

# INSTRUMENTS OF MONTENEGRO IN THE FIGHT AGAINST ORGANIZED CRIME

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**Abstract:** *The instruments for combating organized crime in Montenegro, in the broadest sense, consist of all institutions and bodies which manage, plan, organize, coordinate and implement measures and activities in the security system of Montenegro. As the basic elements in this respect we can identify the following bodies: bodies of political (civil) coordination and control (Parliament, President of the Republic, the Government, the Council for Defense and Security, the security forces (army and police), emergency situations forces, the Agency for National Security prosecution and the courts of law. On the other hand, as instruments for preventing and combating organized crime in the narrow sense the following are defined: the Parliament Committee for Security and Defense, the Government, the police, the national Security Agency, the prosecution and the courts of law.*

**Keywords:** *Montenegro, police, the National Security Agency, the prosecution and the courts for combating organized crime, preventing and combating*

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## INTRODUCTION

The connection between organized crime and money laundering, terrorism and other particularly serious crimes is one of the most socially dangerous phenomena, both at national and international levels. In the context of the commitment of Montenegro to take all necessary actions to fulfill the conditions for the planned integration into European and other international security structures, the means and forces that can effectively resist such have become the key issue.

For combating organized crime and high corruption, terrorism and other serious work of political crime, the Supreme Public Prosecutor's Department has formed a body to fight organized crime and it is managed by the Special Prosecutor. Accordingly, preventing and combating organized crime in Montenegro is primarily dealt with by the Police Directorate, Agency for National Security, the State Prosecutor's Office and the courts. Thus, in the context of the Criminal Investigation Police a Department was formed to combat organized crime and corruption. For combating organized crime and high corruption, terrorism and

other serious work of political crime, the Supreme Public Prosecutor's formed a Department to fight organized crime and it is managed by the Special Prosecutor.

In such a concept, the instruments for the fight against organized crime and national security system as a whole re managed by the political entities (civil) of coordination and control, first and foremost by: the Parliament Committee for Security and Defense, and the Government of Montenegro. A particularly interesting body is the Council for Civilian Control of Police, as an independent body that evaluates the use of police powers to protect human rights and freedoms.

## THE PARLIAMENT AND THE GOVERNMENT OF MONTENEGRO

*The Parliament of Montenegro*, among other things does the following: enacts laws; brings national security strategy, and supervises the Army and Security Services, provides legal conditions for the functioning of the security sector, etc. In this regard it should be noted that the jurisdiction, powers and actions of all institutions and agencies of the Republic of Montenegro involved in the fight against organized crime are regulated by several laws, among which are: the Police Act (Official Gazette of Montenegro", no. 28 / 05 and "Official Gazette of Montenegro", no. 88/09); The Law on the National Security Agency ("Official Gazette of Montenegro", no. 28/05 and 86/09), etc. At the end of 2010 the Parliament passed the Law on Parliamentary Oversight of Security and Defense ("Official Gazette of Montenegro", no. 80/10), in which the area is legally regulated for the first time, and the competent body - the Committee on Security and Defense - was given the powers to carry out consultative hearings, control hearings and parliamentary investigations.

A particularly interesting body is the *Council for Civilian Control of Police*, since President of the Assembly of Montenegro initiates the procedure for appointing members of the Council by making a call to the authorized nominators, and the Assembly notes the completion of the process of appointing the members of this body. It is the body that assesses the use of police powers to protect human rights and freedoms and can be approached both by the citizens and police officers. Council for Civil Control of Police is composed of five members appointed by the Bar Association of Montenegro, the Medical Association of Montenegro, Association of Lawyers of Montenegro, University of Montenegro and NGOs dealing with human rights. The President of the Council is elected by a majority vote of all members and the mandate of the Council members is five years.

The police shall, at the request of the Council, provide the necessary information and notifications. Council for Civil Control of Police provides reviews and recommendations to be submitted to the Director of Police, who is obliged to inform the Council about the measures taken.

*The Government of Montenegro*, among other things, conducts the national security policy: by nominating National Security strategy, as well as the laws in this area; monitoring the state of national security; providing material and financial resources for the needs of the national security system and the required level of operational and combat capabilities of the security forces; by concluding and enforcing international treaties and agreements in the field of national security and compatibility of national legislation with international documents. It should be noted that the Government of the Republic of Montenegro in mid-2005 adopted a program of fight against corruption and organized crime, and then the Action

Plan for the implementation of the said Program. These documents set out the concrete measures and activities of line ministries, state bodies and institutions responsible for preventing and combating corruption and organized crime. Also, the objectives and terms, i.e. dynamics of obligation discharge were defined, as well as indicators for measuring success and possible risk factors.

## **POLICE DIRECTORATE**

National Security Strategy document establishes that the police provides general, personal and property safety and protection of citizens. The police is the relevant body regarding internal security and performs tasks related to the prevention of and fight against organized and other forms of crime, protection of human rights, monitoring and control of the state border, securing public order and peace, safety of citizens and traffic safety and helps to civil authorities during natural or artificially-made disasters. Further, the police is the relevant body in the fight against terrorism, proliferation of weapons of mass destruction, corruption and the production and trafficking of narcotic drugs.

Police operations in Montenegro are performed in the organizational units of the Police, established by the Police Act and the Regulation on the organization and functioning of public administration, which the Government of Montenegro adopted 19. 10. 2005. According to this Act, the Police was established as an independent organ of the state administration. At the headquarters of the Police there have been established the following organizational units: Office of the Director, Division Criminal Police, the Border Police, the General Affairs Division, Department for Security of persons and buildings, the Department of Human Resources, Legal Affairs, Telecommunication and Information Systems, Operational Communication Centre, Department of internal control and enforcement powers, Special Anti-Terrorist unit, Special police unit, Department for international police Cooperation and European integration and the Department of Planning, development and Analysis. Within the Criminal Police Department a special department was formed for combating organized crime and corruption, as well as the Witness Protection Unit.

Within competence of the Police of Montenegro, in accordance with the legal provisions, is the following: protection of the security of citizens and constitutionally established rights and freedoms; protection of property; prevention and detection of crimes and offenses; location and capture of perpetrators of criminal acts and violations and their consequent transfer to competent authorities; maintenance of public order and peace; securing public assemblies and other gatherings of citizens; provision of certain persons and facilities; monitoring and control of traffic safety; surveillance and border security and border control; control of movement and stay of foreigners; providing conditions for undisturbed work of courts, maintenance of order, protection of persons and property, as well as other tasks defined by law.

Supervision of the appropriateness and legality of the work of the Police is conducted by the Ministry of the Interior. The Ministry - for the needs of the Police - also conducts common, general, administrative, material and financial, normative-legal and personal affairs.

Control of the police work in Montenegro is provided by parliamentary, civil and internal control. Internal control of the police is performed by authorized officials. The internal affairs control means: control of legality of performing police duties and control the applica-

tion of authority by police officers; financial control; counterintelligence protection; other controls important for efficient and legal work of the police. The findings of the internal control are reported to the police head. The forms and manner of performing internal control are prescribed by the Ministry of the Interior.

International police cooperation is of great importance for Montenegro, given that it is estimated that 80% of its organized crime has an international aspect. The declaration of state independence in 2006 has had a major impact on international police cooperation Montenegro. In fact, a few months after the country's independence, Montenegro became a member of Interpol, after which he entered the internationally numerous arrangements, and signed and ratified a number of international conventions and protocols in the fight against organized crime and terrorism (in addition to those inherited from the joint state with Serbia). It is especially important that Montenegro acceded to the Convention on Police Cooperation in Southeast Europe (Vienna Convention) governing police cooperation among the countries of the Western Balkans. Several countries have in Montenegro their police attachés or other delegates on issues of law enforcement, while Montenegro sent a police attaché into SECI Centre in Bucharest. [5]

## **THE NATIONAL SECURITY AGENCY**

As part of an integrated security system, the National Security Agency in cooperation with state authorities, ministries and administrative bodies, in accordance with safety standards, and on the basis of the Constitution and the Law, performs tasks related to the protection of the constitutional order, security and territorial integrity of Monte Negro, constitutionally defined human rights and freedoms, as well as other activities of interest to national security. Functionally, the ANB is subordinate to the government and control of the legality of its work is performed by the Parliament.

National Security Agency is the legal successor of the State Security Ministry of the Interior of the Republic of Montenegro, and is an autonomous central-intelligence-security institution, which has no police powers, other than those prescribed by the Law [2]. Amendments to the Law on the National Security Agency from 2011 extended the powers of ANB in cases of reasonable suspicion of preparing assassination of public officials, and disclosure of data and documents containing state secrets (secret surveillance inside buildings after the approval of the President of the Supreme Court, the obligation operators of electronic communications and postal operators to officials ANB allow access to confidential information), as well as to officials of ANB who perform counterintelligence and security protection to the right to carry service weapons.

Responsibilities of the National Security Agency in the fight against organized crime stem from the legal competence of the Agency as such, which include the collection of data and information of direct relevance to national security, collecting information about potential threats, plans or intentions of organizations, groups and individuals aimed against the territorial integrity, security and constitutional order, and the collection of data and information on activities of organizations, groups and individuals aimed at the commission of internal and international terrorism and organized crime, etc.

In its work, ANB applies all modern intelligence methods and means in order to gather intelligence and to perform other duties and tasks within its jurisdiction, including the fight

against organized crime and corruption, as well as prevention and prevention of terrorism. In this regard, the Agency may request from the citizens, with their consent, to request notification, information and technical assistance on the nature of the conduct of national security. ANB is authorized for the use of secret intelligence methods and means, that secretly gather intelligence information and data relevant to national security, including cooperation with domestic and foreign nationals, (espionage methods), monitoring and surveillance, with the use of technical means for documenting and purchase of documents and objects (secret plans, reports, sketches and other documents and objects) [3].

As regards the application of agent operation method, ANB has the legal authority to, on the principles of voluntariness and confidentiality, in cooperation with local and foreign nationals collect intelligence information and data being has the right to issue its operational worker official document or label in order to conceal his real identity and the identity of the person with whom he established a secret cooperation. In addition to espionage methods ANB is authorized to implement measures and surveillance or monitoring, based on a decision of the Agency Director. Also, the Law on National Security Agency stipulates the conditions and procedure for making certain information and data ANB police and other competent authorities, which relate to the activities of their field.

The provisions of the same Act stipulate that ‘surveillance of mail and other means of communication, upon written proposal of the Director of the Agency for National Security, in each case must be approved by the President of the Supreme Court, if there are grounds for suspicion that threaten national security... secret activities, planning and execution of preparations for construction of internal and international terrorist attacks and other violent actions against state authorities and public officials in Montenegro and abroad.’

## **THE JUDICIAL AUTHORITIES SPECIALIZED IN THE FIGHT AGAINST ORGANIZED CRIME**

*Department for combating organized crime, corruption, terrorism and war crimes* of the Supreme State Prosecutor of Montenegro is a specialized organ of prosecution headed by Special Prosecutor that act before higher courts in Podgorica and Bijelo Polje. The Department manages the pre-trial proceedings, directs the work of the Board the police and takes the necessary measures to detect crimes within its jurisdiction; requires the conduct of an investigation, raises and represents indictments and takes other legally prescribed actions and measures in order to seize and confiscate objects and assets acquired through criminal acts [7].

In terms of criminal prosecution, the Supreme State Prosecutor of Montenegro and the Police Directorate continuously make semiannual analysis of statistical data on the number of cases in the field of terrorism, subject to the implementation of training in the field of financial investigations. Together with the analysis of the harmonization of legislation with international standards and conventions, these are the essential indicators of effective implementation of criminal prosecution of perpetrators, accomplices or persons who are in any way related to terrorist activity [1].

*Specialized department* of the Higher Court in Podgorica and Bijelo Polje is competent to try cases of organized crime, corruption, terrorism and war crimes. Namely, in Montenegro there are no specialized courts or special court departments dealing only with cases of

organized crime have already been dealing in these cases the competent ordinary courts and acting in other cases. The only difference is in the composition compared to other offenses, because organized crime - at first instance - is tried by a panel composed of three professional judges, and in the second instance Chamber composed of five professional judges [4].

## CONCLUSION

It is known that the instruments for combating organized crime in the broadest sense consist of all institutions and bodies which manage, plan, organize, coordinate and implement measures and activities in the security system of Montenegro. As instruments for combating organized crime in the narrow sense the following are defined: the police, the National Security Agency, the prosecution and the courts. Thus understood instruments for combating organized crime, as well as the system of national security in general, are managed by the political (civil) entities of coordination and control, in the first place: the Parliament Committee for Security and Defense, and the Government of Montenegro.

Instruments for the fight against organized crime, as part of the overall national security system, is based on the National Security Strategy of Montenegro, adopted on 27 November 2008, while the previous document National Security Strategy was adopted on 20 June 2006 - shortly after the announcement Montenegro's independence. In the context of the commitment of Montenegro to take all necessary actions to fulfill the conditions for its integration into European and other international security structures, Strategy document is the basis for a fundamental reform of the national security, as well as for legislative adaptation and further development of the national security system [6].

In any case, it is rightfully considered that the capacity of the National Security Agency, the police and other institutions and bodies relevant to the investigation and prosecution of organized crime and corruption has been considerably enhanced by new laws and technical means, but training is still necessary on the use of these new instruments, in particular the need to train judges about it. It is also considered that there exist the necessary pre-conditions for a successful confrontation with organized crime and corruption and there will "soon come a time that success is measured not only by the number of adopted laws, but also the number of convictions" [8].

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