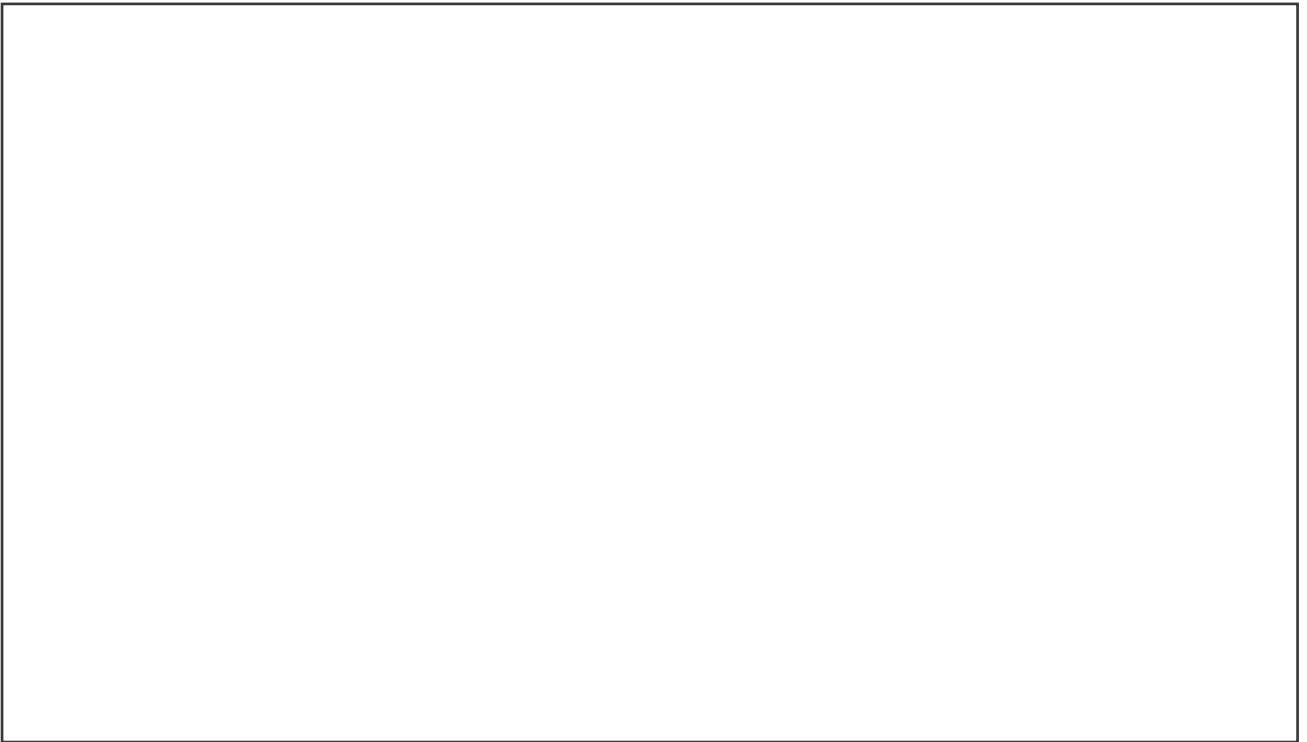




POLICY BRIEF

***“TOWARDS ACCOUNTABLE POLICE IN
THE REPUBLIC OF NORTH MACEDONIA”***



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EXECUTIVE SUMMARY

The project "Towards a transparent, accountable and inclusive policing in the Republic of North Macedonia" is implemented in order to contribute towards improved policing and increased trust in the Police of the Republic of North Macedonia.

The goal of the project is intended to be achieved by assessing the levels of accountability, transparency and inclusive decision-making in the work of the police on a national level. Furthermore, the ultimate goal of this one-year intervention is to promote dialogue between the police, media and civil society organizations at the local level, with the aim of contributing towards fostering public debate for obtaining higher security standards in the Macedonian society.

METHODOLOGICAL NOTE FOR THE RESEARCH ACTIVITIES OF THE PROJECT

Measuring public opinion

Telephone survey conducted in the period from November 23 to November 30, 2021 by BRIMA, on a representative sample of 1001 respondents, with a margin of error $\pm 3\%$, through the CATI method.

Focus group discussions with citizens

In the period from December 2021 to March 2022, eight focus group discussions were conducted with 49 citizens, of which 28 were female and 21 were male. The focus group were conducted in the cities of: Skopje, Kumanovo, Tetovo, Struga, Bitola, Shtip, Strumica and Veles.

Interviews with police officers

In the period from November 2021 to March 2022, 33 interviews were conducted with police officers from all eight Sectors of Internal Affairs (SIAs) within the Ministry of Internal Affairs (MOI) of the Republic of North Macedonia.

Requests for access to public information

In the period from December 2021 to April 2022, 92 requests for access to public information were distributed to 84 central and local public institutions (all units of local self-government, MOI, Ombudsman and Public Prosecutor's Office for Prosecuting Organized Crime and Corruption).

RECOMMENDATIONS

To the Ministry of Internal Affairs:

- Although not a party to individual criminal proceedings, it is expedient for the Department of Internal Control, Criminal Investigations and Professional Standards to use Article 126 of the Law on Criminal Procedure and to document/monitor the outcome of criminal cases against police officers and officials;
- To regularly monitor and analyze the legal practice arising from the cases of police abuse handled by the European Court of Human Rights, with particular attention to the cases in which the Republic of North Macedonia appears as a party;
- To thoroughly and regularly inform the public about the actions of the Department of Internal Control, criminal investigations and professional standards regarding the completed disciplinary proceedings, criminal charges filed, the outcome of criminal trials, in order to improve the public image and perception of the employees in the Ministry regarding the functioning of the internal control mechanisms in the fight against deviant and unethical phenomena in their ranks;
- To inform the public about the types of training and educational activities the police officers have participated in, with the aim of reducing, or preventing workplace deviations.

To external mechanisms for control over the work of the Police: The Ombudsman and the Specialized Unit for Investigation and Prosecution of Crimes Committed by Persons with Police Powers and Members of the Prison Police:

- To increase their visibility and ensure greater promotion in the public, that would increase citizens' awareness about the existence of these mechanisms for protection of their rights. The public is largely unaware that these external mechanisms exist and are functional.

To citizens and civil society organizations active in the field of human rights protection:

- Relevant and active civil society organizations in the field of human rights protection to continue to work with increased intensity to take advantage of the opportunities provided by existing internal and external mechanisms to control the work of the police through public promotion and provide assistance to vulnerable groups of inhuman and brutal treatment by officials with police powers;
- To increase their activity in the use of the internal mechanism within the MOI and the external mechanisms for protection of individual and group rights in cases where there are indications of overstepping of authority and abuse of official position by police officers, persons with police powers and prison police.

To the media and media workers:

- As an important part of democratic societies, the media and media workers should diligently and actively monitor and report on the work and conduct of state bodies and public services, including the police. To objectively and impartially inform the public about cases of police brutality, abuse of authority, as well as negligent treatment and discrimination against individuals and groups of citizens.

ACCOUNTABILITY IN POLICING

Police accountability means that policing - from the individual conduct of each police officer to police development strategies, appointment procedures or budget management - is overseen by a variety of oversight institutions. Oversight institutions may include executive bodies (political and financial control and horizontal oversight by government bodies), legislatures (MPs, parliamentary inquiry committees), the judiciary, as well as human rights committees, review bodies, the citizens, i.e. the public prosecutor's offices or the Ombudsman. In addition, the media can play an important role in informing the public about the work of the police.¹

With the advent of democratic societies and institutions, governments themselves, but also civil society, are actively seeking ways to transform police structures from state bodies that have served to control citizens into state administration bodies that will meet the needs of citizens. Hence the thesis that **the police should, above all, be a service to the citizens, and not a social apparatus of coercion, in itself**. The existence of various forms of democratic governance of societies in reality means that they are embodied through different approaches to work and strategies of organizing the police. Hence, it may be inferred that there is no single or ideal recipe for managing a police organization. The police must always be guided by the rule of law. In doing so, it should respect and protect human dignity, but also pay attention to the basic human, civil and political rights that are guaranteed to the citizens.²

¹ "Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General", Vienna, May 2008, second edition, p. 33, <https://www.osce.org/files/f/documents/f/f/109907.pdf>

² Organization for Security and Co-operation in Europe, 'Guidebook on Democratic Policing', by the Senior Police Adviser to the OSCE Secretary General, Vienna, 2008. <http://www.osce.org/spmu/23804>

In the theory of police in democratic societies it can be noted that the common denominator of a democratic police is composed of three aspects: 1) professionalism; 2) accountability, i.e. responsibility; 3) legitimacy.³

As a basic postulate of the concept of the rule of law, in democratic societies the police are accountable, i.e. responsible for their actions. In the context of the rule of law, the police gain their legitimacy through the implementation of laws, i.e. the provision of legal norms, as opposed to the enforcement of the law as a result of party interests.⁴

Police accountability has become one of the most important topics of interest in recent years and it is associated with declining public confidence in the "state", so openness and transparency are becoming highly anticipated and sought after features of this public service.⁵

Excerpt from the public opinion poll "Eurometer, winter 2021" ⁶

46% of the respondents included in the telephone survey are of the opinion that the police are not accountable (grades 1 and 2) for their work, while 20% of the respondents in the sample consider that they are accountable (grades 4 and 5). Almost one third, i.e. 32% of the respondents included in the sample, rated the police as moderately accountable (grade 3).

Police oversight over the police (but also in other bodies of the state administration) denotes: comparison of the real activity of the organization, i.e. the results of the administration (police) with the results we expected based on predetermined criteria⁷.

³ Marenin, Otwin. "Building a Global Police Studies Community", Police Quarterly Vol. 8 (1), pp. 99-136.

⁴ Atanasov, Petar. "Police reform in the Republic of Macedonia: Between community policing and democratic policing". Annual of the Institute for Sociological, Political and Juridical Research 2: pp. 21-45.

⁵ Service, Trevor. "From Belfast to Bishkek: an international perspective on neighborhood and community policing", International Journal of Police & Management, Vol. 14 (4), pp. 362-372.

⁶ Stojanovski, Aleksandar "Perceptions and viewpoints of the citizens of the Republic of North Macedonia in relation to the operation of the police", Eurothink – Center for European Strategies, Skopje, November, 2021

⁷ Pusić, Eugen. „Nauka o upravi“, Shkoljska knjiga, Zagreb, 1993, p. 304.

Hence, the supervision in the police can be:

- Oversight of the results of the work and supervision of the manner of work;
- Content oversight and Economy Oversight;
- Oversight of legality and expediency;
- Other types of oversight, such as general and special oversight, internal and external oversight, previous and subsequent oversight.

In English, the term "control" is used for "oversight", that in free translation means: "control".

The term "oversight" is closely related to the term "responsibility", i.e. accountability. In the police, the term "responsibility" has a broader meaning and, although it has a negative sign, it does not imply any guilt on the part of those in charge of such actions⁸

The role of the police in the community is to take care of public order and peace, security, but at the same time, to prevent crime, to detect and document crimes. New forms of intimidation and crime contribute to proposing and approving greater powers for the police, constantly strengthening its power in the community, including in a democratic society.

Some examples from the recent past show that, unfortunately, there were obvious and unintended consequences due to the uncontrolled use of police force.⁹ The community is constantly faced with the need to strengthen the police and the risk that the police themselves, instead of providing protection, will cross over and become a threat. This contradiction between the need for the society to strengthen the police and, at the same time, to limit and control it, is best represented in the 1962 report of the British Royal Commission, expressed through the words: "Society wants the police to be strong and effective in protecting public order and crime prevention, but it also requires that the power of police officers be controlled and limited so as not to restrict personal freedom. The result is a compromise. The police should be strong, but not violent; it should be effective but not intrusive; to be an impartial force in the political milieu of society, but also to be subject to a degree of control by persons who are not required to be impartial but who are responsible for police supervision"¹⁰

⁸ *ibid*, стр. 305.

⁹ Civil media, news: Police brutality in action – How the Rapid Deployment Unit (RDU) beat students in a reading room <https://civilmedia.mk/rezhimskata-brutalnost-na-delo-kako-ebr-tepashe-studenti-vo-chitalna/>

¹⁰ Milosavljević, Bogoljub. „Nauka o policiji“, Policijska akademija, Belgrade, 1997, p. 300.

Excerpts from focus group discussions with citizens

“I just want to say about the police approach to the Roma community. It is very discriminatory, the approach is very bad, so they are being dragged, last year I think the police fired a bullet in the middle of the Roma neighbourhood, in a street full of people, with children, they fired a bullet up close and did not take responsibility for it...Because we are Roma”- interlocutor, FG Shtip.

“We see accountability for some, so, lump sum violations, we see a report, here, in the bulletin they publish, that someone came in, stole a bicycle, someone was caught with a gram of marijuana...We rarely report from the police about important and big crimes”- interlocutor, FG Strumica.

”

To be effective in enforcing oversight and control, the community needs effective governance mechanisms.

INTERNAL CONTROL OVER THE POLICE WORK IN THE REPUBLIC OF NORTH MACEDONIA

There is a hierarchical structure in the police organization of the Republic of North Macedonia that is based on the principles of legality, efficiency, unity of management and law enforcement with minimal coercion. Each police officer is responsible for enforcing police responsibilities, and responsibility increases in proportion to advancement in the hierarchy of the police organization.

Average rating from the conducted interviews with the police officers in the eight Sectors of Internal Affairs (SIAs)

"The police in North Macedonia are accountable in their work" - average grade: 3.95
(on a scale of 1 to 5, where 1 is the lowest grade and 5 is the highest grade).

Deviations and misconduct in the police organization are corrected by the rules of occupation and the decisions of the manager. Cases of more serious illegal and unethical police conduct are investigated and documented by the Department of Internal Control, Criminal Investigation and Professional Standards.

The Department of Internal Control within the MOI, has been established more than two decades ago in order to improve the professionalism of the police. Its remit is expanded from the outset by adding tasks to document police misconduct and by building a culture of establishing and enhancing professional standards - at central and local levels.

Subsequently, the competence of the Department was supplemented by the establishment of the Institute of "criminal investigations", which aims to intercept the criminal behavior of individuals - police officers and document criminal behavior.

Table no. 1: Data on the work of the Department of Internal Control, Criminal Investigation and professional standards from the Annual Report of the Ministry of Internal Affairs for 2021 ¹¹

Activities of the Department of Internal Control, Criminal Investigation and Professional Standards	2020	2021
Mandatory measures for initiating a procedure for establishing disciplinary liability against employees	388	307
Measure at issue "indication"	185	232
Measure at issue to launch a procedure for compensation (material responsibility)	21	15
Mandatory measure for removal, i.e. suspension from the place of work until the end of the disciplinary procedure	24	39
Employees requested to undergo a psychological-psychiatric examination	52	34
Employees who have had their weapons confiscated	48	33
Complaints received and responded to from the Ombudsman	30	43
Written responses received from NGOs	19	15
Investigated cases where overstepping of authority and abuse of official position are indicated	1409	1239
Written complaints	608	562
Orally submitted complaints	232	262
Anonymous submissions	259	97
Complaints submitted through the telephone number 199	-	1
Complaints filed through attorneys authorized by citizens	72	68
Complaints submitted through legal entities	-	47
Official materials obtained from internal applications and own acknowledgement	220	214
Criminal charges filed	19	17
Notification to the PPO (Public Prosecutor's Office) for its acquaintance and action	101	81
Notifications submitted at the request of the PPO	88	150

¹¹ Annual report of The Ministry of Internal Affairs (2021)

https://mvr.gov.mk/Upload/Editor_Upload/Godisen%20izvestaj%20na%20MVR%20za%202021%20godina,%20%20-%2015_04_2022.pdf

However, citizens do not have much interaction or experience with the internal control mechanism. It remains unknown to the public how criminal investigations are conducted by the Department of Internal Control.

Excerpts from focus group discussions with citizens

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"I have heard about the internal control of the police. A policeman once told me : ‘The ones in Skopje who are the Internal Control, they see us as enemies. "It is enough to commit an illegal act and you will surely be punished...they are our main enemies'" – interlocutor, FG Shtip.

After the report submitted to the Internal Control of the Ministry of Internal Affairs, the answer received by a citizen of Skopje from a police officer was: "You reported him in vain, we will not punish him. "Withdraw the report". – interlocutor, FG Skopje.

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Also, the professional public constantly strives for greater independence of the Department, especially in terms of selection and appointment of the head, which is decided by the Minister of Internal Affairs.¹²

¹² Stojanovski, Trpe. "Ombudsman+ Oversight mechanism of the work of the police in the Republic of North Macedonia – legal opinion", Helsinki Committee of North Macedonia, Skopje, 2021.

EXTERNAL CONTROL OVER THE POLICE WORK IN THE REPUBLIC OF NORTH MACEDONIA

The external oversight mechanism for police control is an important tool for correcting police behavior against the law and an opportunity to direct future police action that will gain the support of the community. A significant step forward in the Republic of North Macedonia was made in 2016, when the concept of establishing a special unit in the PPO was adopted, that will act on crimes committed by police officers (and other officers with police powers). In 2018, legal changes were made and a precondition was established for launching the concept of external control of the police. This department within the PPO-POCC (Public Prosecutor's Office for Prosecuting Organized Crime and Corruption) started working in December 2018.

The first years of the work of the Specialized Unit for Investigation and Prosecution of Crimes Committed by Persons with Police Powers and Members of the Prison Police in the PPO, show considerable activity and efficiency in detecting, documenting, prosecuting and adjudicating crimes committed by police officers.

***Response to the request for access to public information
for the work of the Specialized Unit for 2021***

During 2021, 125 charges (cases) were filed against 279 police officers and members of the prison police in the register "KOPS" (Criminal Indictment Against Police Officers), out of which 91 criminal charges (cases) for 217 persons are from 2021, 31 criminal charges (cases) for 57 persons are from the previous 2020, 2 criminal charges (cases) for 4 persons are from 2019 and 1 criminal charge (case) for 1 person from 2018.

- For 32 persons, Indictment motions were submitted to the Basic Criminal Court Skopje;
- for 20 persons, Proposals for issuing a criminal order were submitted to the Basic Criminal Court Skopje;
- decisions for dismissal of criminal charges were adopted for 122 persons;
- for 15 persons the reports (cases) were submitted to the relevant authority of another Basic Public Prosecutor's Office;
- orders for conducting an investigation procedure were adopted for 10 persons;
- requests for resolving conflicts of jurisdiction have been submitted for 4 persons.

First instance verdicts were passed for 50 persons, out of which 36 persons were sentenced to an alternative measure - suspended sentence, 6 persons were sentenced to prison, 4 persons were fined and 4 persons were acquitted.

During 2021, the ledger "ROPS" (Working Indictment Against Police Officers) processed 167 cases against 338 persons, out of which 164 cases for 330 persons with police powers and 3 cases against 8 persons members of the prison police. There were 68 cases for 134 people who remained in work in 2020 and 2 cases for 4 people who remained in work in 2019 or in total in 2021 there were 237 cases for 476 people.

- 168 cases for 341 persons were completed with a decision of the Public Prosecutor (Resolutions were adopted);
- 69 cases for 135 people remained in operation.

The second component of this mechanism consists of the establishment of a special unit within the Ombudsman, which will be attended by three officials from the Ombudsman's Office and three representatives of civil society, the second selected in a vacancy announcement issued by the Parliament of the Republic of North Macedonia.

With the establishment of the Ombudsman's Unit, this mechanism has been partially implemented, although it still struggles to start working in the true sense, due to the asymmetric position of the representatives of the civil sector, whose term is limited to one year, instead of the projected three years. The second big concern is the attempt of the Ombudsman in 2020 to impose itself on the representatives of the civil society - members in the body for external control, and to exhort them in the work of the body.¹³

From the Annual Report on the work of the Ombudsman for 2021¹⁴

During 2021, a total of 117 complaints were registered in the area of police powers, which is 10% less than the previous year, when 130 complaints were registered. This reporting year, as well as the previous one, the citizens complained about not taking measures after criminal charges and other complaints (42), insufficient measures taken by the police to detect and catch the perpetrators of crimes (12), including the detection of murders and aggravated theft, for failing to provide police assistance and protection of citizens (12), as well as unjustified seizure and return of objects in police proceedings (11). Some of the submitted complaints (15) referred to unfounded or illegal deprivation of liberty, unjustified apprehension and unfounded summoning and detention in a police station, violation of the rights in misdemeanor proceedings (9) and complaints in which the citizens requested only legal advice (8).

¹³ 360 Degrees, News, "A New denial to Idzet Memeti, now by the members of the "Ombudsman"
<https://360stepeni.mk/nov-demant-do-idhet-memeti-sega-od-chlenkite-na-ombudsman/>

¹⁴ Annual report on the work of the Ombudsman for 2021.

<http://ombudsman.mk/%D0%9F%D0%BE%D1%87%D0%B5%D1%82%D0%BD%D0%B0/%D0%9D%D0%9F%D0%9C/%D0%98%D0%97%D0%92%D0%95%D0%A8%D0%A2%D0%90%D0%98/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%BD%D0%B8.aspx>

CONCLUSIONS

According to the results of the public opinion poll, the percentage of citizens (1.7%) who needed to file a complaint to the Internal Control of the Police is low. Of those who reported to the Internal Control, 2/3 think that it does not contribute to reducing corruption and unprofessionalism in the organization.

In general, this finding should be considered only as an indicator, given the small statistical mass, and as a basis for broader generalizations.

During the discussions with the citizens their opinions and views were fully covered and, unlike the interviews with the police officers, this diverse group of citizens openly discussed and analyzed the work of the police in their local communities, specifically focusing on transparency, inclusive decision-making, the concept of "community policing", police accountability and its effectiveness in local communities.

In general, the definition of transparency and accountability is quite similar for the focus group participants. Some of the interlocutors believe that the police are accountable through the information shared on the social media accounts and official website of the Ministry of Internal Affairs. Some do not consider the accountability of the Ministry of Internal Affairs as complete. Regarding the accountability of the police, the participants believe that the Ministry of Internal Affairs is far from the open and democratic concept of work and believe that the citizens are not sufficiently informed about the work of the police.

According to them, **accountable police** means that the Ministry of Internal Affairs regularly notify the public and the citizens about their activities and how they obtained that information. Regarding the external oversight mechanism over the police, most of them have not been acquainted with these possibilities. Most of them are familiar with the internal oversight mechanism in the police. The prevailing perception is that the external police oversight mechanism cannot function transparently and professionally if it is from North Macedonia.

Asked about the **external oversight mechanism of the police work**, some of the interlocutors mostly equate it with the OSCE, as an instrument that implements activities that cannot be realized and administered by the MOI. To the contrary, other interlocutors have not heard about the **external oversight mechanism of the police work** and, in general, they connect it with the mechanism of the MOI for internal control. Asked about their opinion about what an external mechanism should look like, the discussants said it should be an independent, civilian body, which should function by law and be a body of people working in the field of human rights and security, and they control how the police act.

*Excerpt from the Guidebook on Democratic Policing by the OSCE Secretary
General Senior Police Advisor*

Without external oversight mechanisms, police chiefs could not open investigations or punish us in cases of overstepping of authority, leading to ineffective internal control. External oversight mechanisms can achieve greater impartiality (at least in the public eye) when investigating serious allegations against police officers. In addition, these mechanisms may be better set up to encourage police officers to present evidence against other officers, and in particular against superiors.

The few citizens covered by the focus groups who had some experience with internal control believe that this mechanism functions as a repressive tool towards police officers. These people say that the internal control within the police is perceived as an activity undertaken by the citizens, which can directly affect the endangerment of the workplace. On the other hand, one of the interlocutors in the discussions with the citizens pointed out that the internal control mechanism works well, in a certain institution they duly requested all the necessary documentation, but were not informed about the result of the procedure.

Regarding the **fight against corruption** in the MOI, the citizens believe that it is very difficult to realize, because there are individuals who want to hinder the process and a systemic and inter-institutional coordinated action to combat corruption in the police should be established.

The police are the most visible manifestation of government bodies responsible for public safety.

To strengthen the rule of law, police reform is crucial as a priority area for greater community efficiency and further progress towards EU membership.¹⁵

On the other hand, the role of the Council of Europe is very important for further strengthening the external police control mechanism. A step forward has been made in mastering the basic knowledge of the operation of the external mechanism. However, further expertise and training is needed for full harmonization and operation of the external control mechanism.

Finally, the police organization in a democratic society can be recognized by its readiness and acceptance of external control and oversight, as well as by the degree of openness to cooperate in these checks (controls). Most of the CSOs with supervisory affinities deal with complaints against the police. However, the degree of their involvement in grievance redress varies considerably. While some oversight associations are responsible for receiving and investigating complaints - sometimes only in cases of serious misconduct or when there appear to be inconsistencies in internal control - other CSOs are limited to monitoring and reviewing investigations conducted by the services themselves. Similarly, while some bodies have no influence over measures to overstep their authority, others may recommend disciplinary action and may even have the power to impose sanctions.¹⁶

¹⁵ Shilston, Timothy. "Democratic policing, community policing and the fallacy of conflation in international police development missions", *International Journal of Police Science & Management* 2015, Vol. 17(4), pp. 207–215

¹⁶ "Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General", Vienna, May 2008, second edition, p. 33, <https://www.osce.org/files/f/documents/f/f/109907.pdf>

