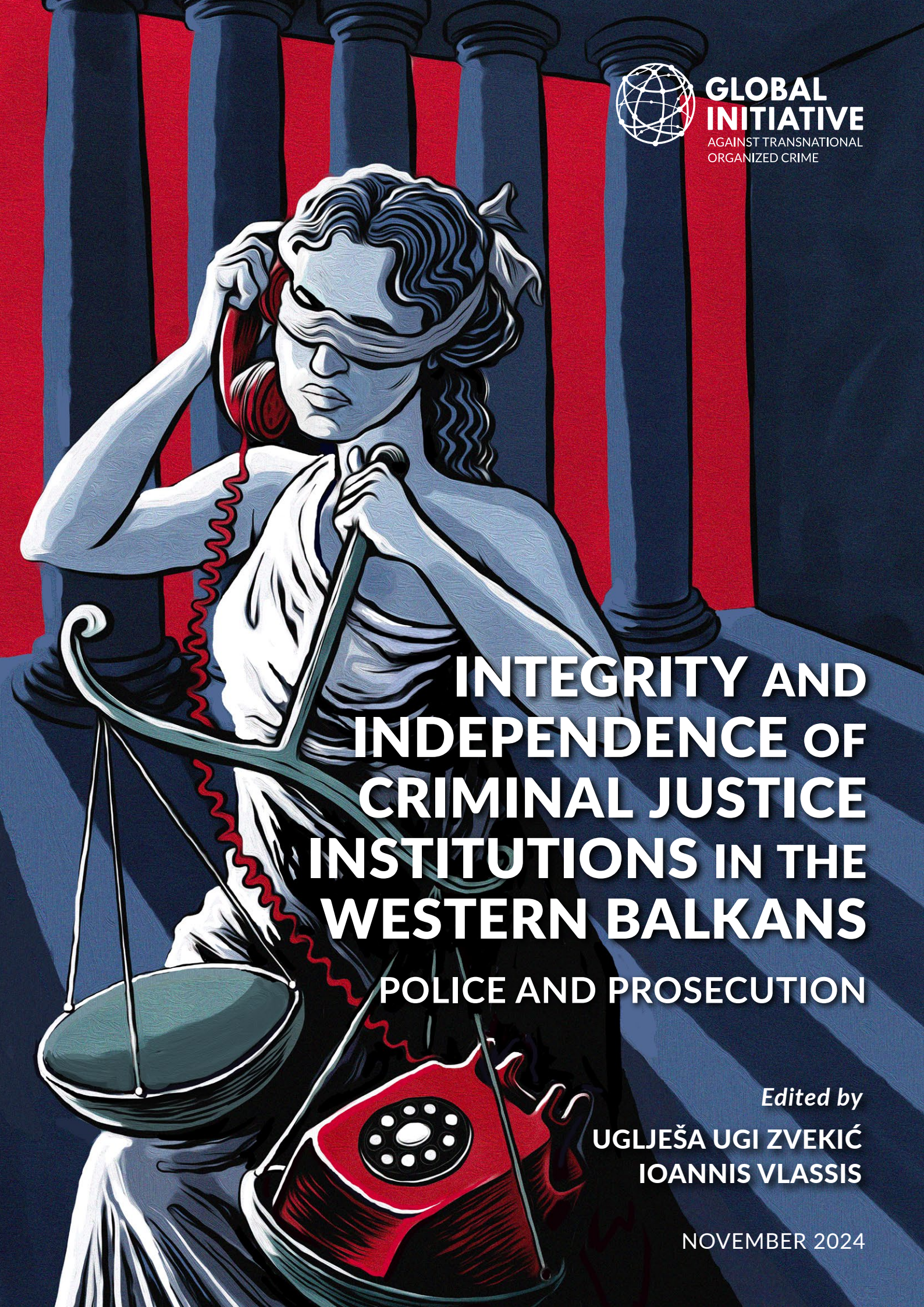




**GLOBAL
INITIATIVE**

AGAINST TRANSNATIONAL
ORGANIZED CRIME



**INTEGRITY AND
INDEPENDENCE OF
CRIMINAL JUSTICE
INSTITUTIONS IN THE
WESTERN BALKANS**

POLICE AND PROSECUTION

Edited by

**UGLJEŠA UGI ZVEKIĆ
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ACRONYMS AND ABBREVIATIONS

BiH	Bosnia and Herzegovina
CCPE	Consultative Council of European Prosecutors
CoE	Council of Europe
DICCIPS	Department for Internal Control, Criminal Investigations and Professional Standards – North Macedonia
EC	European Commission
FBiH	Federation of Bosnia and Herzegovina
GRECO	Group of States Against Corruption
HJPC	High Judicial and Prosecutorial Council – Bosnia and Herzegovina
HPC	High Prosecutorial Council
IAP	International Association of Prosecutors
ICU	Internal Control Unit – Montenegro
ICQ	Independent Qualification Commission – Albania
KPC	Kosovo Prosecutorial Council
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
OSCE	Organization for Security and Co-operation in Europe
SDCC	Special Department for Combating Corruption – Serbia
SOCTA	Serious and Organized Crime Threat Assessment
SPAK	Special Anti-Corruption Structure – Albania
SPO	Special Prosecution Office – Albania
UNCAC	United Nations Convention against Corruption
WB6	Western Balkans Six



INTRODUCTION

Background

For the Western Balkans Six (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia, hereafter WB6), organized crime and corruption are among the main obstacles to achieving prosperity, stability and democracy. To look at the issue in more detail and to build on anti-corruption pledges made by the WB6 at the 2018 Berlin Process summit in London, the Global Initiative Against Transnational Organized Crime's Observatory of Illicit Economies in South Eastern Europe, with the support of the UK government, has published a trilogy of reports on the phenomenon of 'organized corruption' – a system in which organized crime and political parties combine to exploit state funds for financial gain or political and social influence.

The first report, 'Infrastructure of integrity: Corruption and anti-corruption pledges in the Western Balkans' (March 2021), described and analyzed the political economy of corruption in the Western Balkans as well as the main findings of a number of WB6 anti-corruption reports by regional and international organizations, such as the UN Office on Drugs and Crime, the European Commission, and Council of Europe bodies: the Group of States Against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). It also provided an overview of the implementation of the London summit anti-corruption pledges.¹ Establishing a culture of integrity was identified as one of the most pressing needs for the region.²

The second study, 'Organized corruption: Political financing in the Western Balkans' (June 2023),³ analyzed the financing of political parties and elections, political influence and control over state-owned (public) enterprises, and political influence and control over public procurement. Particular emphasis was placed on the integrity and independence in the criminal justice system, including law enforcement, prosecutors, the judiciary and anti-corruption agencies. Trust in the professionalism and independence of these institutions provides a bulwark against corruption.⁴ In light of these findings it was decided that the third study would analyze the integrity and independence of criminal justice institutions in the Western Balkans (underway 2023–2025).

This was also one of the main topics of an international conference held on 4–5 March 2024 in Tirana, Albania. Two of the panels at the conference were composed of high-level police and prosecutorial representatives from the WB6 and were devoted to discussing the integrity and independence of those institutions in the context of fighting corruption and organized crime.

Political and legal context

In the 1990s, countries in the Western Balkans started to transition from totalitarian to democratic governance based on the rule of law. Across the region, police forces were the first institutions to undergo reform. No longer the guardians of the state, their philosophy shifted to that of a professional institution responsible for maintaining public order and serving citizens by preventing and fighting crime.

In recent years, Western Balkan countries have continued their efforts to strengthen democracy and the rule of law. They have promoted significant organizational reforms and anti-corruption measures to harmonize their national legislation with the EU acquis and other international instruments related to the independence and impartiality of the police and judiciary. But even after years of reforms, the UN, European Commission (EC) and other international and civil society organizations have consistently reported that corruption and weak rule of law continue to threaten Balkan democracy and the strategic goals of the WB6.

While progress has been made, efforts have been largely hamstrung by a lack of national implementation of legislation, as well as various risks to the integrity of the prosecution office, both external and internal. Throughout the region, corruption and organized crime exert influence in many state institutions and in the economy, which has created a certain social and political tolerance of the phenomenon. Such influences compromise the independent and impartial decision-making of the police, prosecution and judges, infringe fundamental human rights and ultimately undermine the rule of law.

Project objectives and methodology

This project is focused on how police and prosecution institutions work in the WB6, including their systems of appointments, their control and oversight mechanisms, and the extent to which they are subject to corruption and pressure from organized crime. Particular attention is paid to the specialized law enforcement units, prosecution and courts that were created to improve the processing of organized crime and corruption cases. A recurring theme throughout the study is the need for operational independence between law enforcement and the public prosecution service. Based on this analysis, a number of policy recommendations are made, along with strategies and measures to mitigate corruption. These include strengthening individual and institutional resilience – particularly the transparency and accountability of the prosecution – and proposals for enhancing regional cooperation and the role of civil society.

The project is divided into two phases: the first focusing on the police and prosecution (for which work was carried out between June 2023 and March 2024); and the second on the judiciary and anti-corruption bodies (which will be carried out in 2024/25).

Phase one on the police and prosecution was drafted by a team consisting of three regional coordinators (per component), and one national expert for each country of the WB6 (per component).

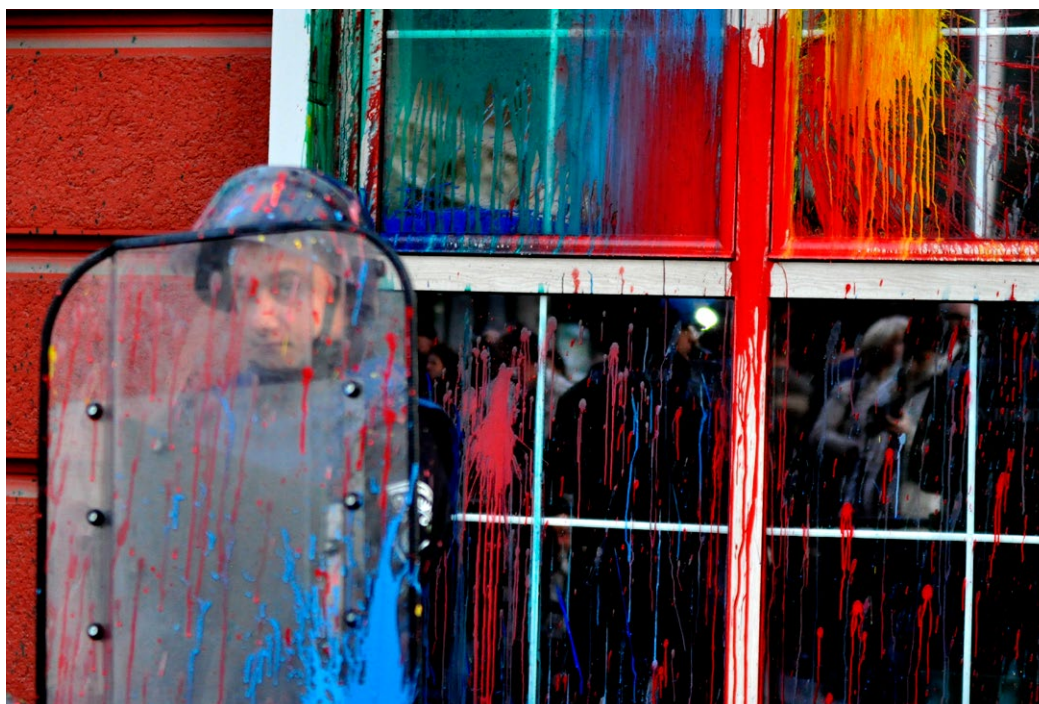
The first technical meeting of the project team, held in June 2023 in Skopje, North Macedonia, discussed matters including: the main theoretical perspective (organized corruption) as related to the project objectives; the methodological framework for each component (police and prosecution); the timeline of activities; and the monitoring and communications modalities. The respective teams of regional coordinators drafted the methodological guidelines, which were provided for consultations with the national experts. The methodological guidelines outlined the need to conduct a detailed normative/institutional analysis, run case studies and hold interviews with key informants from the police, prosecution, civil society organizations, media representatives and independent experts.

The guidelines identified several key issues for the information gathering and the ensuing analysis. Between June 2023 and January 2024, national experts conducted interviews and collected all the necessary and available information before analyzing the key issues according to the project parameters. Regular consultations were held within the project team and, in particular, with the regional coordinators.

In order to verify the information and the analysis for each country and for each component, independent reviewers were identified and were invited to look at the draft executive summaries/reports as prepared by the national experts (one reviewer per country, per component).

A technical meeting of the project team and the independent reviewers was held on 6 March 2024 in Tirana, Albania.⁵ Observations by the independent reviewers were welcomed and, to a great extent, reflected in the national reports.

This report presents the regional overviews of the main issues and recommendations for police and prosecution services, as well as the executive summaries of the national reports with a specific list of recommendations for each country.



A police officer stands guard as protesters throw paint at the Ministry of Justice during a demonstration in Skopje, North Macedonia, April 2016. Thousands marched following the president's pardon of politicians involved in a wiretapping scandal. © Borce Popovski/NurPhoto via Getty Images



INTEGRITY AND INDEPENDENCE OF THE POLICE

Regional overview

ANDI HOXHAJ, ODD BERNE MALME AND TRPE STOJANOVSKI

This section of the report looks at the overarching issues concerning corruption, integrity and the operational independence of the police across the Western Balkans. For each of the Western Balkan countries, experts compiled a national report presenting detailed analysis of police powers; how staff are appointed; and how oversight and accountability mechanisms function. The country-specific reports identified a number of shortcomings in these areas and offer recommendations for improving the integrity of the police forces in the Western Balkans.

After giving an overview of the relevant international standards, some cross-regional observations are made that highlight the common problems that are present throughout the Western Balkans, from political pressure to a lack of oversight. Then, an executive summary for each of the country reports is provided. Both regional and country-specific recommendations are summarized.

International standards

International police cooperation is crucial to effective enforcement. This is guided by a range of international instruments (conventions, protocols, regulations, directives, codes of ethics, manuals) drafted by international bodies that provide a framework for effective collaboration between countries to combat transnational crime. Bodies such as the UN, the Organization for Security and Co-operation in Europe (OSCE), the EU and the Council of Europe (CoE) help to ensure that police cooperation is conducted according to their established legal frameworks, particularly on issues such as fundamental rights or data protection rules, and that there is a degree of standardization and interoperability between law enforcement agencies.

International policing organizations (INTERPOL, Europol, Eurojust, Frontex) and regional bodies and associations (Southeast European Law Enforcement Centre, Southeast Europe Police Chiefs Association) provide additional support and a faster means of exchanging information. Meanwhile, assessments by the US Department of State and the annual progress reports of the EC on the Western Balkans are useful sources of information about the varying capacities of institutions in the fight against corruption and organized crime.

The main functions of the police in a democratic society governed by the rule of law are, according to the CoE's European Code of Police Ethics: to maintain public law and order; to protect and respect individual fundamental rights and freedoms as enshrined in the European Convention on Human Rights; to prevent and combat crime; to detect crime; and to provide assistance and service functions to the public.⁶

The origins of modern police organization can arguably be found in Sir Robert Peel's 'principles of policing', which were issued to all new officers in the London Metropolitan Police in 1829.⁷ These fundamental principles are still relevant today. Though not an official code of ethics, these maxims help to guide the behaviour of law enforcement officers in many jurisdictions and underpin many of the key international instruments in force today.

One such keystone document for policing is the UN Code of Conduct for Law Enforcement Officials of 1979. The first article outlines the duty of law enforcement officials to serve their community and protect all persons against illegal acts, consistent with the high degree of responsibility required by the profession. The second mandates that 'law enforcement officials respect and protect human dignity and maintain and uphold the human rights of all persons'. (The human rights in question being those contained in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.) Article 7 of the code concerns corruption specifically, saying that:

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts. Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies ...⁸

Indeed, the European Code of Police Ethics, which was adopted by the CoE in 2001, similarly emphasizes that public confidence in the police is closely related to their attitude and behaviour towards the public, in particular their respect for human dignity and the fundamental rights and freedoms of the individual:

In the police and the criminal justice system, there shall be a clear distinction between the role of the police and the prosecution, the judiciary and the correctional system; the police shall not have any controlling functions over these bodies (Art. 6);

The police must strictly respect the independence and the impartiality of judges; in particular, the police shall neither raise objections to legitimate judgments or judicial decisions, nor hinder their execution (Art. 7);

The police organization shall contain efficient measures to ensure the integrity and proper performance of police staff, in particular to guarantee respect for individuals' fundamental rights and freedoms as enshrined, notably, in the European Convention on Human Rights (Art. 20);

Effective measures to prevent and combat police corruption shall be established in the police organization at all levels (Art. 21);

Public oversight and accountability of the police is very important for maintaining police integrity. The police shall be accountable to the state, the citizens and their representatives. They shall be subject to efficient external control (Art. 59).⁹

Other relevant instruments include the 2003 United Nations Convention against Corruption (UNCAC), which emphasizes the importance of criminalizing bribery of national public officials, when committed intentionally (Art.15). Bribery, it says, constitutes:

1. The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or another person or entity, in order that the official act or refrain from acting in the exercise of his official duties;
2. The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or another person or entity, in order that the official act or refrain from acting in the exercise of his official duties.¹⁰

Also relevant are Article 6, paragraph 2 on 'Preventive anti-corruption body or bodies' and Article 36 on 'Specialized authorities', as well as Articles 7, 8 and 11 of the UNCAC.¹¹

The Police Cooperation Convention for Southeast Europe 2006 was the first legally binding document concerning cross-border law enforcement in the region. It is designed to strengthen cooperation over regional threats to public security as well as for the prevention, detection and investigation of criminal offences.¹²

The OSCE also has adopted a number of measures pertaining to policing, prosecution and anti-corruption measures that are relevant to the region. These include

- the 2003 Maastricht economic and environmental strategy;¹³
- the 2004 Sofia decision on combating corruption;¹⁴
- the 2012 Dublin declaration on strengthening good governance and combating corruption, money-laundering and the financing of terrorism;¹⁵
- the 2014 Basel decision on corruption prevention;¹⁶ and
- the 2018 Milan decision on human capital development in the digital era,¹⁷ which enhanced the mandate of the OSCE to promote good governance and combat corruption, money laundering and terrorist financing.

The new era of digitalization has added further dimensions to the threat posed by organized crime and corruption to national, regional and global security. It has also introduced new challenges, with greater public interest in and demand for safeguards on the police and criminal justice system's role in detecting, documenting and prosecuting corruption and organized crime. International instruments, such as the UNCAC, and directives of the EU and the Organisation for Economic Co-operation and Development, have helped by establishing common standards in terminology, performance, competence, case tracing and management, financial investigations, corruption risk management and collective action in the fight against corruption. This, in turn, encourages stakeholders in the private sector, civil society and media to become more involved in scrutinizing the new responsibilities of the police and criminal justice institutions.

But problems remain. According to a series of reports on the WB6 by GRECO in 2017,¹⁸ the perceived politicization of the police and the need to strengthen their operational independence is a significant concern. To aid this, internal supervision by the interior ministry, as well as external oversight – provided by the assembly, ombudsman and public prosecutor – need to be more efficient in order to improve public accountability of the police. Police activities should also be made more transparent by allowing the public access to information including statistics, budgets, internal reports and decision-making processes.

The codes of ethics for police forces in the WB6 should be bolstered – in cooperation with relevant stakeholders – to include rules on integrity, conflicts of interest, gifts and corruption prevention within

the police. Allied to this is the need for objective, effective and competitive recruitment processes, including for managerial positions.

Political pressure

In the Western Balkans, there is a general perception that police forces entertain too close a relationship with some political parties, as well as with organized crime, and that they are too susceptible to outside influence.¹⁹ Indeed, most surveys suggest that low public trust in the police is due to two issues: corruption from within the police, and excessive external pressure from politics and organized crime. Analysis and interviews conducted by the GI-TOC across the Western Balkans showed that police officers themselves tended to see corruption as the behaviour of rogue individuals rather than a systemic problem.

Some police and prosecution services in the Western Balkans have undergone vetting processes in the last few years designed to weed out corruption and political interference and smooth progress towards EU accession. But, despite ongoing reforms across the region, allegations of misconduct, corruption and political pressure on police and prosecution continue to raise concern, including instances where charges have seemingly been dropped against members of organized crime networks with close ties to politicians or their cronies,²⁰ or against police officers with close ties to organized crime networks and politicians.²¹

Although law enforcement authorities have made efforts to fight corruption, they have mostly dealt with the more minor cases of petty corruption – such as traffic officers taking bribes – rather than mid-level or senior police officers being referred for prosecution. Although, as this study will show, there are a greater number of corruption cases being investigated and prosecuted than in the past, conviction rates are very low. Furthermore, complaints against police officers to other agencies such as the prosecution office, the internal and external oversight bodies, the ombudsman, or local and international human rights organizations are also low and, in some cases, complicated to handle, as the next section will explain.

Internal and external oversight

The existence of an independent and effective national mechanism for police oversight is a standard derived from the European Convention on Human Rights and its case law. It also derives from the findings of the Committee for the Prevention of Torture, as well as an opinion of the CoE Commissioner for Human Rights regarding the independent and efficient determination of complaints against the police.²² These mechanisms must be truly independent, should be open to public inspection (be transparent) and should produce legally binding decisions.

As outlined already, the main international instruments concerning law enforcement are the UN Code of Conduct for Law Enforcement Officials (1979), the European Commission's annual progress reports, the European Code of Police Ethics (2001) and the EU and CoE's joint programme for the Western Balkans and Turkey (Horizontal Facility III) to align standards and progress towards EU accession. The main stakeholders for implementing the internal police control and external oversight mechanisms in the WB6 are the ministries of internal affairs, the public prosecutor offices and ombudsmen, while civil society also has a role. Each of the WB6 national parliaments, through their committees, need to coordinate closely over their internal and external oversight mechanisms to avoid duplication, improve their response times and facilitate better information-sharing.

The internal affairs ministries in each country take care of implementing codes of police ethics. Many have established dedicated 'internal control' departments for the purpose of protecting and improving the integrity of police employees. Such departments aim to prevent and detect unlawfulness in police operations based on:

- Regulations in the field of police work;
- Rules of the service;
- Code of ethics.

In all WB6 countries, effective collaboration between the police and prosecution, vital in criminal procedures, faces major hurdles. While the criminal procedure code grants prosecutors some authority over police actions, in practice there is little scope for prosecutors to maintain a leadership role. At the policy level, a strategy for preventing and combating police corruption is urgently required. Transparency and efficiency within internal controls departments should be improved.

When it comes to external checks, having a unit of the public prosecutor's office working solely on corruption cases involving law enforcement is an important step. Meanwhile, other aspects of external police oversight must be revisited, including integrated training for new parliamentary members, public prosecutor and ombudsman staff, while measures to prevent political appointments of top police officials should be enforced through transparent competition processes.

Recommendations

- The political will to fight corruption in law enforcement needs to be strengthened.
- The region's interior ministries and internal control departments should strengthen their investigative capacity through integrated training with the public prosecutor's office.
- Online complaint forms (for instance to internal control departments) should be upgraded and become more user-friendly.
- Victims of police corruption should be more involved throughout proceedings. Internal control units should interview the individuals concerned directly and keep them updated on the process of investigations, and the outcome of their complaint with relevant justifications.
- In WB6 countries where the internal control unit is mandated by law to conduct the professional integrity test, staff should be trained to deploy audio and video simulations of real situations.
- Understaffing in specialized units of interior ministries should be addressed as a matter of urgency.
- In most of the WB6, the interoperability and exchange of documents between the public prosecutor's office and the courts (and other institutions) should be improved by further digitalizing working processes.
- Internal and external oversight mechanisms should be financially independent.
- National parliaments should continuously monitor the work of all parts of the external oversight mechanism.

International and regional cooperation

Globalization, characterized by economic, social and cultural integration across the world, has also contributed to facilitating economic and financial crime.

The softening of national borders, the easing of money transfers and loosening of constraints over financial institutions have created an environment in which cross-border crime can flourish. The interconnected nature of global financial systems allows illicit funds to flow more easily across borders, making it harder to track and prevent criminals from laundering money obtained from their illegal activities.

To address the growing global issue of financial crimes, international cooperation, effective supervisory systems and technological advancements are crucial. International cooperation over corruption and illicit financial crime aims to provide law enforcement, prosecutors and courts in other jurisdictions to obtain the necessary evidence for criminal proceedings, as well as to build networks and share best practices.

International cooperation

International police cooperation is guided by agreements and directives from international bodies such as the UN, the Organisation for Economic Co-operation and Development, and the CoE. As outlined already, these agreements provide a framework for collaboration among countries to combat transnational crimes effectively. Their involvement ensures that police cooperation is conducted in line with fundamental rights, data protection rules and other shared legal frameworks. Cooperation with Europol is well established in most of the WB6 countries under a strategic and operational agreement on trafficking of human beings, weapons, drugs, and criminal networks. National police forces are able to share crime data between themselves and with Europol using the Secure Information Exchange Network Application. Most of the WB6 continue to cooperate with EU police services through the European Network of Fugitive Active Search Teams, with observer status, and the European Multidisciplinary Platform Against Criminal Threats.

Organizations such as INTERPOL also play a significant role in facilitating cooperation by enabling data sharing on crimes and criminals across borders through a secure network called I-24/7 that allows real-time access to databases and sensitive and urgent police information for law enforcement agencies globally. The INTERPOL National Central Bureaus are pivotal for combating transnational crimes effectively. Each member country hosts a National Central Bureau, which serves as the focal point for all INTERPOL activities by seeking and sharing information with other countries. Although Kosovo is not a full member, the UN Mission in Kosovo and INTERPOL have established a Liaison Unit, which effectively functions as Kosovo's National Central Bureau. This unit facilitates the flow of information and bolsters police collaboration between Kosovan law enforcement, INTERPOL member states and nations that have not recognized Kosovo.²³

Regional cooperation

At the general and strategic level, regional cooperation is mediated through the Regional Cooperation Council, established by the South-East European Cooperation Process. This deals with economic and social development, energy and infrastructure, justice and home affairs, security and building human capital, but has no direct role in joint policing. Instead, joint law enforcement action is coordinated primarily through the Southeast European Law Enforcement Centre, and associations such as the Southeast Europe Police Chiefs Association and the SEE Police Cooperation Convention Secretariat.

Regional cooperation is hampered by tensions between Serbia and Kosovo. Meanwhile, Serbia's opposition to Kosovo joining INTERPOL – a basic requirement for any effective international law enforcement cooperation – has knock-on effects beyond the region.

Bilateral cooperation

In the WB6, bilateral police cooperation is well established on the basis of diplomatic agreements and collaboration on the ground. A significant number of police attachés support cross-border work on a daily basis but ongoing political disputes in the Western Balkans continue to present an obstacle.

Recommendations

- **Expand language training:** linguistic skills are crucial in order to engage with international partners. The Western Balkan countries must establish training programmes, especially in the official working languages used by Europol (English) and INTERPOL (English, French, Spanish and Arabic).
- **Leverage international instruments and channels:** Balkan countries should utilize key instruments and channels, such as Europol and INTERPOL 24/7 contact points, to enhance cooperation and coordination over transnational crime, including organized corruption.
- **Information exchange and joint operations:** WB6 countries should improve the flow of operational data and intelligence between the police and prosecutor's offices, and build trust between law enforcement agencies to encourage joint operations.
- **Access to operational databases:** secure 24/7 access to international databases for operational units that prevent and combat transnational crime and corruption.

Cooperation across law enforcement agencies and public prosecution

The global threat posed by illicit economic crime necessitates cross-border cooperation. Illicit financial activities, such as money laundering and fraud, present significant risks to a country's national security, prosperity and its international reputation. Criminal organizations exploit vulnerabilities in financial systems to move large sums of illicit funds across borders. This can lead to severe economic consequences for the host country, including financial instability, reduced foreign investment and distortions to its resource allocation.

Investigating corruption involves gathering and evaluating evidence through internal or external inquiries, considering factors such as confidentiality, impartiality and witness protection. Guidelines for investigations include rules on collecting documents, reviewing assets, interviewing witnesses and maintaining evidence. Dealing with this complex issue requires extensive cooperation not only between countries but within them.

Public prosecution-led investigations play a crucial role in combating organized crime, including human trafficking, illicit firearms trafficking and other transnational criminal activities. But in the fight against organized corruption and other serious criminal matters, cooperation between all actors, both public and private, is of great importance.

Across the Western Balkans there is a tendency for police and prosecution services to investigate without involving other agencies or institutions, including those in the private sector. While the police and prosecution are clearly central, other organizations also play a key role in preventing and combating corruption and other criminal behaviours. The customs service one such key partner, along with banks and other financial institutions.

Journalists and the rest of civil society play a crucial role in preventing and combating corruption by exposing corrupt practices, demanding accountability and promoting transparency. Investigative journalism in particular is instrumental in uncovering corruption and bringing it to public attention. Whistle-blowers – often employees who expose information about illegal, immoral or unsafe activities within a private or public organization – are protected by law in many countries. They likewise play a crucial role in alerting authorities to waste, fraud, abuse, corruption or threats to public health and safety. However, our study found very few cases being exposed by whistle-blowers and they do not seem to be a prominent feature in the fight against corruption in the Western Balkans.

The private sector is at the front line of preventing corruption. Private companies are often motivated to comply with laws and regulations by adapting their working practices as minimally and as cheaply as possible. This can sometimes lead to unethical behaviours, such as bribery or cutting corners. Understanding the many root causes of corruption in the private sector – complex laws, public officials having discretionary powers, a lack of transparency and inconsistent enforcement – is essential for anti-corruption measures to be effective.

The national studies also revealed issues in the cooperation between the police and public prosecutors in each of the six Western Balkan countries. Although the public prosecutors often head up investigations into serious crime, their precise role in police investigations tends to be unclear. The division of roles and responsibilities between these two central agencies must be clarified to make investigations as effective as possible. Indeed, the organizational structure of the police and prosecution is of great importance and requires specialized units and internal coordination to combat organized crime and corruption. There is reason to believe that, across the WB6, these central bodies can significantly streamline their day-to-day operations by appointing interdisciplinary teams with the right expertise.

Recommendations

- **Establish guidelines:** investigations into corruption, whether internal or external, should prioritize meticulous gathering and evaluating of evidence and follow a process that maintains the confidentiality, impartiality and protection of all parties involved.
- **Investigation management:** to make investigations of serious crime more efficient, the roles and responsibilities of the police and the public prosecutor's office should be further clarified.
- **Whistle-blower arrangements:** reliable arrangements to protect whistle-blowers should be established in all public institutions based on laws and international standards.

Training and education

The main form of preparation given to officers in the WB6 for specialized anti-corruption police work is training in the detection and documentation of corruption and organized crime. Both theoretical education and practical training is provided throughout the police service and there is some overlap between these concepts as they are both geared towards the same goal – building the personnel.

Training teaches the specific and practical skills needed for police work. Programmes in the WB6 tend to be short and are focused on teaching practical skills in the fields of policing and criminal law, criminology, financial and cybercrime, police ethics and other topics aimed at detecting and documenting corruption and organized crime. No formal credentials are obtained. By contrast, education covers specialized secondary and higher education for the profession, through which officers develop the work habits, attitudes, traits and qualities that are needed for the police service. Education takes place before entering the police or while working, and the focus is on theoretical knowledge, whether general or specialized.

Police education and training should strengthen the case-handling abilities of each police officer, and promote the use of initiative and sound decision-making when exercising their discretionary powers. To act reasonably, police officers must adhere to codes of police ethics and professional standards. The specialized training given in detecting and documenting cases of corruption and organized crime is based on mentoring and support for new police officers, male and female, with an emphasis on personal integrity and developing creative abilities and competencies. Training in new ICT tools – as well as identifying opportunities arising from technological development and its integration into forensic criminology – should be emphasized. Knowledge of English and other languages spoken in the wider community are also highly relevant.

Rooting out prejudice against female police officers is another important aspect in police training. Senior officers should be made aware of any harassment of female police officers and act promptly. Policewomen should be given equal access to jobs at all levels within the service.

Training is an important aspect of human resources management system in the police. Senior management should establish an overall strategy for the development of police training. As part of this process, each unit, including those in the internal control departments and specialized organized crime divisions, should identify their training requirements for the next year and this information should be compiled into an overall training needs analysis. However, such systematic analysis is not conducted in practice throughout the WB6. Moreover, there are problems with the quality of police trainers, including widespread issues with competency and a lack of formal education and necessary experience.

Another common issue is that the interior ministries do not plan or devise any training for officers who are transferred to a different sector of the police. All such transfers – including those to the departments for internal control or combating organized crime – are done in an ad hoc manner. Officers are usually simply moved to the new position and expected to manage on their own.

Recommendations

- Create tailored leadership training programmes for the police in each WB6 country.
- Introduce integrated training in conducting investigations for internal control departments, departments of criminal operations and the public prosecutor offices;
- The Code of Police Ethics should be incorporated systematically into the integrity training of police officers in all WB6 countries.

Country summaries

Albania

ALTIN GJETA

Institutional set-up

The Albanian state police is a well-structured law enforcement organization that is regulated by a relatively comprehensive legal framework and system of internal regulation.²⁴ There are specialized departments that deal with specific areas of law enforcement, including an anti-corruption sector, yet overall power within the organization is centralized in the hands of the general director.

The Directorate of Standards acts as an internal oversight body, while the Agency for Oversight of the Police controls the work of police officers from outside the state police.²⁵ The Special Anti-Corruption Structure (SPAK) has scope to deal with the corruption of high-level officials, including those in the state police, and the ombudsman office can refer abuse of power cases to the prosecution.²⁶ These control mechanisms operate under a sound legal framework, but political interference remains a concern. The funding of the police is channelled through the interior ministry, yet the annual budget of the state police is lower than the average for EU countries.²⁷ Donations to the state police are allowed by law. They are noted on a dedicated webpage but more transparency is needed.²⁸

Legislative framework

Albania has approved and established a robust legal and institutional framework to counter corruption and organized crime. Nevertheless, the laws covering the state police and its internal regulation do not give the organization specific powers to investigate corruption. Investigations in Albania are led by the public prosecution and the judicial police follow their instructions. The subordination of the judicial officers to the prosecution (on investigative matters) and to the police (on administrative matters) seems to cause delays in investigations. The lack of coordination between the police and prosecution is also an obstacle to fighting corruption and organized crime effectively.

Education and recruitment

The process for recruiting new officers and civilian personnel in the state police is regulated by law. However, there is a perception that the process is far from meritocratic and political interference in the hiring and promotion of police officers remains an issue. There have been attempts to promote recruitment and promotion of women in the police force, but women still make up only 14.3% of the force, and only a few hold senior ranks (director level, 10.3%; and higher, 3%).²⁹

The education and training of police personnel is provided by the Security Academy. The academy provides all levels of education and training, and the curriculum seems to be generally updated. Yet, combating corruption and organized crime requires specialized skills that must be frequently updated. Most specific training has been provided by international organization-funded projects such as the International Criminal Investigative Training Assistance Program and the OSCE.

Overview of recent reforms

Efforts to reform the police have been made during the last few years. In 2018, Albania passed Law no.12/2018 'On the transitional and periodic evaluation of employees of the State Police, Guard of the Republic of Albania and [the Service for Internal Affairs and Complaints], in the Ministry of Internal Affairs', colloquially known as the vetting process law.³⁰ The law initially proposed to vet all police personnel, but changes were made later that reduced the scope to 300 high-ranking officials. The aim of the law is to strengthen integrity within the police but vetting has progressed rather slowly, with only 66 personnel having been processed as late as 2022. Vesting the Agency for Oversight of the Police with this responsibility has also cast doubt on the impartiality of the process and interference from politics.

Though Albania has made some improvements, corruption is still prevalent in all branches of government.³¹ National strategies against organized crime and corruption, and risk assessments made by government institutions have not been implemented properly due to a lack of monitoring and political will. Meanwhile the problem is exacerbated by political interference in the legal process, underfunding law enforcement agencies, a lack of institutional capacity and issues with inter-agency collaboration. As our case study below (a violent assault in Kruje in 2023) demonstrates, the combination of action and inaction by the state police and other institutions in investigating criminal networks connected with politicians is symptomatic of the major challenges involved in combating corruption and organized crime in Albania.

Recommendations

Various measures should be taken to strengthen internal and external control mechanisms, as well as the independence and accountability of the state police to address corruption and links with organized crime:

- **Independent appointments:** The director general of the state police should be appointed by parliament and making the state police report to parliament instead of government should be considered to ensure independence from political interference as well as making it more accountable.
- **Recruitment:** The recruitment of new police officers should be decentralized and promoting career officers would make the process more meritocratic and impartial. Expanding the role of the Security Academy in this process would also enhance this.
- **Women in the police:** Devise a communication strategy to draw more women into the police by advertising the benefits, alongside a female quota scheme by the Security Academy. Female officers should receive targeted training to prepare them for anti-corruption and organized crime roles. Lastly, fast-tracking women into the police service and proactively supporting career development through leadership training, mentoring and removing barriers would increase the number of female officers at senior levels in the state police.
- **Planning:** Conducting regular Serious and Organized Crime Threat Assessments (SOCTAs) by the state police would increase foresight and operational capacity. Input should be sought from national and international experts and civil society.
- **Training:** Run tailored, periodic training of police officers dedicated to organized crime and corruption investigations. This would require closer coordination between the state police, the Security Academy, the academic world, international organizations and civil society. This should be combined with periodic risk assessments, and regular performance evaluations are needed to ensure all personnel are aware of their duties under the code of ethics. This ethical training should be paired with serious repercussions for any breaches to discourage corrupt practices.

- **Funding:** Albania should increase public spending on policing and, in particular, channel funding into human resources and equipment for the specialized corruption and organized crime departments.
- **Institutional collaboration:** Combating corruption and organized crime requires a cross-institutional approach. Closer cooperation between the state police and the ombudsman's office is needed to address abuse of power cases within the police, and coordination between various anti-corruption institutions, as well as with the media and civil society, must be strengthened.

The Kruje scandal

On 7 July 2023, social media footage circulated that showed the son and brother of a member of parliament from the governing party violently attacking two individuals. The video sparked public outcry and led to serious political and police repercussions.³² The victims had reported damage to their homes caused by an explosion at a nearby stone factory allegedly linked to the MP's family.³³ The incident not only resulted in the dismissals of the interior minister, the chief and deputy chief of the Kruje commissariat and significant police reassignments, but also shone a public spotlight on systemic issues within Albanian law enforcement and the legal process.³⁴ News media later reported that police had been made aware of other criminal complaints regarding the MP's family but had failed to act.³⁵

Following the public scandal, the police and prosecution took action against those involved in the assault. However, the handling of the case raised questions about the integrity of the proceedings. Despite initially laying serious assault charges, a later re-evaluation saw the charges reduced from 'intentional serious injury' to 'intentional minor injury',³⁶ with less severe repercussions for the perpetrators.³⁷ This, combined with the fact that the three individuals sentenced were recently released from prison and placed under house arrest,³⁸ highlighted a concerning reluctance on the part of Albanian law enforcement officials to confront and investigate possible corruption and political influence over the force.³⁹



Three people arrested in connection to the violent incident in Kruje at a Tirana court. © A2 CNN

Bosnia and Herzegovina

NERMIN KURTOVIĆ

Bosnia and Herzegovina (BiH) stands at a crossroads. As it emerges from an era scarred by war and attempts to navigate a complex political landscape, its aspirations for European integration and prosperity are being hampered by a systemic problem: organized corruption. This malady of the body politic continues to thrive in various sectors, eroding public trust, stifling economic growth and undermining the very foundations of a just and equitable society.

Institutional structure

The country comprises two autonomous entities, Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska, and a third unit, the Brčko District. At the national level, there are three police agencies: the Border Police of Bosnia and Herzegovina, the Directorate for the Coordination of Police Bodies of Bosnia and Herzegovina, and the State Investigation and Protection Agency. At the entity level, the Federal Police Administration is responsible for the FBiH, while the Ministry of Internal Affairs of the Republic of Srpska is responsible for preventing criminal offences and maintaining public order and peace in Republika Srpska. In the Brčko District, this role is performed by the Police of the Brčko District of Bosnia and Herzegovina. At the canton level within the FBiH, there are 10 cantonal ministries of interior affairs.

Such a complex organizational structure across multiple entities creates inefficiencies and hampers collaboration. Low police salaries compared to the average wage and cost of living discourage qualified candidates and increase vulnerability to corruption.⁴⁰ Whistle-blower protection mechanisms are weak, deterring citizens from reporting corruption,⁴¹ and a lack of centralized coordination for corruption cases reduces effectiveness and transparency.

Despite initiatives and legal frameworks to promote female officers, their numbers remain low, especially in leadership roles – only 7% of leadership positions are held by women.⁴² Training, affirmative action and peacekeeping programmes aim to address this, but women still predominantly occupy lower ranks. Although female police representation across Bosnia has risen slightly (now 9.7%), improvements are slow.⁴³ The Canton of Sarajevo uses targeted recruitment to attract more female applicants with the aim of building a stronger and more trusted police force.⁴⁴

Legislative framework

Bosnian legislation concerning fighting corruption and organized crime is harmonized with European standards. Existing laws passed at the state, entity and cantonal levels meet the basic standards necessary to fight corruption but suffer from inconsistent application. Anti-corruption and organized crime legislation adopted in 2015 has only recently resulted in the creation of specialized departments in the FBiH Supreme Court and prosecutor's office to take on some of the case-load from the canton level. Ongoing evaluations to identify and rectify weaknesses in existing laws and practice are essential if the legal framework is to keep pace with emerging challenges.

Bosnia's fragmented anti-corruption framework suffers from ineffective laws, weak enforcement and slow procedures. Despite some high-level indictments having taken place, political interference and insufficient resources continue to hamper progress.⁴⁵ This is compounded by inconsistent regulation, poor institutional cooperation and stalled legislation. Bosnia needs a conflict of interest law that applies at federal government-level, while Brčko District and Republika Srpska must also improve their existing legislation and practices.⁴⁶

Interference in police work

Police face direct and indirect threats or interference in investigations, sometimes in the form of public pronouncements by politicians defending the accused.⁴⁷ Businesses also have a significant influence over police investigations, especially those with connections to the centres of political power.

Several reported cases of high-level corruption have been hamstrung by selective judicial procedures and legal errors, negligence, abuse of process, questionable court decisions and verbal attacks on police and prosecutors.

Collaboration between the police and prosecution offices also needs to be improved. Looking into the origins of certain assets and financial tracing and analysis should be integrated into investigations. Interviews conducted with local police revealed that some cases, especially those involving politicians, have faltered due to corruption within both the prosecutor's office and police ranks.⁴⁸

Education and recruitment

The education and recruitment of corruption investigators in Bosnia and Herzegovina has notable shortcomings. Although training exists for police and other officials, lower-level officers rarely have access to it. Their knowledge relies solely on general schooling. Deeper training is needed on the specific roles, collaboration and legal aspects involved in anti-corruption work. Leadership training for prosecutors and police should emphasize teamwork and integrity, while a clear delineation of roles and responsibilities between police and prosecutors is essential.

Open recruitment competitions are common within police agencies, neglecting experienced internal candidates. Officers with no corruption investigation experience are sometimes transferred into these roles, raising suspicions of nepotism and, ultimately, resulting in poor investigations. Financial expertise, for instance, is essential for analyzing transactions to uncover hidden networks or illicit funds. As such, establishing meritocratic recruitment processes that prioritize both diversity and competence is crucial. A diverse investigative team brings varied perspectives and skills, contributing to a more comprehensive and effective approach to tackling corruption. Collaboration with international partners, who face similar challenges, can provide valuable expertise and share best practices.

Recommendations

- **Anti-corruption legislation:** Periodically assess and update anti-corruption legislation to address emerging challenges and adapt to evolving forms of corruption. Ensure that the legal framework provides sufficient tools for investigators and prosecutors to combat sophisticated organized corruption and criminal networks. Enhance legislation to allow for the confiscation of assets acquired through corrupt practices to reinforce the deterrent effect of anti-corruption measures. This would include provisions for the timely identification, freezing and forfeiture of assets linked to corruption. Ensure that the independence and impartiality of investigative bodies is guaranteed by law. This includes safeguards against political interference and granting autonomy to all bodies responsible for investigating corruption.
- **Internal reforms:** The police force should establish a systematic and periodic review of its internal corruption policies. This includes ensuring that policies on recruitment, promotions, disciplinary action and ethical conduct are implemented. Regular updates should incorporate evolving best practices and lessons learned from investigations and prosecutions. Implement measures to hold senior leaders accountable for fostering a culture of integrity within the police force.

- **Enhanced training:** Develop and implement comprehensive training programmes for law enforcement personnel. These programmes should focus on ethical conduct, identifying corruption indicators and the use of advanced investigative techniques. Regular and continuous education will ensure that officers are equipped with the latest tools, methodologies and technological advancements in the fight against corruption. Leadership training should emphasize the importance of leading by example, promoting ethical behaviour and creating an environment in which corruption is not tolerated.
- **Whistle-blower protection:** Establish clear procedures for reporting corruption internally, ensuring anonymity and shielding whistle-blowers from retaliation. Building a culture that encourages reporting and protects those who come forward is crucial for uncovering corruption within the force.
- **Recruitment:** Actively promote diversity and inclusion in recruitment processes through targeted recruitment events such as career fairs to address questions and concerns from women or minorities about careers in law enforcement. Assign female recruitment officers or mentors who can serve as role models and provide support and guidance to female candidates throughout the recruitment process. Having visible female leaders within the organization can help inspire confidence and encourage more women to pursue careers in law enforcement.
- **Oversight:** Institute periodic external audits of police practices, investigations and internal controls. External auditors, appointed independently, can evaluate the adherence to established procedures, identify areas for improvement and provide recommendations for enhancing the overall integrity of law enforcement operations. Encourage civil society organizations to monitor and assess the effectiveness of anti-corruption measures. Civil society can play a vital role in advocating for transparency, conducting independent assessments and ensuring public awareness of the progress made in combating corruption.

The Zenica case

In a significant case in Zenica in 2021, a police inspector was found guilty of abusing his position to take bribes in exchange for 'neglecting his official duties in favour of an individual'. The case highlighted a concerning overlap between the criminal and law enforcement worlds in the daily work of a relatively senior officer. Having only been charged with bribery in the first instance, on appeal a charge of abuse of position was added resulting in a prison sentence of two years and six months, and a professional ban of three years.⁴⁹ This verdict underscores the judicial system's recognition of the need to take such corruption seriously.

However, the inspector's actions not only breached legal and ethical standards in this instance but have far-reaching implications for police integrity and political influence. Instances such as these erode public confidence in the police's ability to operate impartially and justly, discouraging community cooperation with police investigations and fostering a climate of cynicism and mistrust. Moreover, it encourages internal misconduct as well as external influence, thus weakening the police's effectiveness in crime prevention and enforcement. ■

Kosovo

DARDAN KOCANI

Legislative framework

The police force is seen by citizens as one of the most trusted and least corrupt institutions in Kosovo.⁵⁰ The law on the police and police inspectorate ensures operational and budgetary independence from the interior ministry, and regulates the relationship between the police and interior minister as well as between the police and other law enforcement agencies.⁵¹

However, the current legislative and institutional framework lacks mechanisms to provide more effective oversight of the police and encourage transparency and accountability in their implementation of policies, legislation, strategic priorities and budget spending.⁵² Some argue that the police are effectively a self-governing institution because, having taken a lead role in drafting the laws regulating their powers and functions, their objectivity has been compromised.⁵³

Interference in police work

As individual criminals, organized crime gangs and politicians have become more powerful, the resilience of the Kosovan police to corruption has weakened – although it still compares favourably in terms of integrity with other public institutions in Kosovo.⁵⁴ In general, it is widely believed among police and other law enforcement officials, civil society and the international community that interference from politics is a more prevalent threat to effective policing than interference from the criminal world.⁵⁵ The police force is vulnerable to interference from politicians, particularly those from the interior ministry, in its investigations and in its internal decision-making processes such as procurement, recruitment, promotions and transfers.

Some examples of this apparent encroachment include the frequent participation of the current interior ministry in the police command room, having constructed its own office at the Belvedere police camp;⁵⁶ the transfer of officers who have investigated/arrested government officials to other departments;⁵⁷ the publication of the results of operations and seizures on the minister of the interior's Facebook account prior to official press releases being issued;⁵⁸ the creation of new departments or police structures; and arbitrary dismissals. In 2020, for instance, the government dismissed the then director general of police after officers arrested a mayor from the same political party.⁵⁹

By rank, the majority of officers investigated by the police inspectorate are basic police officers (76%), while 10% are sergeants.⁶⁰ Higher ranks such as colonels, lieutenant colonels and majors each represent 2%.⁶¹ This shows that it is mainly members of the lower ranks that are subject to investigation. Within the department for investigations there have been no reported cases of political pressure or from other interest groups in the last five years. However, in practice this does not mean the absence of such pressures. The number of officers investigated that work in the department of investigations is almost non-existent.

Based on the operations that have been conducted by the prosecution and police inspectorate, there seem to be two main areas in which police officers become involved in criminality: smuggling in the north of the country and loan sharking.⁶² A dozen police officers have been found to be involved in smuggling, mainly in the north of Kosovo, and those arrested are suspected to have cooperated with criminal groups in the north. However, there are also allegations that police officers in the south have cooperated with northern organized crime groups.⁶³

The Kosovan police have a comprehensive internal control mechanism that reports directly to the director general and deputy director generals. The police force was among the first institutions to adopt the new integrity plan in 2017, and established the integrity unit in 2019.⁶⁴ The second integrity plan was adopted in 2022 for the period 2021–2025. However, the integrity plan did not mention political or other interference explicitly as an issue and did not plan any specific measures to address them. There is also a comprehensive mechanism to implement the law on the protection of whistle-blowers, however, in general there is still a reluctance to report cases.⁶⁵ A key challenge for the National Audit Office, meanwhile, is gaining access to classified documents, specifically those classified as confidential, secret and top secret.

The impact of the parliamentary committee for oversight of the police is very limited. Hearings with the minister and director general of police, despite receiving great attention in the media, have not resulted in major changes; discussions are rarely followed up by the committee by requesting actions or monitoring implementation.

Education and recruitment

Recruitment procedures are organized by the human resource department of the police, with no involvement from the ministry. The process is transparent, candidates are registered with codes rather than personal names, a written test is done electronically and the process is largely conducted without major problems. Nevertheless, there is limited evidence of internal and external interference. While the process of promotion is largely well conducted, it is still subject to internal and external pressure to select certain favoured candidates.

The Kosovo police force has a total of 8 791 personnel, of whom 14.8% are women.⁶⁶ The percentage of women is slightly below the EU average of 18.5%.⁶⁷

Women represent 12.9% of staff in uniform and 33.2% of the civil staff. The average age of Kosovan police officers is 48, which is high compared to the youthful population of Kosovo and other countries in the region.

In its 2023 report, the European Commission noted the success of the police in targeting organized crime and corruption, especially in the investigation of high-profile corruption cases by the special investigation unit.⁶⁸ However, it also encouraged improvements to proactive investigations and an attempt to more adequately map criminal groups. Moreover, the EU peer review noted a 'lack of initiative in carrying out investigations from the police could be observed' and that 'too often they seem to be waiting for the prosecutor's directive and not proposing measures'.⁶⁹

Overview of recent reforms

The Kosovo police force benefits from the support of projects and international organizations in improving its capacities, in human resources and equipment, but also in undertaking reform. After the implementation of an EU-funded project on police reform, 35 recommendations were proposed in the area of the reform programme – intelligence-led policing, interagency cooperation and preventing and countering violent extremism. However, the process of implementing these recommendations has been slow.

Over the years, it seems that the police have become reluctant to adopt significant changes, mainly resisting the introduction of modern policing techniques and procedural and structural changes. This reluctance was highlighted in the final report of an EU-funded project on police reform but

also by a Norwegian project on integrity. Both, however, reported that there was also not sufficient commitment and involvement on the part of the interior ministry and government to implement the recommendations.⁷⁰

For some areas the police have shown initiative, a proactive approach and a commitment towards improving their functions, such as developing the integrity plan or creating mechanisms to implement the law on whistle-blower protection. However, such initiatives need stronger support from senior management in order to be implemented in practice. Moreover, the police need to be more willing and committed to move forward with more strategic reforms that will improve the integrity of the police force but also its effectiveness. The motivation of police officers has declined due to poor working conditions but also because of political interference, and this area requires the urgent attention of senior police management.

Recommendations

- **Integrity strategy:** develop a new vision and strategic plan for comprehensive and sustainable police development, to ensure a modern police force and improving integrity, transparency and accountability. At the same time, the government should adopt the law on early retirement and improve salaries and working conditions.
- **Oversight:** Develop a comprehensive framework for oversight by the ministry of the interior, in cooperation with civil society and international partners, with strict measures to prevent political interference. This mechanism should focus on objective scrutiny of the police and holding the force accountable for performance, budget spending, allocation of resources and implementation of legislation and policies.
- **Independence from government:** police senior management should strictly enforce measures to prohibit political interference in the police's operational work. This includes stopping any unnecessary presence in police facilities without the director general, any interference in the command room and any unauthorized publication of police evidence.
- **Parliamentary Committee on Security and Defence Affairs:** this body should take on a more proactive and meaningful role in overseeing the interior ministry, police and police inspectorate. The committee needs to establish formal and regular communication with the institutions under its responsibility in order to receive regular information and updates. The administrative staff of the committee need to enhance their knowledge and skills to prepare materials and regular reports, while the committee members must focus on strategic security issues rather than political. The committee needs to thoroughly look into political interference in the operational work of the police and prepare a detailed report.
- **Police inspectorate:** parliaments should seek to amend legislation to enable integrity testing initially focused on the department of investigations and other important positions within the police, including those with higher ranks. The police inspectorate should also investigate the recent cases of political interference in the operational work of police.
- **National Audit Office:** the audit office should ensure their staff obtain the required security certificates to start auditing secret contracts.
- **Refocus on organized crime:** the police need to strategically reorganize the department of investigations and focus only on high-level organized crime and corruption cases and transfer competences for other cases to regional police directorates. This would enable the department of investigations to focus on fewer, more serious cases.

- **Implement assessments:** assessment reports such as SOCTAs should be transposed into the strategic and operational priorities of the police. Such reports should be used for planning, allocating resources and training police officers to investigate organized crime and corruption.
- **Cooperation between bodies:** develop joint strategic assessments with the prosecution, law enforcement agencies and other institutions to allocate resources and operations most effectively in the fight against organized crime and corruption.

Officers accused of corruption

In December 2019, a citizen's complaint prompted an investigation into two police officers who were accused of soliciting bribes in exchange for influencing an ongoing investigation into economic crime and corruption.⁷¹ It was alleged that the officers had demanded money to avoid indicting a suspect and to conceal illegal gambling activities. In response, covert measures including electronic surveillance and physical monitoring were deployed by the police inspectorate. A source that spoke to the GI-TOC on the basis of anonymity claimed that, by February 2020, evidence was gathered during a transaction where the officers allegedly received a bribe.⁷² Subsequently, the officers and another suspect were arrested, and significant sums of money and other illegal items were seized, including firearms and ammunition found during a home search. Despite some initial success in tracing the corruption, the involvement of a third officer could not be established.

The Basic Court of Pristina eventually convicted the two primary suspects in February 2022, imposing sentences of over five years and fines.⁷³ However, these convictions were overturned by the appeals court in May 2023 due to procedural violations and insufficient legal reasoning, highlighting some issues within the judicial process.⁷⁴ The case was sent back for retrial, experiencing further delays due to procedural issues such as the prosecutor being on annual leave and witness absences.⁷⁵ At the time of writing, the retrial is still ongoing.⁷⁶ The case provides a good example of some of the challenges involved in managing corruption within law enforcement, from initial accusation and evidence-gathering to prosecution and judicial proceedings. It also reflects broader systemic issues in the handling of corruption cases, despite active monitoring by civil society organizations and media engagement. ■



The Basic Court of Pristina convicts two police officers accused of corruption, February 2022. These convictions were later overturned and the case was sent for retrial.

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Montenegro

RAJKO RADEVIĆ

Institutional set-up

The Montenegrin police service has long been subject to strong political influences, which have had an adverse effect on the organization and its work.⁷⁷ Since 2001 the police force has undergone a series of institutional and organizational reforms, some of which have harmed its ability to fight corruption and organized crime. Most problematic has been the frequent movement of the police from being part of the ministry of interior to an independent body and back again. There was little rationale for these changes – it was not based on any analysis or consultation with police professionals or other experts, but rather it was the result of political wranglings over the government's control of key institutions. This reflected a deep politicization of the police and arbitrariness exercised by politicians. The latest changes to bring the police back in house have significantly increased the powers of the interior ministry with the result that the police service has lost its ability to plan and develop operational strategies.⁷⁸

Although corruption is recognized as one of the most significant challenges in Montenegrin society, investigations into corruption are not prioritized.⁷⁹ This is compounded by the fact that the police administration is a reactive rather than a proactive state body when it comes to criminal inquiries, with the prosecution leading on investigations.⁸⁰

There is an overlap of functions when it comes to investigating corruption and organized crime in the police administration. For example, there is the Group for Economic Crimes and Corruption (which mostly deals with cases within the portfolio of the basic state prosecution), while the special police department works independently on cases in the same area and in close cooperation with the special state prosecution.⁸¹ In the ministry of the interior, the anti-corruption department lacks basic capacities for proper functioning. Moreover, it seems that the establishment of the department was not preceded by any analysis and comparison with the functions performed by the already existing Internal Control Unit (ICU). There seem to be multiple areas for overlap between the two organizational units of the ministry of the interior. However, the ICU does not have the capacity to follow up on its own investigations, there is no ability to conduct investigations in parallel, and there are only five inspectors in the ICU working on corruption and organized crime cases.

Legislative framework

The 2021 law on internal affairs has made significant strides in promoting reforms and greater integrity in the police system,⁸² and reforms have generally received a positive assessment in the EU enlargement progress reports.⁸³ The new law led to the establishment of the new anti-corruption department in the interior ministry and a security vetting commission.

Education and recruitment

The capacities of police officers, especially those in the special police department, and those working in the special prosecutor's office need to be developed to allow them to conduct long-term and complicated investigations. There is a lack of specialized training programmes focusing on relevant legislation and best international practices in fighting organized corruption and crime.

Moreover, the ministry is not required to plan for and provide training for when an officer is transferred to a different sector of the police. All such transfers – even into the unit for combating organized crime – are done in an ad hoc manner without preparing officers with the specific skills and competences needed for their new role.⁸⁴

Although the number of women in the police has been steadily increasing, women do not occupy top managerial positions.⁸⁵ Even more concerning is the fact that there has never been a female applicant for these positions. Recruitment and selection, especially for senior managerial positions, is still not based entirely on merit. Competition-based appointments represent a significant safeguard against the arbitrariness of political appointments, and directly promote transparency and democratic processes within the police.

Limiting police powers and giving more powers to the prosecuting authority has not been as positive an influence as expected. In particular, the introduction of prosecution-led investigations has only highlighted challenges in the cooperation between police and prosecution. This was another reform that was introduced without the necessary planning and analysis that resulted in a system that was completely unprepared for the changes. Finally, it seems that Europol's 2021 SOCTA findings have not been used to tackle organized criminality in a more strategic and systematic manner, but instead have been misused by politicians for self-promotion by essentially showcasing their actions to the public without genuine efforts to tackle the issues.⁸⁶

Recommendations

- **Integrating departments:** closer liaison between or fully integrating the Special Police Department with the Special State Prosecution should be considered to enable smoother and more efficient investigations and prosecutions of organized crime and corruption cases.
- **Internal controls:** strengthen the human and technical resources of the anti-corruption department, including by developing methods for identifying positions that are especially vulnerable to corruption and taking steps to address such risks. The powers of the ICU should be expanded to taking preventative action as well carrying out corruption risk analysis within the framework of the interior ministry integrity plans. The ICU should have greater autonomy and be less dependent on the budgetary and human resource management of the interior ministry.
- **Competitive recruitment:** fully implement laws regarding internal and merit-based competition for officers and managerial positions, including by raising awareness and taking steps to ensure a higher-level representation of women in managerial positions.
- **Streamlining:** secure the full implementation of the Police Development Strategy and streamline the new police organization with four regional centers;
- **Training:** improve skills, institutional capacity and policy directives for the work of the special police department and special prosecutor's office in order to facilitate the conducting of long term and complex investigations. Further, special training programmes focusing on relevant legislation and best international practices in fighting organized corruption and organized crime should be developed.

- **IT systems:** to improve performance, the IT infrastructure should be developed, including by creating a centralized system that enables real-time sharing of information and instructions between the prosecution and the police. Moreover, the case-management system allowing coordination between the interior ministry, police, financial intelligence unit, tax administration, central bank and prison authority (being developed with the UK support) should be implemented at a faster rate.
- **Mentoring:** a system of mentoring should be considered for entry-level police. Mentors would be trained to monitor and assist new recruits in their everyday work, and the whole process would be overseen by colleagues with more experience to assess the progress made. This system would address knowledge gaps by ensuring that officers gain the practical and operational skills required and, later in their career, can transfer knowledge to new recruits.⁸⁷

The Grujicic case

The following case highlighted serious issues with the accountability of police officers within the Montenegrin justice system, as well as highly concerning allegations of torture. On 30 May 2020, Jovan Grujicic was forcibly removed from a psychiatric hospital by masked officers and taken to the capital to undergo questioning for his supposed involvement in a bombing attack on the Café Grand in Podgorica and the house of an intelligence officer five years earlier. According to multiple human rights NGOs,⁸⁸ he was allegedly subjected to physical and psychological torture before signing a forced confession. Despite a court having dismissed the criminal case against Grujicic on the basis of torture and coerced confession, the investigation launched by prosecutors into the 11 police officers' conduct stalled for three years until the charges were ultimately dropped.⁸⁹ In March 2023, a high-ranking prosecutor overruled a subordinate's decision for the third time, refusing to dismiss the criminal complaint against the police inspectors involved.⁹⁰

The handling of this case reveals deep flaws in the prosecutorial system, where the same unit responsible for the alleged torture of Grujicic (and two others) is then tasked with conducting the investigation into it. This raises serious concerns about its impartiality and effectiveness. Moreover, the supreme state prosecutor's office has ignored requests to reassign the case, further undermining trust in the system's willingness to address and rectify instances of police misconduct and corruption. Such systemic protection of apparent criminal activities within the police force not only hinders justice but also erodes public confidence in Montenegrin law enforcement institutions. ■

North Macedonia

ALEKSANDAR SRBINOVSKI

The police force in the Republic of North Macedonia has felt the influence of political parties at various times over the years.⁹¹ Early interventions were aimed at transforming an authoritarian and highly centralized police system into a modern system to serve the community. However, despite being reorganized and retrained, significant problems remain. Corruption is a major challenge throughout North Macedonian society and there is a growing focus on investigating corruption and links to organized crime within the police. The special prosecutor's office has brought charges against several high-ranking police officials for corruption, and there are other similar cases that are ongoing.⁹² Yet, there is a widespread feeling that the police tend to be slow in investigating corruption cases compared with the more proactive steps taken in criminal investigations. A former interior minister has even claimed that organized crime groups could be influencing the process of some investigations.⁹³

Institutional structure

The police structure in North Macedonia represents a reconciliation between the old approaches of police work and the democratic reforms undertaken in the general overhaul of the security sector. Although the adoption of the new democratic constitution in 1991 was supposed to lead to fundamental changes to the policing system, the failure to train and organize the existing police stymied early attempts at reform.⁹⁴ As a result, political leaders struggled to reconstruct an authoritarian and highly centralized police system into a modern force capable of acting as a guardian of the community, enforcing human rights and protecting the rule of law.⁹⁵ However, years of structural and functional security sector reforms in the sector have started to bear fruit. Thanks to support from the EU, CoE, UN and OSCE, as well as bilateral engagement from the US and UK and other donors such as the Geneva Centre for Security Sector Governance,⁹⁶ the police sector has achieved a level of organization and competence akin to modern democratic structures.

Before the 2015 wiretap scandal, in which the government was found to have conducted illegal surveillance of 20 000 people including judges and opposition figures, the interior ministry comprised two main bodies: the Bureau for Public Safety and the Directorate for Counterintelligence.⁹⁷ In response to the scandal (see more in the case study below), significant security sector reforms were implemented, particularly targeting the intelligence services.⁹⁸ This led to the establishment of the National Security Agency, a new entity created by law and positioned outside of the police structure to handle counterintelligence tasks.⁹⁹ Following this, the Bureau for Public Safety was also restructured. Under new legislation aligned with EU regulations, it continues to operate within the interior ministry but is now solely responsible for managing police affairs.¹⁰⁰ The bureau's responsibilities include overseeing the police; planning; security monitoring and analysis; supervising police units; processing personal data as specified by law; implementing international police cooperation agreements; and ensuring police readiness for complex security situations.

The Bureau for Public Safety encompasses several organizational units, including uniform police; criminal police; internal control, criminal investigations and professional standards; criminal intelligence and analysis; border affairs and migration; common affairs and human resources management; suppression of serious and organized crime; protection of specific persons and facilities; aviation units; special police operations; a forensic department; international police cooperation; cybercrime

and digital forensics; eight regional sectors for internal affairs; and a unit for police dogs. The budget for the Department for Internal Control, Criminal Investigations, and Professional Standards (DICCIPS) is integrated into the overall budget of the interior ministry, reflecting the shared financial structure for internal oversight and police operations. Within the organized crime division of the Bureau for Public Security, the criminal investigations department is made up of five units, including the unit against corruption. There are eight regional departments for internal affairs, including the Skopje regional department, which contains the unit for corruption and counterfeits.

Legislative framework

Today, the North Macedonian Anti-Corruption Institutional Framework includes multiple oversight mechanisms for policing. Under the 2022 law on internal affairs, police oversight is conducted both internally and externally. Internal oversight is managed by the DICCIPS. This department acts as the main control body within the interior ministry, tasked with identifying and addressing unprofessional, illegal and unethical behaviour among ministry employees. It also implements measures aimed at preventing such conduct. As a distinct organizational unit, DICCIPS carries out internal controls specific to the ministry, assesses the legality of staff actions and ensures compliance and integrity within the ministry of the interior.

In response to the fifth evaluation round report from GRECO,¹⁰¹ North Macedonia implemented a series of revisions to its internal affairs and police laws in April 2022. These legislative modifications incorporate several key provisions: mandatory asset declarations for employees, a prohibition on employees holding membership of political parties or political party bodies, the introduction of an integrity test and the establishment of objective and professional standards for appointing the director of the Public Security Bureau (the chief of police).

Under North Macedonia's law on criminal procedure,¹⁰² the public prosecutor leads investigations directly, giving directions to and receiving notifications from police officers about reported criminal acts. Since 2012, confessions made to police have had no evidential value in court, and cases based solely on confessions without material evidence are no longer accepted by the public prosecutor. In 2018, North Macedonia updated its legal framework, allowing the establishment of two key units: a specialized unit within the public prosecution tasked with prosecuting crimes and other illegal acts committed by employees of the interior ministry with police powers and prison officers; and Ombudsman Plus, a unit for external police oversight within the ombudsman's office, consisting of civil servants and representatives from civil society organizations. Since its establishment, the specialized unit for internal police oversight has initiated dozens of cases.¹⁰³

Investigations conducted by the police are primarily based on intelligence and material evidence. North Macedonian law, particularly Article 12 of the law on criminal procedure, prohibits extorting confessions or any other statements from defendants or participants in the procedure. Illegally obtained evidence, or evidence obtained by violating constitutional, legal or international rights and freedoms, is inadmissible in court.¹⁰⁴ Police officers must adhere to the law on police and the law on criminal procedure in their duties. Failure to comply can result in disciplinary or criminal charges, with the DICCIPS and the relevant public prosecutor being notified of potential violations. Notifications for the investigation and prosecution of crimes by police and prison personnel are outlined in Article 64a of the law on internal affairs.

Education and recruitment

Recruitment procedures are organized by the human resources department of the police. The process is generally transparent, and while the promotions are largely well conducted, they remain subject to internal and external political interference, where certain candidates are favoured. To prevent this and bolster integrity, the Plan for Integrity of Jobs in the Ministry of Internal Affairs was adopted in August 2022.¹⁰⁵ This plan is intended to cover the period 2023–2025, and establishes mechanisms for strengthening integrity in the police and assesses the risks of corruption to every position within the interior ministry.¹⁰⁶

Despite these established mechanisms, the 2023 GRECO report raised concerns about the politicization of the police.¹⁰⁷ Political party influence, especially over the appointment of senior managerial positions, often undermines merit-based recruitment and selection processes. External oversight of the police, led by institutions such as the Assembly, is vital for maintaining integrity. However, existing mechanisms, such as supervisory hearings, are underutilized and subject to political influence. The effectiveness of parliamentary committees in overseeing the police is also limited. Further promotion and development of these oversight mechanisms are needed to ensure transparency and accountability within the police.

The police force of North Macedonia has commitment itself to a policy of gender equality within its ranks.¹⁰⁸ Within the ministry of internal affairs, nearly half (48%) of management positions are held by women. However, In March 2024, during a regional conference on gender and security in Skopje organized by the OSCE, it was highlighted that men still occupy 79% of police positions compared to women's 21%. While the proportion of women in leadership positions has increased from 12.5% in 2019 to 17.8% in 2023, significant disparities remain.¹⁰⁹

Recommendations

- **Oversight:** external oversight of the police, led by institutions such as the public prosecution, ombudsman and Assembly, is vital for maintaining integrity. Further development of oversight processes to enhance transparency and accountability within the police is crucial.
- **High-risk roles:** EU Commission and CoE reports noted the high risk of corruption associated with specific positions in the police. Areas of concern include abuse of official position, bribery, excessive use of force, public procurement, human resources management and ethics. Prioritizing and implementing targeted measures to mitigate these risks is necessary.
- **Training:** comprehensive anti-corruption training for the internal control and criminal operations officers is needed. Training should cover ethics, integrity and the consequences of corruption.
- **Gender and social inclusion:** to promote diversity within the police force, establish specific recruitment targets and programmes for under-represented groups, including women, minorities and marginalized communities.
- **Resource allocation:** ensure that resources are allocated based on a needs assessment and priorities. Adequate funding should be provided for anti-corruption initiatives, training programmes, community engagement and modern technology to improve transparency and accountability.
- **Technology:** properly store and manage recorded data and evidence to enhance accountability and promote transparency in investigations.

The 2015 wiretapping scandal

Organized corruption in North Macedonia reached its nadir with the 2015 wiretapping scandal.¹¹⁰ The then governing VMRO-DPMNE party and prime minister were implicated in illegally wiretapping over 20 000 individuals, including key public figures from the judiciary and opposition parties, when recordings were leaked. The leaks from these wiretaps exposed extensive governmental corruption, electoral fraud, abuse of power and even involvement in cover-ups of homicides, leading to widespread protests and a prolonged political crisis. To address these allegations, the special prosecutor's office was established, though it faced significant obstruction from the VMRO-DPMNE party, including legal challenges that hampered its efforts. Despite these obstacles, prosecutors succeeded in indicting several top officials, including the former prime minister, Nikola Gruevski, who was convicted of corruption but fled to Hungary and claimed political asylum before he began serving his sentence. Other officials, such as a former interior minister and a former transport minister, were also convicted, but their light sentences sparked further concerns about judicial integrity. ■



Macedonians protest against government corruption and the prime minister, Skopje, July 2016.

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Serbia

SAŠA DJORDJEVIĆ

In 2023, Serbia experienced a drop in its Corruption Perceptions Index score and worldwide governance indicators, reaching a historic low.¹¹¹ This decline can be attributed to weaknesses in the rule of law, judicial inefficiency and political interference, all of which exacerbate the issue of corruption. Organized corruption cases still need to be addressed despite efforts such as drafting a new anti-corruption strategy in 2023. Civil society groups have generally criticized the draft strategy as lacking in ambition. Of particular concern is the need for a dedicated anti-corruption strategy for the police.

One of the most significant institutional changes in the prosecution of corruption cases came with the enactment of the 2016 Law on the Organization and Competence of State Authorities in the Suppression of Organized Crime, Terrorism and Corruption.¹¹² This legislation established specialized anti-corruption departments within prosecutor's offices, courts and the police two years later, in 2018.

Institutional set-up

The General Police Directorate, organizationally placed within the ministry of the interior, is responsible for policing in Serbia. With 15 organizational units at its headquarters and 27 regional police administrations nationwide,¹¹³ the directorate reports to the interior ministry. This establishes a direct line of responsibility to the executive branch of power. The law on police regulates the competencies, powers and accountability of the police. It was initially adopted in 2016 and amended twice in 2018.

As of October 2022, the interior ministry comprises 41 438 individuals who perform policing and public security functions.¹¹⁴ Among them, 40 120 hold the status of police officers, 31 313 serve as authorized officials with police powers, and 8 807 are designated with special duties such as protection and rescue.¹¹⁵ This said, Serbia's police could be considered overstaffed, with 603 police officers per 100 000 inhabitants,¹¹⁶ around double the EU average between 2019 and 2021 (325),¹¹⁷ or the UN standard (300).¹¹⁸

In 2023, female representation in the interior ministry was at 27%,¹¹⁹ marking an increase of almost five percentage points compared to 2015, when the representation stood at 22.3%.¹²⁰ The percentage of women in managerial positions in 2023 was 18.6%.¹²¹ Since 2017, the interior ministry has increased the number of women and introduced gender as a factor in policymaking.¹²² However, policing is still perceived as a profession that is primarily associated with the use of force, often characterized by a nearly military style of command, especially within the uniformed ranks.¹²³ Therefore, according to one civil society researcher, it is not surprising that out of a total of 27 regional police administrations chiefs, only one was a woman.¹²⁴

A vacant position for police director for over two years and a controversial draft law add to the complexities. Despite a rising budget, reaching almost €1 billion in 2024, operational independence remains limited due to interference from politics and organized crime.¹²⁵

The internal control of the interior ministry works with the prosecution to investigate and take legal action against police officers in corruption cases. While it takes proactive measures and responds to complaints, the sector has encountered various obstacles in effectively investigating corruption, despite its vital role in upholding integrity. Since 2019, there has been a general decline in the number of filed criminal reports. In 2022, the sector filed 181 criminal reports, three fewer than in 2021. Since 2018, most reported criminal offences are related to corruption. Although the sector files criminal reports against police officers, transparency regarding case outcomes is lacking. The law on police undermines the sector's independence by granting substantial authority to the interior minister. This raises concerns about possible interference in investigations and case proceedings. The draft law on internal affairs needs to address this issue.

Policing legislation in Serbia enables anyone to report corruption or file complaints against a police officer. However, given its strong reliance on the police and the interior ministry, this mechanism lacks the independence necessary for external oversight.¹²⁶ Furthermore, the objectivity of the complaint procedure is also questionable, as it is overseen by the supervisor in the organizational unit of the officer accused. This leads to a situation where the manager, sharing a portion of the objective responsibility, is effectively marking their own homework.¹²⁷

External oversight of the police primarily falls under the jurisdiction of parliament, notably through the internal affairs and defence committee. This committee directly scrutinizes the interior ministry's activities, allowing members to examine work reports and ensure the legality of special investigative measures. Despite improvements in the legal framework, parliamentary oversight has weakened, with very few sessions dedicated to reviewing reports. For example, only one out of 13 sessions in the latest parliamentary term (from August 2022 to September 2023) focused on this matter. Public access to information is also limited. This discrepancy contrasts with the legal requirement for the interior ministry to publish quarterly reports, which must be made available online.

Legislative framework

Legislation should be developed with provisions to ensure the operational independence of the police. Amendments to the 'Law on Police' in 2018 introduced provisions allowing recruitment without competition, giving the interior minister considerable control over the recruitment process.¹²⁸ High-level appointments without adhering to meritocratic principles, often through the creation of temporary 'acting' positions, are now typical within the interior ministry. Additionally, instances of rapid promotions, which have potentially been influenced by organized crime, raise further concerns about the integrity of the police.¹²⁹

Integrity tests suffer from ambiguity about their purpose within the law enforcement framework. Despite being labelled as preventive measures, designed to check police vulnerability to corruption, the 60 tests that have been conducted since 2020 have tended to result in punitive actions, suggesting they are being used as a coercive tool instead.¹³⁰ Unlike special investigative measures, integrity testing lacks comparable human rights safeguards. There are also concerns over the handling of test results, especially in disciplinary proceedings, where internal control sector involvement could be strengthened.

Managers and employees in positions at high risk of corruption within the interior ministry began disclosing their private assets to the internal control sector in 2019.¹³¹ The internal control sector plans verifications annually, utilizing software. However, there is no public access to these declarations, limiting their effectiveness in corruption prevention. Public disclosure does not violate privacy rights, but the absence of transparency over assets hinders public oversight. Nearly 5 000 control checks between 2019 and 2022 revealed only a few irregularities; the sector identified one significant breach in 2022.¹³²

The internal control sector analyzes corruption risks within the ministry, following guidelines set in 2018. Despite looking at over 50 units, they have completed their analysis and made recommendations for only two.¹³³ The sector also performs preventive checks on corruption-prone positions and units within the interior ministry. From 2019 to 2022, around 20 checks were carried out, resulting in over 100 recommendations and recognition of almost 70 examples of good practice.¹³⁴

The relationship between the police and prosecution, vital in criminal procedures, faces hurdles that impede effective collaboration. While the criminal procedure code theoretically grants prosecutors authority over police actions, there are limited ways for prosecutors to exercise leadership in practice. This creates conflicts, particularly when police must follow their superiors' orders when they conflict with the prosecutor's role in investigations. Although specialized anti-corruption departments were established to improve cooperation, they have also led to setbacks. The arrest and dismissal of two high-ranking officials in 2020, for example led to a number of personnel changes and demoralization within anti-corruption units, impacting progress and unity between police and prosecution.¹³⁵

Recommendations

- **Anti-corruption strategy:** at the policy level, there is a pressing need for the government to adopt a strategic document to prevent and combat corruption within the police force. This should pinpoint areas vulnerable to corruption and establish transparent goals. Drawing inspiration from a directive by the German interior ministry, which emphasizes identifying corruption-prone sectors, could kick-start the development of this document.¹³⁶
- **Internal controls transparency:** several steps must be taken to enhance transparency and efficiency within police internal controls. Annual reports from the internal control sector should include data on both accepted and rejected criminal charges by the prosecution, providing insight into operational effectiveness. Moreover, amendments to the draft law on internal affairs are needed to reduce the political influence of the interior minister on operations. Adjustments to judicial records are also necessary to allow monitoring of criminal prosecutions that involve ministry members. Preventive control measures should include codified recommendations and examples of best practices, which should be disseminated to all organizational units. This codification can also serve as a basis for proposing legal and regulatory changes, and updating existing methodologies and procedures.
- **External oversight:** it is crucial to revise the safeguards for external police oversight. Every new member of parliament should receive training on the importance of transparent and accountable police work and techniques for effective parliamentary oversight, incorporating case studies and scenarios. These measures should ensure that oversight mechanisms enable independent investigations into police complaints while maintaining transparency.
- **Preventing political appointments:** the appointment procedure for the police director and senior management must involve a transparent competition process to avoid undue influence. In the long term, establishing a prosecutorial police service could streamline criminal investigations and improve cooperation between police and prosecutors, mitigating challenges associated with dual command structures. In the short term, all information from the police should be promptly shared with the prosecution and any agreements or consultations should be documented in writing.

A mole within the police?

The following case, involving a former inspector from the special organized crime unit, starkly illustrates the challenges of internal corruption within law enforcement and how it can undermine investigations into organized crime. In 2021, the inspector was charged with disclosing confidential police information to a criminal group known for its involvement in aggravated crimes and drug trafficking, indicating a serious breach of duty aimed at obstructing justice.¹³⁷ The corruption case was notable for its use of evidence obtained through secure communications with the help of international partners. Specifically, the inspector used the encrypted Sky ECC messaging application to leak details of ongoing police activities to the criminal group, which was intercepted with the help of foreign law enforcement.¹³⁸

Despite the severity of the allegations, the case encountered significant procedural and legal hurdles. After being detained in 2021, the inspector was released pending trial. His trial was the subject of such intense political commentary that it amounted to possible political interference in the case. This was further complicated by the court's initial reliance on intercepted communications as key evidence, which was later contested. The court initially convicted the inspector, basing its decision on data obtained from the Sky ECC platform, through international legal assistance from the French police.¹³⁹ However, in 2023, this verdict was overturned by an appeals court due to concerns over the legality of the surveillance methods used, leading to a retrial.¹⁴⁰ This retrial was set for early 2024 and was focused on reassessing the admissibility and authenticity of the communications data from Sky ECC, highlighting ongoing issues in the use of digital evidence in criminal proceedings.¹⁴¹ In July 2024, the former inspector was sentenced to one and a half years for leaking confidential police information to the criminal group. In addition to the prison sentence, the former inspector was banned from working in the Ministry of Internal Affairs for five years.¹⁴² ■



The Palace of Justice in Belgrade. Serbia struggles with corruption within law enforcement, which affects the integrity of investigations into organized crime. © KRIK.rs



INTEGRITY AND INDEPENDENCE OF PROSECUTION AUTHORITIES

Introduction

ANETA ARNAUDOVSKA, SUNČANA ROKSANDIĆ, SLAGJANA TASEVA

Over the last few decades, Western Balkan countries have tried to create more robust and professional prosecution services, as part of broader anti-corruption reforms. The majority of reforms have been carried out in order to harmonize national legislation with the EU acquis and with international conventions on the independence and impartiality of the judiciary.

This section of the report focuses on the progress being made in implementing national legislation according to recognized international standards (UN, CoE, GRECO, etc.), and outlining the safeguards required for keeping the prosecution office and the special prosecutors free from political interference. Our national experts have identified a number of problems with implementation, including internal and external corruption, and integrity risks that threaten the status, rights and obligations of criminal prosecutors. This can have a significant influence on the independent and effective investigation and prosecution of corruption and organized crime cases.

Background

Over the past few decades, Western Balkan countries, whether as EU candidates or aspirant countries, have undertaken (often painful) root and branch reforms to harmonize their legislative and institutional frameworks with international and EU law, as well with the recommendations deriving from monitoring reports by the UNCAC, the EC, GRECO and MONEYVAL. However, the pall of political interference still hangs over Balkan state prosecution services.

Political influence is most frequently exerted over the election/promotion of prosecutors, including at senior levels, and over decisions to prosecute or withdraw cases. On the whole, prosecutors across the region have not been able to resist (or have remained silent) over various legislative and executive interventions backed by political and business interests that have seriously undermined the independence of criminal prosecutions.

Western Balkan governments should not only adopt but demonstrate genuine and consistent political will to implement international standards; providing the necessary resources for the prosecutor's office to apply robust sectoral accountability and control mechanisms based on risks and vulnerability analysis. These tools should result in the development of internal policies, procedures and audits that will hold prosecutors accountable for legal and ethical breaches, and break down networks of corruption between prosecutors, politicians and business elites.

Evolution of international standards

Many international instruments already cover the particular status of prosecutors and their role in protecting the constitutional and legal order in general, especially in the administration of the criminal justice system at the domestic and international level. Regardless of the differences in national models and practices, prosecutors should be a guarantor for the rule of law and its equal application; they must not be the instrument of any social, political or religious group. This requirement is particularly crucial in prosecuting organized crime or corruption cases.

A more systematic approach in building legal and practical mechanisms is necessary to deter misconduct by prosecutors and the police, to reduce arbitrary decision-making and to promote individual and institutional resilience to various outside influences. Prosecution services and prosecutors themselves are facing new, transnational challenges from organized corruption, communication and digital technologies, modern conflicts and political crises where corruption poses a threat to national, regional and international security.

Long-standing international frameworks stipulate the basic standards covering the role of prosecution offices, the rights and obligations of individual prosecutors, as well as their relationships with other criminal justice actors (the police, courts and judges) and relevant individuals (suspects, witnesses and victims of crime).¹⁴³ These include provisions that states should have constitutional safeguards for prosecutors to freely carry out their functions in the criminal justice system, that prosecutors shall be individuals of integrity and ability, and that there should be no unjustified exposure to civil, penal or other liabilities.

For example, the standards adopted by the International Association of Prosecutors (IAP) in 1999 stipulate that:

when instituting criminal proceedings, the prosecutor should proceed only when a case is well-founded, upon evidence reasonably believed to be reliable and admissible, and should not continue with such proceedings in the absence of such evidence.¹⁴⁴

The 1990 Office of the UN High Commissioner for Human Rights Guidelines on the Role of Prosecutors, emphasize that prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.¹⁴⁵

The 1999 IAP standards also point out that:

the exercise of prosecutorial discretion is a grave and serious responsibility; should be as open as possible, consistent with personal rights, should exercise the highest standards of integrity and care, remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the public interest.¹⁴⁶

Further, a joint UN Office on Drugs and Crime and IAP document from 2014, clarifies that:

the independence of the prosecutor does not mean that she/he is completely autonomous and accountable to no one. Prosecution services are accountable to the executive and legislative branches of government, to the public and to an extent the judiciary.¹⁴⁷

Specialized prosecutors are clearly required in cases of complex fraud, cybercrime and other fields. Assigning cases commensurate with the level of experience and the specialization of the prosecutors is another important safeguard for the independence and impartiality of prosecutors. There are many software packages in existence, used by prosecution services, but also a number of manual file management systems that have proved to be effective.

Planning from senior management is crucial in supporting prosecutors in their daily duties, by establishing guidelines, including those to assist prosecutors with protecting their integrity. Care should always be taken to ensure the impartiality and objectivity of the prosecution is not compromised through close and ongoing cooperation between the prosecution and the investigators.¹⁴⁸

Some of the most complex and serious crimes require unprecedented consultation, communication and coordination efforts between the investigative and prosecution services at both regional and international levels. It is important to ensure that prosecutors have a working knowledge of international legal assistance in cross-border cases, and protocols and guidelines should be put in place.

The Consultative Council of European Judges Opinion No 12 from 2009 (Bordeaux Declaration) adopted jointly with the Consultative Council of European Prosecutors (CCPE) stipulates that judges and prosecutors should strive to acquaint themselves with ethical standards governing their functions that will enhance understanding and respect for each other's missions, thereby increasing the prospects of a harmonious collaboration.¹⁴⁹

In this regard, CCPE Opinion No. 9 (2014) mentioned that the general tendency to enhance the independence and effective autonomy of prosecution services should be encouraged, prosecutors should be autonomous in their decision-making and perform their duties free from external pressure or interference.¹⁵⁰

CCPE Opinion No. 14 (2019) takes into account the specific position of prosecutors dealing with organized crime and corruption cases, and says that states should establish an enabling working environment; demonstrate clear and constant political will at the highest level; develop safeguards for independent, autonomous and transparent decision-making; allocate necessary budgets; assign properly trained support staff and experts; provide modern equipment; ensure effective access to relevant databases and registers; ensure the flow of information within and between prosecution services and law enforcement agencies; effectively protect whistle-blowers; guarantee efficient extradition and mutual legal assistance; and enable direct contact, cooperation and information sharing with non-public actors and civil society.¹⁵¹

Taking into account the importance that prosecutorial councils have in the process of electing, promoting or disciplining prosecutors, it is vital that their independence in relation to the most senior prosecutors and in relation to the other state powers be guaranteed. CCPE Opinion No. 18 (2023) specifically regulates the status of these bodies, their competences, composition, the appointment of prosecutors and lay members, the decision-making process and transparency.¹⁵²

The 2023 European Commission proposal for a directive on combating corruption emphasizes that the lack of a coherent European framework including provisions for all corruption-related crimes identified by international standards is resulting in legislative and operational challenges in tackling cross-border corruption cases and thus the effectiveness of prevention measures and investigative tools across the EU should be enhanced.¹⁵³ In particular, drawing also on the provisions of Article 29 of the UNCAC, the directive provides for limitation periods that are long enough to enable the detection, investigation, prosecution and final judicial decisions on corruption offences, without affecting those member states that do not set limitation periods for investigation, prosecution and enforcement.¹⁵⁴

EU concerns: Assessment reports for Western Balkan countries

In the 2023 Communication on EU Enlargement Policy, under point IV, 'Fundamentals of the EU Accession process', it was emphasized that the entrenchment of the rule of law requires an independent, impartial, accountable and professional judicial system, which operates efficiently, and with adequate resources, free from undue external interference and where decisions are executed effectively and in a timely manner.¹⁵⁵ It noted, however, that institutional arrangements that negatively affect the independence of judges and prosecutors remained in place in most candidate countries, ultimately affecting the balance and separation of powers.¹⁵⁶ As a result, the judiciary's overall credibility remained rather low, including a widespread public perception of impunity. In several countries, justice reforms revealed limited implementing capacity even where there is political will. Effective investigative and judicial authorities with a credible track record of results are essential for further progress in the EU accession process.¹⁵⁷ The fight against corruption remains a priority for the governments of the enlargement countries. Corruption, including high-level corruption, continues to be widespread and the entanglement of public and private interests remains an issue of concern.¹⁵⁸ In some cases, corruptive practices and influence exercised by oligarchs even poses the risk of state capture by private interests.¹⁵⁹

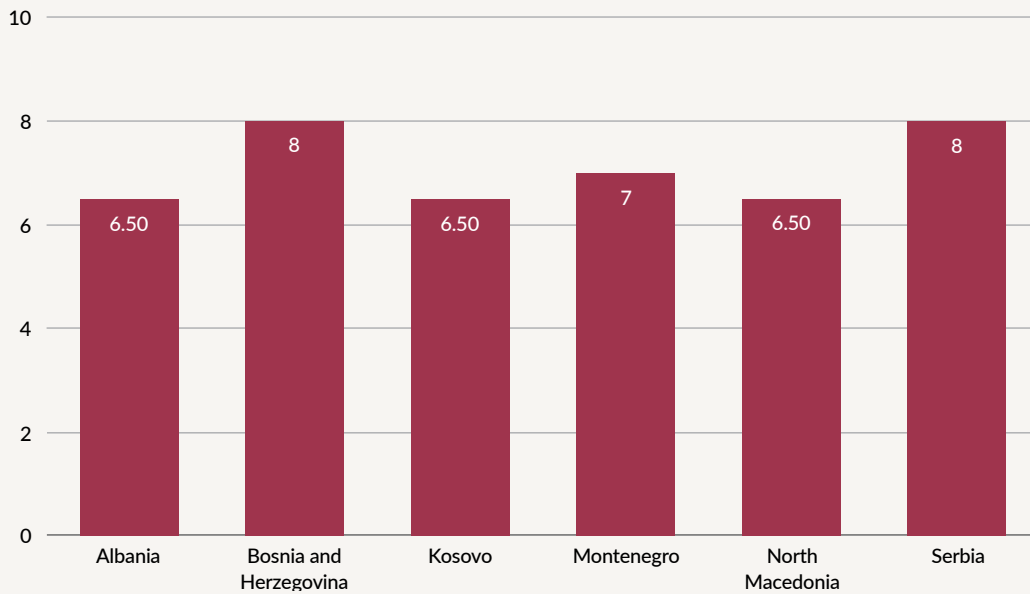


FIGURE 1 'State-embedded actors' scores for the Western Balkans 6 under the 2023 Global Organized Crime Index.

NOTE: While not officially included in the Global Organized Crime Index, an assessment of Kosovo was undertaken to the same standards.

SOURCE: Global Organized Crime Index, ocindex.net

Elements of state capture persist in the Western Balkans, with threats to democratic stability, high-level corruption and undue influence from oligarchs, alongside attempts by organized criminal networks to infiltrate the economic and political systems, administration and media. These challenges need to be urgently addressed through a systemic and comprehensive approach.¹⁶⁰

A key indication that these tendencies have been addressed will be a credible track record of proactive investigations, prosecutions and final convictions related to corruption, organized crime and money laundering. It is essential for the EU candidate countries to demonstrate the effectiveness of their investigative agencies, prosecution services and criminal courts. To be credible, all actors in the rule of law chain should produce solid results through targeted financial investigations, resulting in the systematic confiscation of assets and other proceeds of crime.¹⁶¹

GRECO's fourth evaluation round in 2012 concerned the prevention of corruption in respect of members of parliament, judges and prosecutors, and examined the following themes: ethical principles and rules of conduct; conflicts of interest; prohibition or restriction of certain activities; declaration of assets; income, liabilities and interests; enforcement of the rules regarding conflicts of interest; and awareness.

A simple mapping of the procedural steps undertaken and subsequent compliance reports shows that all WB6 countries, except for Montenegro, have been slow to implement reforms based on the GRECO recommendations.

Main regional findings

Although not all of the following recommendations apply to all countries, the need for professional management in the prosecution was highlighted almost universally, alongside the need to introduce a clear chain of command on investigations (i.e. who is the 'head of the investigation') when the police and prosecution cooperate.¹⁶² It was a general conclusion that managers of the prosecutorial units are not performing as well as they should be, suggesting the need for greater accountability. Indeed, a lack of accountability for mismanagement of prosecutions is a rule rather than an exception across the region. This includes case allocation and poor case management contributing to unnecessarily lengthy trials.

There is also a widespread lack of standard operating procedures and internal controls to cover the decision-making processes in criminal procedure. Moreover, transparency over the decision-making process of prosecutors on individual cases, particularly in relation to complex high-level political organized corruption, should be strengthened. It should be highlighted that problems with regional cooperation featured in a substantial number of the country assessments. As such, regional coordination should be enhanced and expedited in organized crime cases, especially when senior officials and politically exposed suspects are involved.

General findings

Most international safeguards for the efficient and independent performance of prosecution duties either have been or are being implemented by the WB6. In some countries, the prosecutors have a duty to report any incidents of attempted or successful political influence, and some have implemented the recommended practice of parliament being required to approve budgets proposed by the head of prosecutions.

In each of the WB6, self-governing bodies have been created to deal with the selection, promotion, performance evaluation and disciplining of prosecutors (known as prosecutorial councils) with a mixed composition of professionals and lay members, including lawyers, academics and civil society representatives.

In line with GRECO recommendations, various legislative and institutional amendments have been introduced to improve integrity (updated ethical codes, oversight and control mechanisms, confidential counselling, appointing integrity officers, etc.), which have been more or less effective in practice.

In all the WB6 countries there are now specialized prosecutors or special prosecution units designed to deal with organized crime and corruption cases. The majority of these are well-equipped with sufficient numbers of special prosecutors, equipment, specialized staff and experts, investigators, and digital tools including shared databases and registers that allow for interoperability with other institutions.

Regional cooperation functions well for the most part along formal and informal channels, though with some problems arising in extradition cases especially for requests involving politically exposed suspects. All of the WB6 states cooperate to some degree with the key regional and international police and prosecutors' networks, including INTERPOL, Eurojust and Europol.

In almost all of the countries, public information offices have been established to give regular reports to the media and general public, holding press conferences on prominent investigations into organized crime and corruption cases attracting particular media attention.

Common regional challenges

Despite some progress having been made in strengthening the integrity of prosecutors across the Balkans, significant challenges remain.

Political interference in the work and running of the prosecution office continues to be a problem throughout the region. In some cases, politicians have used shortened legislative procedures to make certain privileged categories of offender effectively immune from prosecution¹⁶³ – thus preventing transparent legislative debate and the identification of possible corruption risks. Parliamentary commissions often have the power to investigate ongoing cases that can interfere with prosecutorial investigations. Moreover, political appointments to senior roles and promotions not based on merit are accompanied by general delays in the appointment of public prosecutors at all levels, but particularly into the special prosecution office.

Case selection and the allocation of prosecutors to cases of high-level corruption and organized crime have likewise become politicized. This is of particular concern given that, in some Balkan countries, it appears that organized crime has gained a foothold in prosecution offices and, in certain cases, even among the judiciary.¹⁶⁴

Other issues that tend to hamper the smooth operation of the prosecution services include:

- A lack of effective and uniform application of disciplinary procedures;
- Information leaks to the media during investigations of high-level corruption and organized crime, which undermines the judicial process. The publication, especially on social media, of misinformation, speculation and even the statements of potential witnesses is particularly problematic;
- Investigations and pre-investigations taking too long and being conducted without proper fair trial requirements and without identifying any individual or systemic responsibility for the delay;
- A lack of digitalization and of transparent and controlled case management systems;
- A lack of resources – human, financial and equipment – which affects the availability of highly skilled staff to work on financial investigations and requests for asset seizures and complex trial management;
- A general absence of the specialized knowledge and skills needed for tackling complex cases such as financial crimes and corruption, political-white collar organized crime, or the knowledge and skills required to be able to use data obtained through international cooperation and cross-border financial investigations.
- Lack of accountability and regularly shifting responsibility within long-running trials for high-level corruption, white-collar crime and organized crime;
- Too many acquittals in corruption and organized crime cases due to procedural failures, obsolescence of cases and overly short limitation periods;
- Lack of comprehensive annual reporting to national parliaments and prosecutorial councils, as well as a lack of regular press conferences, especially in organized crime and high-level corruption cases;
- Lack of cooperation with law enforcement from key institutions and entities such as banks, land registries and financial intelligence units including delays in handing over information and a failure to supply relevant and reliable statistics;
- An absence of professional and objective journalism, in many cases due to a lack of regular reporting by the prosecution office, which has created a space in which public speculation, misinformation and conspiracy theories can thrive;

Recommendations at the regional level

- **Political influence:** avoid any politicization of case selection and allocation as well as the arbitrary re-allocation of prosecutors in high-level political corruption and organized crime cases.
- **Recruitment and promotion:** minimize political interference in the appointment and promotion of prosecutors, including special prosecutors, with legal safeguards; ensure that recruitment and promotion is merit-based and encourages gender diversity at all levels, including management positions.
- **Ethics:** introduce speedy and transparent investigation of reports against prosecutors for ethical violations, including criminal charges for misbehaviour or abuse of position; ensure that disciplinary rules are applied fairly, including clear and effective sanctions for ethical breaches.
- **Whistle-blower protection:** introduce effective protections for whistle-blowing within prosecutorial systems and give feedback on citizens' reports of abuse of office and corruption.
- **Performance data:** establish systems for performance evaluation according to clear and measurable qualitative criteria (e.g. case complexity, sound legal argumentation of the prosecution decisions); record the number of asset seizure cases; establish data analytics and diagnostics to address the lack of comprehensive capacity-building in corruption, white-collar political crimes and organized crime cases.
- **Culture of integrity:** build individual and institutional integrity in the public prosecutor's office and special prosecution through tailored training on ethics and conflicts of interest; provide guidance through confidential counselling and partnering with the civil sector and academia; strengthen the commitment to proper conduct in senior positions to set the tone from the top; foster a culture of responsibility that aligns with specific roles and duties, while respecting their independence; and avoid the tendency to shift responsibility between judges, prosecutors and police officers.
- **Internal oversight:** introduce comprehensive internal anti-corruption risk assessments, and proposed mitigation measures; ensure that reports submitted by the anti-corruption and accountability bodies are followed up; and tackle information leaks to the media during corruption and organized crime investigations with effective accountability and control mechanisms.
- **External oversight:** develop comprehensive and structured reporting in line with CoE standards to increase political responsibility, enable scrutiny of prosecutorial councils by parliament and the public; ensure independent monitoring by academia and civil society; and ensure the active participation of the prosecution office in the legislative process, and the efficiency and independence of the prosecution and criminal justice system.
- **Case management:** ensure more effective control and management of investigations by conducting risk analysis into long-running cases; introduce a transparent and monitored digital case-management system; and allocate cases efficiently based on objective criteria such as the specialization and complexity of the case.
- **Funding:** secure a sustainable allocation of funds from the state budget (or independent prosecution office budget) to cover the human, financial, infrastructure and software needs of the prosecution.

- **Training:** introduce regular, multi-disciplinary training and assessment to ensure prosecutors have the skills required to deal with complex cases of financial crime, political corruption and organized crime. This should include specific training in handling digital evidence by established external experts (national, regional and international), and should result in a pool of in-house experts, trainers and mentors.
- **Interagency cooperation:** develop coordination mechanisms and carry out trust-building exercises between law enforcement agencies and reporting institutions (banks, financial intelligence units and land registers), to ensure the speedy and effective exchange of evidence in organized crime and corruption cases; develop the legal and IT infrastructure for establishing an interoperable system; and enhance international cooperation in the prosecution of corruption and white-collar political crimes and organized crime cases that have (regional) cross-border elements.
- **Transparency:** work with media professionals and civil society to support professional training of journalists to minimize misinformation, and build the knowledge and skills for objective, reliable reporting from the trials on complex organized crime and corruption cases.

Country summaries

Albania

ROZARTA RRGALLINA

Institutional set-up

The prosecutorial system in Albania is closely integrated with its judicial system and consists of various offices that are structured to handle different legal domains. The autonomy and independence of the prosecution services are guaranteed by the Constitution and the Prosecution Office Law. At the core is the General Prosecution Office, supplemented by the Special Prosecution Office (SPO), a prosecution office affiliated with the appellate courts, and 13 additional prosecution offices associated with first instance courts throughout the country.

The SPAK comprises the SPO and the National Bureau of Investigation. The SPO operates independently from the General Prosecution Office. Specifically tasked with prosecuting cases of corruption and organized crime, it presents these cases in the specialized courts at both the first instance and appellate levels, as well as in the High Court. Supporting these prosecutorial efforts is the National Bureau of Investigation, which functions as part of the judicial police. The bureau is tasked with investigating crimes that fall under the jurisdiction of the SPO, in line with the Criminal Procedure Code. It comprises investigators and judicial police services, all of whom are directed and supervised by prosecutors from the SPO. The Prosecution Office and SPAK have their own allocation of the state budget, ensuring a financial autonomy and operational independence that is crucial to ensure a smooth working environment.

Recent reforms

The justice system in Albania is governed based on the principles of independence, accountability, transparency and efficiency. The 2016 judicial reform programme led to profound changes in the legal and institutional framework of the judiciary and prosecution services. Specific legal guarantees were put in place to ensure the independence of the judiciary and prosecution, including mechanisms on sensitive issues, such as the avoidance of political influence, strengthening accountability, recruitment and career progression, and the periodic re-evaluation of all sitting judges and prosecutors.

In 2016, the full re-evaluation of sitting judges and prosecutors was introduced by way of amendment to the Constitution. According to the opinions of the CoE Venice Commission at the time, this kind of exceptional measure should be seen as appropriate in the Albanian context. In the long term, the purpose of the new vetting process was to ensure the proper functioning of the rule of law, the independence of the judicial system, as well as to strengthen public trust and confidence in the judiciary. However, in the short term, the vetting process led to an unprecedented wave of resignations and dismissals by the Independent Qualification Commission, dramatically reducing the number of active judges. This prompted the need for mass replacements and left the Constitutional and High courts effectively inoperable.¹⁶⁵ It also introduced an air of professional uncertainty that, instead of enhancing a transparent and efficient judicial system, contributed to abuse of office. In fact, the unforeseen difficulties during the implementation of the vetting process resulted in a paralysis of the judicial institutions (Constitutional Court and Supreme Court) for over two years, and the issue of excessively long judicial proceedings might end up before the European Court of Human Rights.

Following the new constitutional amendments, the vetting process was laid out in the 'Law on the transitional re-evaluation of judges and prosecutors in the Republic of Albania'.¹⁶⁶ Under this law, judges and prosecutors are re-evaluated according to three criteria: 1) asset assessment; 2) background assessment; and 3) proficiency assessment. The temporary evaluation of all judges and prosecutors (the vetting process) has proceeded at a satisfactory pace, while the dedicated budget for the vetting institutions has increased.¹⁶⁷ From the outset of the vetting process until December 2023, the Independent Qualification Commission either dismissed or did not confirm 102 prosecutors. The Specialized Appeal Chamber had issued a final decision for 45 of these and the rest were still undergoing appeals. The Commission had also suspended five prosecutors from duty for one year with a compulsory course of education in the school of magistrates. At the time of writing, a total of 29 prosecutors have resigned pursuant to the legal procedures, and, in these cases, the Commission terminates the re-evaluation process.¹⁶⁸

The new structure of the prosecutorial system was designed to improve the functioning and efficiency of criminal justice on the one hand, and internal and external independence on the other. The whole process requires the interaction and coordination of all institutions, and the role of the prosecutor is essential in this.

In general, provisions concerning independence and impartiality in recruitment and career advancement have been well implemented. Nevertheless, merit-based appointments and career advancement for magistrates needs to be further improved. Safeguards against any attempts at undue internal and external interference in the judicial system should be strengthened, particularly regarding political pressure and intimidation.

The legal and procedural framework emphasizes equality, due process of law and protection of personal freedoms; mandates fair and unbiased criminal proceedings; and reinforces the prosecutor's role in investigations, in addition to robust protections for whistle-blowers and victims while stressing confidentiality and the protection of investigative information. Despite these legal safeguards, challenges remain in preventing damaging leaks and whistle-blowing has yet to become an effective tool.

The culture of integrity has significantly improved in recent years. Active disciplinary investigations and measures, including dismissals and public reprimands, now reflect the desire to maintain judicial integrity. Moreover, there has been an increase in the number of investigations and prosecutions

of high-ranking public officials. Nevertheless, while the Constitution does not provide immunity from investigation or prosecution for any public official, member of parliament, judge or prosecutor, no member of parliament can be arrested or be deprived of their liberty in any form, be searched or have their property searched without the authorization of the Assembly.¹⁶⁹ The parliamentary review process for waiving this immunity is extremely slow and notifies the person involved. This is a serious obstacle to investigations because it destroys the element of surprise that should characterize a search, thus increasing the risk of flight and destruction of evidence – as when SPAK sought the arrest of former deputy prime minister Arben Ahmetaj in 2023, who fled the country before his immunity could be waived.¹⁷⁰

Improving the efficiency and sustainability of the IT infrastructure, and the case management system in particular, is considered a major priority and challenge for the General Prosecution Office, SPO and High Prosecutorial Council.

Education and recruitment

Recruitment, promotion and dismissal are regular components of the prosecutor's career. But transfers between departments is another crucial element that has a serious impact on a prosecutor's ability to operate. If transfers are not carried out in accordance with the legal criteria and established process, they can threaten the integrity of a prosecutor.¹⁷¹ Candidates for prosecutors are recruited after being admitted to the initial magistrates training. The conditions for admission are: Albanian citizenship; having the capacity to act; having graduated with the minimum scores as determined by the school of magistrates; and at least three years of full-time professional experience in the judiciary or prosecution office, public administration, free legal professions, teaching at law schools, or any other equivalent position.¹⁷²

The 2022 report of the Albanian prosecutor general identified significant gaps in the performance appraisal system for the heads of prosecution offices. This lack of a clear legal framework for evaluating, promoting, transferring, suspending or dismissing senior prosecutors affects the transparency, integrity and coordination of their work.¹⁷³

Since the 2016 constitutional changes and judicial reforms, which aimed to enhance the High Prosecutorial Council (HPC) by reducing the powers of the General Prosecutor, there has been an ongoing debate about the latter's diminished role. The revised legal provisions mean that the General Prosecutor's assessments merely serve as supplementary information for the HPC, which has faced criticism for its limited involvement. Moreover, the report points out the broader issue of a lack of systematic performance evaluations for the prosecution offices themselves, distinct from individual appraisals, noting that the responsibility for such evaluations lies with the heads of prosecution offices. These issues have been the subject of discussion in HPC meetings.¹⁷⁴

The 2021 Albania European Commission report noted that progress had been made in the promotion of district prosecutors by the HPC but called for more detailed regulations and better cooperation between the HPC and the General Prosecution to improve transparency.

Selected main issues

- **Investigation confidentiality:** this guarantees the effectiveness of investigative procedures. Protecting the principles of presumed innocence and the right to private life, both in relation to the person under investigation and the victim of the crime, should be fundamental for the justice system and the media in realizing the public's right to information. But, in practice, cases show quite the opposite.

- **Institutional and functional independence of the prosecution office:** this should have a particular focus on the independence of prosecutors during the investigation and decision-making processes, as well as strengthening their accountability.
- **Capacity of the Special Anti-Corruption Structure:** This could be improved by addressing the backlog, better prioritization of cases, and by increasing the efficiency and speed of information exchange and data related to criminal proceedings.
- **Extradition requests:** improving the quality of the summary of facts as recorded in international arrest warrants and the uniform execution of requests for mutual legal assistance are some of the concerns among actors in this field.
- **Financial investigations:** further developing the systemic use of financial investigations when investigating and prosecuting organized crime, money laundering and corruption-related offences. Financial investigations should accompany the criminal inquiry from the start and should be conducted to a much greater extent.

Recommendations

- A multilateral approach should be adopted to minimize leaks of confidential information, especially in organized crime cases. This would include the timely release of information from the prosecution office itself, as far as the law allows; strict controls on access to case files; and media education.
- External monitoring of the prosecution service should deploy a well-defined methodology for measuring results. Moreover, a set of clear performance indicators to measure the work of each prosecutor would improve professional values, and ensure accountability and transparency in decision-making.
- The SPO should adopt an integrated approach that includes the prioritization of cases and an action plan for clearing backlogs.¹⁷⁵ It is crucial to bolster SPAK's capacity by filling the vacancies of special prosecutors; strengthening the financial investigation sector; establishing judicial police services to assist with the workload; and amending criminal legislation to streamline the process. For instance, an amendment to the criminal code and criminal procedure code in 2021 (Law no.43/2021) imposed a threshold for political corruption cases of 50 000 Albanian Lek (€500) before special prosecutors can investigate. If the case involves sums under this amount, the offence will be investigated by general prosecutors. Beyond this, the development of an internal case management system would increase the transparency and speed of information exchange.
- The legal framework on international judicial cooperation – comprising various international and national law provisions on cooperation with foreign authorities in criminal matters – should be compiled into a single text, accompanied by commentary about national and international judicial doctrine and practice. This commentary would form an accessible resource to improve the legal understanding of prosecutors (and judges) and therefore enhance international collaboration in criminal matters.
- The prosecution office in general, and the SPO in particular, should strengthen their capacities to conduct complex financial investigations and improve the financial investigation techniques of other prosecutors.
- Albanian prosecutors should target the financial flows that support criminal organizations rather than focusing on individuals.

Corrupt prosecutors

In 2021, SPAK issued warrants for the arrest of two prosecutors – named in official documents as SH, a prosecutor at the Court of First Instance in Saranda, and EK, a senior prosecutor attached to the Court of First Instance in Kukes. Both were accused of corruption offences under Article 319/ç of the Criminal Code. Internal investigations and interceptions of communications had revealed that prosecutor SH had dropped charges against a defendant, a member of a group of narcotics traffickers, after receiving a large sum of money from the sister of the defendant. The HPC suspended both prosecutors from office.¹⁷⁶

Prosecutor SH was found guilty by the Special Court of Appeal for Corruption and Organised Crime and was convicted to imprisonment for three years for passive corruption, as provided for in Article 319/ç, and six months for concealment of assets, as foreseen in Article 257/a/2 of the Criminal Code. The High Prosecutorial Council decided on the dismissal of the prosecutor.¹⁷⁷ Meanwhile, EK was filmed taking money from the brother of a person under investigation for drug possession. Upon final decision of the Special Court of Appeal for Corruption and Organised Crime, EK was found guilty and convicted to imprisonment for two years and four months for passive corruption, as provided for in Article 319/ç of the Criminal Code. ■



The Special Anti-Corruption Structure in Tirana. Despite successful investigations, improvements are needed to address case backlogs, prioritize cases more effectively and enhance information exchange in criminal proceedings. © *Tirana Post*

Bosnia and Herzegovina

ELDAN MUJANOVIĆ

Institutional set-up

The prosecution system in BiH is complex and has four autonomous systems at the administrative levels of the state – including the FBiH and Republika Srpska, as well as the Brčko District – with around 100 judges and 400 prosecutors operating at all levels. Despite this, the BiH judicial system has only a single regulator, the High Judicial and Prosecutorial Council (HJPC), which deals with appointments of judges and prosecutors, disciplinary offences and other issues important for the management of the judiciary in the country.

The Prosecutor's Office, which operates at the overarching state level, is not in the true sense of the word a central state prosecutor's office. Its powers to investigate and process cases within the jurisdiction of the State Court of Bosnia give it the authority to delegate cases to prosecutors in the two entities, the cantons and districts. In the FBiH entity, the prosecution office is additionally regulated by the constitutions of its 10 cantons, as well as by special laws regulating the organization, competences and powers of the 10 cantonal prosecutor's offices, which are subordinate to the federal prosecutor's office. In the Republika Srpska entity, the top prosecutor's office is the Republic Public Prosecutor's Office, to which five regional offices are subordinate. In Brčko District, there is only one district prosecutor's office. At least 15 laws regulate the competences, organization and functioning of prosecutors' offices within the four autonomous judicial systems, supplemented by two laws on the establishment of special anti-corruption prosecution offices in FBiH and Republika Srpska.

One of the biggest challenges is insufficient coordination and cooperation between these four autonomous judicial systems and institutions. The judiciary is completely independent from the executive power, and the 18 prosecutors' offices receive funding from the budgets of the levels of government at which they operate. The HJPC actively participates in designing and proposing the budget for judicial institutions, together with the main prosecutors, and submit this for parliamentary approval.

Legislative framework

Although there are constitutional and legal protections for the independence of the judiciary in BiH, the perception of the public is extremely negative and the level of trust citizens have in the judiciary is low, especially concerning systemic corruption and serious forms of crime. This is made significantly worse by the weak accountability mechanisms of the entire lower court system, including the HJPC, whose composition, method of member selection, actions and decisions are frequently criticized by the public. Prosecuting high-level public officials for corruption and serious crime has long been seen as problematic and it is thought that inappropriate political and other influences discourage prosecutors, as well as the police agencies that act on their orders, from pursuing these cases.

As the central regulator, the HJPC has developed numerous strategic and operational documents, including a code of ethics for prosecutors, which should improve the culture of accountability and integrity in the judiciary. Under EU enlargement process requirements, mechanisms for checking the assets of judges and prosecutors, and general integrity management, were introduced, but the implementation of these ground to a halt due to lack of budget, staff and other necessities.

Thanks to the support from the EU, other bilateral partners and, to a lesser extent, domestic funds, working conditions and infrastructure – especially the modern information system for the management of court and prosecution cases – are at a satisfactory level. Improper use of the information system has, on several occasions, resulted in the dismissal of chief prosecutors, who used it to circumvent the automatic assignment of cases. The Office of the Disciplinary Prosecutor of the HJPC publishes annual reports, which show that out of approximately 1 000 applications for roles as judges and prosecutors per year, only a small number (5%) are being considered.

Education and recruitment

The combined effects of adhering to strict ethnic quotas, especially when appointing senior judges and prosecutors; insufficient meritocracy in promotions; poor initial training for newly appointed judges and prosecutors; and rumours of illegal lobbying, favouritism, clientelism and general corruption in the whole process have shaken public confidence in the work of the entire judiciary in the country. Similar practices are often associated with the selection of members of the HJPC – among whom are two lawyers, as well as one representative each from parliament and the Council of Ministers of BiH – even though the HJPC has adopted regulations and guidelines to prevent conflicts of interest in the judiciary.

The training of judges and prosecutors is carried out through the two Centres for the Education of Judges and Prosecutors in the FBiH and Republika Srpska. These, with the agreement of the HJPC, design and implement annual training programmes for judges and prosecutors, but also a range of professional associates and advisors, law enforcement officials, members of civil society organizations and other competent institutions throughout the country. Initial training programmes for newly appointed judges and prosecutors, as well as continuous education programmes, are problematic as it is difficult to measure the improvement of personnel and the performance of the judicial institutions from which they come.

According to all four criminal procedure codes in operation in BiH, the prosecutor leads the investigation and issues orders to the police authorities to collect information and evidence. However, this relationship is burdened with a number of problems: the police are responsible to the executive, which is in turn subordinate to the ruling political parties; they often shift responsibility onto prosecutors, ignoring the orders issued to them, and failing to adhere to the priorities imposed by the prosecutor; and they tend to neglect proactive methods to detect and prove criminal acts, including corruption. Law enforcement agencies have been known to utilize different types of 'soft pressure' on the prosecution service to either exculpate or baselessly prosecute in sensitive political cases.

There is little or no connection between prosecutors' offices and law enforcement agencies through modern electronic systems and databases, and no methods for case management or follow-up activities on specific cases.

Another issue comes from information leaks from investigations to the media. This has an impact on trust in the judiciary, particularly when the information, which is interpreted and selectively presented to the public, does not accord with the outcomes of the judicial process.

The selection of chief prosecutors and the supervision of their work by the HJPC is still a major issue. Work is often not judged according to criteria of excellence, especially on strategic goals such as the

fight against corruption, and instead preference is given to criteria such as nationality or personal affiliations with HJPC members. The question of asset declarations and other checks is also crucial and would require new provisions and responsibilities for the HJPC to verify the property of judges and prosecutors and a general verification of their integrity.

The establishment of specialized anti-corruption and organized crime departments in individual prosecutors' offices has been uneven and broadly unsuccessful. The main anti-corruption department sits within the Prosecutor's Office of BiH, while these smaller bodies have been added ad hoc to the Republika Srpska and FBiH through legislation, and are still not functioning properly even though the law was passed 2015. The existing specialized structures have already failed in terms of public expectation that systemic corruption in the state would be prosecuted more decisively, and for which there is no mechanism for accountability.

Selected main issues

- A lack of supervision over the appointment of judges and prosecutors, with too much focus on meeting formal criteria and quantifying results rather than prioritizing quality and strategic management of judicial institutions;
- Insufficient integrity mechanisms, weak vetting and little done to prevent conflicts of interest in the judiciary, including members of the HJPC;
- The passivity of the HJPC over the way chief prosecutors and presidents of the courts manage judicial institutions and in not using available mechanisms to call out failures, especially in corruption prosecutions;
- Weak communication and coordination between the judicial institutions in the four criminal justice systems, as well as poor cooperation with law enforcement agencies that are under the direct political control of the executive branch;
- Insufficient capacity of judicial institutions, including a lack of specialization in corruption and organized crime, and a lack of proactive operations, strategic focus or monitoring of cases of high-level corruption.

Recommendations

- **Judicial appointments:** improvements should be made to the systems and criteria for appointments to judicial and prosecutorial roles, including higher levels of transparency, meritocracy, integrity checks and a general accountability of all actors in the prosecutorial system across BiH.
- **Planning and cooperation:** better strategic prioritization and planning of organized corruption prosecutions is needed. Trust must be built between the key actors of the criminal justice system. A major component of this is better coordination between specialized prosecution offices, and establishing offices where they do not currently exist.
- **Capacity:** institutional capacities should be strengthened as well as the professional skills, integrity and responsibility of individual personnel based on clear and measurable criteria and evaluations.
- **Accountability:** the general public and civil society should become more involved in scrutinizing judicial services, and monitoring cases of political interference in order to uphold the independence and integrity of the prosecution office and individual prosecutors.

Bosnia and Herzegovina's prosecution structure

In Bosnia and Herzegovina, the prosecution and special prosecutors' offices are arranged across four main levels:

- **State level:** The State Court of Bosnia and Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina
- **Federation of BiH:** The Supreme Court of the Federation of BiH, the Federal Prosecutor's Office, and 10 cantons in which municipal courts function, as well as 10 cantonal courts and 10 cantonal prosecutor's offices (Sarajevo, Mostar, Tuzla, Bihać, Orašje, Goražde, Livno, Široki Brijeg, Zenica and Travnik).
- **Republika Srpska:** The Supreme Court of the Republika Srpska, Republic Prosecutor's Office, five district courts and five district prosecutors' offices (Istočno Sarajevo, Banja Luka, Doboj, Trebinje and Prijedor).
- **Brčko District:** The Court of Appeal of the Brčko District, the Basic Court of the Brčko District and the Prosecutor's Office of the Brčko District.

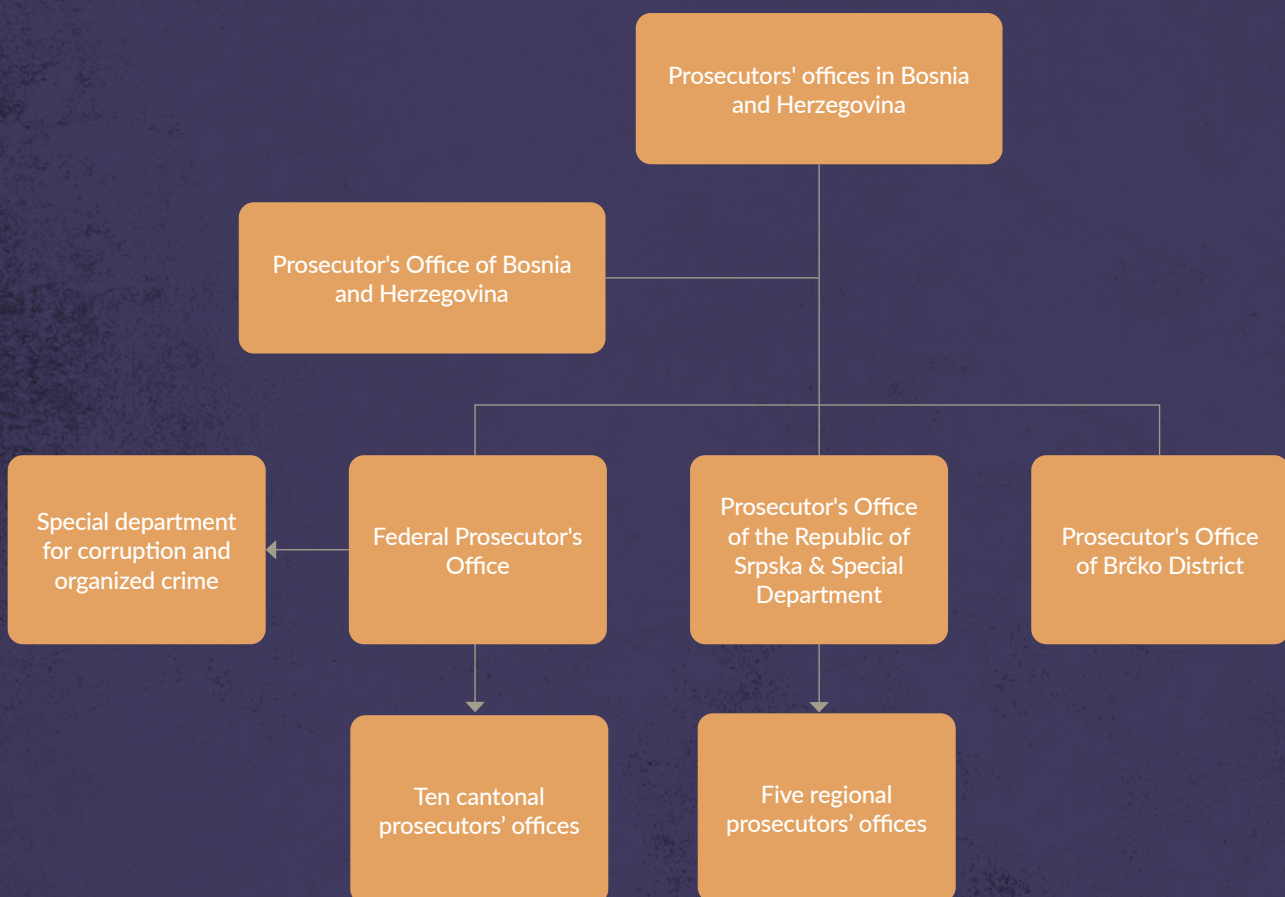


FIGURE 2 Organizational structure of the prosecution system in Bosnia and Herzegovina.

A special department, dealing with organized crime, economic crime and corruption, sits within the Prosecutor's Office of BiH. This department investigates and prosecutes acts of corruption and organized crime under the jurisdiction of the Court of Bosnia and Herzegovina with dedicated divisions for

- organized crime;
- economic crime;
- corruption;
- terrorism;
- human smuggling and human trafficking; and
- international legal assistance and other criminal offences under the jurisdiction of the Prosecutor's Office of Bosnia and Herzegovina.

In the entities of the FBiH and Republika Srpska, special laws govern the establishment of specialized departments. Although the Law on the Suppression of Corruption and Organized Crime was adopted there in 2015, authorizing the creation of a special department, it was never implemented in practice, partly due to a lack of political will and partly through lack of funding, although there have been recent attempts to correct this. In Republika Srpska, the reformed Law on the Suppression of Corruption, Organized Crime and Serious Forms of Economic Crime has been in force since 2016, and the Special Prosecution Department was put in place as a result.

Kosovo

EHAT MIFTARAJ

Institutional set-up

The Constitution of the Republic of Kosovo divides the justice system into three main branches: the judicial system, the prosecutorial system and the Bar, each designed to operate independently from one another to ensure justice.¹⁷⁸ To uphold the independence, impartiality and accountability of the judiciary and prosecutorial systems, the Constitution established two key bodies: the Kosovo Judicial Council and the Kosovo Prosecutorial Council (KPC).¹⁷⁹

The Constitution has defined the KPC and the state prosecutor as independent institutions. According to law, the KPC administers the prosecutorial system and currently consists of 13 members, 10 of whom are prosecutors. The Office of the State Prosecutor is subdivided into the Office of the Chief State Prosecutor, the Appeals Prosecutor's Office, the Special Prosecutor's Office and seven basic prosecutors. The most serious crimes according to the criminal code, depending on the type of jurisdiction, fall under the domain of the Special Prosecution. The independence of the prosecution system in Kosovo, according to the Constitution and the law, is almost absolute. All accountability and integrity mechanisms are therefore internal, meaning that the responsibility for making improvements falls solely on this system.

In practice, the KPC has failed to ensure accountability and integrity in the work of the prosecutorial system, and has shown no will to improve it. One of the main reasons for this, as the Venice Commission also described, is the corporatist composition of the KPC, with the vast majority of its members having been chosen by prosecutors themselves. For this reason, reform of the KPC is highly necessary. Previous attempts to undertake this reform have failed in the first instance, due to the fact that the Constitutional Court declared unconstitutional the proposed 'Law on Supplementing and Amending the Law on the Prosecutorial Council of Kosovo'. Meanwhile, the second draft, now in process, has been opposed by the Venice Commission.

Legislative framework

The Kosovo Judicial Council and the KPC were both formally established under laws enacted in 2010, which came into effect in January 2013. These laws initiated significant reforms and a restructuring of Kosovo's court system, which now includes basic courts and prosecution offices; the Court of Appeals; the Special Prosecution Office; the Supreme Court; and the Office of the Chief State Prosecutor, along with smaller branches within the jurisdiction of the basic courts.

The legal framework governing the prosecutorial system in Kosovo has seen several updates since the initial adoption of the 'Law on the Kosovo Prosecutorial Council' and the 'Law on the State Prosecutor' in 2010.¹⁸⁰ These foundational pieces of legislation have undergone a series of amendments and supplements, notably in 2012 and 2015 for the former,¹⁸¹ and in 2015 and 2018 for the latter.¹⁸² Most recently, new versions of these laws were adopted in 2019 for the Prosecutorial Council,¹⁸³ and in 2023 for the Office of the State Prosecutor.¹⁸⁴ The current laws mandate that the state prosecutor is accountable to the Prosecutorial Council. The chief state prosecutor, or a designated prosecutor from the same office, has the authority to issue binding written instructions to the leading prosecutor of any prosecution office or any other prosecutor. These instructions are aimed solely at enforcing the law, enhancing efficiency and ensuring the consistent application of practices and legislation across the prosecutorial system.

A significant change introduced by the 2019 amendments to the law on the KPC¹⁸⁵ is that members of the KPC who are prosecutors must cease their prosecutorial duties while serving on the council. This aims to ensure their involvement in developing council policies and to improve efficiency, transparency and dedication to policy development within the KPC. The law also introduced new regulations concerning the dismissal of prosecutors.¹⁸⁶ Under both the Constitution and the new law on the KPC, the council is assigned various roles and functions, and includes the stipulation that council meetings should be held in public to ensure that their work is transparent. This transparency is particularly crucial when it comes to the evaluation of chief prosecutors, other prosecutors, administrative staff and the management of budget expenditures for the prosecutorial offices.

A previous law (now repealed) had removed the government from involvement in the budgeting process for the prosecutorial system, granting the KPC complete autonomy to prepare and send its budget proposals directly to the assembly for approval. However, under current law, the KPC must prepare its annual budget in compliance with the 'Law on Public Finance Management and Responsibilities', which re-integrates the government into the budget drafting process, thus aligning the KPC with regular government-led budgeting procedures.

Education and recruitment

The 2019 reforms specified that the KPC is responsible for selecting new prosecutors and managing their career progression. However, reviews have identified significant weaknesses in how candidate evaluations and selection criteria are implemented, suggesting that these processes need to be more clearly defined, consistently applied and transparent in order to prevent undue influence on candidate assessments.¹⁸⁷ Furthermore, the regulations concerning the promotion of prosecutors have been criticized for their poor drafting and implementation – often not ensuring adherence to objective criteria such as competence, merit and experience. This has led to promotions that appear to favour personal connections over qualifications, undermining the meritocratic principles supposed to guide these decisions.¹⁸⁸

The training of new and current prosecutors is managed by the Academy of Justice, which operates independently from the prosecutorial and judicial systems.¹⁸⁹ New prosecutors undergo a mandatory 12-month initial training period, followed by evaluations that can lead to additional training if performance is deemed unsatisfactory.¹⁹⁰ However, the training topics provided by the academy appear to be too general and do not adequately address specific issues related to handling high-profile corruption cases.¹⁹¹

The selection process for the chief state prosecutor has also faced substantial criticism for not being designed to ensure a fair, impartial and merit-based appointment. The process has been plagued by issues such as outdated and irrelevant questioning and a lack of clear distinction between the roles of the KPC and the chief state prosecutor, contributing to a public perception of a lack of meritocracy in these high-level appointments.¹⁹²

Previously, candidates who were dissatisfied with the KPC's decision regarding the appointment of the chief state prosecutor could appeal directly to the Constitutional Court without first exhausting other legal avenues.¹⁹³ However, this precedent was altered without clear justification,¹⁹⁴ shielding the final selection process for the chief state prosecutor from being evaluated on its merits by any court.¹⁹⁵ Consequently, candidates seeking to challenge the council's decisions are now restricted to pursuing their grievances through the regular judicial system.

Recent reforms

The Council of Europe's Venice Commission concluded that the KPC has a corporatist composition.¹⁹⁶ This is based on the fact that, out of a total of 13 members, 10 are chosen by the prosecutors. The remaining three positions, reserved for non-prosecutor members, had never been filled until recently.¹⁹⁷ As a result, rather than guaranteeing accountability of the prosecutorial system to the public, the KPC has perversely turned into an institution that protects prosecutors. In fact, a logic of recycling the same names has already taken root in the prosecutorial system of Kosovo, such that certain actors constantly rotate through different positions, concentrating leadership in the hands of a few people, even in cases where the election of a certain prosecutor in a certain position is expressly prohibited by law.¹⁹⁸ This corporatist composition directly undermines the integrity of Kosovo's prosecutorial system. For this reason, the development of a vetting process is underway. Despite the initial intention that there should be a review of all judges and prosecutors, the process was limited by the Venice Commission to the heads of the justice system; namely members of the KPC and the Kosovo Judicial Council, the chief prosecutors and the presidents of the courts. The draft constitutional amendments related to the development of this process were allowed by the Constitutional Court.

Regarding corruption, the vast majority of indictments related to high-profile corruption have failed to be proven in the courts. The state prosecutor should take steps to analyze and address the causes of this problem. In addition to this, a sectoral assessment of corruption should be made so that anti-corruption measures can be adapted in light of the development of investigations in this area. So far, these actions have not been undertaken by the prosecutorial system. Strategic documents have been too general and lacking focus on increasing effectiveness in the fight against corruption.

Prosecutors have not been working in tandem with the media and civil society, and have often accused outlets of only publishing about the failures of the prosecutorial system in preventing and fighting corruption, with special emphasis on high-profile corruption. The lack of judicial checks on prosecutorial decisions is particularly problematic in Kosovo. Even though the Constitution guarantees the right to legal remedies, the decisions of the state prosecutor cannot be challenged in court. The new criminal procedure code has defined the right to appeal prosecutors' decisions to the Appeals Prosecutor's Office but still not to the courts.

Another problem is the lack of a judicial police service, which would be disconnected from the reporting chain of the Kosovo police and would report only to the state prosecutor. Currently, even though (according to the criminal procedure code) investigations are led by the state prosecutor and police officers nominally carry out the orders of the state prosecutor, they are not answerable to the state prosecutor at all, but to the regular chain of command in the state police. Even the new 'Law on the Special Prosecution of the Republic of Kosovo' does not adequately address this issue.

Selected main issues

- The lack of structural and functional independence of the prosecutorial system, which is also reflected in the handling of high-profile corruption cases;
- Lack of meritocracy in the advancement of prosecutors and the appointment of chief prosecutors;
- Absence of a special investigative unit to exclusively serve the state prosecutor;
- The lack of clear instructions to deal with investigative issues, which leads to the lack of results in the fight against high-profile corruption;
- The lack of specialized training to deal with financial crimes and high-level corruption.

Recommendations

- The government and the assembly should complete the reform of the KPC, in accordance with the Constitution, the judgments of the Constitutional Court and the opinions of the Venice Commission.
- The KPC should ensure greater meritocracy and integrity in the process for appointing the chief state prosecutor and chief prosecutors of individual prosecutors' offices.
- The KPC should ensure greater meritocracy and integrity in the process for the career advancement of prosecutors.
- The KPC should advance the process for evaluating the performance of prosecutors.
- Competent authorities should handle all complaints and disciplinary cases against prosecutors with professionalism and in full compliance with the law.
- The KPC should ensure accountability, applying the 'Law on Disciplinary Liability of Judges and Prosecutors' in a fair, professional and non-selective manner.
- The KPC and the state prosecutor should be transparent with the public about their work.
- The state prosecutor should increase cooperation with other law enforcement institutions.
- A special investigative unit should be established by law, which exclusively serves the Special Prosecutor's Office and is independent from the management structure of the Kosovo police.
- The state prosecutor should open formal criminal investigations into cases of corruption, rather than internal investigations that are merely administrative in nature.
- As part of his legal mandate, the chief state prosecutors should approve binding general instructions regarding certain issues aimed at increasing the efficiency and effectiveness in handling anti-corruption cases.
- The amount of specific training aimed at increasing professionalism and capability in handling high-profile corruption cases should be increased.

Irregularities in the Kosovo Prosecutorial Council

A notable case involved the current chairman of the KPC, who was re-elected in violation of clear legal provisions stating that members of the council can only serve for one five-year term with no re-election.¹⁹⁹

Amid these legal inconsistencies, the KPC has gained considerable independence, which it has seemingly misused, at times. Currently, the only oversight of the KPC comes from the media and civil society, whose recommendations are often disregarded by the council. In response to these governance challenges, there have been efforts to reform the KPC to enhance its accountability. However, these efforts faced another setback when the Constitutional Court ruled that the proposed amendments to the law governing the KPC were unconstitutional.²⁰⁰ Subsequent attempts to introduce a new draft law have also struggled, failing to gain approval from the Venice Commission.²⁰¹ ■

Montenegro

MILOŠ VUKČEVIĆ

Institutional set-up

The Supreme State Prosecutor's Office oversees the entire prosecutorial system of Montenegro. Beneath it lies the Special Prosecutor's Office, tasked with handling specialized cases of serious financial and organized crime. The system also includes the high prosecutors' offices, with key branches located in Podgorica and Bijelo Polje. At the lowest level are the basic prosecutors' offices, which are distributed across 13 municipalities.

The State Prosecutor's Office is a unique and independent body that prosecutes the perpetrators of criminal and other punishable offences. Previous amendments to the criminal procedure code in 2011 had introduced a prosecutor-led system of investigation that positioned the State Prosecutor's Office as the central authority and the head of the investigation, authorized to issue binding instructions to the police and other state bodies involved in reconnaissance and investigation. In 2013, Amendment 10, which changed Article 135 of the Constitution, stipulated that the tasks of the State Prosecutor's Office are to be performed by the heads of state prosecution offices and state prosecutors.²⁰² This altered the structure of the prosecution so that it became fully independent, with organizational units headed by managers, and the system of deputies, who became state prosecutors, was abolished. With these constitutional amendments, the State Prosecutor's Office effectively became the fourth branch of government.²⁰³ The supreme state prosecutor is elected and dismissed by the parliament of Montenegro after a hearing in the competent working body of parliament, on the proposal of the Prosecutor's Council, following a public invitation.

Legislative framework

The state prosecutor's role is permanent, although first-time elected state prosecutors serve an initial probation period of four years. The heads of the state prosecution are subject to dismissal if they receive a sentence of unconditional imprisonment by a final judgment.

The Prosecutor's Council, led by the supreme state prosecutor except in disciplinary proceedings, ensures the independence of the State Prosecutor's Office. The council's functions, as stipulated by the 'Law on the State Prosecutor',²⁰⁴ include proposing and electing the supreme state prosecutor; electing and dismissing heads of state prosecution offices; proposing government budget allocations for the State Prosecutor's Office; and submitting an annual work report to parliament. Additionally, the council handles various other legal duties and decides by a majority vote of all members.

State prosecutors enjoy functional immunity, protecting them from being held accountable for opinions or decisions made in their official capacity, barring involvement in criminal offences. The supreme state prosecutor has broad authority to directly exercise all powers necessary for the oversight of the State Prosecutor's Office, including the Special State Prosecutor's Office, the higher state prosecutors' offices and the basic state prosecutors' offices. This includes issuing mandatory instructions, which can be general or specific, to ensure uniform application of the law. The Special State Prosecutor's Office operates under a specific law outlining the conditions for selecting its managers and state prosecutors, as well as its jurisdiction and organizational structure.²⁰⁵ The office is supervised by the Supreme State Prosecutor's Office, which requires a semi-annual report on its activities.

In terms of administrative oversight, the justice ministry supervises the performance of the prosecutor's offices but cannot influence individual prosecutorial decisions.²⁰⁶ It does, however, play a role in determining staffing levels based on work standards proposed by the Prosecutor's Council. While the ministry has limited influence over prosecutorial decisions, it can impact the selection and promotion of prosecutors through its representations to the Prosecutorial Council and its involvement in the systematization of prosecutorial office positions.

The budget of the prosecutor's office has been increased in recent years, but still below a level that would enable smooth operations and improvements to the judicial infrastructure.²⁰⁷ Individual prosecutors' offices have been given autonomous status in the budget, but the establishment of an effective budget control system and the necessary software solutions have been delayed. There is a need for more strategic and project planning, monitoring, evaluation and reporting.

Education and recruitment

The supreme state prosecutor can only be elected and dismissed by the parliament of Montenegro after a hearing in the competent working body of parliament, upon a proposal by the Prosecutor's Council, following a public call by a two-thirds majority in the first vote, and a three-fifths majority in the second vote. Although the intention was to reduce political influence over the prosecution, for almost four years the assembly blocked the election of the supreme prosecutor.²⁰⁸

A number of improvements can be made to recruitment processes. Firstly, the Special State Prosecutor Office should be staffed by enough special prosecutors and expert associates to work on a large number of cases involving organized crime and corruption. Secondly, the president of the Supreme Court should be elected with a permanent mandate, rather than the current situation in which the president has only held 'acting' status since 2021.

When it comes to the selection of state prosecutors, the main problem in practice is a very long selection procedure. Given that prosecutors must undergo initial training for 18 months at the Centre for Training in the Judiciary and the State Prosecutor's Office, better strategic planning for the vacancies is necessary. Other issues arise from long delays in the election of prosecutors and the lack of deadlines for the duration of the process.²⁰⁹

The 'Law on the State Prosecution Service' should be amended to reduce the possibility of political influence during the election of members to the Prosecutor's Council by requiring a qualified majority (two-thirds or three-fifths), or by electing the lay member from among distinguished lawyers proposed by non-governmental organizations, university law faculties or the Bar Association in line with European Commission recommendations and the Venice Commission opinions. A more proactive approach should be taken by the Prosecutorial Council in addressing the issues, in particular by evaluating the professional performance of heads of state prosecution offices and of individual state prosecutors.

Recent reforms and pressing issues

When undertaking reforms, Montenegro did not amend the disciplinary and ethical legal framework for judges and prosecutors, meaning that further improvements to the judicial inspection system are needed. The Prosecutor's Council established a commission for considering complaints from the heads of state prosecution offices and state prosecutors regarding threats to their independence. However, the new ethical commission continued the earlier practice of acting only on the basis of complaints, rather than actively monitoring adherence to the ethical code and rules of procedure. The disciplinary prosecutor and the members of the council do not have the authority to start disciplinary proceedings on their own initiative. In 2020 and 2021, only two disciplinary proceedings were initiated, both due to the failure of the state prosecutors in question to report assets in a timely manner.²¹⁰ The training of public prosecutors and assistant prosecutors on topics related to integrity and ethical behaviour, therefore, should be strengthened.

There is no systemic management of corruption risks, strategic and operative controls for senior positions, or a dedicated anti-corruption programme with action plans. Another concern is the lack of protection against cyber-attacks. Since the new chief special prosecutor was elected in 2022, a large number of officials have been arrested and subsequently prosecuted including several former judges and chief prosecutors, senior figures in the security and police sector, former ministers, state and local officials, company directors, and dozens of police and customs agency officials.²¹¹ It has become obvious that there has been an infiltration of organized crime in the judiciary. As such, the use of plea bargains in organized corruption cases must be used only in very specific cases, and for the right purposes, while building in all the necessary legal safeguards.

In order to support the work of the Special State Prosecutor's Office, a special organizational unit was formed within the police – the Special Police Department – which acts on the orders of the Special State Prosecutor's Office. Cooperation between the police and the special state prosecutor in cases of organized crime and high-level corruption has been significantly improved by the formation of the Special Police Department, and its capacity has been significantly strengthened in the last few years. The head of the police department is appointed by the head of the police directorate, with the consent of the chief special prosecutor. Still, there are cases of politically influenced elections for the position of the head of the directorate and the constant problems presented by the separation of the Special Police Team from the rest of the police.

The impossibility of completing the court proceedings within three years of the indictment has led to the release of a large number of members of organized criminal groups who were being tried for the most serious crimes.²¹² Not a single judge or prosecutor has ever faced disciplinary action for unnecessarily delaying the proceedings. The problem of the overly long court proceedings and delays can be solved by more efficient case management assisted by amendments to the criminal procedure code, as well as by providing the necessary spatial, personnel and administrative resources in the courts so that the proceedings in organized corruption cases are carried out within a reasonable timeframe.

Furthermore, cases are assigned in order according to the list of prosecutors, so there is no software system that randomly assigns cases as there is for the allocation of court cases. The development and establishment of a random computerized assignment of cases for the work of state prosecutors must be a priority, as well as the adoption of a rulebook on random assignment of cases.

The legislative framework relating to the confiscation of assets also needs to be amended to bring it in line with European standards and the EU acquis. Expertise and professional knowledge in initiating and conducting financial investigations should be developed, and cooperation with international partners over extradition of politically exposed persons also needs to be improved, especially when involving senior political figures.

Selected main issues

- Substandard conditions in all prosecutorial premises, as well as a general lack of premises. Moreover, there is a lack of, or inadequate IT infrastructure and other specialized equipment for the work of state prosecutors. This is especially the case in the Special State Prosecutor's Office, whose working premises and evidence and document storage are below European and international standards.
- Staffing issues, particularly a lack of special prosecutors and expert associates who are needed to work on a large volume of organized crime and corruption cases.
- The failure to elect the president of the supreme court with a permanent mandate (after several failed attempts, starting in 2021).
- The lack of an appropriate legislative framework on the confiscation of property acquired through criminal activity in accordance with European standards and the EU acquis.
- A lack of expertise and professional knowledge in initiating and conducting financial investigations.
- Excessively long court proceedings in organized corruption cases.

Recommendations

Institutional:

- Provide adequate working and evidence-storing facilities, as well as IT equipment, for the work of the State Prosecutor's Office, especially the Special State Prosecutor's Office.
- Provide the necessary spatial, personnel and administrative resources for the courts so that proceedings in organized corruption and crime cases are carried out within a reasonable timeframe.
- Elect the president of the supreme court with a permanent mandate.
- Begin construction of the new judicial district in Podgorica as soon as possible, the building of which was announced by the justice minister in 2024.
- Elect missing special state prosecutors in the Special State Prosecutor's Office.
- Improve the system for conducting financial investigations and provide the necessary expertise.

Legislative:

- Change the procedure for planning and approving budgets for the work of the prosecution, especially the Special State Prosecutor's Office, and enable a greater degree of independence for the prosecution from government.
- Separate the Special Police Department from the Police Administration, and merge it with the Special State Prosecutor's Office.
- Review the existing legal framework on asset confiscation and bring it in line with the EU acquis, European standards and best practices.
- Amend the criminal procedure code in order to reduce the excessive length of court proceedings.
- Amend the 'Law on the State Prosecution Service' to reduce the possibility of political influence in the election of members of the Prosecutor's Council. This could be done by using the same process as elections to the Judicial Council by a qualified majority (two-thirds or three-fifths), or by electing members from ranks of distinguished lawyers by non-governmental organizations, law faculties or the Bar Association in line with European standards.
- Amend the 'Law on the State Prosecutor's Office' so that the members of the Prosecutor's Council, as well as the disciplinary prosecutor, have the legal authority to initiate disciplinary proceedings.
- Upgrade the legal, institutional and strategic anti-corruption frameworks, and adopt a new integrated strategy and action plan.

Recruitment/education/staffing:

- The Prosecutorial Council should take a more proactive approach to addressing staffing issues in the public prosecution service, especially in evaluating the professional performance of state prosecution offices and of individual prosecutors.
- Improve the administrative capacity of the Prosecutorial Council, including on planning and management of strategic, budgetary and human resources, as well as its public communications.
- Improve the training of public prosecutors and assistant prosecutors on integrity and ethical behaviour.
- Amend the code of ethics for prosecutors so that a violation of the code is clearly distinguished from a disciplinary violation according to the Law on the State Prosecutor's Office.
- Improve the efficacy and efficiency of the ethics commission.
- Create procedures for enforcing the individual responsibility of state prosecutors when it is established that complaints about their work are well founded.
- Amend the procedure rules of the Prosecutor's Council to establish clearer regulation of the complaint procedure and deadlines in which it must be carried out.

General:

- Build a computerized (random) assignment of cases for the work of state prosecutors and adopt a rulebook on the system for random assignment.
- Implement all recommendations from the GRECO evaluation reports, including the fourth evaluation round on corruption prevention in respect of members of parliament, judges and prosecutors.
- Plea bargain agreements in organized corruption cases must only be resorted to in very specific cases, for the right purposes, while building in all the necessary legal safeguards.

The 'tunnel' case

One of the most striking incidents that highlighted the current state of the judicial system in Montenegro and its security measures was the 'tunnel' case in September 2023. Officers at the High Court in Podgorica discovered that the court's evidence depot had been burgled, finding a 30-metre-long tunnel.²¹³ The tunnel, which was excavated from an apartment building across the street directly into the court's depot, remarkably went undetected despite its length and complex construction beneath a busy city centre street. While the president of the High Court announced at a press conference in the immediate aftermath that no evidence was missing, it later emerged that several weapons – critical pieces of evidence in ongoing murder trials involving organized crime groups – were indeed missing. Quickly after the discovery, four individuals linked to the heist were arrested but were subsequently released to await trial, with no formal indictments issued at the time of writing.

The incident raises significant concerns, particularly as to how such an extensive tunnelling operation could remain unnoticed in an area surrounded by key governmental and judicial institutions, including the parliament of Montenegro, the government, the Supreme Court and both the Supreme and Special State Prosecutor's Offices. This incident mirrors a similar case in 2016, where the storage unit of a basic court was deliberately set on fire, resulting in the destruction of 200 trial documents. Despite the seriousness of the crime, the perpetrators were never identified or prosecuted. As such, the tunnel case highlights significant ongoing vulnerabilities in the security of judicial documentation and evidence.²¹⁴ ■



High-level government officials inspect a tunnel used to burglarize the evidence depot of Montenegro's High Court, September 2023. © Government of Montenegro/Handout/Anadolu Agency via Getty Images

North Macedonia

GORDANA LAZETIĆ

Institutional set-up

The Public Prosecution Office of North Macedonia is a constitutionally independent state body that performs its functions according to national laws and international agreements ratified in accordance with the Constitution. However, the functional independence of the Public Prosecution Office in practice is somewhat questionable because the chief public prosecutor is appointed by parliament, upon a proposal by the government and following the opinion of the Council of Public Prosecutors.

In 2004, a department for the prosecution of organized crime and corruption was established in the Public Prosecutor's Office. In 2007, this department was transformed into the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption. The head of this office is directly elected by prosecutors themselves, making it somewhat more independent of government. Such an approach may be a good model for the Public Prosecutor's Office. The gender balance among public prosecutors is fairly even, especially in the basic public prosecutor offices.²¹⁵ However, while there has been a significant increase in the number of female chiefs of basic public prosecution offices, there is an urgent need for increasing the gender balance in the higher levels of public prosecution offices.²¹⁶

Although the budget for the Public Prosecutor's Office is set by law at 0.4% of the annual state budget, in practice it receives less than that.²¹⁷ Investigative centres need fundamental improvements in their human and IT resources. However, the prosecutorial offices cannot recruit assistants and administrative staff, despite shortages of both,²¹⁸ without obtaining prior approval from the ministry of finance and the ministry for IT and administration – a process that is highly time consuming.

Currently there is no automatic means for distributing cases nor specific protocols for case selection. Case allocation and information security are therefore still hamstrung by a lack of a functional case management system, which allows for interoperability, and tools for performance monitoring. Digital access to the Official Gazette is provided and there is equipment for videoconferencing but only in the bigger public prosecution offices. As such there is a clear need for the Public Prosecution Office to have budgetary autonomy to address these gaps.²¹⁹

Legislative framework

The 2020 'Law on Public Prosecution' and the 'Criminal Procedure Law' are the main legal bases for the functioning of the public prosecution in North Macedonia.²²⁰ However, legislative changes are often carried out without undertaking corruption risk assessments, in particular concerning organized corruption, as exemplified by the amendments made to the criminal code in 2023.²²¹ Typically, public prosecutors from different levels participate in working groups looking at new strategies and legislation.

The Council of Public Prosecutors is an autonomous body that aims to ensure the independence of prosecutors in the performance of their duties and is responsible for the selection, promotion and dismissal of public prosecutors according to precise conditions. Although the council is responsible for protecting the independence of the public prosecutors, the fact that the chief public prosecutor is an associate member, as well as having other informal links, is just one way in which there may be external political influences on its work. There is a need for enhancing transparency of the Council of Public Prosecutors and its budgetary autonomy.

Political and other undue influences on the work of the council can be mitigated with more transparent proceedings and open public sessions. The justice ministry is not allowed to supervise the functioning of the public prosecution offices and the law does not allow the ministry to give any instructions in individual cases. Removing prosecutors from a case is very rare and almost always the result of disciplinary action. There are grounds for discretion on the part of prosecutors, allowing them to decide not to initiate a prosecution, waive it or opt for conditional postponement. Such discretionary approaches strengthen the individual independence of prosecutors.

Monitoring of the prosecution and ethical standards

There is a persistent problem of the Public Prosecutor's Office of North Macedonia enjoying a rather low level of public confidence. This is partly a consequence of limited transparency about prosecutorial work and a lack of engagement with the public.

Annual reporting by the Public Prosecution Office was instituted by the 2020 'Law on Public Prosecution Office' and the 'Criminal Procedure Law' and are made available on the office's website. Yet there is a need for more detailed information in the annual reports about disciplinary proceedings. Additional efforts need to be taken to fully implement all GRECO recommendations regarding prosecution services in North Macedonia, since these have been only partly implemented so far.²²² There is also a need to establish a new ethical council; a protected reporting channel for whistle-blowers; and continuous training for public prosecutors, assistant prosecutors and administrative staff in integrity and professional ethics.

The Public Prosecutor's Office needs to develop a strategic approach for press releases, briefings with journalists and cooperation with journalists' associations. Greater cooperation and interaction with civil society would significantly improve its image.

Selected main issues

- The Public Prosecutor's Office and its investigative centres are underfunded, underequipped and understaffed, which prevents the timely and effective execution of its functions.
- Politically motivated legislative changes that undermine the role of the specialized Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption are a serious external corruption risk.
- The Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption has jurisdiction over the entire national territory. Having only one specialized prosecution office concentrates huge investigative and prosecutorial power in a single place without adequate checks and balances.
- There is limited capacity for conducting complex financial investigations, which limits prosecutors' ability to deal effectively with certain forms of crimes such as money laundering and financial crimes linked to organized corruption and organized crime.
- Different interpretations of what constitutes an organized crime group in the judgements of the Supreme Court and provisions of the criminal code have had a detrimental effect on the work of the offices responsible for organized crime and corruption.

Recommendations

- **Independence:** the effective independence of the Public Prosecutor's Office must be strengthened, including through the election of the Public Prosecutor through direct voting by public prosecutors, in the same way as the election of the head of the office for organized crime and corruption.
- **Controls:** due to its independence, the Basic Public Prosecutor's Office against Organized Crime and Corruption enjoys enormous investigative and prosecutorial powers, and there is a need to establish adequate checks and balances in order to avoid abuses of power, as well as political and other interference.
- **Funding and IT infrastructure:** an effective case-management system and automatic means of distributing cases are needed to enhance the performance of the public prosecution. This would be supported by independent budget planning and the full use of the allocated 0.4% of the state budget on an annual basis.
- **Efficiency:** improving interoperability with other government bodies and institutions and establishing a control mechanism for waiving prosecutions before the main hearing would greatly increase the effectiveness of the public prosecution.
- **Ethics and professional standards:** the public prosecution's standards should be strengthened by the establishment of an ethics council; adopting practical guidelines for the code of ethics; more transparent and detailed information regarding disciplinary proceedings within the Council of Public Prosecutors, including through its annual reports; full implementation of GRECO's recommendations; and continuous integrity training for all prosecutorial and administrative staff.
- **Cooperation with other bodies:** effective cooperation with the State Commission for Prevention of Corruption and State Audit Office regarding the cases arising from their reports would enhance the whole national anti-corruption system and contribute to improving the role and image of the Public Prosecutor's Office. Likewise, fostering mutual trust with other prosecution authorities within the region and beyond will enable successful international cooperation.
- **Public trust:** a strategic document for public relations along with regular briefings with journalists and civil society organizations would improve transparency and increase public confidence in the prosecution services.

Amendments to the criminal code

Following the ousting of the former government in 2017, a large number of corruption cases were brought against officials, including the former prime minister, the director of the security and counter-intelligence directorate, the interior minister, the transport minister, the minister of labour and social policy, the president of the parliament and the director of the financial police.²²³ The former prime minister left the country and thus avoided a prison sentence.²²⁴ Other former public officials were either placed under house arrest or imprisoned, but only few spent more than a few years in prison with the rest soon released on parole. According to the European Court of Human Rights, some of these had been unlawfully detained and a number of judgments were later overturned, including on the basis of expired limitation periods. However, a number of these cases were still ongoing in 2023.

Amendments made to the criminal code in 2023²²⁵ threatened to destroy a number of ongoing high-profile cases by scrapping certain categories of offence or radically reducing the applicable sentences.²²⁶

The changes made to the criminal code in September 2023, using a rushed legislative procedure that was waved through by the ruling party, highlight the risks of organized corruption from selective political interests.²²⁷ The proposed amendments involved highly specific reductions of sentences for abusing an official position to misuse public funds in special public procurement regimes. These amendments pave the way for organized corruption by effectively granting impunity to high-level officials involved in these kinds of actions. Moreover, the changes appeared to be primarily politically motivated and almost tailor-made to protect not only former officials but also high-level officials currently in power.²²⁸ By contrast, it should be noted that the huge public outcry about the amendments is an indication of the public will to uphold the rule of law. ■



North Macedonia's justice ministry in Skopje. Changes made to the criminal code in September 2023 highlight the risks of organized corruption from selective political interests. © Balkan Investigative Reporting Network

Serbia

IVANA KRSTIĆ

Institutional set-up

Two departments of the Public Prosecutor's Office deal with corruption cases, enabling a more effective concentration of specialized knowledge for criminal prosecutions. In March 2018, the Special Department for Combating Corruption (SDCC) was established, as well as the Public Prosecution for Organized Crime under the 'Law on Organization and Competence of State Authorities in the Suppression of Organized Crime, Terrorism, and Corruption'.²²⁹ Four SDCC branches were established as part of the four higher public prosecution offices,²³⁰ which exercise jurisdiction in their respective appellate areas in Belgrade, Novi Sad, Kraljevo and Niš.²³¹ The SDCC has jurisdiction over offences relating to abuse of office, bribery and criminal offences against the economy.²³²

However, the Public Prosecution for Organized Crime will exercise jurisdiction in criminal offences when the accused is either an official or responsible person holding a public office through election, appointment or posting by the National Assembly, the president of the Republic,²³³ the government, the general assembly of the Supreme Court of Cassation, the High Judicial Council or the High Prosecutorial Council in cases where criminal offences by abuse of office or against the economy exceed a certain benchmark. While the SDCC exercises jurisdiction over many criminal offences against the economy, it is not unusual for specialist departments to have jurisdiction over money laundering and other tax cases.²³⁴

There are a number of concerns regarding members elected to the High Prosecutorial Council by the National Assembly. For example, the lack of criteria for who can be considered a 'prominent lawyer' often leads to the election of those who are less known in professional circles. Moreover, the age threshold for election is 65, which excludes many experienced lawyers. Bodies within the council, such as the commissioner for independence and disciplinary bodies, also lack transparency in their selection processes

Legislative framework

In Serbia, the Constitution and other relevant legislation guarantees the autonomy of public prosecution from both an external and internal perspective. Constitutional amendments in 2022 and the new 'Law on the Public Prosecution' aimed to strengthen the independence of the prosecution and introduced new mechanisms for accountability.²³⁵ The role of the National Assembly in the election process for public prosecutors was consequently reduced.

The election of all chief and regular public prosecutors is instead carried out by the HPC, which has the main role in the election, promotion and accountability of public prosecutors. The previous system of monocracy was abolished, and the hierarchy within the public prosecution offices is now regulated by numerous provisions to prevent arbitrariness from senior figures. All public prosecutors are individually accountable for their work. The law prescribes which activities are incompatible with the public prosecution's function. Public prosecutors must act in accordance with the code of ethics, while the ethics committee regulates which functions, jobs or private interests may compromise the integrity or independence of prosecutors. The exception is that prosecutors can engage in artistic activities and participate in public debates that concern issues on public prosecution, constitutionality and legality, human rights and basic freedoms.²³⁶

Substantial changes were also introduced to the system for appraising the performance of public prosecutors. The abolition of the rule that unsatisfactory evaluation resulted in automatic dismissal has

been particularly welcomed. Other disciplinary rules have been added and amended to give greater independence to those with public prosecution functions. Disciplinary proceedings are considered urgent and are in the hands of the disciplinary prosecutor, his/her deputies and the Disciplinary Commission, which is appointed by the HPC. In order to minimize the influence on disciplinary bodies, re-election of their members has been prohibited.

The new 'Law on Public Prosecution' gives autonomy to the HPC over preparing budget proposals to be submitted to the finance minister. In case of disagreement, the minister will give reasons for not accepting the proposal and the budget will then be discussed and adopted by the National Assembly. Giving budgetary competencies to the HPC is a key plank of reforms in Serbia, but it requires capacity in planning, budgeting and management, which is still lacking.

The new legislation contains several provisions that look to guarantee the material independence and operational autonomy of the public prosecution. A software system for managing finances and human resources was developed to automate and rationalize internal business processes, which should ultimately lead to improving the management of finances and human resources in the prosecution system. The supreme public prosecutor and the chief public prosecutor manage the administration of the Public Prosecutor's Office, and set out the annual plan and programme of work. The public prosecution can then file an objection against the decision on the annual schedule of work (or a decision to amend the annual schedule) to the HPC. This is an innovation that protects the position of the public prosecution and secures proper administration. The law also introduced a duty for supervisors to distribute cases impartially and objectively, although it does not explain precisely what is meant by 'unbiased distribution'.

However, despite formal guarantees, the attitudes of some public prosecutors and the failure to prosecute politically sensitive and organized corruption cases has led to a widespread perception among citizens that the prosecution is not independent and is susceptible to outside and inside pressure.²³⁷ On many occasions, journalists have highlighted cases of organized corruption that were not efficiently prosecuted.²³⁸ In these cases, the investigation is often too long, and attracts a lot of involvement and comment from political actors in the media. This environment has an influence on the independence of public prosecutors and has a chilling effect on the fight against corruption. In some cases, public prosecutors have been transferred to other departments after ordering arrests in high-level organized corruption cases.²³⁹

Another issue of concern is the distribution of cases, as the chief prosecutor is not bound by clear criteria, and it is hard to demonstrate that they have violated the principle of impartiality. The chief prosecutor can start disciplinary procedures against public prosecutors who are publicly active and express criticism of the current situation in the public prosecution service. On the other hand, statistics show that disciplinary sanctions are rare and almost non-existent in cases when citizens have brought a case against a particular public prosecutor.²⁴⁰

There are many challenges in the relationship between prosecutors and the police within the context of prosecution-led investigations.²⁴¹ The greatest challenge is that police officers often follow the instructions given by their direct superiors and not the public prosecutor in charge of the case under investigation. Correcting this requires amendments to the existing legislation to make the police fully accountable to the public prosecution office during the pre-investigation and investigation phase. On the other side, there is no guarantee that a police officer will not be dismissed with the consent of the public prosecutor. A functional trust-based relationship between police and prosecution is of utmost importance, particularly in cases of high-level organized crime and organized corruption.

Improving transparency in the work of the Public Prosecutor's Office remains one of the biggest challenges, requiring greater openness with the public, regular communication channels and giving access to documents and material. Even though the HPC has taken steps towards better management and transparency in its work, it needs to bolster its analytical and statistical capacities and be more open to communication with the public, especially with civil society groups.²⁴²

Selected main issues

- Coordination between the police and the public prosecution is vital in prosecution-led investigations into organized corruption. There are many challenges in the relationship between the public prosecution and the police that need to be resolved to promote an efficient and proactive approach.
- There is also a lack of specialized training. The new law on public prosecution provides general and specific criteria for the appointment of public prosecutors, including prior work experience, expertise, competency and integrity. Expertise, in this context, is the theoretical knowledge necessary for the public prosecutor's role, competency concerns the efficient application of legal knowledge in the resolution of a case, while integrity relates to the moral character of prosecutors, based on their reputation and behaviour both at work and outside it. These provisions do not stipulate any practical knowledge, skills or attitudes for prosecutors, appointed to special departments. The Committee Minister's Recommendation 19 states:

In order to respond better to developing forms of criminality, in particular organized crime, specialization should be seen as a priority, in terms of the organization of public prosecutors, as well as in terms of training and in terms of careers. Recourse to teams of specialists, including multi-disciplinary teams, designed to assist public prosecutors in carrying out their functions should also be developed.²⁴³

Meanwhile, according to Article 36 of the UNCAC, each state needs to 'ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement.'

- The system for allocating cases is poor. The SDCC exercises jurisdiction over many financial crimes, but does not have jurisdiction over money laundering and tax cases. At the same time, because the methodology currently used for the distribution of competencies between prosecution offices is flawed, many criminal offences placed under the authority of the SDCC are not relevant in the fight against corruption. This must be revised.
- There is currently no continuous professional training for prosecutors. Firstly, the majority of prosecutors who deal with corruption cases graduated from university more than 10 years ago. Due to constant legislative changes, their existing knowledge is likely to be insufficient for their work. Secondly, police officers and prosecutors change roles approximately every five years and there is a regular flow of new generations of personnel who require training. Thirdly, through technological developments, there are always new methods and forms of crime. With the spread of organized economic crime, for instance, there is a need for expertise in specific types of institutional law (e.g. tax law, customs law, company law, bankruptcy law), and related subjects (economics, accountancy, financial transactions).
- Special departments lack the resources and workspace to deal properly with organized corruption cases. On the day that the SDCC's mandate began, the basic and higher prosecution offices sent all their corruption cases to it. As a result, the special departments are still dealing with unresolved cases, while facing a lack of resources. However, even from the outset, the SDCC had less capacity than initially planned.

Recommendations

- **Recruitment:** improve the system of recruitment and promotion in line with clear performance evaluation mechanisms and criteria; improve the criteria and transparency procedure for the selection of HPC members by removing political influence from the procedure, removing the ban on candidates over 65, and removing the veto from prominent members.
- **Transparency:** improve transparency in the work of the HPC, including its bodies, by publishing its minutes, materials and other acts, and introducing a Commissioner for Independence, appointed by the council; increase transparency in the work of the public prosecution including relations with the media, and prepare a new communications strategy.
- **Professional regulation:** improve the capacity of disciplinary bodies and remove the possibility of disciplinary processes being used to punish 'disobedient' prosecutors; condemn, investigate and prosecute government officials, members of parliament and political figures from commenting publicly on ongoing investigations or court proceedings, and attacking the work of individual public prosecutors.
- **Case management and resources:** adopt a uniform and centralized case management system to improve efficiency and fully implement the human resources strategy. The assignment of cases should be done according to rules, as in the case with courts, and not according to the decision of the chief public prosecutor; streamline the organized corruption cases that the SDCC should deal with to include money laundering and tax fraud; increase the efficiency of prosecutions for money laundering, seizure and confiscation of criminal assets; provide more technical, financial and human resources capacities to the Special Department for Combating Corruption.
- **Police cooperation:** police officers should be directly responsible to the public prosecutor in prosecution-led cases and should not be removed from the case without the prosecutor's consent. The prosecutor in charge of the case should be able to choose the police investigator from a list and object to officers with whom they have had poor cooperation in the past. Police officers should be fully accountable to the Public Prosecutor's Office during the pre-investigation and investigation phases. Further, all information gathered by the police needs to be shared with the public prosecutor in charge.
- **Specialization:** in-depth knowledge and experience of economic crime, as well as a relevant postgraduate degree, should be promoted as an advantage for dealing with corruption and organized crime cases. Continuous training for public prosecutors should be carried out by the Judicial Academy to be expanded and deepen professional expertise and skills. Professional training courses should include economic crime, money laundering, corruption and organized crime, as well as special investigative techniques. Such specialization should not only mean increasing the knowledge of personnel but also a multi-disciplinary approach and the selection of team members drawn from a variety of backgrounds.

The Krušik affair

In 2019, the so-called Krušik affair gained substantial attention, highlighting the links between arms sales and organized corruption in Serbia. Bulgarian media outlet Arms Watch published information revealing that Krušik, a Serbian arms company, had sold weapons worth millions of dollars at significantly reduced prices to export company GIM.²⁴⁴ Leaked documents showed that GIM subsequently sold these weapons on to foreign companies, including in Saudi Arabia. The involvement of the father of the former interior minister in the sales, who was listed as one of the representatives of GIM, raised suspicions of potential political wrongdoing.

Adding to the complexity, a whistle-blower and employee of Krušik was secretly arrested on charges of 'exposing trade secrets' after documents related to the affair were leaked. This led to organized protests and petitions calling for his release. Eventually, he was placed under house arrest and removed from the company, pending an ongoing investigation. Despite the European Commission's concerns about the protection of the whistle-blower in the Krušik affair and the European Parliament's recommendation that the matter be resolved, there has been little progress in the case four years later.²⁴⁵ No indictment has been raised, leaving his fate and the conclusion of the whole affair uncertain. However, according to the media, 'representatives of the authorities dub the affair fictitious and deny that there is anything controversial in the arms trade'.²⁴⁶ ■

Undermining the independence of the Public Prosecutor

A prosecutor, B.S., started working in Serbia's public prosecution in 2001. Each of her professional evaluations received the highest grade. She began working in the specialized anti-corruption prosecution department since its establishment in March 2018. Within five years of working there, she had a 100% success rate, with all her cases resulting in verdicts – the highest success rate in the department.

She was in charge of a case against high-level managers from the Serbian Energy Agency (one of the biggest state-owned public enterprises in Serbia), which led to her issuing arrest warrants against the charged individuals for grave abuses of power. As a direct consequence, in February 2022, she was immediately transferred to the General Prosecution Department.

Such an immediate transfer, after the arrest warrants had been issued and just one day before the scheduled interrogation of the accused, had never happened before in Serbia. In May 2024, B.S. was transferred again, this time to the Juvenile Delinquency Prosecutor's Office, without any explanation. ■



GENDER INEQUALITY IN LAW ENFORCEMENT AND THE PROSECUTION

IOANNIS VLASSIS

Data gathered for this report reinforces the view that policing is a male-dominated profession in the Western Balkans. This is partly due to prevailing stereotypes of both gender and policing, namely that the latter is a confrontational and physically demanding job²⁴⁷ that requires physical strength, authority and resilience – traits traditionally associated with men.²⁴⁸ As a result, women have been under-represented in police services in the Western Balkans, particularly in leadership positions.

Studies have shown that a more gender-equal police force brings diverse perspectives and experiences to the table, leading to more inclusive and effective policing strategies that not only better serve all members of the community, but also result in tangible improvements in efficiency²⁴⁹ as well as fostering trust and collaboration between communities and the police.²⁵⁰ Women often excel in areas such as communication, conflict resolution and community engagement, skills that are essential for an institution mandated to protect and serve the public. Furthermore, a gender-balanced police force is particularly effective in addressing cases involving domestic violence and sexual assault. Considering that domestic violence makes up around one in six crimes reported to the police²⁵¹ and that 35% of women globally have experienced gender-based violence within their lifetime,²⁵² it is crucial to have an adequate representation of female officers that are better placed to provide crucial support and empathy to victims.

Room for improvement

Greater representation of women in police services is not only a reflection of changing attitudes in society and of policing, but it is also being spurred by the process of EU accession and broader international commitments such as the UN Women, Peace and Security agenda, the Pact of the Future and the 2030 Agenda for Sustainable Development (particularly goal number five to ‘achieve gender equality and empower all women and girls’).²⁵³ Gender equality is not only a core value but also a fundamental right recognized by the EU.²⁵⁴ As a result, gender equality is a key element of criminal justice reform for countries of the Western Balkans engaged in the process of moving closer to EU norms and commitments.

However, female representation in law enforcement in Western Balkan countries is often below the EU average of 18.5%.²⁵⁵ As revealed in this report, some countries of the region, such as Serbia and North Macedonia, surpass the EU average with women making up 27%²⁵⁶ and 21% of their respective national forces.²⁵⁷ However, Kosovo (14.8%),²⁵⁸ Albania (14.3%)²⁵⁹ and Montenegro (13.8%)²⁶⁰ are below the average, while Bosnia and Herzegovina trails considerably behind with 9%²⁶¹ of the police force being made up of women.

Women are particularly under-represented in leadership positions within the police. In Albania, 10% of directors are women while the percentage of female first directors is only 3%.²⁶² In Bosnia and Herzegovina, the figures are similar, with women occupying just 7% of leadership positions.²⁶³ The situation is even worse in Montenegro, where no women currently hold top managerial positions.²⁶⁴ In Kosovo, women hold 10.2% of leadership positions (at the level of sergeant and above).²⁶⁵ Slightly better statistics are found in Serbia and North Macedonia, where women hold 18.6%²⁶⁶ and 17.8%²⁶⁷ of leadership positions, respectively. By not being in leadership positions, women have less influence on decision-making.

To move beyond token gestures, it is essential to empower women in a myriad of ways and, more importantly, to focus on tackling the deep-rooted male culture in this field. Provision of training on gender sensitivity and equality to all employees is crucial. This includes understanding unconscious biases and stereotypes that limit equal opportunities, and ensuring that all members of the sector are aware of, understand and can advocate for gender equality. Furthermore, political influences that undermine merit-based processes must be addressed, ensuring that recruitment and promotions within the police are based on competence and integrity rather than political considerations.

Prosecution: more inclusive

While many sectors within the criminal justice system in the Western Balkans struggle to achieve gender equality, the prosecution stands out as a leader in gender representation, often surpassing EU standards. In several Western Balkan countries, women hold a significant presence in prosecutorial roles, reflecting a more balanced and inclusive approach within the justice system.

For example, in Montenegro, 62% of state prosecutors are women – significantly higher than the European average of 54%.²⁶⁸ The majority of prosecutors (55%) in North Macedonia are women,²⁶⁹ and 43% are in leadership positions (up from 15% in 2012).²⁷⁰

In contrast, Kosovo, with 42.6%²⁷¹ of female representation in the prosecution, falls short of the European average. More concerning is the stark under-representation of women in leadership positions, where only 3% of these roles are held by women.²⁷²

In Serbia, while 60.2%²⁷³ of prosecutors are women, men continue to dominate leadership roles. For example, in the higher public prosecutors' offices, men hold 15 out of 25 high offices.²⁷⁴ This underscores a persistent glass ceiling, reflecting traditional gender roles and the challenges women face in advancing to top positions within the prosecutorial system.

Albania, although showing a promising 47.2% female representation at the First Instance Court level, experiences a sharp decline in female participation at higher levels, with only 20% of representation in the Supreme Court and 8.6% of women in leading prosecutorial positions.²⁷⁵

These disparities underscore the ongoing challenges in achieving true gender equality within the prosecutorial systems of the Western Balkans. While some countries exceed or meet the European average, the persistent male dominance in leadership positions across the region suggests that there is still much work to be done. To close this gap, it is essential for Western Balkan countries to implement specific recruitment targets for women, especially in leadership roles, and to develop comprehensive mentorship and leadership development programmes that support their career progression. Additionally, reducing political influence in appointments and promotions is crucial to fostering a merit-based system that genuinely reflects the capabilities and contributions of female prosecutors. Achieving this will not only bring the region in line with European standards but also strengthen the overall integrity and effectiveness of its prosecutorial systems.

Recommendations

As the Western Balkans continue to navigate the challenges of achieving gender equality within their police and prosecution systems, several key recommendations emerge to bridge the gap between policy and practice. The efforts of female police officer associations across the region, such as the Women's Police Association of Montenegro and the Policewomen's Network Association of Bosnia and Herzegovina have been instrumental in promoting gender equality.

To build on these efforts, it is essential to set specific recruitment targets for women, particularly in leadership positions, within both the police and the prosecution. These targets should be accompanied by professional development programmes, including mentorship initiatives and continuous education that challenge stereotypes and empower women to take on decision-making roles. Additionally, improving the selection and training of managerial staff will help drive systemic change within these institutions. Another crucial step is enhancing the mechanisms for monitoring and reporting on the progress of gender equality initiatives. This will ensure that policies are not just theoretical but are translated into actionable steps that lead to tangible improvements.

Finally, promoting year-round advocacy and public awareness campaigns can shift societal perceptions of law enforcement as a male-dominated field. By highlighting the contributions of women and fostering a more inclusive environment, the region can attract a more gender-diverse talent pool to careers in law enforcement. Empowering women in these sectors is not only about meeting international standards and numerical benchmarks, but also about enriching the operational effectiveness of police and prosecution offices, enhancing community trust, and ultimately contributing to the stability and security of the Western Balkans as they progress toward EU integration.



CONCLUDING OBSERVATIONS

This study, the third instalment of a trilogy of papers on organized corruption in the Western Balkans, has reviewed the most salient issues relating to the integrity and independence of police and prosecution services in the WB6. Although these countries have undergone very similar economic and political transformations in the last few decades, including reforms of police and prosecution services, there are significant differences between them. Despite this, they have a notable similarities and a number of common issues when it comes to the fight against corruption and organized crime. These have been reviewed in detail in the chapters on each service (police and prosecution), and the ensuing list of selected findings and recommendations.

Beyond this, there are a number of recommendations that apply to the WB6 as a whole:

- Enhance the culture of integrity and rule of law both within the police and prosecution and in self-governing bodies, such as High Prosecution Councils, national parliaments, government ministries, political parties, professional associations and sectoral trade unions, the media and civil society.
- Implement all legal provisions, organizational procedures and ethical codes related to safeguarding the professional and operational independence and integrity of the police and prosecution. Particular focus should be placed on the individual incumbents of professional and administrative positions and roles, including the managers of the various units, offices and departments.
- Develop specific strategies, methods and techniques for dealing with organized corruption and organized crime in order to promote systematic rather than individual, case-by-case approaches; this should be combined with a digitalized case-management system.
- Ensure the independence of specialized anti-corruption/anti-organized crime bodies by providing professional personnel; dedicated management; adequate financial, material, technological and human resources; as well as clearly defined scopes, mandates, prerogatives and positions within the criminal justice system, including guaranteed, independent funding as far as possible.
- Promote continuous training and education of police officers and public prosecutors working in specialized anti-corruption and anti-organized crime departments. This should cover the investigative skills and knowledge needed to deal with the complexity of organized crime and corruption (including on money laundering, cybercrime and dark-web platforms) as well as to collect, process and present all admissible evidence in an effective format.

- Improve cooperation between the police and prosecution within the context of prosecution-led investigations. This should involve the development of guidelines and manuals for investigation management and practical training through specialized courses and mentoring; building mutual respect and trust between police and prosecutorial bodies, and among the individual officers and prosecutors engaged in organized corruption and crime cases; and establishing dedicated judicial police where appropriate.
- Recognize the vulnerability of whistle-blowers, victims and witnesses, paying particular attention to their protection and respectful treatment when assisting with the legal process; as well as improving communication with the media, journalists and civil society.
- Bolster international, regional and bilateral cooperation between police and prosecutors. This should be done in line with international standards and within the frameworks of existing conventions and treaties as well as through key international bodies such as Europol and INTERPOL; place more emphasis on joint investigations as well as joint training, which have been shown to be highly effective both in fighting transnational crime as well as in fostering mutual respect and trust between organizations.

These are by no means exhaustive but represent some of the most critical issues, which require special political, social, professional and cultural mobilization and engagement.

Over the past few decades, the WB6 countries have introduced significant reforms to harmonize their legislative and institutional frameworks with international standards (such as UN frameworks and the EU *acquis*), as well with the recommendations of key monitoring bodies (e.g. UNCAC, the EC, GRECO and MONEYVAL). They have also attempted to adhere to international codes of ethics, including longstanding examples such as the UN Code of Ethics for Law Enforcement Officials (1979) and more recent ones such as the EU Code of Police Ethics (2001).

Needless to say, these reforms have improved both the rule of law and the institutional capacity in Balkan countries to fight emerging challenges such as state capture, organized corruption and cross-border organized crime. However, concrete results – in terms of tackling organized corruption and crime cases, arresting perpetrators and dismantling criminal links to political and economic power structures – have been limited. The situation is even worse when it comes to dealing with organized corruption and crime at the regional level.

Political pressure is still frequently exerted over senior police and prosecutors' decisions to investigate, prosecute or withdraw a case, as well as over internal appointments and promotions. Insufficient resilience to corruption is a major problem among police and prosecution staff. Their independence has been gradually curtailed through various legislative and executive interventions backed by narrow political and economic interests, as well as through the use of delaying tactics, indirect pressure and direct interventions from politicians in high profile cases.

To counter this, governments in the region should demonstrate genuine and consistent political will to fully implement international standards by insisting on legal and ethical accountability and control mechanisms. These would apply both to internal policies, procedures and audits as well as external parliamentary and civilian oversight. Developing formal structures and procedures for independent and regular oversight is fundamental for creating a culture and environment that fosters and upholds professional integrity.

The police and prosecution (as well as the judiciary) belong to an organizational strata known as the professional bureaucracy.²⁷⁶ The police and prosecution operate in a unique context of institutional rules, procedures, missions and core values, all of which interact with the professional knowledge and ethical standards of the individuals responsible for handling the criminal cases at hand. This is inherently a very fragile system, open to tensions and conflicts and often threatened by malign political influences. Individual and organizational resilience, therefore, is absolutely crucial if they are to provide a just, impartial and equal service to citizens and counter organized corruption effectively.

Foundational education, continuous on-the-job training in ethical standards and developing a professional belief system founded on integrity and independence are the most effective resilience mechanisms. To achieve high ethical and professional standards, the police and prosecution should have the full support of national parliaments; international and regional organizations; and, above all, civil society, academia and the media. Professional values must apply to all, with everyone from the rank and file to senior management having the courage to uphold them daily – in routine as well as in extraordinary situations. This is the culture of integrity.



NOTES

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