

Complaints Against the Slovenian Police: On the Problem of Independence and Procedural Impartiality¹

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Purpose:

The paper focuses on the problem of independence and impartiality of the complaints procedure against police work in Slovenia. Relying on the findings of the targeted research project, we address and examine the concerns regarding the adequacy of the current format and indicate the possibilities for legislative changes and reform.

Design/Methods/Approach:

We carried out an analysis of the legal regulation of the complaints procedure regarding the work of police officers and the results of previous research in the field. Based on the findings, we conducted a structured interview with a general questionnaire in written form and oral interviews with the people who perform the complaints procedures.

Findings:

The current regulation of complaints has advantages and disadvantages. According to the interviewees and in line with a wider professional consensus, complaints procedures should in future be carried out outside the Ministry of the Interior (“the Ministry”) and the police. This would mean that complaints procedures would gain what they lack at present, namely the appearance of impartiality and formal/institutional independence.

Research Limitations/Implications:

In our research, we interviewed employees of the Ministry and representatives of the public who are involved in proceedings before the complaints panels of the Ministry. In future research, other participants (e.g. the complainants and police officers) should also be interviewed for a more comprehensive view of the issue.

Originality/Value:

We examined the views of the employees of the Ministry who carry out complaints procedures in order to establish the validity of concerns regarding the

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adequacy of current regulation and we indicated the possibilities for reform of the current procedures.

Keywords: complaints against police work, procedure, independence, impartiality, Slovenia

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Pritožbe zoper delo policije: O problemu neodvisnosti in nepristranskosti postopka

Namen prispevka:

Namen prispevka je predstaviti ugotovitve ciljnega raziskovalnega projekta »Učinkovitost sistemskega nadzora nad policijo na področju spoštovanja človekovih ter zakonskih in strokovnih standardov policijskega dela (V5-1942)«. Prispevek se osredotoča na problem neodvisnosti in nepristranskosti pritožbenega postopka zoper delo policije.

Metode:

Izvedli smo analizo pravne ureditve instituta pritožbe zoper delo policistov in rezultatov raziskav s tega področja, ki so bile že izvedene. Na podlagi ugotovitev smo izvedli strukturirani intervju s splošnim vprašalnikom v pisni obliki in ustne intervjuje z izvajalci pritožbenih postopkov.

Ugotovitve:

Veljavna ureditev pritožbenega postopka ima tako prednosti kot tudi pomanjkljivosti. Po mnenju intervjuvancev in stroke na splošno je treba v perspektivi pritožbeni mehanizem izločiti iz Ministrstva za notranje zadeve (MNZ) in policije, s čimer bi mu zagotovili to, česar v veljavni ureditvi nima – videz nepristranskosti in formalno/institucionalno neodvisnost.

Omejitve/uporabnost raziskave:

V raziskavi smo intervjuvali sodelujoče v pritožbenih postopkih, ki potekajo pred senati MNZ V prihodnje bi veljalo intervjuvati, poleg uslužbencev MNZ in predstavnikov javnosti, tudi pritožnike in policiste.

Izvirnost/pomembnost prispevka:

Preverili smo stališča izvajalcev pritožbenih postopkov o (ne)utemeljenosti pomislekov glede ustreznosti veljavne ureditve in nakazali možnosti za morebitno reformo obstoječega formata pritožbenega mehanizma.

Ključne besede: pritožba zoper delo policije, postopek, neodvisnost, nepristranskost, Slovenija

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1 INTRODUCTION

The start of the process of developing the complaints procedure against police work in Slovenia dates back to the time when the country gained its

independence. The Law on Police (Zakon o policiji [ZPol], 1998), which came into force in 1998, established a mandatory written form of complaint and introduced a procedure in front of a panel at the Ministry of the Interior (*Ministrstvo za notranje zadeve* [MNZ]). Also under the ZPol (1998), representatives of the public became members of the panels. In 2003 the Act Amending the Police Act (Zakon o spremembah in dopolnitvah Zakona o policiji [ZPol-G], 2003) introduced two levels of decision-making on complaints – conciliation proceedings and proceedings before the panel, with which the process acquired its current form. Both levels/forms of dealing with complaints have been upgraded by the Police Tasks and Powers Act (Zakon o nalogah in pooblastilih policije [ZNPPol], 2013), which has been amended twice so far. Currently, the complaints procedure is regulated by twenty provisions of the ZNPPol (2013) and in more detail by the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013).

ZNPPol (2013) states that a complainant may express disagreement with a police officer's action or his or her failure to act while performing police tasks, which could constitute a violation of human rights or fundamental freedoms. In a complaints procedure, the circumstances of the application of police procedure and the exercise of police powers shall be established. If it is found that a police officer committed violations that are the subject of other procedures, the findings shall be reported to the head of the police unit to which the police officer is attached and the head of the unit shall act in accordance with his or her powers. In the complaints procedure, the police are obliged to participate in the conciliation proceeding to try to resolve the complaint. If the complainant is not satisfied with the outcome of the attempt at conciliation, his/her complaint shall be considered by a panel of three members. The panel is headed by a civil servant from the Sector for Complaints against the Police in the Directorate for Police and Other Security Tasks at the Ministry of the Interior and the other two members are representatives of the public. In cases where the complainant alleges a serious violation of human rights and in other cases which involve para. 4 of Art. 148 of ZNPPol (2013), the complaint shall be considered directly by the panel. In a complaints procedure, the complaint shall be independently, impartially and competently examined, while the complainant and the police officer shall be provided with all procedural rights in accordance with the ZNPPol (2013).

The annual reports on the resolution of complaints against the police show that the number of complaints lodged by individuals has decreased in recent years. 797 complaints were lodged in 2008 and 358 in 2015. The annual reports for the period 2015–2019 show that during this period the number of complaints lodged fluctuated between 309 (2016) and 358 (2019), which means that it was fairly constant. Given the number of all police procedures started, the number of filed complaints is not large. This, according to the authors of the annual reports, indicates that police officers generally perform their tasks professionally and that in most cases they use police powers in accordance with the law (MNZ, 2016; 2017; 2018; 2019; 2020).

The number of conciliation proceedings initiated in that period ranges between 106 in 2016 and 158 in 2019. In 2018, more than half of conciliation procedures were

successfully completed, which was not the case in previous years. While this has reflected past efforts to improve the quality of the implementation and monitoring of the conciliation procedure, this trend continued in 2019 too. At the sessions of the panel, a more or less constant number of complaints was considered in that period, namely a minimum of 69 in 2016 and a maximum of 79 in 2015 (72 in 2017, 73 in both 2018 and 2019). The annual reports show that the share of substantiated complaints in 2018 (13.4%) decreased significantly compared to the previous year (23.6%). In recent years the largest number of complaints has concerned road safety, followed by public order and peace, the detection and prevention of crime, and finally the protection of the state border and treatment of foreigners (MNZ, 2016; 2017; 2018; 2019; 2020).

According to the provisions of the ZNPPol (2013), employees of the Sector for Complaints Against the Police (*Sektor za pritožbe zoper policijo* [the Sector for Complaints]) directly monitor conciliation proceedings. From 2017 onwards, summaries of substantiated complaints are published on the Ministry of the Interior's website. The employees of the Sector for Complaints forward the documentation to the General Police Administration, with a recommendation that the content is used in police training. In the police units where violations were committed, police officers are acquainted with cases of substantiated complaints, as well as with concrete examples of exemplary preparation and conduct of conciliation proceedings. The employees of the Sector for Complaints carry out these activities to eliminate inadequate practices of police officers in carrying out police tasks and ensuring consistent respect of the human rights and fundamental freedoms of persons involved in police procedures.

In practice, the handling of complaints against the work of police officers has improved in recent years in all stages of the complaints procedure. Nevertheless, there are serious concerns about the current system and its operation. In the 2019 report, for example, the Ombudsman of the Republic of Slovenia ("the Ombudsman") draws attention to cases where complaints have not been comprehensively considered and the facts of police proceedings have not been properly and completely established (Ombudsman of the Republic of Slovenia, 2020). In our view, these cases address the issue of independency and procedural impartiality of the current format of complaints procedure. The question that arises here is whether the conciliation proceedings before the head of the police unit as well as the proceedings before the panel can meet these imperatives within their current formal/institutional framework, e.g. within the police and Ministry.

Relying on the findings of the targeted research project (see note 1), the article discusses in more detail the problem of the independence and impartiality of the complaints process. We will address and examine the concerns regarding the adequacy of the current format and indicate the possibilities for legislative changes and reform.

2 COMPLAINTS PROCEDURE UNDER CRITICISM

In the public debate so far, all previous aspects of the complaints procedure have been criticized as inadequate by supervisory institutions, non-governmental

organizations and legal and other experts. The inadequacy of regulation under the Law on Police of 1998 (ZPol, 1998) was pointed out by the Ombudsman, followed by some non-governmental organizations and experts. The Ombudsman assessed that regulation at the time did not allow for objective decision-making and did not enjoy public confidence (Ombudsman of the Republic of Slovenia, 2002). Similarly, Anžič and Gaber (2004) argued that in the conciliation procedure “the police supervise the police” and that consequently these procedures involved not conciliation between the complainant and police officer, but internal control over police compliance with the laws. The latter was also shared by the Administrative Court in its decision no. U 65/2000-11 (Upravno sodišče RS, 2001).

The regulation of the complaints mechanism under the Act Amending the Police Act (ZPol-G, 2003), adopted in 2003, and the Rules on Resolving Complaints of 2004 (Pravilnik o reševanju pritožb, 2004), also raised numerous concerns. Anžič (2006) pointed out that the then regulation did not increase the level of objectivity in resolving complaints and did not eliminate doubts about the impartiality of the complaints procedure. By partially delegating authority for resolving complaints from the police to the Ministry of the Interior, the legislator allegedly insufficiently enforced the principles set out in Recommendation REC (2001) 10 of the Committee of Ministers of the Council of Europe on the European Code of Police Ethics (Committee of Ministers of the Council of Europe, 2001). According to Anžič (2006), the amendments to the Rules on Resolving Complaints (2004), adopted in 2005, worsened the situation even further because they limited the possibility of complaints to a narrower set of police tasks and powers.

The 2003 regulation sought to remove doubts about the credibility and impartiality of the complaints procedure by partially transferring the resolution of complaints from the police to the Complaints Department at the Ministry of the Interior, where, according to Anžič (2006), former police officers would retain all of their former character traits, including police cynicism. He was also critical of the complaints proceedings because no decision was issued at the end of them, but only the response of the panel, against which the appellant had no legal remedy. He proposed the abolition of the concept of conciliation and proceedings before the panel and instead proposed the introduction of an independent complaints mechanism outside the Ministry of the Interior and the police. By establishing an independent body over which the Minister, Director General of Police, and other police officials would have no influence, the Republic of Slovenia would ensure efficient, professional, and impartial handling of complaints, which would also be perceived as such by the public (Anžič, 2006).

In a survey on complainants' satisfaction with complaints procedures in 2012, Hudrič and Kuralt (2013) found that 80% of respondents had doubts about the procedures' independence, impartiality and objectivity. They attributed a high proportion of dissatisfaction to the involvement of the police and/or the ministry at both stages of the proceedings. More than 60% of respondents believed that the dispute is often not resolved in the conciliation proceedings because the head of the police unit did not thoroughly check and establish the facts and because he did not present his findings and measures correctly.

Concerns also arose regarding the current regulation and practice of conducting complaints procedures under ZNPPol (2013). The Ombudsman has pointed out that current regulation does not differ significantly in nature from its predecessor. In his 2015 annual report, he noted that he had received many complaints in which the petitioners claimed that the police officers were unwilling to accept their complaints. He emphasized the paramount importance of the conciliation procedure, which, if carried out in an appropriate manner, in his opinion could resolve most of the misunderstandings which had given rise to the applicant's dissatisfaction, especially allegations of minor police interference with individual rights. About the handling of complaints before the complaints panel, he claimed that, in the vast majority of cases, the panels trusted the police officers more than the complainants, that in some cases they were biased and that they had double standards. The Ombudsman recommended to the Ministry and the police that they should check the levels of independence, objectivity, professionalism and quality of resolving complaints before the panel on a regular basis, and, if necessary, take additional measures to improve the situation (Ombudsman of the Republic of Slovenia, 2016).

Also critical of current regulation are the employees of the Sector for Complaints who participate in proceedings before the panels as panel leaders or rapporteurs, and monitor conciliation proceedings. In their annual reports they claim that in recent years they have noticed significant progress in the implementation of conciliation procedures, but at the same time pointed out the tendency of heads of the police units to excuse or justify the conduct of police officers, even if the circumstances show that their actions were illegal or at least unacceptable. According to them, the proceedings in front of the head of the police units are not carried out as real conciliation and mediation procedures. They pointed out that more attention needs to be paid to the independent, impartial and professional handling of complaints and to raising awareness of the role of civilian oversight of police procedures (MNZ, 2016; 2017; 2018; 2019; 2020).

3 ON THE PROBLEM OF INDEPENDENCE AND IMPARTIALITY - FINDINGS OF THE TARGETED RESEARCH PROJECT

3.1 Method

As part of the targeted research project (see note 1), we carried out a study of the current legal regulation of the complaints procedure and analysed the results of the previous research in this field. We then conducted a structured interview with the Head of the Sector for Complaints against Police in the Directorate for Police and Other Security Tasks at the Ministry of the Interior with a general written questionnaire. After the analysis of the interview with the general questionnaire, we also conducted an oral interview with the head of the Sector. Furthermore, we carried out an oral interview with two employees of the Sector who participate in the proceedings as the Minister's representatives as panel leaders and rapporteurs as well as with a representative of the public in the panels. In aggregate, we conducted one written and four oral interviews. The structured interview with the

general questionnaire was sent to the head of the Sector for Complaints by e-mail, after prior coordination with the supervisor of the research project at the Ministry of the Interior, who agreed with our proposal for the general questionnaire. Oral interviews were conducted at the premises of the ministry. Both the questions in the general questionnaire as well as those that were asked in oral interviews referred to different segments and aspects of the functioning of the complaints mechanism against the police. In this paper, we summarize the findings relating to the issue (and problem) of independence and impartiality in handling complaints.

3.2 Results of the structured interview with a general questionnaire

The head of the Sector for Complaints expressed the view that the current regulation of the complaints procedure is not in line with the imperatives of independence and impartiality. In his opinion, this applies to both the conciliation procedure and the procedure before the panel. Because of the existence of a police subculture, it would be unrealistic to expect the leaders of conciliation proceedings not to justify certain actions of fellow police officers. He reiterated the view from some annual reports on complaints procedures (see above) that the current version of the conciliation procedure is certainly not based on the standards of independence and impartiality applicable to alternative dispute resolution. Rather, this procedure is an encounter of the complainant with the police, represented by the head of the police unit, which cannot be a mediation between equal parties of a dispute. The head of the Sector for Complaints explained that one of the tasks of the Sector's employees is to monitor conciliation proceedings with the goal of overseeing individual cases and conciliation leaders and preventing the concealment of illegal and unacceptable actions of police officers. Whilst due to staffing issues the Sector's employees cannot monitor every conciliation procedure, they are present in more than 50% of cases.

We learned from the interviewee's answers that the employees of the Sector for Complaints are trying to eliminate the tendency of police unit leaders to justify the actions of police officers and other unacceptable practices by conducting monitoring. The interviewees also confirmed that the Sector is aware of the Ombudsman's warnings about the many complaints he receives in which the initiators claim that the police officers did not want to accept their complaints. In the opinion of the head of the Sector for Complaints, it should be taken into account that a complaint against the work of the police can also be filed with the Ministry of the Interior, either in writing, electronically, or via an e-application if and when a police officer does not want to accept a complaint. In order to raise public awareness, the ministry put up instructions on how to file a complaint about the work of the police on their official website. The head of the Sector believes that the complaints procedure should be reformed so that conciliation procedures are carried out by persons who are not employed by the police or the ministry.

The head of the Sector is also critical of the current regulation of proceedings before the panel. At the moment the panel consists of the Minister's representative as the panel leader and two representatives of the public as panel members. Their participation is considered to be a form of civil control over the work of the police

and a building block of policing in a democratic state governed by the rule of law. The rapporteur is also present at the session of the panel, gathers all the evidence regarding the complaint and prepares a written report on the findings. The problem pointed out by the head of the Sector is that, in accordance with the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013), the rapporteur may also be a person employed by the police. Since in practice due to staffing constraints it is impossible that reporting activities are carried out exclusively by employees of the Sector for Complaints, they are in most cases carried out by police officers. Obviously one cannot speak of an independent and impartial complaints procedure in this respect either, if the fact-finding task is performed by a person employed by the same organization as the person who allegedly violated the complainant's human rights and fundamental freedoms.

The fundamental problem seen by the head of the Sector is that the Sector for Complaints is not institutionally separated from the Police and the Ministry of the Interior. According to the interviewee, this defect of the complaints procedure has already been questioned by some experts. The placement of the Sector in the ministry deprives the complaints procedure, which should be both independent and impartial, of the appearance of impartiality. According to the interviewee, the complainants are often of the opinion that in proceedings where complaints are handled by the police and the ministry, the saying "there is honour among thieves" applies. In an interview, the head of the Sector said that he understands their concerns and partially agrees with them, especially that it is inappropriate for a body dealing with complaints against the police to be located within the ministry. In this regard, he pointed out that the Director General of the Directorate for Police and Other Security Tasks, which includes the Sector, is directly responsible to the Minister, and the Minister is also responsible for legal and professional police work. According to the head of the Sector, the responsibility of the Minister for the work of both and both being placed under the same ministry, contradicts the idea and principle of independence and impartiality.

The idea that the procedure for dealing with complaints against the police as a whole should be excluded from the Ministry of the Interior and that a so-called *police ombudsman* or other special independent body should be established is a good one, according to the head of the Sector, but the question is whether it is feasible. In the past, such ideas and proposals have emerged, but – according to the head of the Sector – they have not been implemented. According to him, conceptual changes in this area will not take place until professional consensus and political will is reached. He pointed out that an inter-ministerial group had been set up a decade ago (in 2010) to prepare expert starting points aiming for change, but the group's goals had not been achieved. In his opinion, the introduction of a system for resolving complaints similar to the ones in Great Britain, Northern Ireland, Canada, Hungary and also Palestine is needed in Slovenia.

3.3 Oral interviews – key findings

Oral interviews regarding conciliation proceedings have shown that the current regulation of this part of the complaints procedure has various advantages, but

the fact that conciliators are police chiefs does not guarantee impartiality of these proceedings. From the answers of the interviewees, we discerned that in practice the heads of police units can be biased when they establish the facts within the conciliation procedure. The interviews confirmed the warnings of some complainants and critics of the existing conciliation arrangements that police chiefs did not accept the evidence submitted by the complainants. Employees of the Sector, who monitor conciliation proceedings, note that when they are present during a confrontation between a police officer and the head of a police unit, the latter makes significantly more efforts to establish facts objectively and impartially. When employees of the Ministry monitor² the conciliation procedure, this usually also positively affects the complainants, who attribute a higher degree of legitimacy to the procedure due to the employees' presence.

Regarding the proceedings before the panels, we found out that in practice the head of the Sector first reads and then, depending on the complexity of the case and the field of work, determines which of the employees authorized by the minister will take over the role of a head of the panel and who will be the rapporteur. In accordance with the ZNPPol (2013) and the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013), the head of the Sector in some cases of complaints procedures, in agreement with the General Police Administration (*Generalna policijska uprava*) or individual police administrations (*Policijska uprava*), appoints police officers to the position of rapporteur. The head of the Sector has explained that the main reason why in so many cases the role of a rapporteur is taken by a police officer is short staffing.

In oral interviews, we checked whether in practice there are cases of exclusion of members of the panel due to a conflict of interest or for other reasons, as the ZNPPol (2013) and the Rules on Resolving Complaints about the Work of Police Officers (*Pravilnik o reševanju pritožb zoper delo policistov*, 2013) have no provisions in this regard. The head of the Sector explained that in proceedings before the panel there are cases when the complainants claim that they have previously come across the head of the panel, the rapporteur, or a representative of the public in the past, and that they are therefore unfavourable to the complainant in the current proceedings and not impartial. The head of the Sector pays attention to such cases and makes sure that the member of the panel is replaced in time if the complainant's allegations are substantiated. There are also cases where the complainant states that a panel member was "infected" and that the panel was properly composed only after the end of the panel session or upon receiving the panel's response to his or her complaint. As a rule, such claims are not accepted by the head of the Sector.

According to the interviewees, so far there has been no case where a party or a third party, i.e. a complainant or a police officer or someone else at their request, has tried to influence the head of the panel, the rapporteur, or a representative

² From the answers of the interviewees, we understood that there are no cases where, due to staff shortages or other reasons, police officers would participate in monitoring. Police officers cannot carry out monitoring, they can only be carried out by the Minister's representatives, who are employees of the Sector for Complaints.

of the public, in an inappropriate way. Nor has it ever happened that any of the participants in connection with their work on the panel have ever been subjected to pressure or attempted influence (for example, by a minister, director, or head of the Sector) in the course of the process. One interviewee, a representative of the public in the panels, also stated that he had never been exposed to pressure or attempts to influence the decision-making process. Also, he has never been held accountable or asked to explain why he voted the way he did. In this regard, the head of the Sector emphasized in the interview that as long as he is in charge, he will not allow external pressures or attempts to influence the decisions of the panel. However, he pointed out that they had several cases when one police officer complained about another police officer, alleging violations of fundamental rights in the exercise of police powers. These cases are specific and particularly sensitive because the police organization is a closed system whose members know each other, belong to a certain (police) hierarchy, and so on. In such cases, it has happened in the past that rumours have reached the head and members of the panel that the panel is biased and that it will disfavour the complainant due to external influences. In this regard, the head of the Sector emphasized that the employees of the Sector participating in the panels always distance themselves from such actions – their guidelines in dealing with complaints are professionalism, impartiality, and fairness.

We asked the representative of the public on the panels what he, as a direct participant in the proceedings, generally thinks about the participation and mission of the representatives of the public in the panels. According to him, members of the public are successfully fulfilling their mission as practitioners of democratic civilian control over the police. The participation of members of the public in complaints proceedings may, in his view, become less important only when all police officers exercising their powers are equipped with body-worn cameras. If the complaints panels were able to make a decision based on photographs and sound recordings, this would in his opinion significantly shorten the proceedings. It would be much more difficult to substantiate that the facts of the matter were not established objectively and impartially. He remarked that the representatives of the public and the head of the panel get acquainted with the facts of the case from the reports prepared and presented by the rapporteurs at panel sessions and that he had noticed a significant difference between procedures where the rapporteur is an employee of the Sector for Complaints and those in which the rapporteur is a police officer. As a member of the panel, he was not convinced that police officers had been reporting with complete objectivity and impartiality. When asked if he had noticed a similar bias when it comes to the heads of the panels, the interviewee said no. In the proceedings in which he took part, the heads of the panels sought to conduct the panel sessions objectively and impartially. Nevertheless, he sees a problem in the fact that the panel proceedings essentially undermine the facts established by the rapporteur. He sees this as a weakness in the current regulation of complaints procedures, which, in his view, can be remedied by strengthening the role of civil society. Although the police have become more professional over time and the legal and professional standards of police work are higher today than they used to be in the past, effective civilian control is essential for an objective

and impartial evaluation of police work. In his opinion, the introduction of video recording of panels would also improve the current situation.

Regarding the questions related to the problem of institutional independence within the current regulation of the complaints procedure, the answers of the interviewees were more or less uniform. They stated that the complaints procedure should in future operate outside the ministry and the police, so that it would gain what it currently lacks – the appearance of impartiality and formal/institutional independence. In this, the interviewees see a natural development of the complaints process. Over the last decade and a half, the complaints procedure has been constantly and successfully evolving, and now a step forward needs to be taken. However, according to the interviewees, there should be no illusion in this regard. Clearly, there is no political will for this step as other issues and problems are currently on the priority list.

The more detailed questions we asked in oral interviews also referred to the attempt to establish a so-called state supervisor. In this regard, the head of the Sector explained in a written interview based on a general questionnaire that the professional basis for this had been prepared more than a decade ago, but it did not materialize. The new institute would combine the functions of the sector for systemic control and the complaints sector. It would operate outside the structure of the executive branch. It would cover all repressive bodies, not just the police. It would include a specialized ombudsman in the field of repressive powers of state institutions. According to the interviewee, then as now there was no political will to take a step forward towards establishing the institutional independence of the complaints procedure.

In an oral interview, the head of the Sector singled out Palestine as an example of a country that has managed to ensure the institutional independence of the complaints mechanism. During a visit to the Slovenian Ministry of the Interior, the Palestinian delegation presented their arrangements for dealing with complaints. The body concerned has an autonomous and independent status, similar to that of the Ombudsman in Slovenia, and is responsible for complaints against the police, intelligence service, officials in administrative units and some other holders of public authority. The body employs between 100 and 150 people with various profiles in various fields, including academics and other external experts, lawyers and, last but not least, police representatives.

In the interviews, we did not receive an affirmative answer to our explicit question asking if a concrete proposal has been introduced recently that would amend the current legislation and would establish a complaints mechanism outside the structure of the executive branch. Proposals were prepared by the Sector for some necessary (partial) changes in the complaints procedure, but no decision has been made about more radical systemic reform. The head of the Sector estimated that the initiative for such a proposal must come from the decision-makers and that targeted and other research projects, such as those currently conducted by the Faculty of Criminal Justice and Security, could also contribute to the probability of changes.

4 CONCLUSIONS

In this research project, we have addressed the problem of independence and impartiality of the complaints mechanism against the work of the police. Referring to the findings of the analysis of the legal regulation of the complaints mechanism against the work of police officers and the results of the previous research in the field, we carried out a structured interview with a general questionnaire in written form and oral interviews with the people who conduct complaints procedures.

We established that, regardless of the fact that in the last decade, in terms of professionalism, objectivity and impartiality, significant progress has been made in dealing with complaints about the work of police officers, there are warnings about the current regulation of the procedure which point out that it has more weaknesses and shortcomings than advantages and that it needs to be reformed. According to the more or less unanimous opinion of the interviewees, current regulation does not provide an adequate institutional framework for the implementation of complaints procedures. In their opinion, this applies to both the conciliation procedure and the procedure before the panel. While the conciliation procedure is a welcome form of communication between the police and citizens, its current regulation does not comply with the standards of independence, impartiality and contradiction that apply in mediation procedures. There are cases of bias in the assessment of the facts and tendencies of police chiefs to justify the actions of police officers. The quality of the implementation of conciliation procedures has improved significantly in recent years, largely thanks to monitoring carried out by ministry officials. Nevertheless, the interviewees who participated in the research were more or less unanimous that conciliation procedures should be carried out by persons not employed by the police or the ministry.

We also came to interesting conclusions regarding the proceedings before the panels. The survey showed that the professionalism and integrity of the employees of the Sector for Complaints against the Police at the Ministry of the Interior, who lead the panels and perform the duties of rapporteurs, is not questionable. So far, they have not been exposed to pressure or influenced by clients or anyone else. The main problem pointed out by the interviewees is that due to the small number of employees in the Sector, reporting activities are in most cases carried out by persons employed by the police. Consequently, even in the case where the complaint is handled by the panel, one cannot speak of an independent and impartial complaints procedure.

The research showed that the organizational and institutional location of the complaints mechanism in the Ministry of the Interior and the Police was inadequate. The Director General of the Directorate for Police and Other Security Tasks, which includes the Sector for Complaints, is directly responsible to the Minister, and the Minister is also responsible for directing and supervising the police and thus for its legal and professional operation. The responsibility of the Minister for the work of both and the fact that they were placed under the same ministry is contrary to the principle of (institutional) independence and impartiality. In this respect, therefore, the Police Tasks and Powers Act (ZNPPol,

2013) is in conflict with itself, in the sense that the systemic legal regulation of the complaints procedure prevents the implementation of the provision that the complaint must be examined independently, impartially and professionally, and that the complainant (and police officer) must be guaranteed all procedural rights in accordance with the law.

Even though the Sector for Complaints carries out its mission professionally, efficiently and effectively within the existing normative regulation, the profession is unanimous: in future, the complaints mechanism should be independent of the Ministry and the police. This would provide it with what the regulation does not have in force – the appearance of impartiality and formal/institutional independence. Considering the path travelled so far, this should be a natural development of events and of the institute of complaint against the work of the police. An attempt to establish a so-called state supervisor, an idea which is more than a decade old, failed because the planned reform did not break through to the agenda of political decision-makers. Currently the situation is no different either – the authorities unite and weaken supervisors, instead of making them independent and more efficient.

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