within the police without the knowledge or participation of the Sector for Internal control and professional standards. Their mandates are more of a general jurisdiction in fighting economic-financial criminal activities.



any time<sup>24</sup> with sufficient manpower and capacity, the SICPS would have a much easier job in detecting corruption and taking measures of repression in time.

#### 4.4. Public prosecution for organized crime and corruption

As an organizational unit of the Public Prosecution in Macedonia, according to the Law on Public Prosecution<sup>25</sup>, functions a Public Prosecution office for organized crime and corruption. In order assist with the prosecution and suppression of corruption, the Public prosecutor for organized crime and corruption performs its duties in close correlation with the police, especially with the Sector for internal control and professional standards.

The Basic Court 1 of the city of Skopje is obliged to issue annual and monthly reports on their work. Those reports can be found on the official web site of the Court<sup>26</sup> and they consist only of statistical information. From the statistical reports, if we compare them year to year on resolved and unresolved cases we will be able to see that the Court in the area of organized crime and corruption deals with approximately 50% of the cases presented to it. Unfortunately, the statistical information in the reports of the Court do not exempt the cases of corruption (from organized crime cases), since they do not give statistics on types of criminal acts prosecuted and resolved. This makes it difficult to know how many cases of corruption have been prosecuted or the outcome of those prosecutions, which on the other hand enables us to make an impression of the capacity of the institutions fighting corruption.

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<sup>24</sup> For example, if the SICPS had the authority to deeply look into the justification and proper conduct of every measure that the police officers are taking, abusing of power would be much more difficult by the officials. Even more convenient would probably be, for the officials to consult and approve the performance of a measure with members of the SICPS, so that there would be no space for corruptive behavior. However, the feasibility of these actions is rather difficult, because it would interfere with the arbitrary judgment of police officers in a certain situation and would slow down the time for intervention. Therefore, the overview of the work of police officers means tracking the adequacy of the conducted measure on a specific case, the reasons and justification behind it, the timing and duration of its carrying out, the expected and gained results etc.

<sup>25</sup> Закон за јавно обвинителство Сл. Весник бр 150/2007

*Law on Public prosecution*, *Official Gazette 150/2007*

<sup>26</sup> <http://www.osskopje1.mk/default.aspx>

## 5. Conclusions

1. Even though effort and will has been presented by the institutions (the State Commission for prevention of corruption, the Ministry of Interior via the Sector for internal control and professional standards) to address the issue of police corruption, it is yet questionable whether all the necessary steps have been taken, since in spite of all the measures and activities, research statistics show that the index of corruption has increased.
2. The lack of public discussion and research (only one research on police corruption in the past 5 years) which includes both general and expert public, on the presence and negative effects of corruption in the police, leads to lack of scrutiny of the national policy, planned activities and action plans of the mechanisms for fighting police corruption.
3. There is an evident progress in the legislative process i.e. in the incrimination of acts of corruption and the determination of penalties for abuse of official power for personal gain, however, the small number of prosecutions and sentences, as well as the public's perception on corruption in the police, show the lack of implementation.
4. The State commission of corruption in the National Anti-corruption program focuses on locating the problems in the Law enforcement institutions and the misconduct in their work while dealing with corruption, NOT on prevention or suppression of corruption within them.
5. The Sector for Internal Control and Professional Standards is the only mechanism in the country with the authority to prevent, detect and tackle corruption in the police. However, all measures foreseen in the Anti-corruption program are general and mostly focus on prevention.
6. In Macedonia, the appearance of corruption comes as a consequence of several factors, which can be inferred from the text: inappropriate recruitment which leads to unprofessional staff in the police, low salaries of police officials which frustrates them to find additional (unlawful) sources of income, weak managerial control, who besides the nature of police work, should have skills in the human resources field, and scarce independent mechanisms for control and oversight of both, legitimacy and morality in their work.

## 6. Recommendations

1. Supplement the scope of activities of the Anticorruption Commission so it would pay additional attention on corruption in the law-enforcement, since it represents the most dangerous type and affects the spread of other types of corruption (political, corruption in the private sector).
2. The Action plan of the national Anticorruption program, should include more concrete and measures which imply repression of corruption, instead of the existing (which are completely repeated each year) based on prevention ones.
3. Given the fact that amendments and adaptations of the relevant laws are constantly (and rapidly) happening, the stage of the fight against corruption is also changing. Therefore, it would be more appropriate if the National program for prevention and repression of corruption is reviewed each year, instead of once in four years, and the activities of the Action plan are in compliance with the ongoing changes.
4. The outcome and results of the implemented activities should be presented in details and available to the public. To properly present the effectiveness of the national Anti-corruption program, it is necessary to provide a report on when and how a measure was implemented, did it achieve the expected goal, the resources that were used etc.
5. Introduce additional criteria for selection of the members of the State Commission for prevention of corruption (other than the arbitrary opinion of the Assembly members), in order to secure their independence and professionalism.
6. Strengthen the level of internal control in the police organization, by appointing inspectors with high credibility and integrity, experts in police work, with long time experience and knowledge, and small risk of being corrupt.

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