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Mutual Relationships between Prosecutors and Authorized Officials in Terms of the Efficiency of the Detection of and Evidence Gathering in Criminal Offences – Research on the Application of Criminal Procedure Laws in Bosnia and Herzegovina

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**MUTUAL RELATIONSHIPS
BETWEEN PROSECUTORS AND
AUTHORIZED OFFICIALS
IN TERMS OF THE EFFICIENCY
OF THE DETECTION OF AND EVIDENCE
GATHERING IN CRIMINAL OFFENCES –
RESEARCH ON THE APPLICATION OF
CRIMINAL PROCEDURE LAWS IN
BOSNIA AND HERZEGOVINA**

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Under the leadership of the Austrian Federal Ministry of Interior, this project utilizes a broad range of experience of other implementing partners from across the European Union: the International Centre for Migration Policy Development, Ministry of Interior of Hungary, Ministry of Interior of Republic of Slovenia, and the Police Academy of the Federal State of Brandenburg. Beneficiary partners are BiH law enforcement agencies at state, entity, cantonal and Brčko District level.

1. Introductory remarks on the research on the procedures and cooperation of authorized officials and prosecutors in the detection of criminal offences and perpetrators and investigative evidence gathering

The idea on a more intensive research of mutual relationships between prosecutors and authorized officials in the detection of and evidence gathering in criminal offences has been prompted by the intentions to study their rights and duties in more detail, assess their roles and mutual relationships in the aforementioned activities as fully as possible as well as understand legal and systemic aspects of criminal prosecution, investigation and evidence gathering in criminal offences.

1. 1. The goals of the research and hypotheses set

In line with the research ideas and intentions that have just been outlined, the important goals of this research are the following:

- study qualitative characteristics of authorized officials and prosecutors that are related to their role and position in the detection of and evidence gathering in criminal offences and a more efficient crime prevention;
- study specificities of an investigation, primarily those referring to an efficient proceeding of this stage of criminal procedure;
- note the views of prosecutors on the duration of investigation, direct accusation and plea bargaining;
- set and check hypotheses which would clarify the position of authorized officials and prosecutors in detection of and evidence gathering in criminal offences and their mutual cooperation, then the correlations between the obstacles for the detection of and evidence gathering in criminal offences and for an efficient proceeding of the investigation i.e. correlations between factors enabling the efficiency in crime prevention and processing of criminal offences and perpetrators thereof;
- Where it is useful and meaningful propose possible changes norm-wise and organization-wise.

Respective hypotheses have been defined for the set goals:

H1: different ways of discovering about criminal offences are not sufficiently represented in practice;

H2: the views of authorized officials and prosecutors on the priorities in the work on the detection of and evidence gathering in criminal offences are balanced;

H3: the position of authorized officials and prosecutors in the detection of and evidence gathering in criminal offences is adequate;

H4: with respect to the key obstacles for the detection of and evidence gathering in criminal offences, the views of authorized officials and prosecutors do not differ;

H5: with respect to the key obstacles for the cooperation of authorized officials and prosecutors in the detection of and evidence gathering in criminal offences, the views of authorized officials and prosecutors do not differ;

H6: the lawful period of detention of persons deprived of their liberty in the duration of 24 hours is not adequate;

H7: authorized officials are of the view that prosecutors should provide an order to conduct the

investigation in terms of the cooperation in planning the investigation;

H8: prosecutors are of the view that authorized officials should be provided with an order to conduct the investigation in terms of the cooperation in planning the investigation;

H9: the prosecutor notifies authorized officials on the issuance of an order not to conduct the investigation;

H10: the prosecutor gives instructions to authorized officials to take investigative actions;

H11: trainings of authorized officials and prosecutors are inadequate;

H12: authorized officials and prosecutors assess their mutual cooperation as satisfactory;

H13: an efficient progressing of an investigation is rendered difficult in practice;

H14: it is possible to enhance the efficiency of the proceeding of investigation;

H15: certain modalities for speeding up criminal proceedings and unburdening the criminal justice are not sufficiently recognized in practice;

H16: provisions on the direct accusation should be incorporated into criminal procedure codes.

1. 2. The methodological approach

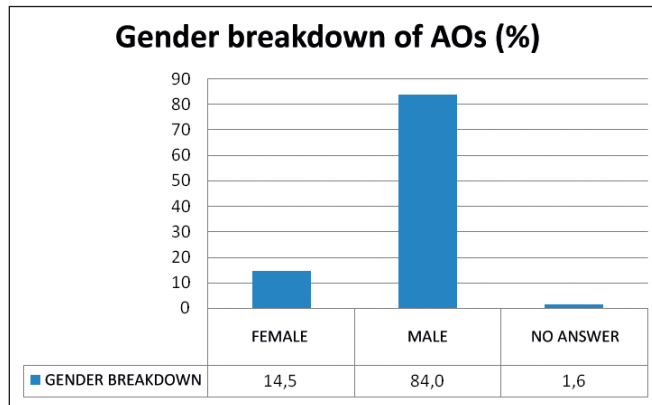
1. 2. 1. The sample of respondents

The sample of n=499 respondents has been used for the needs of the research. The sample comprised two subsamples. The first group of respondents consisted of authorized officials (n=387), selected by the random sampling method, from the population of authorized officials working in the police agencies at all levels in BiH. Different categories of authorized officials are in question: police officers, inspectors, investigators, chiefs, independent inspectors, heads of departments, police station commanders, assistant commanders and others. The second group of respondents consisted of prosecutors, selected by the random sampling method, from the population of prosecutors working in prosecutor's offices at all levels of BiH (the Prosecutor's Office of BiH, entity prosecutor's offices, the Prosecutor's Office of the Brčko District of BiH). The respondents have a different work experience in the tasks of the detection of and evidence gathering in criminal offences and the exercise of the function of prosecution. The majority of them were engaged in these tasks also in the period when the research was conducted (December 2013 – January 2014).

The gender breakdown of respondents is as follows.

	GENDER BREAKDOWN	
	F	%
FEMALE	56	14,5
MALE	325	84,0
NO ANSWER	6	1,6

Table 1. The gender breakdown of authorized officials

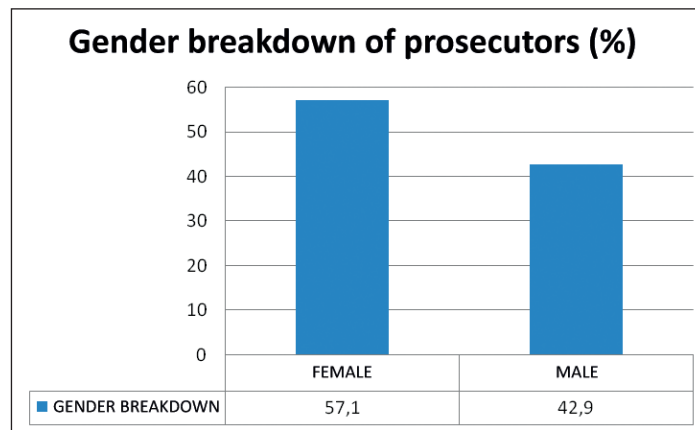


Graph 1. Gender breakdown of authorized officials

The data for authorized officials presented in Table 1 and in the accompanying graph show that the majority of respondents are men (84%), whereas women are to a considerably lower degree included in this research (14.5%).

	GENDER BREAKDOWN	
	F	%
FEMALE	64	57,1
MALE	48	42,9

Table 2. Gender breakdown of prosecutors

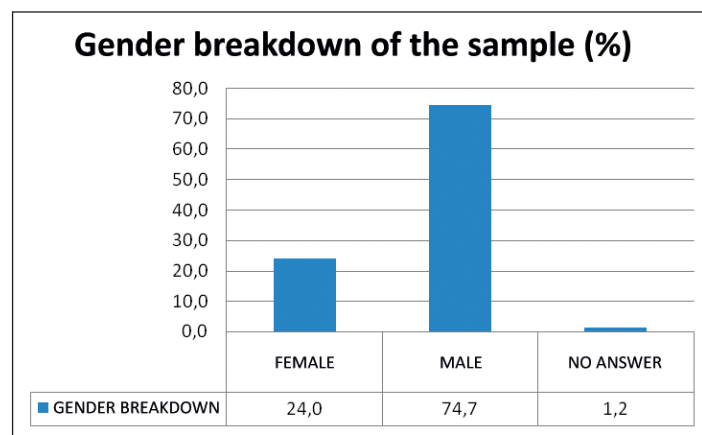


Graph 2. Gender breakdown of prosecutors

Unlike the gender breakdown of the polled authorized officials, when it comes to the population of prosecutors, table 2 and graph 2 show that more women than men took part in this research, by 14.2%.

	GENDER BREAKDOWN	
	F	%
FEMALE	120	24,0
MALE	373	74,7
NO ANSWER	6	1,2

Table 3. Gender breakdown of the sample



Graph 3. Gender breakdown of the sample

The above data show that 373 men (74.7%) and 120 women (24%) took part in the research. For six respondents there are no data on their gender, and according to the data from table 1 and table 2 it can be concluded that respondents from the ranks of authorized officials are in question.

1. 2. 2. The measurement instrument and sample variables

The research was conducted by applying specially constructed measurement instruments. Two measurement instruments were constructed, one which was filled out by authorized officials, while the other one was intended for prosecutors. The measurement instrument intended for prosecutors represented the whole measurement instrument being filled out by authorized officials, extended by a few more variables referring to the plea bargaining, direct accusation and the duration of the investigation.

The common elements of both these measurement instruments consist of an introductory part and a set of questions examining the views of respondents on certain areas in order to test the set hypotheses and accomplish the goal of this research.

The introductory part of these measurement instruments comprised the variables (n=5) whereby the data were collected on the status and the level of organization where a respondent worked, his/her position, years of working experience in the tasks of criminal investigations, the enga-

gement in these tasks at the time of the filling out of the questionnaire, and the respondent's gender. These variables served to define the sample of respondents.

The identical part of the measurement instrument examining the views of respondents in line with the subject and goals of this research consists of the following variables:

1. *discoveries about a committed criminal offence*, structured with five segments scaled by a Likert-type scale (five degrees of agreement), examining the views of authorized officials and prosecutors on the use of different ways of discovering about a committed criminal offence;
2. *taking measures to preserve traces of a criminal offence, the objects on which or by way of which a criminal offence has been done and other evidence thereof*;
3. *priorities in the work on the detection of and evidence gathering in criminal offences*, structured with four segments examining views on the aforementioned priorities;
4. *adequacy of the role of an authorized official/prosecutor in the detection of and evidence gathering in criminal offences*;
5. *the key obstacles for the detection of and evidence gathering in criminal offences*, structured with five segments examining views on the aforementioned obstacles;
6. *the key obstacles for the cooperation of authorized officials and prosecutors in the detection of criminal offences and perpetrators and evidence gathering therein*, structured with four segments examining views on the aforementioned obstacles;
7. *adequacy of the lawful period of detention of a person deprived of liberty in the duration of 24 hours*;
8. *the need to provide authorized officials with an order to conduct the investigation*;
9. *the notification on the issuance of an order not to conduct the investigation*;
10. *instructions to authorized officials by the prosecutor to take investigative actions*;
11. *the need to stipulate the form of the report on special investigative actions being undertaken*;
12. *education*, structured with four segments examining views on types of education being carried out;
13. *the cooperation of authorized officials and prosecutors*;
14. *norms and standards as a problem in the work of authorized officials (on the number of submitted reports on committed criminal offences) and prosecutors (on the number of cases closed in the investigation)*;
15. *factors hindering the efficient carrying out of investigations*, structured with four segments examining views on the aforementioned factors;
16. *factors allowing for the efficient carrying out of investigations*, structured with four segments examining views on the aforementioned factors;
17. *knowledge of the Instruction on procedures and cooperation of authorized officials and prosecutors in conducting evidence gathering actions in the course of an investigation*.

A special part of the measurement instrument intended only for prosecutors consists of the following variables:

18. *the plea bargaining*;
19. *the reasons for entering into a plea agreement*, structured with four segments examining views on the aforementioned reasons;
20. *the direct accusation*;
21. *the duration of investigation*.

Variables 1, 3, 5, 6, 12, 15, 16, 18 and 19 are structured from several segments and scaled by a Likert-type scale (3-5 degrees), and for variables 2, 4, 7, 8, 9, 10, 11, 13, 14, 17, 20 and 21 the views are expressed through affirmative or negative responses depending on the question asked.

Regardless of the fact that the measurement instrument includes several problem areas, it has been treated as an integral unity of the research process. The measurement instrument has been metrically tested by calculating Cronbach's coefficient alpha. As Julie Pallant² says, a measurement instrument has a good internal consistency if its Cronbach's coefficient alpha is greater than 0.7. In this research the calculated Cronbach's coefficient alpha had the value amounting to 0.89 so it can be concluded that the applied measurement instrument fulfills the conditions of the internal consistency.

1. 2. 3. The manner of conducting the research

In the preparations for conducting this research we studied the literature pertinent to this field which was available in BiH (the following being in question: the law of criminal procedure textbooks, comments on the law of criminal procedure, articles dealing with the mutual relationships of prosecutors and authorized officials in the detection of and evidence gathering in criminal offences and their rights and duties within this framework, the research done so far, especially those focusing on these subjects as well as the other, albeit rare, research on the situation and trends of crime in BiH for adult persons or on the duration of investigation and delays in that stage of criminal proceedings). And secondly, not less important than the aforementioned, this research was not only prompted by the activities within the EU Support to Law Enforcement Project – Component IX IPA 2010, but in certain segments it was also shaped during joint meetings in Sarajevo (December 9, 2013) and Banja Luka (February 27, 2014) respectively. We also want to point out that the members of the Working group of Component IX of the IPA Project EU Support to Law Enforcement approved the questions for authorized officials and prosecutors, as well as the analysis of the results of the research based on the conducted poll. The members of this Working group are: Aleksandar Faladžić (BiH Prosecutor's office), Slavo Lakić (Prosecutor's office of the Federation of BiH), Nenad Vranješ (Prosecutor's office of Republika Srpska), Zekerija Mujkanović (Prosecutor's office of the Brčko district of BiH), Aner Hadžimahmutović (SIPA), Kemal Bašović (Border Police of BiH), Faris Sijerčić (Federation Police Administration), Stanislav Vranješević (Ministry of Interior of Republika Srpska), Halid Emkić (Police of the Brčko district of BiH), Midhat Hasanspahić (Directorate for Coordination of Police Bodies of BiH), and Slobodan Gazdić (Agency for Forensic Examinations and Expertise).

The distribution of questionnaires for authorized officials and prosecutors was done through the members of the Working group of Component IX of the IPA 2010 Project EU Support to Law Enforcement in a way that the Working group members forwarded the questionnaires to the following institutions: BiH Prosecutor's Office, Prosecutor's Office of the Federation of BiH, Prosecutor's Office of Republika Srpska, Prosecutor's Office of the Brčko district of BiH, SIPA, Border Police of BiH, Federation Police Administration, Ministry of Interior of Republika Srpska, Police of the Brčko district of BiH, Directorate for Coordination of Police Bodies of BiH. The Federation Police Administration and the Ministry of Interior of Republika Srpska further forwarded the questionnaires for authorized officials in the entities, while the Prosecutor's Of-

² Pallant, J. (2011). SPSS: Survival Manual – a step by step guide to data analysis using SPSS; the translation of the 4th edition Miljenko Šučur; Olga Milanko. Belgrade, *Mikro knjiga*.

fice of the Federation of BiH and the Prosecutor's Office of Republika Srpska forwarded the questionnaires for prosecutors on to cantonal and district prosecutor's offices respectively. At the meeting held on December 9, 2013 in Sarajevo, not only was the distribution of questionnaires to certain institutions determined but also the number of questionnaires per each of the competent police agencies and prosecutor's offices. It was also determined that the poll would be anonymous and voluntary in order to allow for a free and open consideration of questions asked and expression of opinions and views.

1. 2. 4. The data processing method

The research data were processed in the statistical package SPSS 17.0 for Windows. The descriptive analysis procedures were applied to the statistically processed collected quantitative data, and the comparative analysis of the results of the two subsamples was also done. The results are shown by way of tables and graphs, with appropriate comments that represent a basic analysis of the views and opinions of respondents on the aforementioned variables. The processing of the collected data also included the analysis of descriptive answers that the respondents were kindly asked to give for certain questions. A separate part of this research covers a comparative analysis of the views and opinions of both subsamples and testing of the set hypotheses. On these bases the concluding considerations and proposals pertaining to the goals of the research have been presented.

We express our gratitude to all those who helped in the implementation of this project, in particular LL.D Dževad Mahmutović, docent at the Faculty of Law of the University in Tuzla, LL.M Denis Pajić, senior assistant at the Faculty of Law of the "Džemal Bijedić" University in Mostar, and the editors MA Mirela Rožajac-Zulčić and Ivana Teronić Oručević.

2. On investigation and its specific features in general³

2. 1. Introduction

One of the key novelties embraced by the criminal procedure codes of 2003 is reflected in the abolition of the judicial investigation and the withdrawal of the investigative judge i.e. the introduction of the prosecutorial investigation and taking over of the rights and duties by prosecutors to gather evidence for indictment.⁴ According to the criminal procedure codes an investigation is initiated when there are **grounds for suspicion** that a criminal offence has been committed, regardless of the fact whether a perpetrator of a criminal offence is known or not

³ Presentations have been prepared on the basis of: Sijerčić-Čolić, H (2012). Criminal procedural law. Book II. The course of regular criminal proceedings and special proceedings. The third revised and updated edition. The Faculty of Law of the Sarajevo University, Sarajevo, and the literature mentioned therein.

⁴ The Criminal Procedure Code of Bosnia and Herzegovina ("Official Gazette of BiH", No. 3/2003, 36/2003, 26/2004, 63/2004, 13/2005, 48/2005, 46/2006, 76/2006, 29/2007, 32/2007, 53/2007, 76/2007, 15/2008 and 58/2008, 12/2009, 16/2009, 93/2009, 72/13. Hereinafter: the CPC of BiH); The Criminal Procedure Code of the Brčko District of Bosnia and Herzegovina ("Official Gazette of the Brčko District of Bosnia and Herzegovina" No. 10/2003, 48/2004, 6/2005, 12/2007, 14/2007, 21/2007, 2/2008, 17/2009; the clarified text 44/2010, hereinafter: the CPC of BD BiH); The Criminal Procedure Code of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH" No. 35/2003, 56/2003, 78/2004, 28/2005, 55/2006, 53/2007, 9/2009, 12/2010, 8/2013, hereinafter: the CPC of FBiH) and the Criminal Procedure Code of Republika Srpska ("Official Gazette of the RS" No. 50/2003, 111/2004, 115/2004, 29/2007, 68/2007, 119/2008, 55/2009, 80/2009, 88/2009, 92/2009, 100/2009; the clarified text 53/2012, hereinafter: the CPC of RS).

(article 216 paragraphs 1 and 2 of the CPC of BiH).⁵ In the literature the grounds for suspicion are defined as a form of probability that is based on certain circumstances, which again indicate at certain possibilities of the existence of a criminal offence and some persons as possible perpetrators. According to the criminal investigation experience, the suspicion is an assumption on a criminal offence, i.e. a probability that a criminal offence has been committed.⁶ The contents of the aforementioned form of suspicion are being built through an experience of man and his practice. In relation to this it has been emphasized that sources of information on the existence of grounds for suspicion on a committed criminal offence may be all those sources of information as foreseen by the law and related to the specific criminal offence.

As the following presentations will show, in the course of an investigation the prosecutor may undertake all investigative actions, including the questioning of the suspect and hearing of the injured party and witnesses, crime scene investigation and reconstruction of events, undertaking special measures to protect witnesses and information and may order the necessary expert evaluation (Article 217 of the CPC of BiH).⁷ Also, the necessary measures and actions aimed at detecting and resolving a criminal offence and finding its perpetrator are undertaken, in addition to the prosecutor, by authorized officials (who have relevant authorizations within police bodies in BiH, including the State Investigation and Protection Agency, the Border Police of BiH, the judicial and financial police, customs and tax authorities, authorities of the military police in BiH as well as specialists i.e. investigators of the prosecutor's office working under the authorization of the prosecutor).⁸ The supervision of the work of authorized officials by the prosecutor shows two things. First, if there are grounds for suspicion that a criminal offence has been committed that is punishable by a prison sentence of more than five (5) years, an authorized official shall immediately inform the prosecutor and under the prosecutor's supervision take the measures necessary to detect a criminal offence and its perpetrator, to prevent the suspect or accomplice from hiding or fleeing, to detect evidence and collect information that might be of use in the criminal proceedings. And secondly, if there are grounds for suspicion that a less serious criminal offence has been committed, the prosecutor must be informed of all measures and actions undertaken within seven days after learning of the existence of the grounds for suspicion that a criminal offence has been committed (article 218 of the CPC of BiH).⁹ The described role of the prosecutor fits into the framework of his general rights and duties, for he/she has the right and is obligated to take necessary measures immediately upon finding out that there are grounds for suspicion that a criminal offence has been committed with a view to detecting it, finding a suspect, managing and supervising the investigation (article 35 of the CPC of BiH).¹⁰

Based on the aforementioned it can be reiterated that an investigation covers an investigative activity in terms of finding a suspect, collecting statements, evidence and other information that may be of use in the criminal proceedings and that are undertaken by the prosecutor and authorized of-

⁵ Article 216 paragraphs 1 and 2 of the CPC of BD BiH, articles 231 paragraphs 1 and 2 of the CPC of FBiH, article 224 paragraphs 1 and 2 of the CPC of RS.

⁶ In addition to „grounds for suspicion“, the criminal procedure codes use the following terms as well: „sufficient grounds for suspicion“, „reasonable doubt“, „probability“, „probable cause“.

⁷ Article 217 of the CPC BD BiH, article 232 of the CPC of FBiH, article 225 of the CPC of RS.

⁸ Article 20 item g) the CPC of BiH, article 20 item g) of the CPC of BD BiH, article 21 item g) of the CPC of FBiH, article 20 item ž) of the CPC of RS.

⁹ Article 218 of the CPC of BD BiH, article 233 of the CPC of FBiH, article 226 of the CPC of RS.

¹⁰ Article 35 of the CPC of BD BiH, article 45 of the CPC of FBiH, article 43 of the CPC of RS.

officials after a criminal offence has been reported or after they have found out otherwise about a criminal offence. And under the provision of article 20 item j) of the CPC of BiH, an investigation represents actions undertaken by the prosecutor and authorized officials under the criminal procedure code, including the collection and keeping of statements and evidence.¹¹

An investigation is completed when the state of affairs has been sufficiently clarified allowing to bring charges, for there must be a **grounded suspicion** that a suspect has committed a certain criminal offence to bring charges before the court (or to indict) (article 225 paragraph 1 and article 226 paragraph 1 of the CPC of BiH).¹² The criminal procedure codes stipulate that a grounded suspicion is a higher degree of suspicion based on the collected evidence that point out at a conclusion that a criminal offence has been committed (article 20 item m) of the CPC of BiH).¹³ It can be concluded from the aforementioned that reporting a criminal offence in itself does not give sufficient grounds to the prosecutor to decide whether he/she will bring an indictment against someone. To do so, the prosecutor needs a more complete and more specific (in qualitative and quantitative terms) material to substantiate the allegations in the indictment. That is why our legislation, as well as other modern legislation, provide that the goal of investigation is to investigate the state of affairs, find and collect necessary evidence, and based on that decide if there is a justification to bring charges against a person before the court or if legal conditions to do so do not exist. Also, in the course of an investigation evidence for which there is a risk that it will not be possible to restate them at the main trial are collected, as well as evidence which might be useful in the course of criminal proceedings.

2. 2. Reporting a criminal offence

Reporting a criminal offence is one of the ways of discovering about a committed criminal offence, according to the experiences it is the most frequent and important way of discovering about a criminal offence and its perpetrator. According to our procedural law, reporting a criminal offence for the purpose of informing the prosecutor about a committed criminal offence is possible through a **report** or **criminal report**.

Who notifies the prosecutor through a **report** about the commission of a criminal offence? Reports may be submitted by: - authorized and responsible officials (article 213 paragraph 1 of the CPC of BiH), - persons who are authorized or obligated to extend assistance and protection to minors (article 213 paragraph 2 of the CPC of BiH) and – citizens (article 214 of the CPC of BiH).¹⁴ The report on the commission of a criminal offence is submitted to the prosecutor, in a written or verbal way (article 215 of the CPC of BiH).¹⁵ Bound by the the obligation to report criminal offences are authorized and responsible officials within all BiH authorities, public companies and institutions and other legal entities, as well as citizens if the failure to report a criminal offence

¹¹ Article 20 item j) of the CPC of BD BiH, article 21 item j) of the CPC of FBiH, article 20 item j) of the CPC of RS.

¹² Article 225 paragraph 1 and article 226 paragraph 1 of the CPC of BD BiH, article 240 paragraph 1 and article 241 paragraph 1 of the CPC of FBiH, article 233 paragraph 1 and article 241 paragraph 1 of the CPC of RS.

¹³ Article 20 item m) of the CPC of BD BiH, article 21 item m) of the CPC of FBiH, article 20 item l) of the CPC of RS.

¹⁴ Article 213 and 214 of the CPC of BD BiH, article 228 and 229 of the CPC of FBiH, article 221 and 222 of the CPC of RS.

¹⁵ Article 215 of the CPC of BD BiH, article 230 of the CPC of FBiH, article 223 of the CPC of RS.

constitutes a criminal offence.¹⁶ It is their legal obligation to take measures in order to preserve traces of a criminal offence, the objects upon which or by way of which a criminal offence has been committed and other evidence thereof. With the aim of criminal-legal protection of minors, and in particular if a minor is the victim of sexual, physical or any other form of abuse, a special obligation to report a criminal offence has been established for medical workers, teachers, pedagogues, parents, foster parents, adoptive parents and other persons authorized or obligated to provide protection and assistance to minors, to supervise, educate and raise the minors (article 213 paragraph 2 of the CPC of BiH).¹⁷

Authorized officials submit to the competent prosecutor a **criminal report**, so the notification of the prosecutor about the commission of a criminal offence by way of a report has not been foreseen for these officials of criminal proceedings (article 219 paragraph 5 of the CPC of BiH).¹⁸ Authorized officials draft a criminal report on the basis of collected statements and evidence found. The criminal report is submitted along with physical objects, sketches, photographs, reports obtained, records of the measures and actions taken, official notes, statements taken and other materials, which could contribute to the effective conduct of proceedings, including all facts or evidence in favor of the suspect. If the authorized official learns of new facts, evidence or clues to the criminal offence after submitting the criminal report, he/she will be required to gather the necessary information and submit immediately a supplemental report thereof to the prosecutor. In comparison with the mentioned reports of other legal persons, the report of the authorized official must be at a higher level with regard to the completeness, detail and argumentation of data and evidence on the existence of grounds for suspicion on a criminal offence and its perpetrator.

2. 3. Rights and duties of the subjects of criminal proceedings

2. 3. 1. As it has already been mentioned, the **prosecutor** orders the conduct of an investigation if there are grounds for suspicion that a criminal offence has been committed, takes investigative actions and necessary measures with a view to detecting the criminal offence and identifying a suspect, managing and supervising the investigation as well as for the purpose of managing the activities of authorized officials related to locating the suspect and gathering statements and evidence. Looking at all these activities in their interconnection, it is obvious that these are manifested in: - the initiation of criminal prosecution (wherein the prosecutor is bound by the principle of legality of criminal prosecution); - the initiation of criminal procedural actions; - the coordination of activities of authorized officials and other authorities; - the linking of all these activities. The prosecutor takes those actions which he/she deems necessary to achieve the goal of the investigation: making a decision if it is possible to bring charges or if it is necessary to suspend the criminal proceedings. When conducting the investigation and undertaking the investigative actions the prosecutor must, in the cases where it is stipulated by the law, obtain a preliminary proceedings judge order prior to taking some investigative actions.

¹⁶ The substantive criminal law defines when the failure to report a criminal offence constitutes a criminal offence (article 230 of the CC of BiH, article 338-339 of the CC of BD BiH, articles 344-345 of the CC of FBiH, articles 361 and 362 of the CC of RS).

¹⁷ The mentioned persons are obligated to report a criminal offence committed to the detriment of a minor upon acquiring knowledge of it or assessing that there is a suspicion that a minor is the victim of sexual, physical or any other form of abuse (article 213 paragraph 2 of the CPC of BD BiH, article 228 paragraph 2 of the CPC of FBiH, article 221 paragraph 2 of the CPC of RS).

¹⁸ Article 219 paragraph 5 of the CPC of BD BiH, article 234 paragraph 5 of the CPC of FBiH, article 227 paragraph 5 of the CPC of RS.

Also, the prosecutor has the right and duty to: establish facts needed to decide on a property claim and on the seizure of assets gained through crimes;- grant immunity in accordance with the law; - demand the submission of information from the state authorities, companies, legal and physical persons; - issues summonses and orders and propose the issuance of summonses and orders in line with the law; - order the authorized official to execute the order issued by the court under the law; - perform other tasks as stipulated by the law.

Thus, in the course of the investigation the prosecutor executes not only the function of criminal prosecution but also the function of investigation of a criminal offence, and in doing so from the very beginning (or as soon as he is informed about a criminal offence) decides on the investigative strategy and determines guidelines in the investigation of a criminal offence. While at it, the prosecutor's duty is to (just as the court and other authorities participating in the procedure do) investigate and establish with equal attention both the facts that are charging the suspect as well as those that are in favor of the suspect.

2. 3. 2. **Authorized officials** upon request of the prosecutor or *ex officio*¹⁹ take actions to detect, investigate and gather evidence to prove criminal offences. The actions of authorized officials may occur prior to the issuance of the order to conduct the investigation – during the preliminary investigation i.e. after the issuance of the order to conduct the investigation – during the investigation, upon request of the prosecutor or *ex officio*. In doing so the activity regulated by the law aimed at detecting a criminal offence and its perpetrator, and gathering statements and evidence, is split into the preliminary investigation and investigation procedure. Authorized officials act independently always when a possibility occurs that a criminal offence has been committed i.e. when they find out in any way that a criminal offence has been committed. At that juncture, regardless of the gravity of the criminal offence, certain duties arise that refer to the criminal offence (in particular the crime scene), its perpetrator and evidence. They do not need evidence for such action, because the purpose of their action is precisely to find and gather evidence..

As we have already emphasized, authorized officials, *ex officio* or upon request of the prosecutor, take necessary measures to find the perpetrator of the criminal offence, to prevent the suspect or accomplice from hiding or fleeing, to detect and preserve the traces of the criminal offence and objects that may serve as evidence, and to collect all information that might be of use in the criminal proceedings. The criminal procedure codes stipulate measures and actions that may be undertaken for the purpose of carrying out the aforementioned tasks. Given the specificities and legal consequences, these actions and measures may be denoted as operational-tactical or informal actions and investigative or formal actions. Both the former and the latter must be undertaken in line with the legal regulations, while respecting the rights and freedoms of persons against whom these actions are taken.²⁰ The results of the operational-tactical actions are not evidence in the criminal proceedings and cannot be used when issuing a verdict, whereas the results of investigative actions, provided that these actions are lawful, present evidence on which

¹⁹ Within the framework of the statutory rights and duties referring to the detection of criminal offences and crime prevention (or the operational activity and function of authorized officials arising from the relevant legal regulations on the organization and competencies of police authorities in BiH).

²⁰ So, for instance, a person against whom some action or measure has been taken has the right to file a complaint to the prosecutor within three days. The prosecutor will check out the merits of the complaint and if s/he finds that the undertaken actions or measures contain the characteristics of a criminal offence or the characteristics of a violation of duty, s/he will act on the complaint in line with the law (article 219 paragraph 4 of the CPC of BiH, article 219 paragraph 4 of the CPC of BD BiH, article 234 paragraph 4 of the CPC of FBiH, article 227 paragraph 4 of the CPC RS).

the court can base its decision. Due to the aforementioned it is being pointed out at the fact that the key difference between operational-tactical or informal actions and investigative or formal actions is that the former detect and collect data on the criminal offence and its perpetrator, and the latter prove the existence of the criminal offence and its perpetrator. The authorized officials enter the results of searches in the official notes, whereas the minutes are made of the facts and circumstances that have been established when taking investigative actions.

Operational-tactical or informal activities of authorized officials are not in detail stipulated by the legal norms and these actions are carried out primarily according to the rules of criminalistic tactics and according to the circumstances of the concrete criminal offence. Although the results of these actions are not evidence in legal terms, they are evidence in cognitive terms and they are of use to the prosecutor when issuing an order to conduct the investigation and during the conduct of the investigation itself. For the sake of example, the criminal procedure codes mention the following operational-tactical actions: - the collection of necessary statements from persons; - carrying out the requisite inspection of the means of transportation, passengers and luggage; - the restriction of movement in a certain area during the time needed to carry out a certain action; - taking necessary measures related to the authentication of identity of persons and objects; - issuing a search warrant for a person or objects being searched for; - a search, in the presence of a responsible official, of a certain facility and a premise of the state authorities, public companies and institutions; - examination of certain documentation (article 219 of the CPC of BiH).²¹

Authorized officials also undertake investigative or formal actions when there are grounds for suspicion that a criminal offence has been committed. These actions have been defined by the criminal procedure codes, and the results obtained through these actions can be used as evidence in the criminal proceedings and a court ruling can be based on them. The following procedural actions are in question: - the crime scene investigation and determining of the necessary expert evaluation, except for the autopsy and exhumation of a corpse (article 221 of the CPC of BiH);²² - the search of an apartment, premises, movable items and persons be it under the order by the preliminary proceedings judge or *ex officio* (article 53 and 64 of the CPC of BiH);²³ - the temporary seizure of objects and property, with or without a court order (65 and 66 of the CPC of BiH).²⁴

The necessary actions and measures for revealing a criminal offence that are undertaken by authorized officials *ex officio* or upon request by the prosecutor, are not limited only to the operational-tactical and investigative actions that have been outlined. An authorized official may take measures and actions to establish the identity of persons, in particular the suspect. In terms of this, s/he may photograph and take fingerprints of a person for whom there are grounds for suspicion that s/he has committed a criminal offence, and an authorized official may publicly release the photograph of that person upon approval by the prosecutor if this is going to be conducive to the efficiency of the proceedings (article 220 paragraph 2 of the CPC of BiH).²⁵ In

²¹ Article 219 paragraph 1 of the CPC of BD BiH, article 234 paragraph 1 of the CPC of FBiH, article 227 paragraph 1 of the CPC of RS.

²² Article 221 of the CPC of BD BiH, article 236 of the CPC of FBiH, article 229 of the CPC of RS.

²³ Articles 53 and 64 of the CPC of BD BiH, articles 67 and 78 of the CPC of FBiH, articles 117 and 128 of the CPC of RS.

²⁴ Articles 65 and 66 of the CPC of BD BiH, articles 79 and 80 of the CPC of FBiH, articles 129 and 130 of the CPC of RS.

²⁵ Article 220 paragraph 2 of the CPC of BD BiH, article 235 paragraph 2 of the CPC of FBiH, article 228 paragraph 2 of the CPC of RS.

addition to the aforementioned, an authorized official may also fingerprint persons who might have possibly touched certain objects (article 220 paragraph 3 of the CPC of BiH).²⁶ Further, an authorized official, in the event that there are grounds for suspicion that a criminal offence has been committed, has the right to detain persons found at the crime scene for the purpose of gathering of statements if such persons can provide information important for criminal proceedings. The prosecutor must be informed about the detaining of the persons at the crime scene. These persons cannot be detained longer than six hours at the crime scene (article 220 paragraph 1 of the CPC of BiH).²⁷ Also, an authorized official has the right and duty to deprive of liberty a person found at the crime scene (article 133 of the CPC of BiH).²⁸ A person for whom there are grounds for suspicion that s/he has committed a criminal offence may be deprived of liberty also in the case when the person has not been caught committing a crime. Namely, the police authority may deprive a person of liberty if there are grounds for suspicion that this person has committed a criminal offence and if there is any reason for custody. In either situation an authorized official is obligated to bring that person before the prosecutor without delay and no later than 24 hours, exceptionally 72 hours, and to notify the prosecutor about the reasons for and time of the deprivation of liberty (article 139 paragraph 1 of the CPC of BiH).²⁹

2. 3. 3. **The court** in this stage is taking only those activities related to actions limiting fundamental human rights and freedoms that are guaranteed by international and constitutional documents (e.g. deciding on remand in custody, issuing the order on taking special investigative measures or the temporary seizure of objects and property), and under legal conditions and when in the interest of justice it takes actions for the preservation of evidence by the court (e.g. hearing a witness because a witness will not be available to the court during the trial).

2. 3. 4. For the purpose of exercising the right to defence, the suspect has the right to be interrogated, to make a statement on all facts and evidence incriminating him/her and to state all facts and evidence in his/her favor i.e. to remain silent during the interrogation and not answer the questions asked. And the rights denoted as the 'minimum rights of defence' must be communicated to the suspect on the occasion of the first interrogation and these refer to the following: - informing the suspect of the criminal offence he/she is charged with and of the grounds for suspicion against him/her; - that he/she does not have to state his/her defence nor answer the questions asked; - that s/he can take a defence attorney of his/her own choice who can be present during the interrogation, as well as that s/he has the right to a defence attorney free of charge in the cases foreseen by the law; - that s/he can make a statement on the offence he/she is charged with and state all facts and evidence in his/her favor and if s/he does it in the presence of the defence attorney that such statement of his/her is admissible as evidence in the main trial and that it may be read and used during the main trial without his/her consent; - that s/he has the right to examine the file documents and see the obtained objects that are in his/her favor, unless the documents and objects the disclosure of which might endanger the aim of the investigation are in question; - that s/he has the right to free-of-charge services of an interpreter if s/he does not understand or speak the language used during interrogation (article 78 of the CPC of BiH).³⁰

²⁶ Article 220 paragraph 3 of the CPC of BD BiH, article 235 paragraph 3 of the CPC of FBiH, article 228 paragraph 3 of the CPC of RS.

²⁷ Article 220 paragraph 1 of the CPC of BD BiH, article 235 paragraph 1 of the CPC of FBiH, article 228 paragraph 1 of the CPC of RS.

²⁸ Article 133 of the CPC of BD BiH, article 147 of the CPC of FBiH, article 198 of the CPC of RS.

²⁹ Article 139 paragraph 1 of the CPC of BD BiH, article 153 paragraph 1 of the CPC of FBiH, article 204 paragraph 1 of the CPC of RS.

³⁰ Article 78 of the CPC of BD BiH, article 92 of the CPC of FBiH, article 143 of the CPC of RS.

The following should be added too: (a) the right of the suspect to communicate in an unrestricted or undisturbed way with the defence attorney if s/he is in pre-trial custody; (b) that the suspect and his/her defence attorney have the right to propose the preservation of evidence by the court, to appeal the decision by the preliminary proceedings judge rejecting such a proposal and, if such a special hearing occurs, to be present during the preservation of evidence by the court; (c) that the defence attorney has the right to be present during the interrogation of the suspect and the search of an apartment, other premises, movables and persons (articles 48, 223, 78 and 58 item j) of the CPC of BiH).³¹ It can be concluded from the aforementioned that there are some rights of the suspect that are not exercised only in the course of the interrogation of the suspect, but also later on in the course of the investigation (e.g. examining the obtained objects, free-of-charge services of an interpreter, communication with the defence attorney if the suspect is in pre-trial custody, or the right of the suspect to state all facts and evidence that are in his/her favor).

2. 3. 5. **The injured party** has the right to submit a report on the committed criminal offence as well as to be informed about the fact that the prosecutor had issued an order not to conduct the investigation. Also, the injured party has the right to be informed on the suspension of the investigation, and s/he may, with the aim of having such decision and the decision not to conduct the investigation reassessed, file a complaint to the prosecutor's office within eight days (articles 216 and 224 of the CPC of BiH).³² Also, the injured party's right to realize property claim is matched by the prosecutor's duty in terms of establishing facts necessary for making a decision on the property claim.

2. 4. The completion of the investigation and the issuance of indictment. The cessation and adjournment of investigation

The general rule that criminal proceedings once initiated must be completed is applicable also for the investigation as the first stage of regular criminal proceedings. The investigation may end in several ways: in the completion of investigation and the issuance of indictment, its cessation and adjournment.

The investigation is **completed and the indictment issued** when the purpose of investigation is achieved. The prosecutor completes the investigation when s/he concludes that the status is sufficiently clarified (in terms of the criminal offence in question, who is the perpetrator and what evidence has been gathered) to allow the bringing of charges.³³ Thus, when during the course of an investigation, the prosecutor finds that there is enough evidence for grounded suspicion that the suspect has committed a criminal offence, the prosecutor shall prepare and refer the indictment to the preliminary hearing judge (article 226 paragraph 1 of the CPC of BiH).³⁴ If the investigation has not been completed within six (6) months after the order on its conducting has

³¹ Articles 48, 223, 78 and 58 item j) of the CPC of BD BiH, articles 62, 238, 92 and 72 item j) of the CPC of FBiH, articles 56, 231, 143 and 122 item j) of the CPC of RS.

³² Articles 216 and 224 of the CPC of BD BiH, articles 231 and 239 of the CPC of FBiH, articles 224 and 232 of the CPC of RS.

³³ Article 225 paragraph 1 of the CPC of BiH, article 225 paragraph 1 of the CPC of BD BiH, article 240 paragraph 1 of the CPC of FBiH, article 233 paragraph 1 of the CPC of RS.

³⁴ Article 226 paragraph 1 of the CPC of BD BiH, article 241 paragraph 1 of the CPC of FBiH, article 241 paragraph 1 of the CPC of RS.

been issued, the Collegium of the Prosecutor's Office shall undertake necessary measures in order to complete the investigation (article 225 paragraph 3 of the CPC of BiH).³⁵

The investigation can also be ended by **cessation**. The order on the cessation of investigation is issued by the prosecutor under the following legal conditions: - the act committed by the suspect is not a criminal offence; - there are circumstances that exclude the criminal responsibility of the suspect (except in the case of mental incapacity); - there is insufficient evidence that the suspect has committed a criminal offence; - the act is covered by amnesty, pardon, statute of limitations or there are some other obstacles that preclude prosecution. The prosecutor shall inform in a written form the injured party, the suspect if s/he has been interrogated, and the person who reported the act on the cessation of investigation and on the reasons for doing so (article 224 of the CPC of BiH).³⁶

Finally, if the suspect becomes affected by such a mental illness after the commission of a criminal offence that he or she is unable to take part in the proceedings, the prosecutor shall, upon psychiatric forensic evaluation, **adjourn** the procedure by way of a decision and send the suspect to the authority responsible for issues of social care (articles 207 and 388 of the CPC of BiH).³⁷

3. The views of authorized officials on their position in the detection of and evidence gathering in criminal offences and the cooperation with prosecutors

3. 1. Introductory remarks

As we have pointed out in the introduction, one group of respondents consisted of authorized officials working in the period from December 2013 to January 2014 in the police agencies at all levels in BiH. Different categories of authorized officials are in question: police officials, inspectors, investigators, chiefs, independent inspectors, heads of departments, police station commanders, assistant commanders and other different categories of authorized officials. It is important for this segment of the research that authorized officials, when filling out questionnaires, were able to evaluate activities in the detection of and evidence gathering in criminal offences and, in relation to this, the cooperation with prosecutors. In the *Questionnaire on the procedures and cooperation of authorized officials and prosecutors in the detection of criminal offences and perpetrators and the investigative evidence gathering* 17 questions were asked, the questions being identical to those in the *Questionnaire on the procedures and cooperation of prosecutors and authorized officials in the detection of criminal offences and perpetrators and the investigative evidence gathering*. What follows below is the analysis of the views of authorized officials on the questions asked.

³⁵ Article 225 paragraph 3 of the CPC of BD BiH, article 240 paragraph 3 of the CPC of FBiH, article 240 paragraph 3 of the CPC of RS.

³⁶ Article 224 of the CPC of BD BiH, article 239 of the CPC of FBiH, article 232 of the CPC of RS.

³⁷ Articles 207 and 388 of the CPC of BD BiH, articles 221 and 409 of the CPC of FBiH, articles 217 and 416 of the CPC of RS.

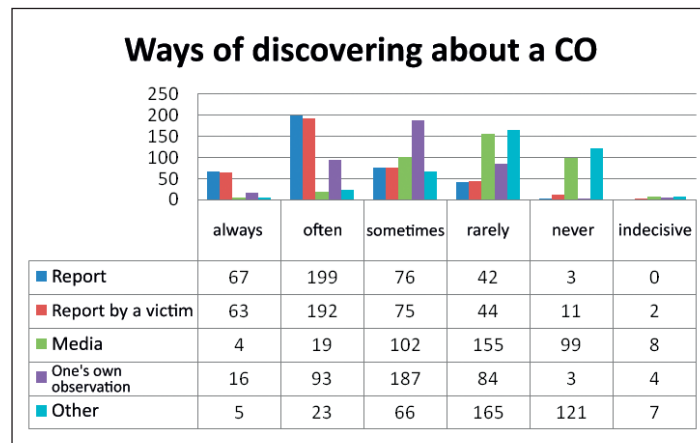
3. 2. Empirical research

Table 1.

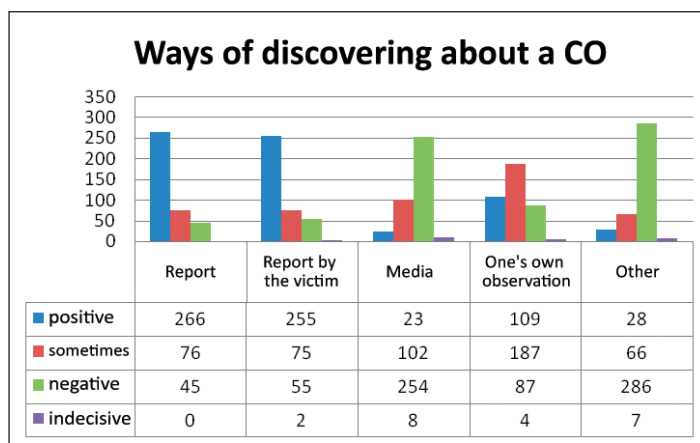
Question: In what way do you discover about a committed criminal offence?

	always		often		sometimes		rarely		never		indecisive	
	F	%	F	%	F	%	F	%	F	%	F	%
Report	67	17,3	199	51,4	76	19,6	42	10,9	3	0,8	0	0,0
Report by the victim	63	16,3	192	49,6	75	19,4	44	11,4	11	2,8	2	0,5
Media	4	1,0	19	4,9	102	26,4	155	40,1	99	25,6	8	2,1
One's own observation	16	4,1	93	24,0	187	48,3	84	21,7	3	0,8	4	1,0
Other	5	1,3	23	5,9	66	17,1	165	42,6	121	31,3	7	1,8

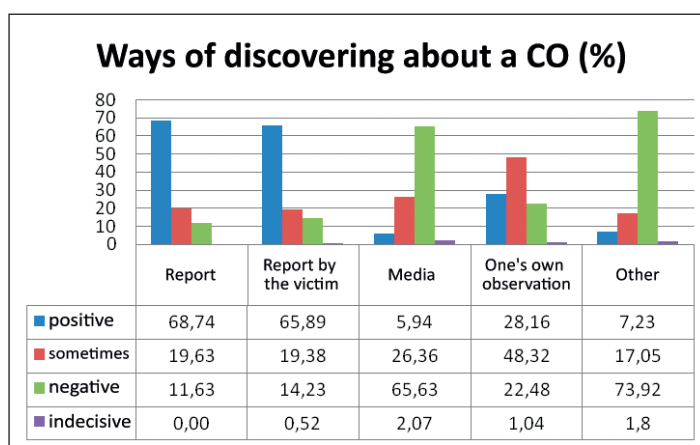
The graphical representation of the offered answers is the following: graphs 1 and 1a show the comparison of collected data, first with the data on some ways of discovering about a criminal offence through a scale with five degrees of agreement (graph 1), the cumulative data are given in the continuation by denoting the views „always“ and „often“ as „positive“, the views „rarely“ and „never“ are denoted as „negative“ and the view „sometimes“ has remained as it is (graph 1a). Graph 1b covers positive and negative indicators in percentages.



Graph 1. Ways of discovering about a criminal offence



Graph 1a. Positive and negative indicators



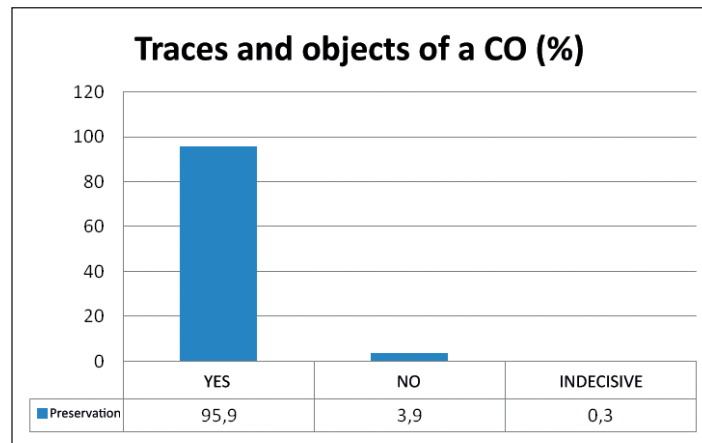
Graph 1b. Positive and negative indicators in percentages

Authorized officials were responding to the question asked through different intervals on a scale of five degrees („always“, „often“, „sometimes“, „rarely“, „never“). The ways of discovering about a criminal offence were classified in the order starting with a report and report by the victim of a criminal offence, that are most frequent in practice according to the experience, on to the media, one's own observation of the commission of a criminal offence and other ways, that are not so frequent. According to the processed data it can be noted that authorized officials emphasize as the most frequent way of learning of a criminal offence precisely a report submitted on the part of an authorized and responsible official in the governmental authorities, public companies and institutions and other legal persons, or on the part of a citizen (68.74%). In the second place is the report by the victim of a criminal offence (65.89%). „One's own observation“ is in the third place (28.16%), followed by other ways of discovering about a criminal offence (e.g. through an auditor's report, or self-reporting; 7.23%) and „media“ (5.94%). So, Table 1 and graphs 1-1b confirm that the most frequent forms of discovering about a criminal offence are a report and a report by the victim of a criminal offence. The least represented are media and „other“. One's own observation as a way of discovering about a committed criminal offence is the most represented in the interval „sometimes“ (48.32%).

Table 2.

Question: Does an authorized or responsible official take measures to preserve the traces of a criminal offence, objects upon which or by way of which a criminal offence has been committed and other evidence thereof?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Preservation	371	95,9	15	3,9	1	0,3



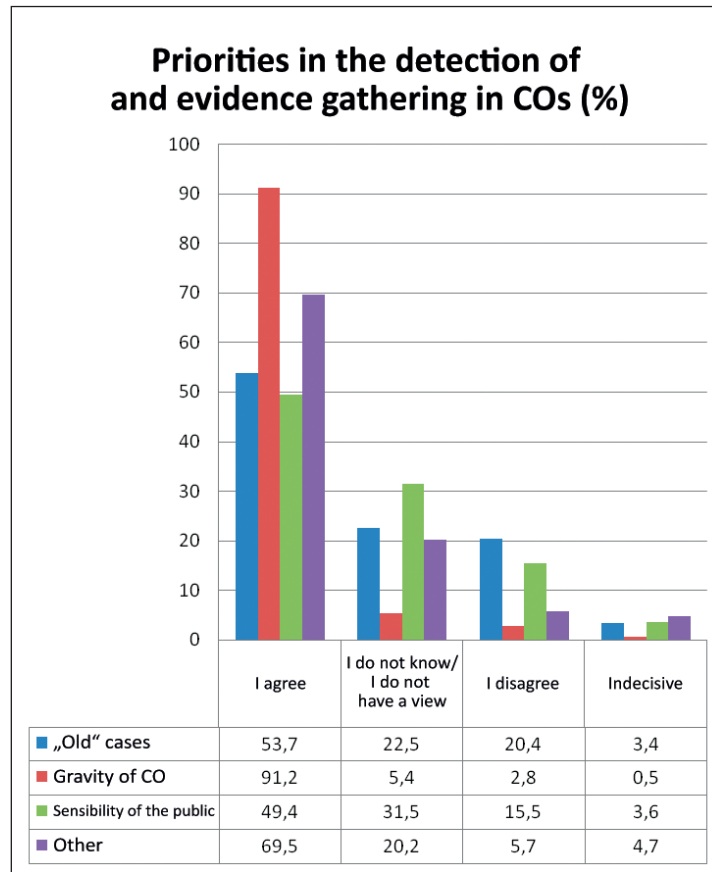
Graph 2. Traces and objects of a criminal offence

Table 2 as well as graph 2 show that an authorized or responsible official takes measures to preserve the traces of a criminal offence, objects upon which or by way of which a criminal offence has been committed and other evidence thereof, and that more than 95% of authorized officials respond positively to the question asked.

Table 3.

Question: What is your view on the priorities in the work on the detection of and evidence gathering in criminal offences?

	I agree		I do not know/ I do not have a view		I disagree		Indecisive	
	F	%	F	%	F	%	F	%
"Old" cases	208	53,7	87	22,5	79	20,4	13	3,4
Gravity of CO	353	91,2	21	5,4	11	2,8	2	0,5
Sensibility of the public	191	49,4	122	31,5	60	15,5	14	3,6
Other	269	69,5	78	20,2	22	5,7	18	4,7



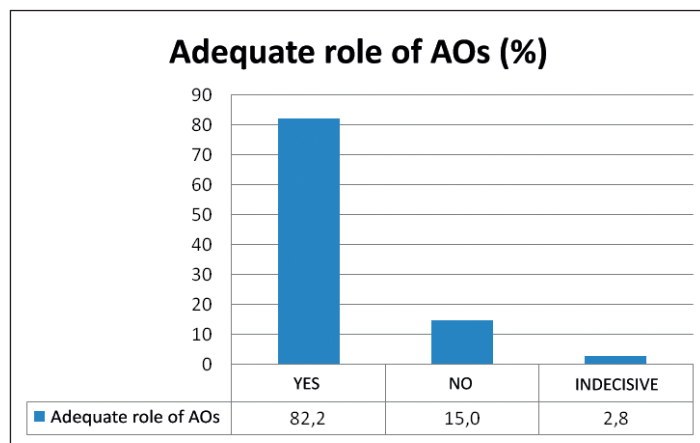
Graph 3. Priorities in the detection of and evidence gathering in criminal offences

Table 3 and graph 3 show the data on the views of authorized officials in ranking the priorities in the work on the detection of and evidence gathering in criminal offences. „Gravity of a criminal offence“ is for most respondents (91.2%) – the priority in their work. „Other reasons“ are in the second position, e.g. the complexity of a case (69.5%), followed by „old cases“ (53.7%) and „sensibility of the public“ (49.4%). Disagreements on the part of authorized officials with the offered priorities in the work on the detection of and evidence gathering in criminal offences are most pronounced when it comes to „old cases“ (20.4%), while the largest number of authorized officials emphasized that they do not have a view with respect to the cases which the public would be interested in having on the list of priorities in the work on the detection of and evidence gathering in criminal offences (31.5%).

Table 4:

Question: Do you think that an authorized official have an adequate role in the detection of and evidence gathering in criminal offences?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Adequate role of AO	318	82,2	58	15	11	2,8



Graph 4. The adequate role of authorized officials

Table 4 and graph 4 show a resolute view of authorized officials with respect to the question asked and emphasize that their role in the detection of and evidence gathering in criminal offences is adequate. 82.2% of respondents said so, while 15.0% of them are of the opinion that this role is not adequate. The possibility of descriptive answers to this question was offered in the *Questionnaire on the procedures and cooperation of authorized officials and prosecutors in the detection of criminal offences and perpetrators and the investigative evidence gathering*.

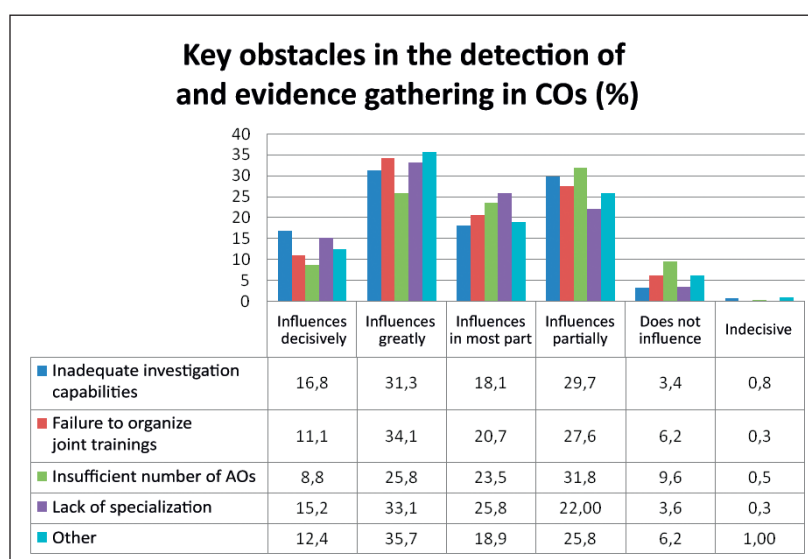
Most respondents confirmed their views through the argumentation of the adequate role in the detection of and evidence gathering in criminal offences, in particular emphasizing the following: - the adequacy of the criminal procedure codes given the fact that authorized officials got greater powers in the detection of and evidence gathering in criminal offences; - the greater responsibility of authorized officials for the procedural laws clearly indicate that authorized officials are authorities for the detection of and evidence gathering in criminal offences; - the possibility of work with the prosecutor in the detection of and evidence gathering in criminal offences; - the expertise of authorized officials on the tasks of detection of and evidence gathering in criminal offences; - the adequacy of the organizational regulations.

Given the fact that 15.0% emphasized that the role of authorized officials in the detection of and evidence gathering in criminal offences is not adequate, we looked for the reasons for this. The descriptive answers emphasize that the following is conducive to this: - poor or not so good communication with the prosecutor; - dependence of authorized officials in their work (due to the links to the prosecutor, and the court as well), which takes away the creativity and zeal from authorized officials in performing tasks; inadequate legal solutions on the rights of authorized officials on account of which these officials do not have sufficiently broad powers in the detection of and evidence gathering in criminal offences; - inactivity of the prosecutor in the detection of and evidence gathering in criminal offences; - insufficient number of authorized officials and investigators; - signing of the report on criminal offence by a person who has not participated in its detection (the head of a police authority is in question); - not so good evaluation of activities of authorized officials in the detection of and evidence gathering in criminal offences by other institutions in the society; - failure to apply new methods in the detection of and evidence gathering in criminal offences; - lack of knowledge of relevant regulations on the part of authorized officials; - inadequate wages; - poor technical equipment; - poor or not so good inter-agency cooperation; - inadequate access of authorized officials to different records.

Table 5.

Question: In your view, what are the key obstacles for the detection of and evidence gathering in criminal offences?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Inadequate investigation capabilities	65	16,8	121	31,3	70	18,1	115	29,7	13	3,4	3	0,8
Failure to organize joint trainings	43	11,1	132	34,1	80	20,7	107	27,6	24	6,2	1	0,3
Insufficient number of AOs	34	8,8	100	25,8	91	23,5	123	31,8	37	9,6	2	0,5
Lack of specialization	59	15,2	128	33,1	100	25,8	85	22	14	3,6	1	0,3
Other	48	12,4	138	35,7	73	18,9	100	25,8	24	6,2	4	1,0



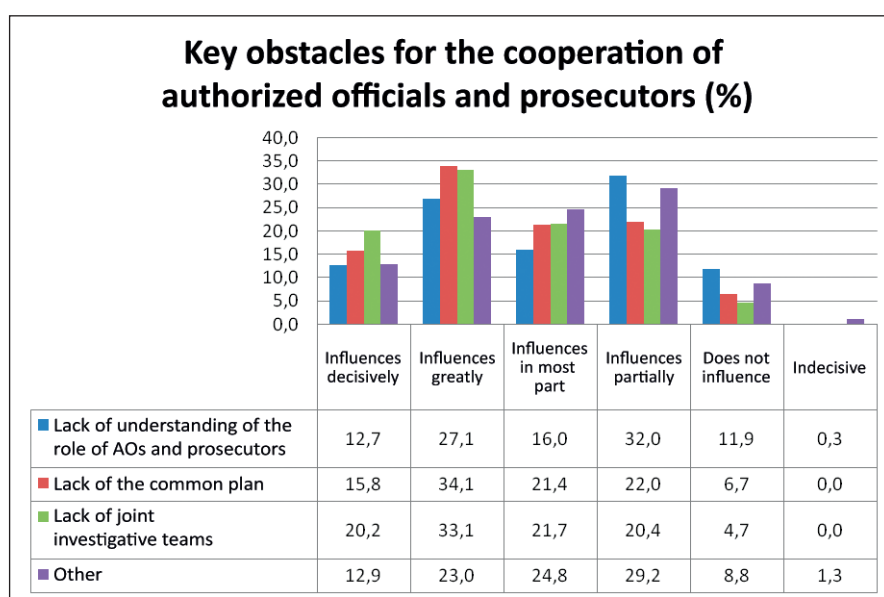
Graph 5. Key obstacles in the detection of and evidence gathering in criminal offences

On the basis of data in table 5 and graph 5 it can be concluded that all offered options play a certain role during the detection of and evidence gathering in criminal offences. Looking at them individually, for 31.3% of authorized officials the „inadequate investigation capabilities of the authority of criminal proceedings“ greatly influence the detection of and evidence gathering in criminal offences. The same answer („influences greatly“) on a Likert-type scale (of five offered answers) refers also to the „failure to organize joint trainings of prosecutors and authorized officials“ (34.1%), the „insufficiently implemented and harmonized specialization in prosecutor's offices and police agencies“ (33.1%) and „other“ (e.g. inadequate work conditions, the attitude of media towards the detection of and evidence gathering in criminal offences; 35.7%). According to the views of the majority of respondents, the „insufficient number of authorized officials in police agencies“ only partially affects the detection of and evidence gathering in criminal offences (31.8%).

Table 6.

Question: In your view, what are the key obstacles for the cooperation between authorized officials and prosecutors in the detection of criminal offences and perpetrators and evidence gathering therein?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Lack of understanding of the role of AOs and prosecutors	49	12,7	105	27,1	62	16,0	124	32,0	46	11,9	1	0,3
Lack of the common plan	61	15,8	132	34,1	83	21,4	85	22,0	26	6,7	0	0,0
Lack of joint investigative teams	78	20,2	128	33,1	84	21,7	79	20,4	18	4,7	0	0,0
Other	50	12,9	89	23,0	96	24,8	113	29,2	34	8,8	5	1,3



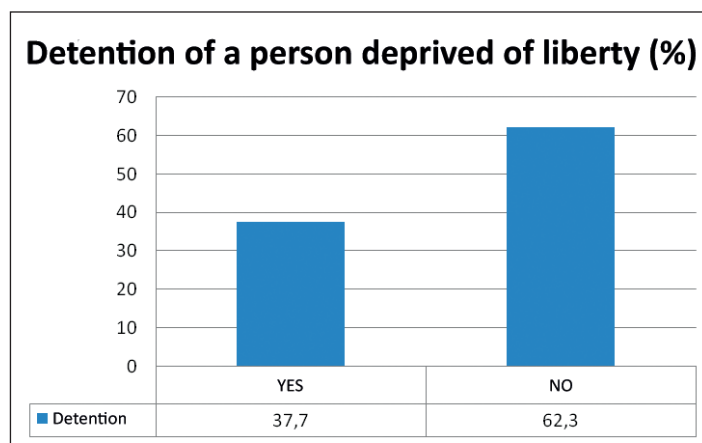
Graph 6. Key obstacles for the cooperation of authorized officials and prosecutors

To the question asked about the key obstacles for the cooperation of authorized officials and prosecutors, and according to the views of respondents, the „lack of joint investigative teams“ decisively (20.2%) i.e. greatly (33.1%) influences the detection of criminal offences and perpetrators and evidence gathering therein. It is also the view of respondents that the „lack of the common plan“ greatly influences the joint activities in the detection of and evidence gathering in criminal offences (34.1%). Similarly, other offered „obstacles“ (e.g. „inadequate qualifications of authorized officials“, „lack of joint by-laws on the cooperation“, „lack of understanding of the roles of authorized officials and prosecutors“), in the way that the answers are given on a Likert-type scale in three degrees (from influences greatly to influences partially), are also taken into consideration in the evaluation of the cooperation of authorized officials and prosecutors in the detection of criminal offences and their perpetrators and evidence gathering therein.

Table 7.

Question: Do you think that the lawful period of detention of a person deprived of liberty in the duration of 24 hours is adequate?

	YES		NO	
	F	%	F	%
Detention	146	37,7	241	62,3



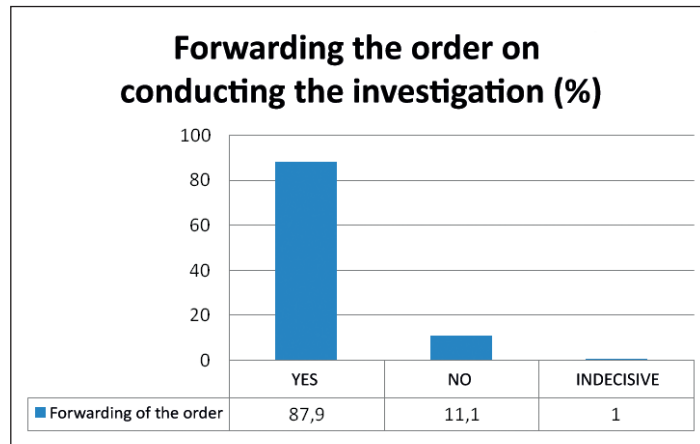
Graph 7. Detention of a person deprived of liberty

More than 60% of polled authorized persons gave a negative answer to the question: Is the lawful period of detention of a person deprived of liberty in the duration of 24 hours adequate? Based on the answer to the sub-question („How much should this period be prolonged?“), the majority of respondents who think that this period is not adequate propose the extension of this period to 48 hours, and there are respondents who point out that this period should be prolonged to 72 hours. Despite the fact that there is a significant number of those who find the lawful period of detention of a person deprived of liberty in the duration of 24 hours inadequate, it should however be noted that more than 35% of respondents accept that the period of 24 hours to detain a person upon deprivation of liberty is - adequate.

Table 8.

Question: Do you think that the order on conducting the investigation should be forwarded to authorized officials in terms of the cooperation in planning the investigation jointly with authorized officials?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Forwarding of the order	340	87,9	43	11,1	4	1,0



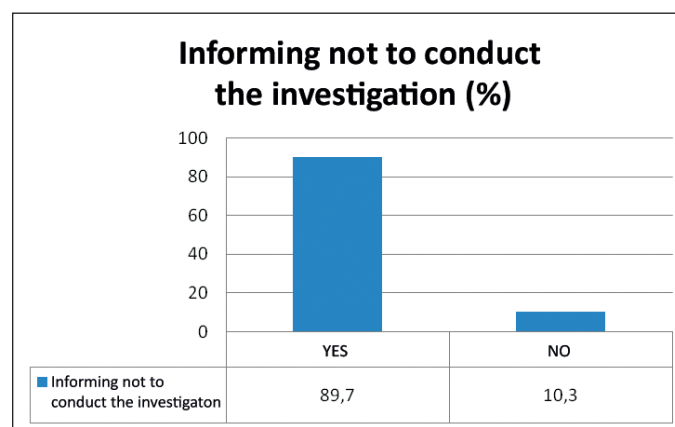
Graph 8. Forwarding the order on conducting the investigation

Data in table 8 and graph 8 attest that authorized officials are resolute in their views that the prosecutor should forward them the order on conducting the investigation in order to achieve the cooperation in planning and conducting the investigation. Linking this answer to the earlier presented observations on the part of authorized officials, in particular when it comes to their role in the detection of and evidence gathering in criminal offences and the cooperation with the prosecutor, it can be concluded that this view is prompted by the reasons of efficiency in the detection of and evidence gathering in criminal offences.

Table 9.

Question: If upon submission of a criminal report the prosecutor issues an order not to conduct the investigation, does the prosecutor inform authorized officials about it?

	YES		NO	
	F	%	F	%
Informing not to conduct the investigation	347	89,7	40	10,3



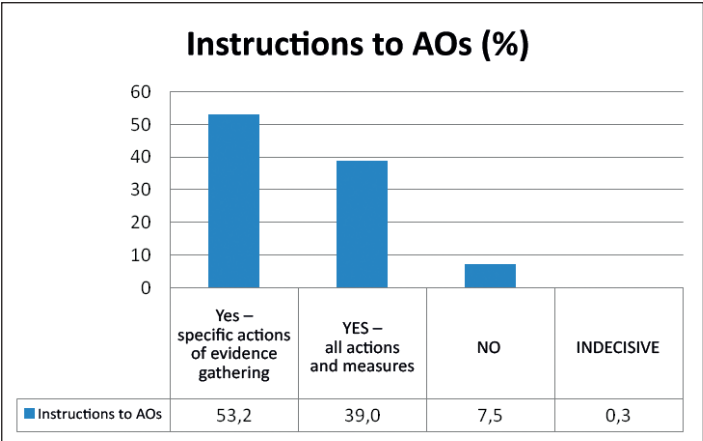
Graph 9. Informing not to conduct the investigation

In the analysis of answers to the question posed in Table 9 and Graph 9, one can notice that great many prosecutors do notify authorised officials about their order not to conduct investigation issued upon the submission of reports on perpetrated criminal offences (89,7%). Only 10,3% of authorised officials, who were our respondents, stated that prosecutors do not do that.

Table 10.

Question: Do prosecutors issue instructions to authorised officials to undertake investigative actions?

	Yes – specific action of evidence gathering		YES – all actions and measures		NO		INDECISIVE	
	F	%	F	%	F	%	F	%
Instructions to AOs	206	53,2	151	39	29	7,5	1	0,3



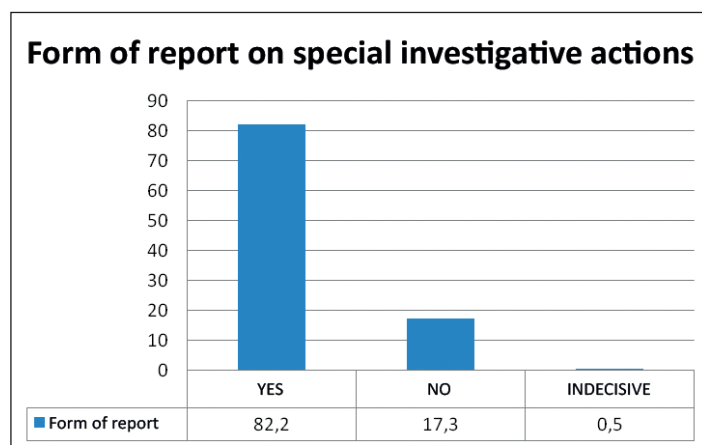
Graph10. Instructions to authorised officials

Over 90% of authorised officials (more precisely 92,2%) confirm that prosecutors do issue instruction to undertake investigative actions. Table 10 and Graph 10 indicate that for 53,2% of respondents there were the instructions to undertake specific actions of evidence gathering, while 39,0% of respondents stated that instructions were aimed at undertaking “all necessary actions and measures” to detect and gather evidence about the perpetration of criminal offences. Only 7,5% of respondents stated that prosecutors do not issue instruction to authorised officials to undertake investigative actions. In this Survey, authorised officials were asked about their opinion why prosecutors do not issue this instruction. The analysis of descriptive answers to this sub-question indicates the following: great number of pending cases in prosecutor’s offices; absence of specialisation in prosecutor’s offices; inadequate knowledge of criminology; lack of will to act jointly; referral of cases to inexperienced expert associates.

Table 11.

Question: Should there be a prescribed form of report submitted by the police to prosecutors about the realisation of special investigative actions?

	YES		NO		NO ANSWER	
	F	%	F	%	F	%
Form of report	318	82,2	67	17,3	2	0,5

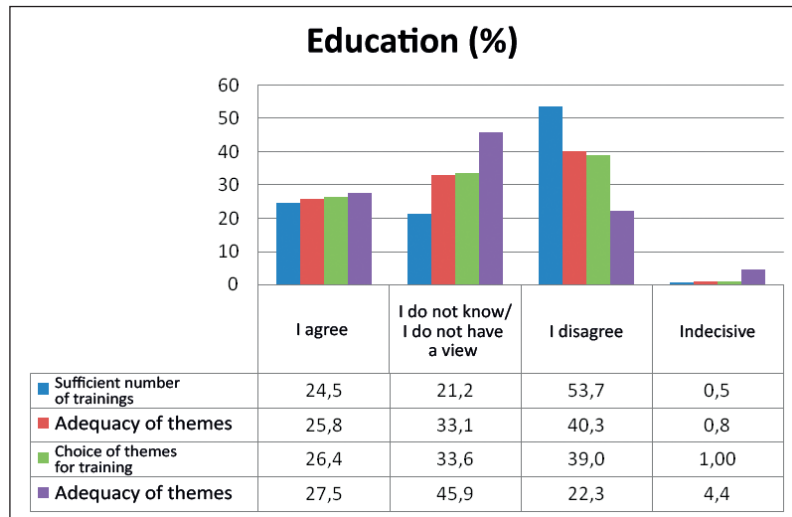
**Graph 11.** Form of report on special investigative actions

As data in Table 11 and Graph 11 indicate, authorised officials are in favour of prescribing some form of report that is submitted by the police to prosecutors about the realisation of special investigative actions (82,2%). Only 17,3% of respondents holds that such a report does not require this kind of formalisation.

Table 12.

Question: What is your view on the education that is being carried out?

	I agree		I do not know/ I do not have a view		I disagree		Indecisive	
	F	%	F	%	F	%	F	%
Sufficient number of trainings	95	24,5	82	21,2	208	53,7	2	0,5
Adequacy of themes	100	25,8	128	33,1	156	40,3	3	0,8
Choice of themes for training	102	26,4	130	33,6	151	39,0	4	1
Other	106	27,5	177	45,9	86	22,3	17	4,4



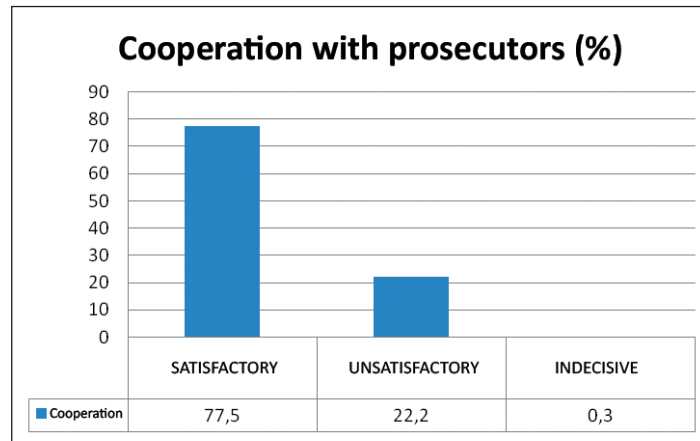
Graph 12. Education

The data given in Table 12 and Graph 12 indicate that more than 50% respondents think that the number of trainings in the course of a year is insufficient. 40,3% of them is not satisfied with the themes that are elaborated there, while there is approximately the same percentage of those (more precisely 39,0%) who think that there is no possibility of influencing the choice of themes for education. In conclusion, we can say that authorised officials do not have a positive view of the trainings held to date, of the themes that were elaborated, of the possibility to choose themes, and of lecturers. If these views are linked to the views of authorised officials on key obstacles for detection and evidence gathering in criminal offences, one can see that this dissatisfaction is also related to the lack of organisation of joint trainings of prosecutors and authorised officials (see Table 5 and Graph 5).

Table 13.

Question: How do you assess the cooperation with prosecutors?

	SATISFACTORY		UNSATISFACTORY		INDECISIVE	
	F	%	F	%	F	%
Cooperation	300	77,5	86	22,2	1	0,3



Grafikon 13. Saradnja s tužiocem

Authorised officials are satisfied with their cooperation with prosecutors, since as many as 77,5% respondents expressed their satisfaction. The data given in Table 13 and Graph 13 clearly indicate that 22,2% of authorised officials is not satisfied with this cooperation. In this Survey, we asked the question relating the reasons behind this dissatisfaction - both in practice and in terms of regulations. What have their descriptive answers shown?

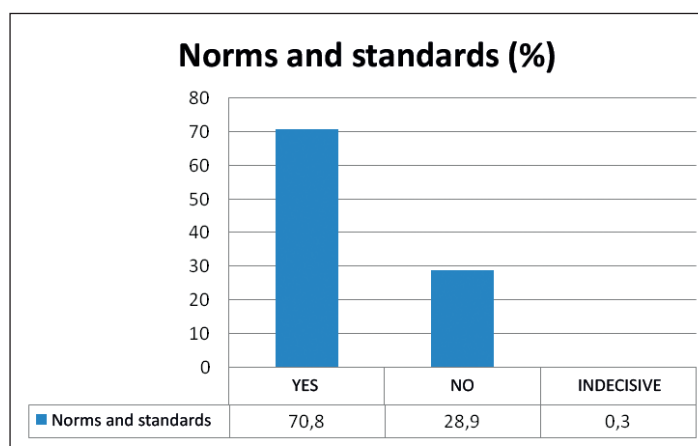
Their dissatisfaction with cooperation with prosecutors in practice relates primarily to the following: prosecutors are not involved in detection and evidence gathering in criminal offences from the very beginning of the process; they avoid getting involved in the investigation of complex criminal offences; they do not appear at the crime scene; prosecutors spend too little time in the field; they do not have adequate knowledge of criminology; way too often, they are preoccupied with the desk work; they confront authorised officials with unrealistic demands; they do not undergo specialised trainings relating detection and evidence gathering in specific criminal offences; they do not cooperate with authorised officials; they do not plan joint investigations so that prosecutor's offices act in an untimely fashion in some cases, so that a passage of time, amounting to several years from report on criminal offences to their prosecution and indictment, is recorded; they do not notify authorised officials in writing that investigation has been suspended and that indictment has been issued; there is no contact with investigators who have made report on criminal offences; prosecutors refer authorised officials to expert associates employed in their offices, who lack adequate experience or have a modest experience in financial investigations.

As for the proposals for changes of regulations, the authorised officials who are dissatisfied with their cooperation with prosecutors especially pointed at the following: there is the need to sanction the responsibility of prosecutors who fail to prosecute offences, or do it only partially, or who order to suspend investigation, their failure to issue indictments and their poor communication with authorised officials; procedures of getting orders to undertake special investigative actions must be simplified; steps must be made to amend the criminal procedure codes, and other related laws and by-laws; efforts must be made to align the legislation in BiH with the conventions and recommendations in the domain of combating modern forms of crime,; and by-laws, guidelines and instructions on the cooperation between authorised officials and prosecutors need to be drafted.

Table 14.

Question: Do you think that one of the problems in the work of authorised officials are „the norms and standards“ on the number of reports on criminal offences they have to submit?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Norms and standards	274	70,8	112	28,9	1	0,3



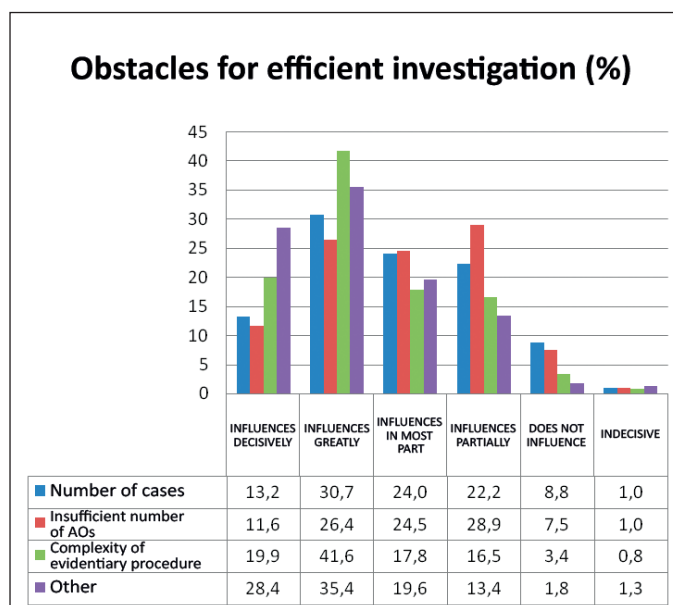
Graph 14. Norms and standards

Norms and standards on the number of reports on criminal offences that need to be submitted are one of the problems facing authorised officials in their work. This is confirmed in the data contained in Table 14 and Graph 14. We need to point out that this view was underlined in the descriptive answers of authorised officials relating their role in the detection and evidence gathering in criminal offences.

Table 15.

Question: What is it in practice that enables efficient investigation?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Number of cases	51	13,2	119	30,7	93	24,0	86	22,2	34	8,8	4	1,0
Insufficient number of AOs	45	11,6	102	26,4	95	24,5	112	28,9	29	7,5	4	1,0
Complexity of evidentiary procedure	77	19,9	161	41,6	69	17,8	64	16,5	13	3,4	3	0,8
Other	110	28,4	137	35,4	76	19,6	52	13,4	7	1,8	5	1,3



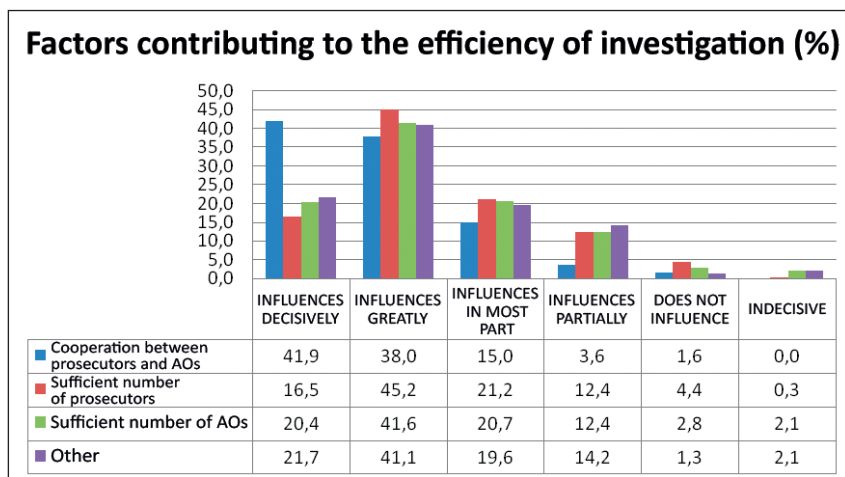
Graph 15. Obstacles for efficient investigation

All the offered options, as it is shown in the percentages, have a great negative influence on efficiency of investigations. These are: great number of cases, insufficient number of authorised officials, complexity of evidence gathering in specific criminal offences, working conditions, assets at the disposal of police agencies. All of these, according to respondents, prevent efficient investigation and affects greatly the work of authorised officials. Judging by the data contained in Table 15 and Graph 15, it is the working conditions and assets necessary for work that have a decisive influence on the efficiency of investigations (28,4%).

Table 16.

Question: What is it in practice that enables an efficient investigation?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Cooperation between prosecutors and AOs	162	41,9	147	38,0	58	15,0	14	3,6	6	1,6	0	0,0
Sufficient number of prosecutors	64	16,5	175	45,2	82	21,2	48	12,4	17	4,4	1	0,3
Sufficient number of AOs	79	20,4	161	41,6	80	20,7	48	12,4	11	2,8	8	2,1
Other	84	21,7	159	41,1	76	19,6	55	14,2	5	1,3	8	2,1



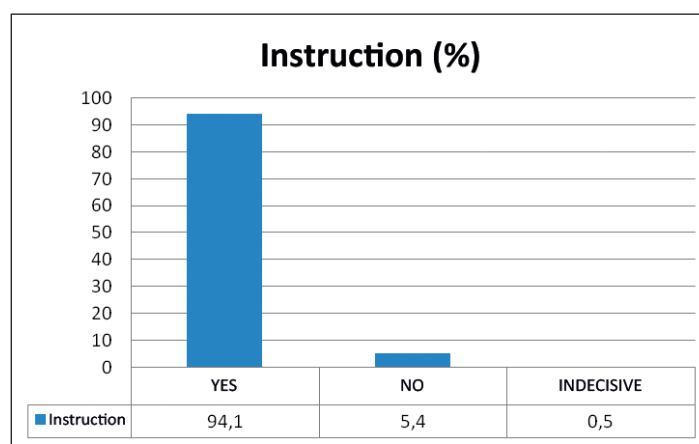
Graph 16. Factors contributing to the efficiency of investigation

According to Table 16 and Graph 16, factors enabling efficient investigation are the cooperation between prosecutors and authorised officials (according to 41,9% of respondents this has a decisive influence, i.e. for 38,0% of respondents, this cooperation has a great influence on efficiency of investigation), sufficient number of prosecutors (for 45,2% of respondents it as a great influence on efficiency), sufficient number of authorised officials (41,6% of respondents considers that it has a great influence on efficiency), adequate working conditions, the adoption of by-laws, guidelines and instructions (for 41,1% of respondents it has a great influence on the efficiency of investigations).

Table 17.

Question: Are you familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Instruction	364	94,1	21	5,4	2	0,5



Graph 17. Instruction

It is clear from these data (Table 17 and Graph 17) that authorised officials are familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*. Only 5,4% of authorised officials are not familiar with this by-law.

4. Views of prosecutors relating their position in the process of detection and evidence gathering in criminal offences and cooperation with authorised officials

4. 1. Introductory remarks

The questionnaires were sent out to prosecutors who were working in the prosecutor's offices in Bosnia and Herzegovina in the period from December 2013 to January 2014. It is important for the success of this survey that prosecutors were able to assess the fulfilment of the function of criminal prosecution in their daily work and related cooperation with authorised officials on evidence detection and gathering of criminal offences. These aspects also required specific questions to be included in the *Questionnaire on Actions and Cooperation between Authorised Officials and Prosecutors in the Detection of Criminal Offences and their Perpetrators and in the Actions of Evidence Gathering*, which contribute to a more comprehensive insight into the views of prosecutors about their rights and duties in the context of criminal procedure. That is why the *Questionnaire on Actions and Cooperation between Authorised Officials and Prosecutors in the Detection of Criminal Offences and their Perpetrators and in the Actions of Evidence Gathering* also includes questions on the length of investigations, direct indictment and plea bargaining. In this segment, regardless of their position in the Questionnaire, these questions will be separated and elaborated at the end of the segment to secure a clearer comparison of views held by both groups of professionals relating the questions posed both to prosecutors and authorised officials.

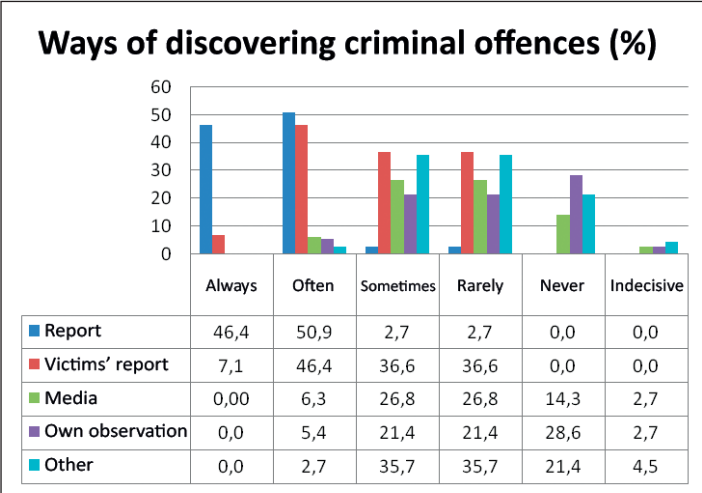
4. 2. Empirical research

Table 1.

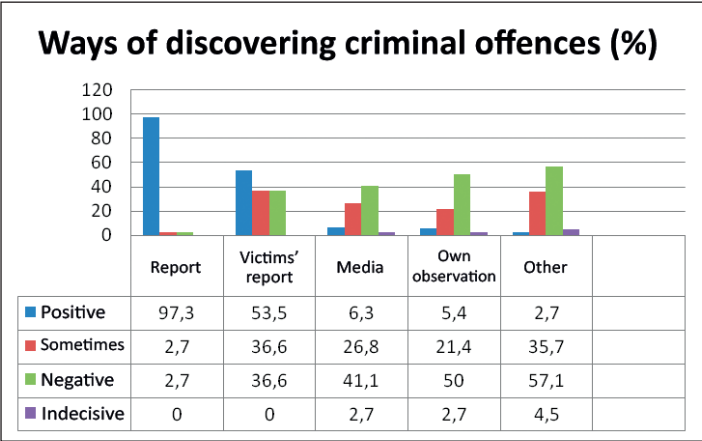
Question: How do you discover that a criminal offence has been committed?

	Always		Often		Sometimes		Rarely		Never		Indecisive	
	F	%	F	%	F	%	F	%	F	%	F	%
Report	52	46,4	57	50,9	3	2,7	0	2,7	0	0,0	0	0,0
Victims' report	8	7,1	52	46,4	41	36,6	11	36,6	0	0,0	0	0,0
Media	0	0,0	7	6,3	30	26,8	56	26,8	16	14,3	3	2,7
Own observation	0	0,0	6	5,4	24	21,4	47	21,4	32	28,6	3	2,7
Other	0	0,0	3	2,7	40	35,7	40	35,7	24	21,4	5	4,5

Graphic presentation of answers is as follows: Graph 1 and Graph 1a show the comparison of collected data, first, with data on individual methods of discovering about criminal offences through a 5-level scale (Graph 1), followed by cumulative data so that views “always” and “often” are marked as “positive”, views “rarely” and “never” as “negative”, while “sometimes” keeps the same mark (Graph 1a).



Graph 1. Ways of discovering that a criminal offence has been committed



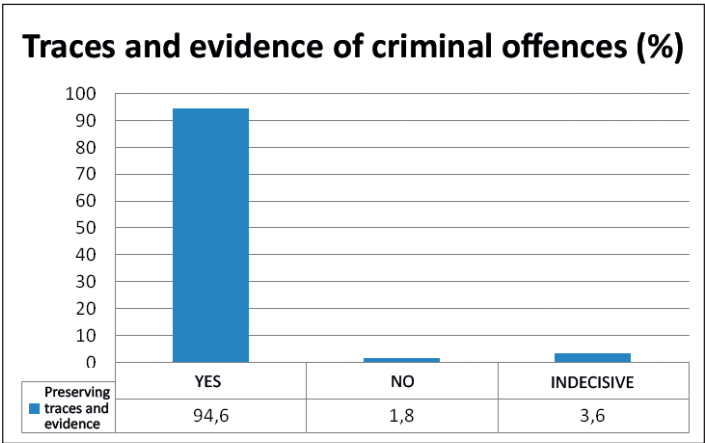
Graph 1a. Positive and negative indicators in %

We asked the prosecutors to answer the questions using different intervals on the 5-degree scale (“always”, “often”, “sometimes”, “rarely”, and “never”). The ways criminal offence are found about were divided following the sequence ranging from reports on criminal offences and victims’ reports of criminal offence, which are the most frequent ones in current practice, to the media, their own discovering about the criminal offences, and other ways of discovering about perpetrated criminal offences, which are not as frequent. According to the data we have processed, one can see that prosecutors think that reports submitted by authorised officials or responsible officials, public companies and other legal entities, or citizens are the most frequent (“always” – 46,4%; “often” – 50,9%) ways of discovering about criminal offences. Victims’ report as the method of discovering about criminal offences is primarily marked as “often” (46,4%), but this way of discovering about criminal offences is also positioned in the intervals marked as

“sometimes” (36,6%) and “rarely” (36,6%); while the least frequent option is “always” (7,1%). “Media” are equally cited in the intervals “sometimes” (26,8%) and “rarely” (26,8%), followed by “never” (14,3%), and then by “often” (6,3%). Prosecutors’ “own discovering about criminal offences” is pretty equally linked to the intervals of “sometimes” (21,4%), “rarely” (21,4%) and “never” (28,6%). In terms of other methods of discovering about criminal offences (e.g., through audit reports or self-reporting), prosecutors equally cited “sometimes” (35,7%) and “rarely” (35,7%), while a lesser percentage of prosecutors opted for “never” (21,4%).

Table 2.
Question: Do authorised officials or responsible officials undertake measures to preserve the traces of criminal offences, objects on which or by which criminal offences were committed, and other pieces of evidence about them?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Preserving traces and evidence	106	94,6	2	1,8	4	3,6



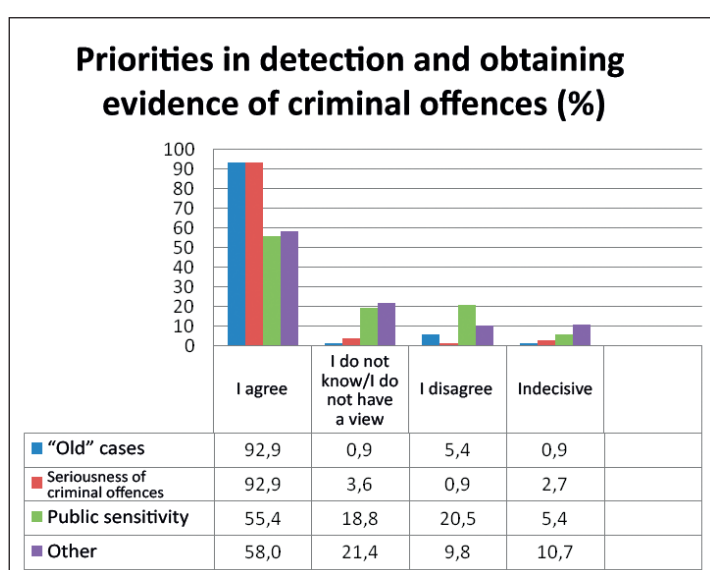
Graph 2. Traces and evidence of criminal offences

In view of this question, general assessment found in the answers we got indicates that authorised officials or responsible officials do undertake measures to preserve the traces of criminal offences, objects on which or by which criminal offences were committed and other evidence of criminal offences. Thus, almost 95% of surveyed prosecutors confirmed that authorised officials and responsible officials undertake necessary activities to secure the traces of criminal offences and objects that may serve as pieces of evidence in criminal proceedings, thus contributing to a more efficient detection and evidence gathering in criminal offences and carrying out of criminal procedures.

Table 3.

Question: What is your view on priorities in the work on detection and evidence gathering in criminal offences?

	I agree		I do not know/ I do not have a view		I disagree		Indecisive	
	F	%	F	%	F	%	F	%
“Old” cases	104	92,9	1	,9	6	5,4	1	0,9
Seriousness of criminal offences	104	92,9	4	3,6	1	,9	3	2,7
Public sensitivity	62	55,4	21	18,8	23	20,5	6	5,4
Other	65	58,0	24	21,4	11	9,8	12	10,7



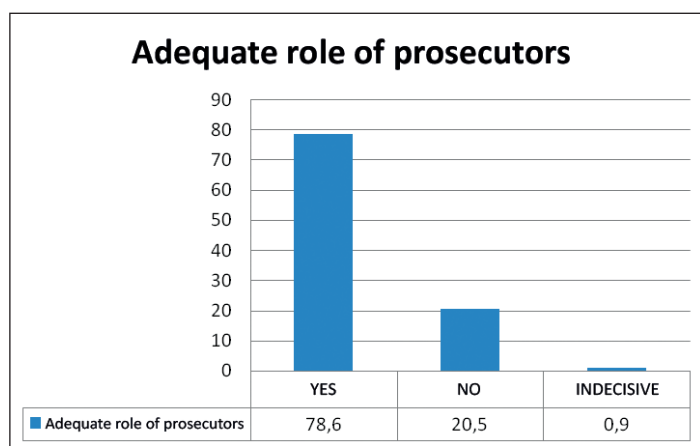
Graph 3. Priorities in detection and obtaining evidence of criminal offences

In this question, priorities in the work on detection and evidence gathering in criminal offences are ranked from old to complex cases, with a reminder that this list also includes “serious criminal offences” and “public sensitivity”. Based on the data collected and presented in Table 3 and Graph 3 one can conclude that more than 92% respondents (more precisely 92,9%) holds that “old cases” and “serious criminal offence” are the priority in the work on detection and evidence gathering in criminal offences. “Public sensitivity” and “other” (inter alia, e.g. complexity of cases) are priorities in these activities for app. 55,4%, i.e. 58% of prosecutors. It is interesting to note that about 20% of prosecutors do not think that attitude of public towards perpetrated criminal offences is the driving factor in the activities of prosecutor’s offices in terms of detecting and evidence gathering and criminal prosecution in general. Namely, 18,8% of respondents does not know/does not have a view vis-à-vis this priority in the work on detection and evidence gathering in criminal offences. In view of “other priorities”, 21,4% of prosecutors does not know, i.e. does not have a view, while only 9,8% disagrees with the view that prosecutors give priority to the cases because of their “complexity”.

Table 4.

Question: Do you think that prosecutors play an adequate role in the detection and evidence gathering in criminal offences?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Adequate role of prosecutors	88	78,6	23	20,5	1	0,9



Graph 4. Adequate role of prosecutors

Generally, answers received in the Survey confirm the view of prosecutors that their role in detecting and gathering evidence of criminal offences is adequate. This is what was stated by 78,6% of respondents, whereas 20,5% of them think that their role is inadequate. We also asked prosecutors to provide an additional explanation, in addition to “yes” or “no”, of why they consider that their role is adequate, i.e. why their position in terms of detection and evidence gathering in criminal offences is inadequate.

In the view of our respondents, their view about adequacy of the role of prosecutors in detection and evidence gathering in criminal offences, is based on the fact that procedural legislation was reformed in 2003, and particularly on the fact that investigations are not the task of prosecutors, as well as because of the extended rights and duties of prosecutors in the process of detection and criminal prosecution of perpetrators of criminal offences. It is widely known that, at this stage, reforms have meant a radical turning point and move towards those legal systems that had abandoned the concept of investigative judge, since the tasks of initiating and running investigation is now in the hands of prosecutors. Throughout investigation, prosecutor is the *dominus litis*, he governs and oversees it and manages the activities of authorised officials in the detection of suspects and gathering of statements and evidence. It is on this element that other components of the adequate role of prosecutor are based in terms of detection and evidence gathering in criminal offences. In this context, the following elements are of special significance: active cooperation with authorised officials and supervision over their activities in detection and evidence gathering in criminal offences, as well as detection of perpetrators – from the moment of discovering about criminal offences, prosecutors actively manage their investigation, supervise the work of authorised officials and decide about the course of investigation (planning of

investigation); The Criminal Procedure Codes clearly indicate that prosecutors are responsible for detection and evidence gathering in criminal offences, and not only for criminal prosecution, which emphasises the obligation of prosecutors to get involved immediately after discovering that a criminal offence has been committed³⁸ and their duty to undertake measures to secure lawful evidence gathering; as well as to undertake investigative actions.

In descriptive answers that support the view about the inadequate role of prosecutors in detection and evidence gathering in criminal offences, particular emphasis is on the following: poor communication with authorised officials;³⁹ delays in informing prosecutors about criminal offences, which deprives them from demonstrating creativity in their work; insufficient number of investigators specialised in financial affairs and expert associates; absence of institutes that would conduct complex expertise; non-application of new methods in the work on detection and evidence gathering in criminal offences; insufficient education of prosecutors, alongside the view that authorised officials are not sufficiently educated either, particularly in terms of detection and evidence gathering in specific criminal offences; insufficient knowledge of criminal procedure legislation; poor technical equipment of prosecutor's offices; prosecutors should have a say when it comes to the choice of authorised officials and the possibility to appraise their performance; prosecutors are overburdened in terms of norms and standards of their work, since due to a great number of cases they have to deal with, they are unable to directly and actively participate in the process of detection and evidence gathering in criminal offences, therefore, they leave the investigations to authorised officials, and omissions that occur because of that are visible in the stage of main trial and they result, inter alia, in verdicts of release (what is meant here is that in such cases prosecutors mostly work with what authorised officials "serve" to them); prosecutors are not bound by the number of cases they have to prosecute, but with old cases, various priorities, hierarchy, and all of it has an impact on their individual creativity; - prosecutor spends a good portion of time performing administrative tasks; inadequate compensation for work; they need to be enabled to undertake special investigative actions with the help of authorised officials and to have the equipment that would be located in prosecutor's offices (maintaining the current supervisory role of preliminary procedure judges); a new organisation of prosecutor's offices in BiH and the amending of the existing laws is needed.

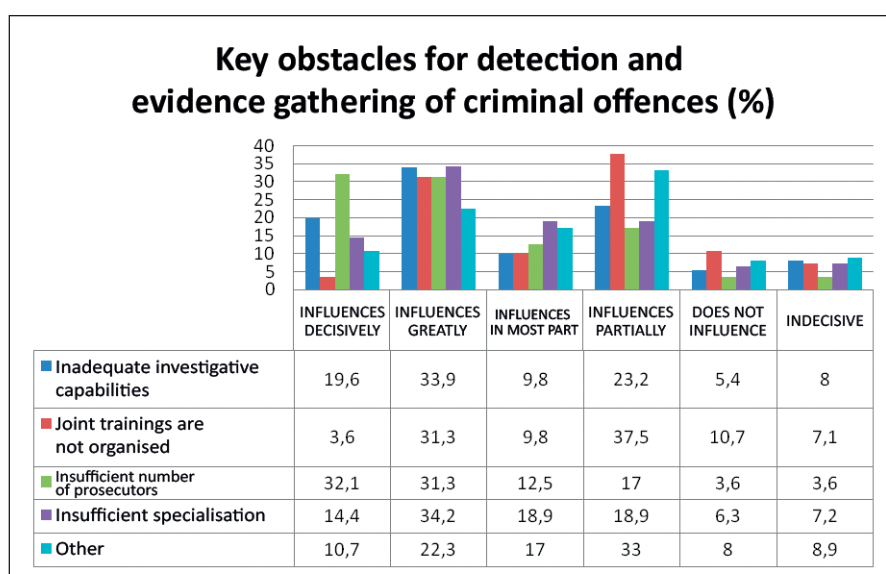
³⁸ In their answers to this question, a number of respondents unjustifiably deems that the main role of prosecutors is the «criminal prosecution, processing and providing evidence of criminal offences», i.e., that it is «not the duty of prosecutors to work on detection of criminal offences».

³⁹ This is why it is suggested that prosecutor's offices and police agencies need to apply teamwork.

Table 5.

Question: What are, in your view, the key obstacles for detecting and evidence gathering in criminal offences?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Inadequate investigative capabilities	22	19,6	38	33,9	11	9,8	26	23,2	6	5,4	9	8
Joint trainings are not organised	4	3,6	35	31,3	11	9,8	42	37,5	12	10,7	8	7,1
Insufficient number of prosecutors	36	32,1	35	31,3	14	12,5	19	17	4	3,6	4	3,6
Insufficient specialisation	16	14,4	38	34,2	21	18,9	21	18,9	7	6,3	8	7,2
Other	12	10,7	25	22,3	19	17	37	33	9	8	10	8,9



Graph 5. Key obstacles for detection and obtaining evidence of criminal offences

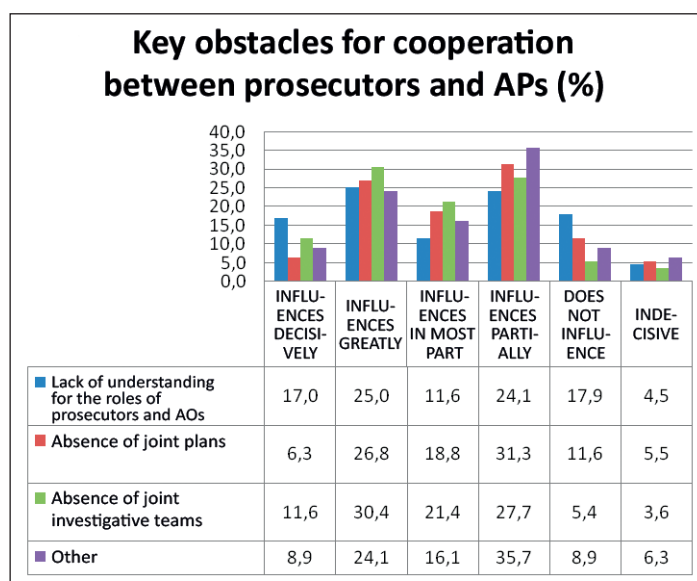
From Table 5 and Graph 5 one can conclude that all the offered options play a certain role in the process of evidence gathering in criminal offences. Our comparison shows that most of respondents are of the opinion that “insufficient number of prosecutors” is the key obstacle to the detection and evidence gathering in criminal offences, and that it has a decisive (32,1%), or very great (31,3%) influence. Within the same view, yet with significantly lower values, this is followed by “inadequate investigative capabilities” (19,6%), “insufficient specialisation” (14,4%), “other” (10,7%) (e.g., inadequate working conditions), and lastly, the option defined as “joint trainings are not organised” (3,6%). Analysis of the remaining obstacles proposed in the Questionnaire, led us to conclude that “inadequate investigative capabilities” of criminal prosecu-

tion bodies “influence greatly” (33,9%) and “influence partially” (23,2%) the detection and evidence gathering in criminal offences, while the third position is held by “influences decisively” (19,6%). “Joint trainings are not organised” influences partially (37,5%), i.e. greatly (31,3%) the detection and evidence gathering. In view of prosecutors, “insufficient specialisation” in prosecutor’s offices and police agencies, “influences greatly” (34,2%) the detection and evidence gathering in criminal offences; followed by “influences in most part” and “influences partially”, with 18,9% each, and “influences decisively”, with 14,4%. For 33% of respondents, the option “other” „influences partially“ investigative activities, and for 22,3% of respondents it “influences greatly” those activities.

Table 6.

Question: What are, in your view, the key obstacles for cooperation between prosecutors and authorised officials in the process of detection and evidence gathering in criminal offences and their perpetrators?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Lack of understanding for the roles of prosecutors and AOs	19	17,0	28	25,0	13	11,6	27	24,1	20	17,9	5	4,5
Absence of joint plans	7	6,3	30	26,8	21	18,8	35	31,3	13	11,6	6	5,5
Absence of joint investigative teams	13	11,6	34	30,4	24	21,4	31	27,7	6	5,4	4	3,6
Other	10	8,9	27	24,1	18	16,1	40	35,7	10	8,9	7	6,3

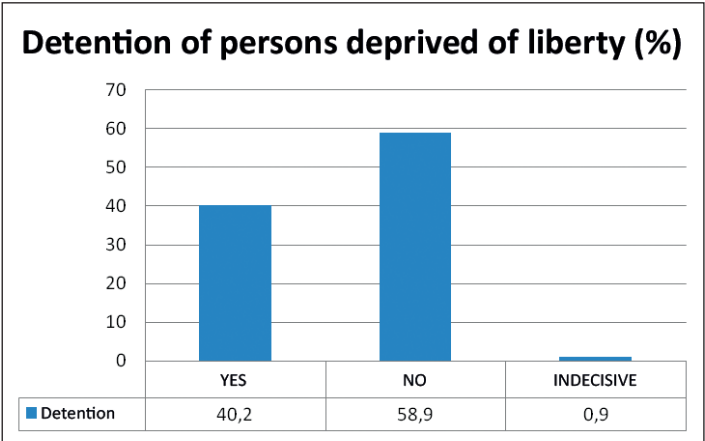


Graph 6. Key obstacles for cooperation between prosecutors and AOs

When answering this question, prosecutors focused particularly on the views “influences greatly” and “and influences partially”, linking their answers to individual obstacles. The shares of specific reasons were very balanced, which can be seen in Table 6 and Graph 6. Thus, e.g., the share of “absence of joint investigative teams” in the interval “influences greatly” is 30,4%, followed by “absence of joint plan” (26,8%) and “lack of understanding for the roles of prosecutors and AOs” (25%), and “other” (e.g., inadequate professional training of authorised officials, absence of by-laws on cooperation affecting both groups), with 24,1%. Key obstacles were also assessed as “influences decisively”, “influences in great part” and “does not influence”. The highest mark “influences decisively” was given to “lack of understanding for the roles of prosecutors and AOs” in detection and evidence gathering in criminal offences (17% of respondents), while the lowest mark was given to “absence of joint plan” for conducting investigations (6,3%).

Table 7.
 Question: Do you think that 24 hours as the lawful duration of holding apprehended persons is sufficient to provide an explained proposal for detention?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Detention	45	40,2	66	58,9	1	0,9



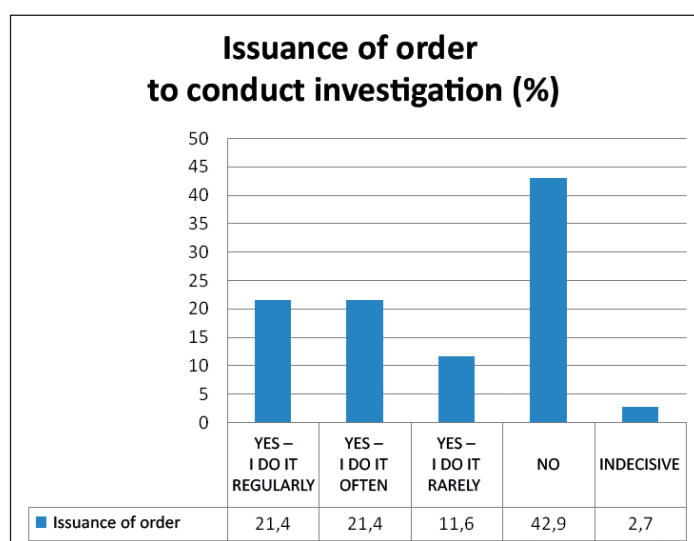
Graph 7. Detention of officials deprived of liberty

We asked prosecutors to give their view on the 24-hour period for holding persons deprived of liberty in prosecutor’s offices. We needed their assessment whether this time is sufficient to prepare an explained proposal for detention. Most of the respondents, more precisely 58,9% of them, answered negatively to this question. Such an answer is not surprising and unexpected. What in our view was unexpected is the number of prosecutors who answered that way, in other words, what surprised us was that there was still as many as 40,2% of respondents who think that 24 hours is enough to prepare an explained proposal for detention. Given that the Questionnaire has a sub-question “how long should be the extension of the deadline”, we want to emphasise that the most frequently cited extension they cited is 48 hours, while there are also proposals to extend the detention to 72 hours.

Table 8.

Question: Do you think that authorised officials should be submitted orders to conduct investigation for the purpose of cooperation in the planning investigation together with authorised officials?

	YES – I DO IT REGULARLY		YES – I DO IT OFTEN		YES – I DO IT RARELY		NO		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%
Issuance of order	24	21,4	24	21,4	13	11,6	48	42,9	3	2,7



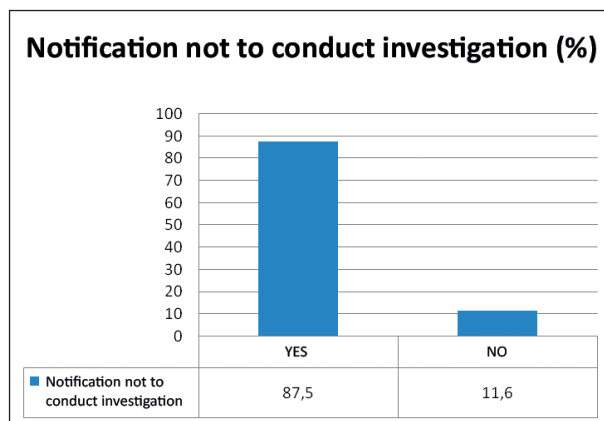
Graph 8. Issuance of order to conduct investigation

Comparing the data in Table 8 and Graph 8, one can conclude that prosecutors are divided in their view whether they should issue to authorised officials orders to conduct investigation for the purpose of planning joint investigations. 42,9% of prosecutors expressed a negative view, while there was 54,4% of those who responded positively. The number of prosecutors who “do it regularly” is identical to the number of those who “do it often” (21,4%). Among the prosecutors who think that they should issue orders to authorised officials to conduct investigation for the purpose of cooperation in planning investigations, there was only 11,6% of those who “do it rarely”.

Table 9.

Question: If, after you receive report, you issue an order not to conduct an investigation, do you inform authorised officials about it?

	DA		NE	
	F	%	F	%
Notification not to conduct investigation	98	87,5	13	11,6



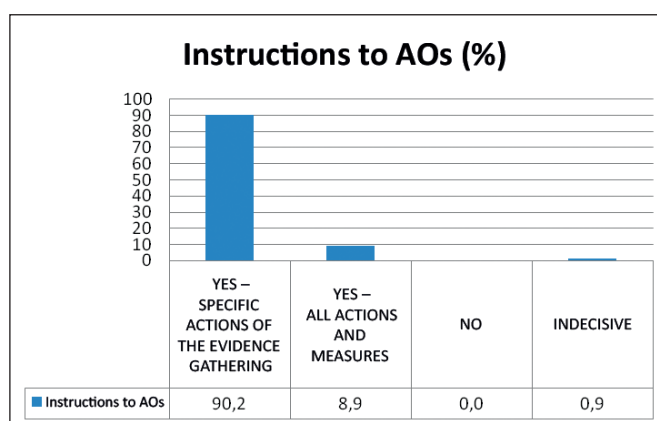
Graph 9. Notification not to conduct investigation

Unlike the previous question on the issuance of order to authorised officials conduct investigation and the answers we received from respondents where the majority consider that this order should be issued to authorised officials, in the analysis of answers to the question in Table 9 and Graph 9 one can notice the opposite trend: there is a very low percentage of prosecutors who notify authorised officials not to conduct investigation made after the report about criminal offences (87,5%). Only 11,6% of surveyed prosecutors do not do that. There are several reasons for the notification to authorised officials and we could cite two of them here: order not to conduct investigation can be made both on the basis of information received and on the basis of report on criminal offences, and prosecutors can request from authorised officials to continue their activities of obtaining evidence on criminal offences and perpetrators, or other relevant circumstances.

Table 10.

Question: Do you give instructions to authorised officials relating investigative actions?

	YES – SPECIFIC ACTIONS OF THE EVIDENCE GATHERING		YES – ALL ACTIONS AND MEASURES		NO		INDECISIVE	
	F	%	F	%	F	%	F	%
Instructions to AOs	101	90,2	10	8,9	0	0	1	0,9

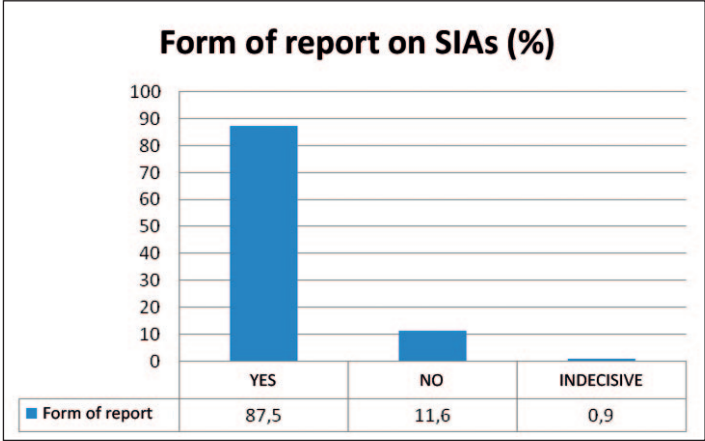


Graph 10. Instructions to authorised officials

In this survey, we have assessed the cooperating between prosecutors and authorised officials by asking prosecutors whether they issue instructions to authorised officials relating investigative actions. The options for answering were “yes” and “no”, but we also asked them to provide and explanation for their answers. Data on these are given in Table 10 and Graph 10. They show that prosecutors do issue instructions to authorised officials (99,1%). The answer in the “no” interval was not registered at all in the Survey. Our comparison of written explanation we have received leads to the conclusion that 90,2% of prosecutors do issue instructions to undertake “specific investigative and evidence gathering actions”, and only 8,9% of them issue instructions to undertake “all actions and measures”. For the sake of coming to the right conclusion, we need to emphasise that out of these 8,9% of respondents there were some who do issue instructions relating “specific investigative and evidence gathering actions”.

Table 11.
Question: Should there be a prescribed form of report submitted by police bodies to prosecutors on the realisation of special investigative actions?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Form of report	98	87,5	13	11,6	1	0,9



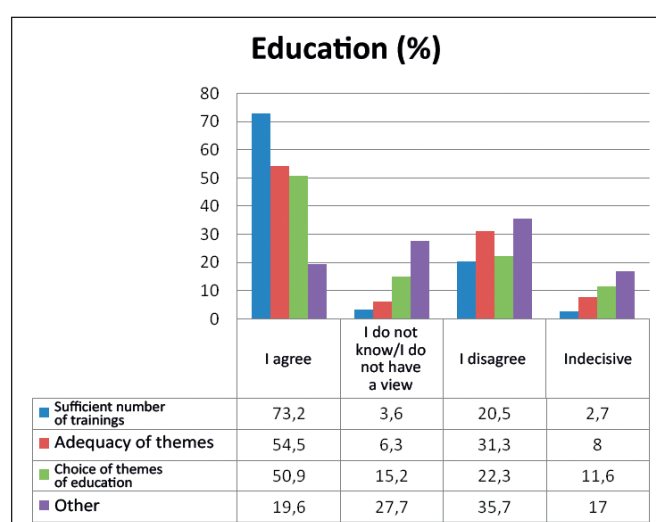
Graph 11. Form of report on special investigative actions

There is a great majority of prosecutors who are in favour of prescribing the form of reports that are submitted to prosecutors by police bodies after special investigative actions have been undertaken (87,5%). Only 11,6% of respondents stated that such a report does not need to be formalised. Taking into account the nature of these investigative actions, as well as the degree of interference with the right to privacy as one of fundamental human rights, the majority view expressed by prosecutors may indicate the tendency to have a more comprehensive protection of this right and to conduct the evidence gathering procedures that are aligned with legal conditions.

Table 12.

Question: What is your view on educational activities?

	I agree		I do not know/I do not have a view		I disagree		Indecisive	
	F	%	F	%	F	%	F	%
Sufficient number of trainings	82	73,2	4	3,6	23	20,5	3	2,7
Adequacy of themes	61	54,5	7	6,3	35	31,3	9	8
Choice of themes of education	57	50,9	17	15,2	25	22,3	13	11,6
Other	22	19,6	31	27,7	40	35,7	19	17



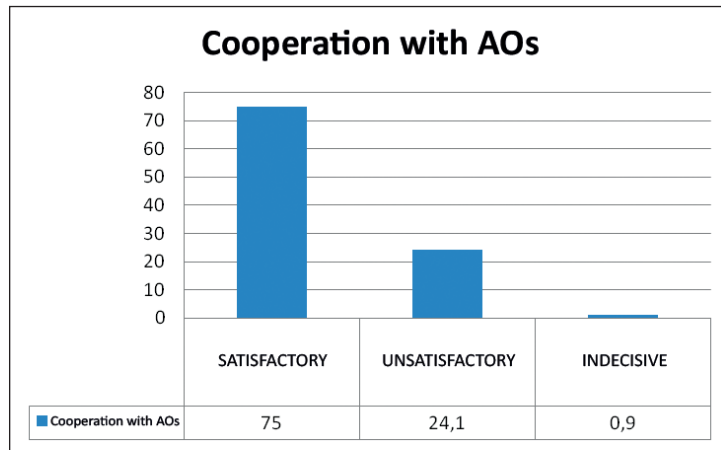
Graph 12. Educational activities

If we analyse the answers of respondents relating “sufficient number of trainings” in the course of one year (73,2%), “adequacy of themes” (54,5%) and influence regarding the “choice of themes of education” (50,9%), one can conclude that the prevailing number of prosecutors opted for “I agree”. The opposite view “I disagree” is expressed in all the three proposed parameters, but to a significantly lesser extent (“sufficient number of trainings” – 20,5%; “adequacy of themes” – 31,3%; “choice of themes of education” – 22,3%). The most obvious disagreement is found in “other” (e.g., expertise of lecturers), since 35,7% of respondents opted for “I disagree”. In view of this parameter (“other”), 27,7% of respondents do not have a view, while 19,6% of prosecutors do agree that it has an impact on the quality of trainings.

Table 13.

Question: How do you assess the cooperation with authorised officials?

	SATISFACTORY		UNSATISFACTORY		INDECISIVE	
	F	%	F	%	F	%
Cooperation with AOs	84	75	27	24,1	1	0,9



Graph 13. Cooperation with authorised officials

How the question about cooperation between prosecutors and authorised officials was posed in the Questionnaire? It was posed at two levels. At the first level, prosecutors were asked to state whether their cooperation is “satisfactory” or “unsatisfactory”, and at the second, in case their answer was negative, they were asked to suggest changes to be introduced - both in practice and at the level of regulations. Based on the answers we have presented in Table 13 and Graph 13, we have made a comparison that led us to the conclusion that 75% of prosecutors considers this cooperation satisfactory, while 24,1% of them do not share this opinion.

Those respondents who consider their cooperation as “unsatisfactory” advocate certain changes. Changes in practice are proposed in the following directions: joint education of prosecutors and authorised officials, and the exchange of experience in their work on detection and evidence gathering in criminal offences; development of expertise of authorised officials and their improvement of their qualifications for performing the tasks in the domain of criminal justice; education of authorised officials in the area of criminal justice and detection and evidence gathering in criminal offences to ensure lawful evidence gathering; educational level of authorised officials needs to correspond with the job description for their work places; prosecutors need to have a say when it comes to choice if authorised officials engaged in detection and evidence gathering in criminal offences; specialisation of authorised officials; - investigative teams; contact and cooperation between prosecutors-on-duty and authorised officials; authorised officials need to have better understanding of their own role as well as the role of prosecutors in investigation; authorised officials are responsible and subordinated to prosecutors; stronger supervision of police work; insistence on strict implementation of the Criminal Procedure Code; authorised official should avoid notifying prosecutors about events that do not have the characteristics of criminal offence; authorised officials should avoid submitting incomplete and inadequate reports; prosecutors should receive timely report on criminal offences so that can issue adequate instructions or orders; the number of authorised officials should be increased; more efficient and more complete actions are required from authorised officials once they get an order from prosecutors to detect and gather evidence of criminal offence; measures need to be undertaken to prevent obstruction of investigation by authorised officials due to political and economic influence.

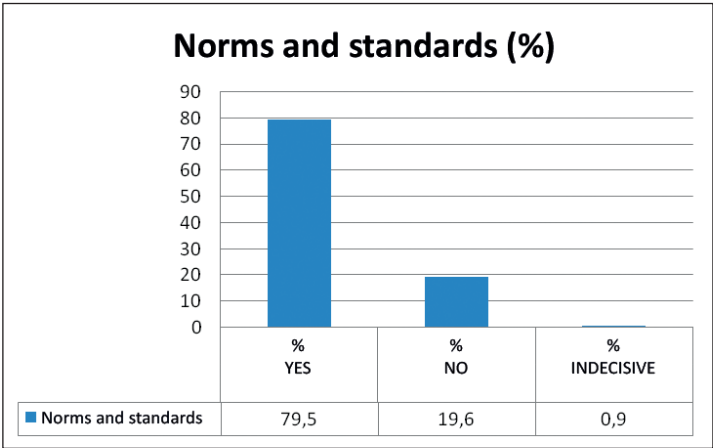
Prosecutors advocate the following regulatory changes: prosecutors should be informed about criminal offence only in writing since oral notification and report is not adequate to the activities of detection and evidence gathering in criminal offences and their significance for the efficiency of criminal prosecution; terms and conditions need to be formulated and stipulated for the

return of unruly and incomplete reports on criminal offences; by-laws on mutual cooperation between prosecutors and authorised officials need to be adopted; the law should regulate that special investigative actions are undertaken under the supervision of prosecutors and that professional working on those actions as well as the equipment they use should be kept in the premises of prosecutor’s offices.

Table 14.

Question: Do you think that one of the problems accompanying the work of prosecutors are “the norms and standards” on the number of finalised cases in investigation?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Norms and standards	89	79,5	22	19,6	1	0,9



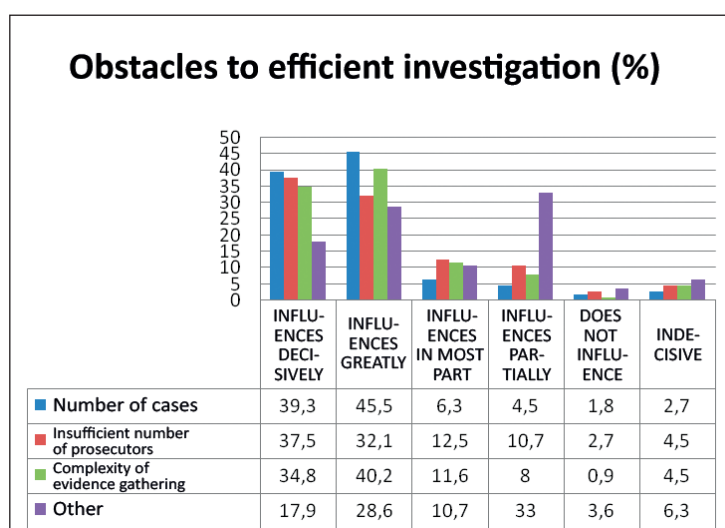
Graph 14. Norms and standards

The data in Table 14 and Graph 14 indicate that there is significant influence of norms and standards, i.e. the number of finalised investigation of cases, on the work of prosecutors. For prosecutors, it represents one of the problems in performing the function of criminal prosecution and detection and evidence gathering in criminal offences. They refer to this problem also in the descriptive part of their answers, where they expressed views relating their rights and duties in criminal proceedings.

Tabela 15.

Pitanje: Šta u praksi onemogućava efikasno odvijanje istrage?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Number of cases	44	39,3	51	45,5	7	6,3	5	4,5	2	1,8	3	2,7
Insufficient number of prosecutors	42	37,5	36	32,1	14	12,5	12	10,7	3	2,7	5	4,5
Complexity of evidence gathering	39	34,8	45	40,2	13	11,6	9	8	1	0,9	5	4,5
Other	20	17,9	33	28,6	12	10,7	37	33	4	3,6	7	6,3



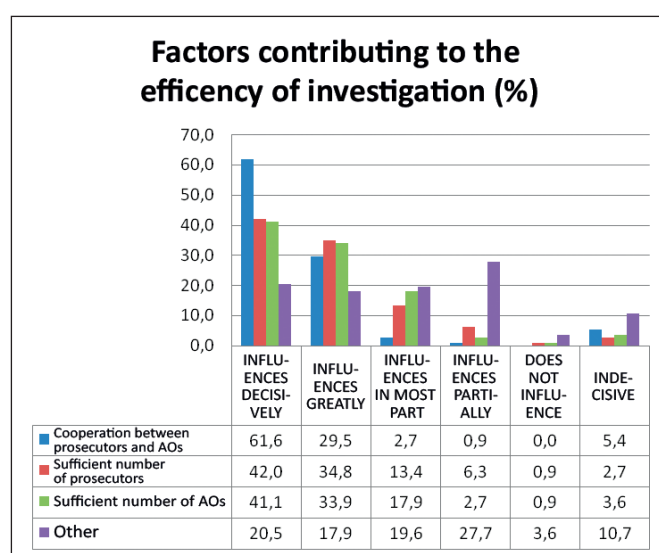
Graph 15. Obstacles for efficient investigation

Table 15 and Graph 15 do not show major differences in the answers provided by prosecutors to the question relating obstacles to efficient investigation that influence it “decisively”. Namely, all the three proposed options: “number of cases” (39,3%), “insufficient number of prosecutors” (37,5%) and “complexity of evidence gathering” (34,8%) are rather equally represented in the interval defined as “influences decisively”. The fourth offered option, i.e., “other” (e.g., working conditions, assets at the disposal of prosecutor’s offices) have a significantly low share in the interval of “influences decisively” (17,9%) Similarly, we can assess the impact of cited obstacles for efficient investigation in the view “influences greatly”, since prosecutors have ranked the aforementioned obstacles as follows: 1. the obstacle defined as “number of cases” (45,5%), 2. “complexity of evidence gathering” (40,2%), which is followed by “insufficient number of prosecutors” (32,1%) and “other” (28,6%). Regarding the other views, i.e. “influences in most part”, “influences partially” and “does not influence”, the respondents opted much more rarely for those obstacles, the only exception being the obstacle “other”, which was chosen by as many as 33% of surveyed prosecutors in the “influences partially” interval.

Table 16.

Question: What is it in practice that enables efficient investigation?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Cooperation between prosecutors and AOs	69	61,6	33	29,5	3	2,7	1	0,9	0	0,0	6	5,4
Sufficient number of prosecutors	47	42,0	39	34,8	15	13,4	7	6,3	1	0,9	3	2,7
Sufficient number of AOs	46	41,1	38	33,9	20	17,9	3	2,7	1	0,9	4	3,6
Other	23	20,5	20	17,9	22	19,6	31	27,7	4	3,6	12	10,7



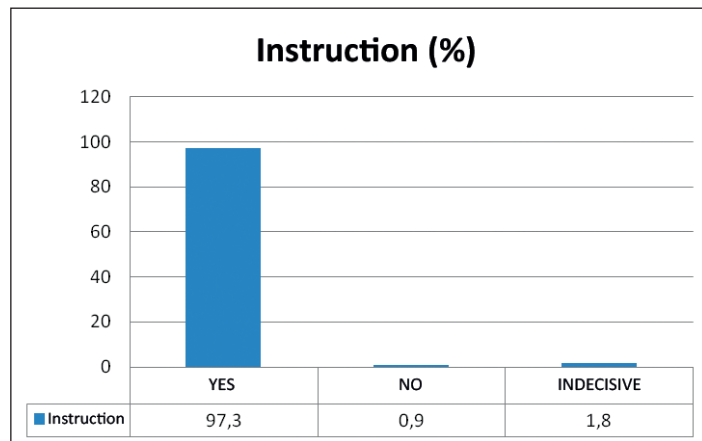
Graph 16. Factors contributing to the efficiency of investigation

According to the accessible data presented in Table 16, and based on their comparison given in Graph 16, we can conclude that, in “influences decisively” interval, prosecutors offer different assessments of factors contributing to the efficiency of investigation. Thus, the first position is taken by “the cooperation between prosecutors and authorised officials” and this factor is significantly affirmed vis-à-vis others, since as many as 61,6% prosecutors have opted for it. “Sufficient number of prosecutors” is the factor that can contribute to the efficiency of investigation and this is the view held by 42% of respondents, while almost the same value is recorded for the factor defined as “sufficient number of authorised officials” (41,1%). The lowest number of respondents opted for “other” (e.g., adequate working conditions, adoption of by-laws, guidelines and instructions), since it was chosen in the interval “influence decisively” by 20,5% of prosecutors. Four aforementioned factors are assessed also in the interval “influences greatly” so that the first three have a rather equitable influence on the efficiency of detection and evidence gathering in criminal offences (“cooperation between prosecutors and authorised officials” – 29,5%; “sufficient number of prosecutors” – 34,8%; “sufficient number of authorised officials” – 33,9%), while the fourth factor, i.e. “other, was chosen by 17,9% of respondents.

Table 17.

Question: Are you familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Instruction	109	97,3	1	0,9	2	1,8



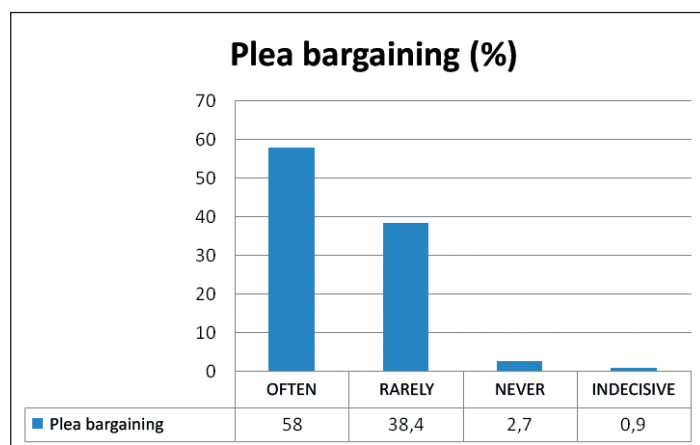
Graph 17. Instruction

On the basis of data presented here, it is easy to conclude that almost all prosecutors are familiar with the Instruction and that there is a neglectable number of those who are not familiar. This proves that it was justified to adopt the aforementioned by-law and that it can be an impetus for the adoption of other regulations that would help the handling of other issues that arise on a daily basis in the process of detection and evidence gathering in criminal offences.

Table 18.

Question: Do you negotiate with suspects and their lawyers during investigations about the conditions of their guilty plea for the suspected offence?

	OFTEN		RARELY		NEVER		INDECISIVE	
	F	%	F	%	F	%	F	%
Plea bargaining	65	58	43	38,4	3	2,7	1	0,9



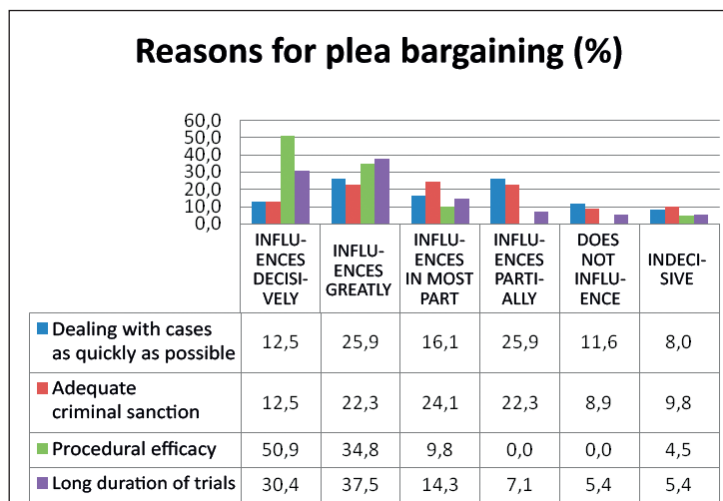
Graph 18. Plea bargaining

In this survey, we were also interested to see whether the concept of plea bargaining is used in practice. The scale of answers in the Questionnaire was defined in three intervals: “often”, “rarely” and “never”. Judging by the answers we have received, 58% of prosecutors do use this procedural measure “often”. Comparing the received data, we see that the percentage of those who do it “rarely” – 38,4% - should not be ignored. There are 2,7% of those who “never” do it. We can from these answers conclude that the plea bargaining between parties, regardless of the fact that it is open for all criminal offences, both in the minor and in the most complex ones (since the legislator this not place any limitations related to the seriousness of criminal offences or envisaged sanctions), it has not been sufficiently affirmed in practice as the method of acceleration of criminal proceedings and disburdening of criminal judiciary.

Table 19.

Question: In your opinion, what is the main reason for plea bargaining?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTIALLY		DOES NOT INFLUENCE		INDECISIVE	
	F	%	F	%	F	%	F	%	F	%	F	%
Dealing with cases as quickly as possible	14	12,5	29	25,9	18	16,1	29	25,9	13	11,6	9	8,0
Adequate criminal sanction	14	12,5	25	22,3	27	24,1	25	22,3	10	8,9	11	9,8
Procedural efficacy	57	50,9	39	34,8	11	9,8	0	0,0	0	0,0	0	4,5
Long duration of trials	34	30,4	42	37,5	16	14,3	8	7,1	6	5,4	6	5,4



Graph 19. Reasons for plea bargaining

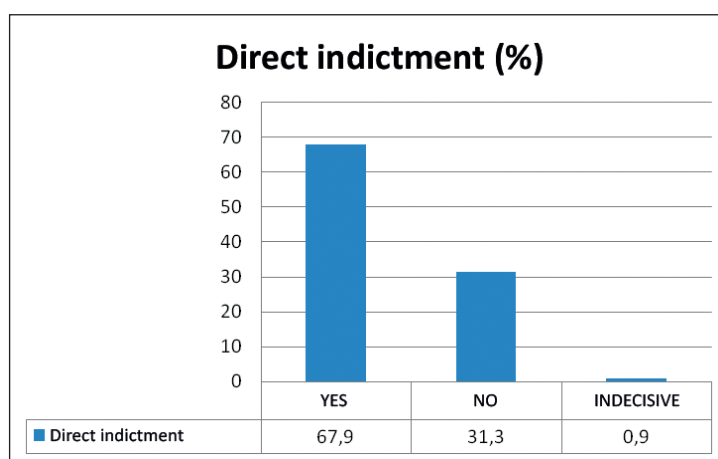
We asked prosecutors (in addition to the questions on extent of their negotiations with the suspect and their legal representative during investigation concerning conditions for admission of guilt for the offense the suspect is charged for) to rank reasons to enter into plea agreement based on use of various intervals for the term “influence“ (“decisive“, “great“, “in most part“, “partial“ or “no influence“). The questionnaire offered the following options: “dealing with cases as quickly as possible“, “adequate criminal sanction“, “procedural efficacy“ and “long duration of trials“. According to the data shown in Table 19 and Graph 19, prosecutors put the “procedural efficacy“ at the forefront, meaning that this is the reason that has “decisive influence“ on making a decision to negotiate with the party and conclude the plea agreement (50.9%). At the second place in the same ranking is the “long duration of trials“ (30.4%), while “dealing with cases as quickly as possible“ and “adequate criminal sanction“ made equal shares in the responses (12.5%). Under the item “highly influential” more recognition is given to “long duration of trials“ (37.5%), followed by „procedural efficacy“ (34.8%), while the “dealing with cases as quickly as possible“ and the “adequate criminal sanction“ were included in the list carrying similar weight (25.9% and 23.3%, respectively). “Adequate criminal sanction“ is “influential in most part“ for 24.1% of respondents when it comes to making decision on concluding a plea agreement, while the remaining three parameters score lower values (dealing with cases as quickly as possible – 16.1%, “long duration of trials“ -14.3%; “procedural efficacy“ – 9.8%). Prosecutors state that “dealing with cases as quickly as possible“ (25.9%) and “adequate criminal sanction“ (22.3%) are “partially influential“ in making the said decision. According to the responses, for 11.6% of prosecutors the conclusion of the plea agreement is “not influenced“ by reason that we call “dealing with cases as quickly as possible“, and the same is true for reasons of “adequate criminal sanction“ (8.9%) and „long duration of trials“ (5.4%).

What may be inferred from the above? “Procedural efficacy” has received most affirmations, with 50.9% of the respondents assign it “decisive influence”, i.e. 34.8% of them state that it is “greatly influential” in making decision on concluding plea agreement. This confirms the importance of this procedural institute (in terms of speeding up criminal proceedings and lifting some of the burden off criminal justice system). Proof that this is based on proper understanding of the essence and meaning of this institute in practice is found in prosecutors’ opinions regarding “long duration of trials” that, with quite even values, has “decisive” (30.4%) or “high” (37.5%) influence in making such decision.

Table 20 .

Question: Do you think that the Code of Criminal Procedure should include a provision on *direct indictment* (in the sense of raising indictment immediately upon receiving report of a crime when the statements and evidence gathered provide grounded suspicion that a specific person has perpetrated the criminal offense at issue)?

	YES		NO		INDECISIVE	
	F	%	F	%	F	%
Direct indictment	76	67,9	35	31,3	1	0,9



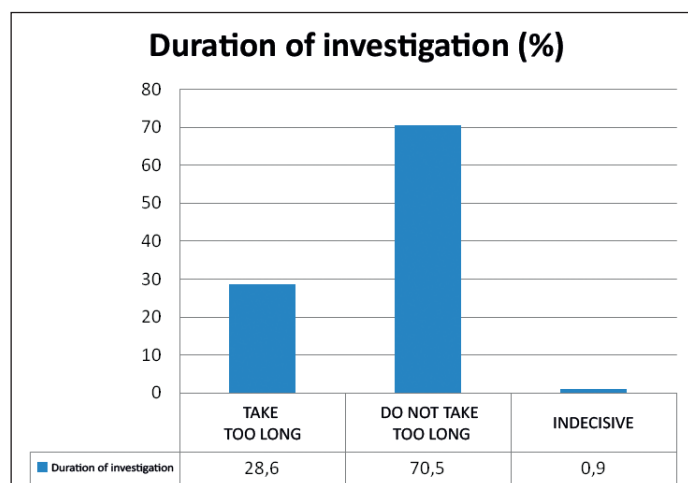
Graph 20. Direct indictment

According to the responses to this question, as shown in Table 20 and Graph 20, significant majority of surveyed prosecutors would support such a proposal (67.9%). On the other hand, 31.3% of prosecutors expressed the opposite opinion. No further elaboration of the responses “yes” or “no” was required under this question. Remaining in the realm of assumption, the explanation might be offered that judicial practice had not seen very frequent submission of such indictment before the criminal law reform of 2003 (at that time our procedural law had provided for this option). If that were so, then the results achieved are very good as they suggest that the prosecutors are aware of the need, provided that all legal and material conditions are met, to simplify and speed up the criminal procedure; this issue becomes very important when evaluating whether a criminal procedure in a specific case were completed in reasonable time and thus one of the fundamental human rights – the right to fair trial – were protected.

Table 21.

Question: What is your opinion on duration of investigation?

	TAKE TOO LONG		DO NOT TAKE TOO LONG		INDECISIVE	
	F	%	F	%	F	%
Duration of investigation	32	28,6	79	70,5	1	0,9



Graph 21. Duration of investigation

Since the discussion on duration of investigation (in the context of trial within reasonable time) is ever present, we decided to ask the prosecutor to state their opinion on duration of investigation in BiH. We offered them the following responses: “investigations take too long” (not only in complex criminal cases but also in some less serious ones) and “investigation does not take too long”. As many as 70.5% of prosecutors think that investigations do not take too long a time, while 28.6% are of the opinion that investigations do take too long. If we correlate these answers with available statistical data from previous five years, we may establish a link between this survey and prosecutors’ opinions on investigations not taking too long.⁴⁰ This opinion does not preclude the possibility of inferring different conclusions as the causes of long investigations and duration of criminal procedure as a whole are multiple and require deeper studies.

5. Comparing opinions of authorised officials and prosecutors on detecting and gathering evidence of a crime and on their mutual cooperation

5. 1. Comparison of positions and opinion on common issues

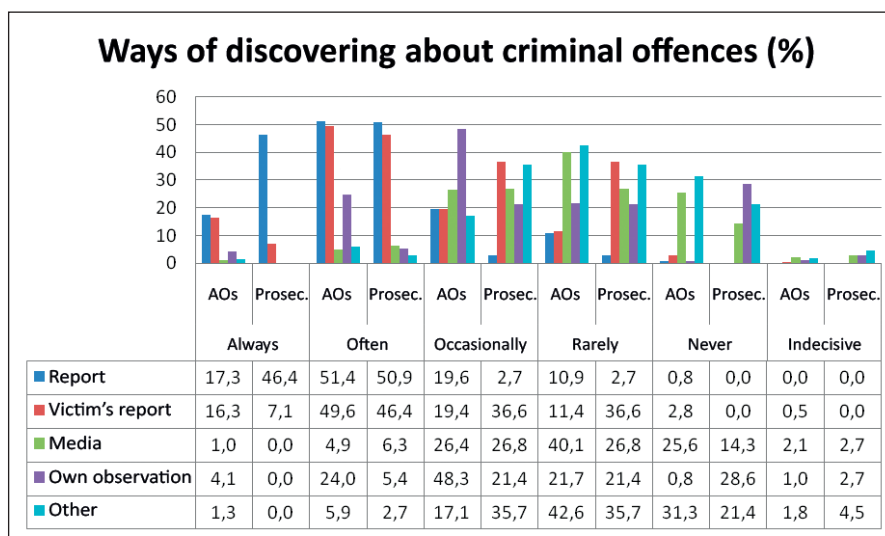
As shown above, the questionnaires used in this survey include 17 common questions. Based on responses to these questions, it is possible to compare opinions of authorised officials and prosecutors on legal and practical aspects of their proceedings and on their mutual cooperation in detecting criminal offenses and perpetrators and taking actions to prove them. Considering that the questionnaires had been developed on the basis of hypotheses presented in introduction to empirical research, this chapter includes a comparative analysis of respondents’ opinions and positions on common issues and testing the hypothesis.

⁴⁰ More about this in section 5.2.2.

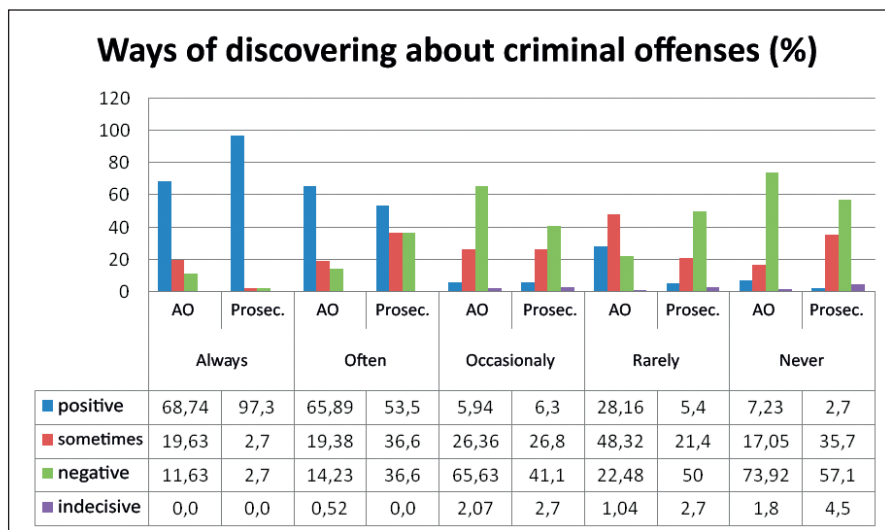
Table 1.

Question: How do you discover that a criminal offense has been committed?

	Always		Often		Occasionally		Rarely		Never		Indecisive	
	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.
Report	17,3	46,4	51,4	50,9	19,6	2,7	10,9	2,7	0,8	0,0	0,0	0,0
Victim's report	16,3	7,1	49,6	46,4	19,4	36,6	11,4	36,6	2,8	0,0	0,5	0,0
Media	1,0	0,0	4,9	6,3	26,4	26,8	40,1	26,8	25,6	14,3	2,1	2,7
Own observation	4,1	0,0	24,0	5,4	48,3	21,4	21,7	21,4	0,8	28,6	1,0	2,7
Other	1,3	0,0	5,9	2,7	17,1	35,7	42,6	35,7	31,3	21,4	1,8	4,5



Graph 1. Ways of discovering about criminal offenses



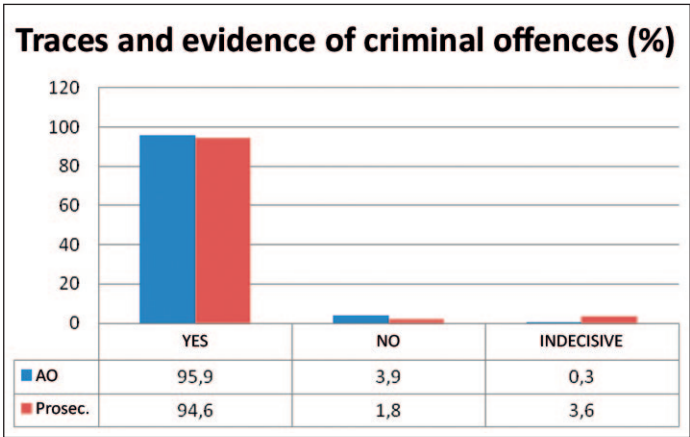
Graph 1a. Positive and negative indicators in percentages

Reason for asking question on ways of receiving information that a crime has been committed is to be found in the desire to understand the dynamics of their appearance in daily operations. In connection with this, we proposed a hypothesis that various methods of receiving information of a crime were not equally present in practice (H1). The received responses confirm this hypothesis because the most frequent way of receiving information on a crime was “report” (by authorised and responsible officials; citizens) and “report by victim of crime” (the fact that the “report” and “victim’s report” are the most frequent in practice is additionally confirmed by analysis of responses under “often”). Examination of positions on various methods of learning of a crime shows that authorised officials and prosecutors put the “report” in the interval “often” in similar percentage (AOs – 51.4%; prosecutors – 50.9%). Significant discrepancies become apparent in relation to the item “always” since the “report” is considered by 46.4% of prosecutors and only 17.3% of authorised officials as a notification of a committed crime; much lesser are discrepancies with respect to reports made by victims of a crime (AOs-16.3%; prosecutors – 7.1%). Similar conclusion may be inferred from analysis of positive and negative indicators of most frequent methods of receiving information of a crime as they confirm the trend of notifying the authorised officials and prosecutors of a crime by filing a report or reporting by the victim of the crime. Other sources of receiving notification on a crime (for example, auditor’s reports, means of public information) are less present; Graphs 1 and 1a lead us to conclude that the “media”, “one’s own observation” and “other” dominate the intervals “occasionally”, “rarely” and “never”.

Table 2.

Question: Does the authorised or responsible official take measures to preserve traces or evidence of criminal offense, objects used for or in commission of the crime, or other evidence of crime?

	YES	NO	INDECISIVE
AOs	95,9	3,9	0,3
Prosecutors	94,6	1,8	3,6



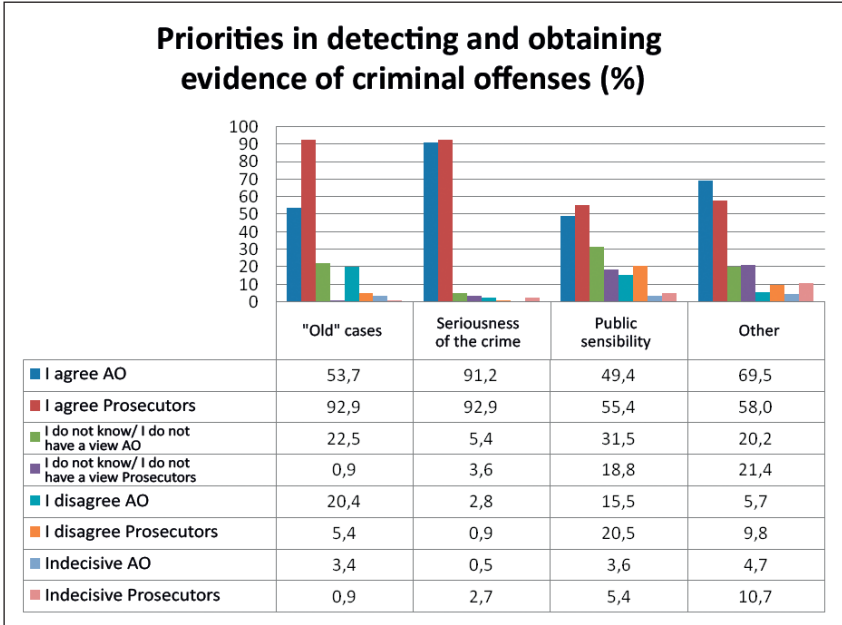
Graph 2. Traces and evidence of criminal offences

According to information from Table 2 and Graph 2, the concurrence of responses given by authorised official and prosecutors to the asked question becomes apparent. As we have already concluded, activities taken to preserve clues of a crime, object on which or by which the crime

had been committed or other evidence of crime enable realization of the principle of efficacy in fighting crime and proceeding with criminal proceedings.

Table 3.
Question: What is your opinion on priorities when detecting and gathering evidence of a criminal offence?

	I agree		I do not know / I have no opinion		I disagree		Indecisive	
	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.
"Old" cases	53,7	92,9	22,5	,9	20,4	5,4	3,4	0,9
Seriousness of the crime	91,2	92,9	5,4	3,6	2,8	,9	0,5	2,7
Public sensibility	49,4	55,4	31,5	18,8	15,5	20,5	3,6	5,4
Other	69,5	58,0	20,2	21,4	5,7	9,8	4,7	10,7



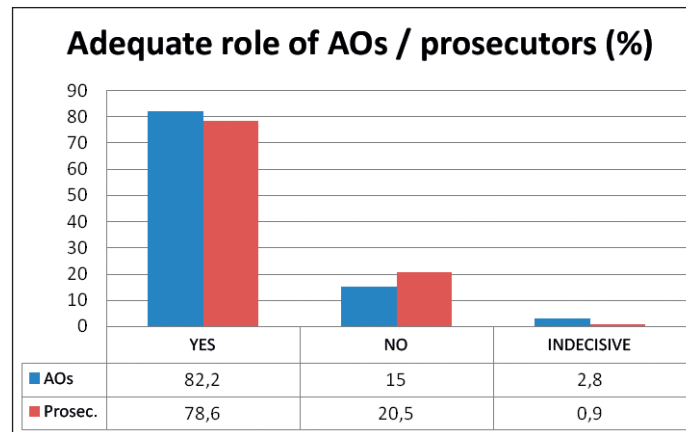
Graph 3. Priorities in detecting and gathering evidence of a crime

General review of responses to this question goes in direction of confirming the hypothesis that the positions of authorised officials and prosecutors on priorities - when it comes to detecting and gathering evidence of a crime – are balanced (H2). Therefore, results shown in Graph 3 are not significantly different: the differences occur only with regards to the weight assigned to the “old cases” as 92.9% of prosecutors agree that this is a priority in detecting and gathering evidence of a criminal offense, while fewer authorised officials (53.7%) share that opinion (with regards to this priority, there is a variation in opinions in the interval “I do not know/ I have no opinion” and “I disagree”). With regards to other priorities (“seriousness of the crime”, “public sensitivity” and “other”), opinions of respondents from both groups generally overlap.

Table 4:

Question: Do you think that the authorised officials / prosecutors has adequate role in detecting and gathering evidence of a criminal offense?

	YES	NO	INDECISIVE
AOs	82,2	15	2,8
Prosecutors	78,6	20,5	0,9



Graph 4. Adequate role of the authorised officials / prosecutors

In order to test the hypothesis on adequate role of authorised officials and prosecutors in detecting and gathering evidence of criminal offenses (H3), we asked the respondents to answer with “yes” or “no” and then explain their opinions. Thus obtained data, which are presented in Table 4 and Graph 4, suggest that the authorised officials and prosecutors believe that their role in detecting and proving crime is adequate. This confirms the hypothesis.

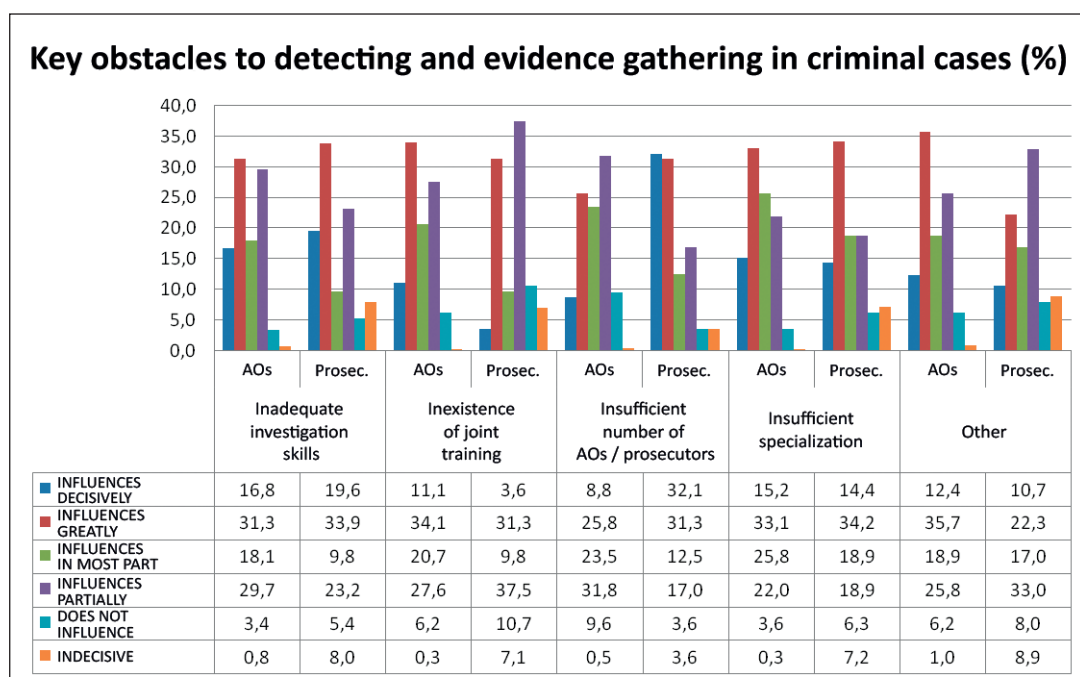
Common opinion of the respondents that support prevailing opinion that the authorities involved in criminal proceedings have adequate positions in terms of detecting and gathering evidence of criminal offenses may be grouped around the following: regulations adequately describe rights and duties, as well as the responsibilities of authorities in criminal proceedings to effectively combat crime and detect and prove criminal offenses; and also their mutual active cooperation and coordination in completing tasks during pre-investigation and investigation procedures.

Shared opinions of respondents, in instances when they say that the mentioned authorities have inadequate role, typically have to do with the following: - strengthening and developing mutual cooperation, as it is seen as inappropriate; failure to apply new methods when detecting and gathering evidence of criminal offenses; low level of technical equipment; requirement of joint training (an opportunity to discuss both specific problems from practice, and implementation of criminal codes and criminal procedure codes in their daily work); inadequate pay for the work; reference to norms and standards.

Table 5.

Question: In your opinion, what are the main obstacles for detecting and gathering evidence of criminal offenses?

		INFLUENCES DECISIVELY	INFLUENCES GREATLY	INFLUENCES IN MOST PART	INFLUENCES PARTIALLY	DOES NOT INFLUENCE	INDECISIVE
Inadequate investigation skills	AOs	16,8	31,3	18,1	29,7	3,4	0,8
	Prosec.	19,6	33,9	9,8	23,2	5,4	8,0
Inexistence of joint training	AOs	11,1	34,1	20,7	27,6	6,2	0,3
	Prosec.	3,6	31,3	9,8	37,5	10,7	7,1
Insufficient number of AOs / prosecutors	AOs	8,8	25,8	23,5	31,8	9,6	0,5
	Prosec.	32,1	31,3	12,5	17,0	3,6	3,6
Insufficient specialization	AOs	15,2	33,1	25,8	22,0	3,6	0,3
	Prosec.	14,4	34,2	18,9	18,9	6,3	7,2
Other	AOs	12,4	35,7	18,9	25,8	6,2	1,0
	Prosec.	10,7	22,3	17,0	33,0	8,0	8,9



Graph 5. Key obstacles to detecting and gathering evidence of criminal offenses

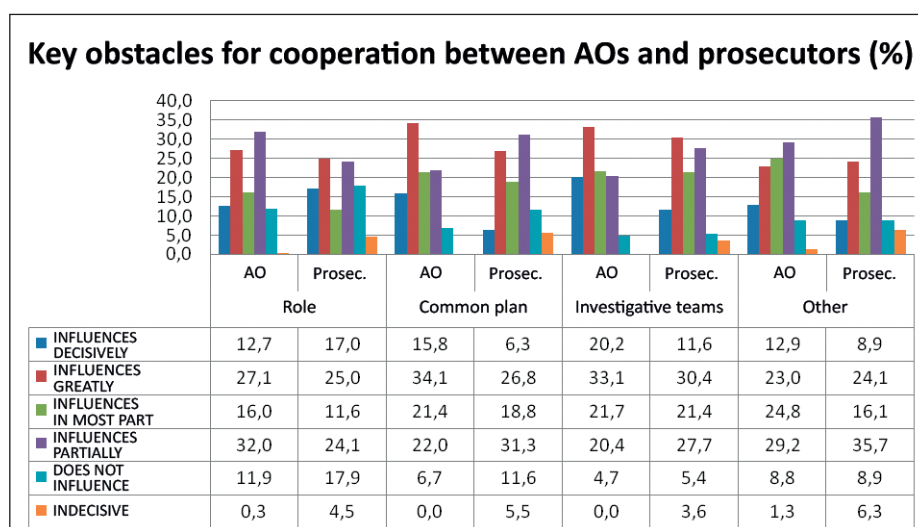
We have proposed a hypothesis that in terms of main obstacles to detecting and evidence gathering in criminal offenses the opinions of authorised officials and prosecutors do not differ (H4). Has this hypothesis been confirmed? Based on comparison of data from Table 5 and Graph 5 we may conclude that the respondents offer the following reasons, which are spread rather evenly within the interval “influences decisively”: “inadequate investigation skills” (AOs – 16,8%; prosecutors – 19,6%), „insufficient specialization” (AOs – 15,2%; prosecutors – 14,4%) and “other” (AOs – 12,4%; prosecutors – 10,4%), while their opinions diverge with respect to

“lack of organized joint trainings” (AOs – 11,8%; prosecutors – 3,6%) and “insufficient number of authorised officials / prosecutors” (AOs – 8,8%; prosecutors – 32,1%). For the response “influences greatly” we conclude that responses on all main obstacles are even. In the interval “influences in most part”, “insufficient specialization” (AOs – 25,8%; prosecutors – 18,9%) and “other” (AOs – 18,9%; prosecutors – 17,0%) present quite even percentages, while the remaining three obstacles are valued differently (“inadequate investigation skills” AOs – 18,1%; prosecutors – 9,8%; „lack of joint trainings” AOs – 20,7%; prosecutors – 9,8%; „insufficient number of authorised officials/prosecutors” AOs – 23,5%; prosecutors – 12,5%). Therefore, the provided data suggest that the hypothesis is confirmed in a good measure; still, it has not been fully confirmed because views of authorised officials and prosecutors diverge with respect to some key obstacles to detecting and proving criminal offences.

Table 6.

Question: What are in your opinion the key obstacles in cooperation between authorised officials and prosecutors when detecting and proving criminal offenses and their perpetrators?

		INFLUENCES DECISIVELY	INFLUENCES GREATLY	INFLUENCES IN MOST PART	INFLUENCES PARTIALLY	DOES NOT INFLUENCE	INDECISIVE
Role	AOs	12,7	27,1	16,0	32,0	11,9	0,3
	Prosec.	17,0	25,0	11,6	24,1	17,9	4,5
Common plan	AOs	15,8	34,1	21,4	22,0	6,7	0,0
	Prosec.	6,3	26,8	18,8	31,3	11,6	5,5
Investigative teams	AOs	20,2	33,1	21,7	20,4	4,7	0,0
	Prosec.	11,6	30,4	21,4	27,7	5,4	3,6
Other	AOs	12,9	23,0	24,8	29,2	8,8	1,3
	Prosec.	8,9	24,1	16,1	35,7	8,9	6,3



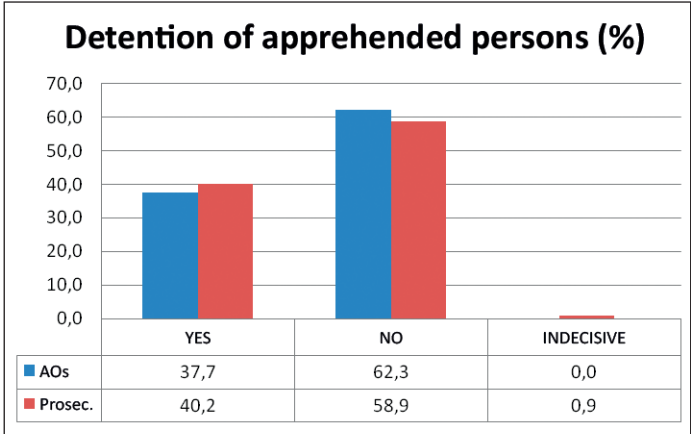
Graph 6. Key obstacles for cooperation between AOs and prosecutors

Data presented in Graph 6 suggest that the proposed hypothesis on key obstacles in cooperation between authorised officials and prosecutors cannot be fully verified (H5). To a good extent, the respondents’ views and opinions coincide in intervals “influences greatly”, “influences in most part” and “influences partly”, and this goes for all obstacles that impede their cooperation that have been indicated as “key” in the questionnaires that were used. Oscillations in their opinions and assessments were seen with respect to “influences decisively”, particularly when it comes to “joint plans” and “investigative teams”.

Table 7.

Question: Do you think that the time of 24 hours allowed by law to detain the apprehended person is sufficient to prepare explained proposal for ordering detention?

	YES	NO	INDECISIVE
AOs	37,7	62,3	0,0
Prosecutors	40,2	58,9	0,9



Graph 7. Detaining apprehended persons

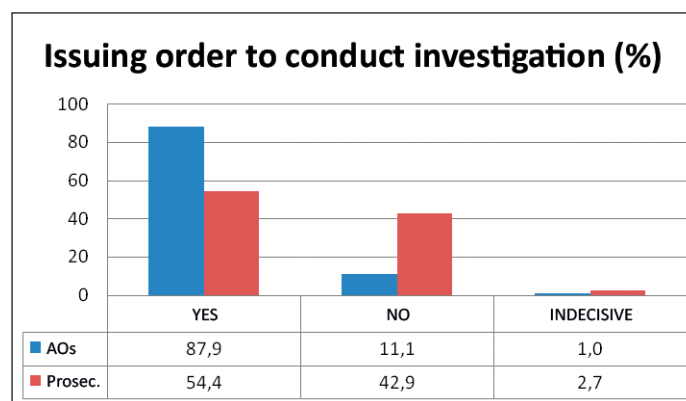
We have developed hypothesis for this question on the basis of the widespread conviction that 24 hours is not enough time to detain the apprehended person (H6). As one could expect, the answers showed the belief that 24 hours detention was not enough. Although the proposed hypothesis has been confirmed, still, taking into consideration the stated data, we must say that a surprising share of respondents, particularly among the authorised officials, were of the opinion that the 24 hours was acceptable time.

Having considered the proposal to extend the time, we may conclude that contrary to authorised officials, the prosecutors are less insistent on extending the time; they stop at the general assessment that 24 hours is not enough. As we have said in earlier analysis of this question, most frequently mentioned is the proposal to extend this time to 48 hours, and second, the proposal to extend it to 72 hours.

Table 8.

Question: Do you think that the authorised officials should receive the order to conduct investigation in the sense of cooperation in planning the investigation with authorised officials?

	YES	NO	INDECISIVE
AOs	87,9	11,1	1,0
Prosecutors	54,4	42,9	2,7

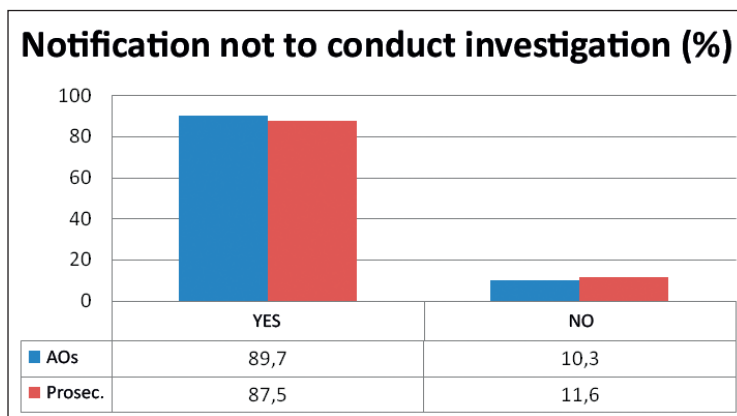
**Grafikon 8.** Dostavljanje naredbe o provođenju istrage

The survey confirmed two mutually connected hypotheses (H7 and H8), as we may conclude on the basis of information from Table 8 and Graph 8. The hypothesis that authorised officials believe that the prosecutors should deliver order to conduct investigation in order to have cooperation in investigation planning has been verified by as many as 87.9% respondents; only a small number of authorised officials (11.1%) believes otherwise. On the contrary, the hypothesis that the prosecutor should give the order on conducting investigation to the authorised officials in order to have cooperation in preparing investigation has won very tightly: it was confirmed by fewer respondents – 54.4%, while 42.9% of prosecutors were against the proposed hypothesis.

Table 9.

Question: If you issue order to not to conduct investigation after receiving a report on criminal offense, do you notify authorised officials on such a decision?

	YES	NO
AOs	89,7	10,3
Prosecutors	87,5	11,6



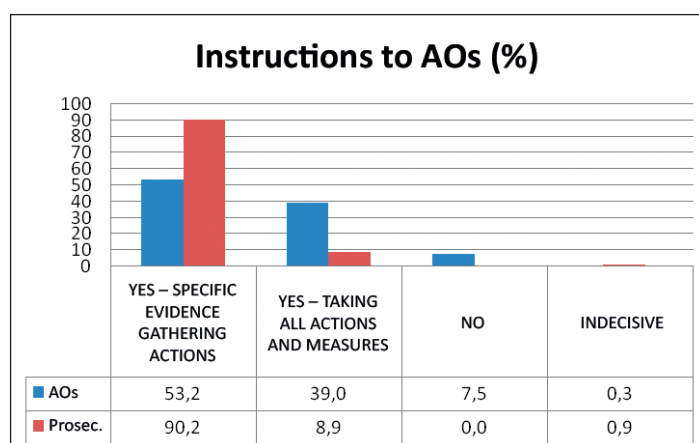
Graph 9. Notification on decision not to conduct investigation

The data shown in Table 9 and Graph 9 suggest that the prosecutors typically send the decision not to conduct investigation to the authorised officials. We have two almost identical observations on the two sides, shown as percentages, leading us to conclude that the presented hypothesis: “the prosecutor notifies authorised officials on issuing decision not to conduct investigation” is almost fully confirmed (H9).

Table 10.

Question: Do you give instructions to authorised officials with respect to taking investigative actions?

	YES – SPECIFIC EVIDENCE GATHERING ACTIONS	YES – TAKING ALL ACTIONS AND MEASURES	NO	INDECISIVE
AOs	53,2	39,0	7,5	0,3
Prosecutors	90,2	8,9	0,0	0,9



Graph 10. Instructions to authorised officials

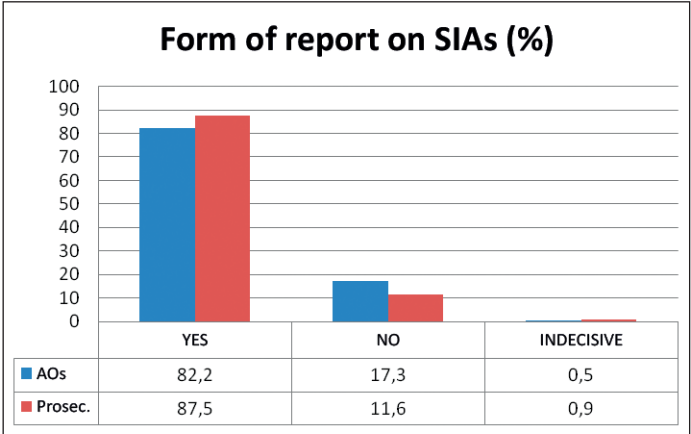
Cooperation between authorised officials and prosecutors in detecting and evidence gathering in criminal offenses has been studied on the basis of answers shown in Table 10 and Graph 10. The proposed hypothesis that the prosecutor issues instructions to the authorised officials to take investigative actions has been almost completely confirmed (H10). This conclusion is to be drawn from the fact that only 7.5% of authorised officials have stated otherwise.

The Graph 10 presents information on comparison of the instructions issued, both in terms of taking “specific evidence gathering actions” and in terms of taking “all actions and measures needed”. There is an apparent discrepancy between responses given by authorised officials and the prosecutors about taking “all actions and measures needed” (AOs -39.0%; prosecutors – 8.9%). This specific comparison therefore may be questionable because this survey does not include mechanisms that would explain such high discrepancy in responses. In spite of this, as we have already said, we may confidently confirm the proposed hypothesis about issuing instructions.

Table 11.

Question: Should the form of report the police body submits to the prosecutors concerning implementation of special investigative actions be prescribed?

	YES	NO	INDECISIVE
AOs	82,2	17,3	0,5
Prosecutors	87,5	11,6	0,9



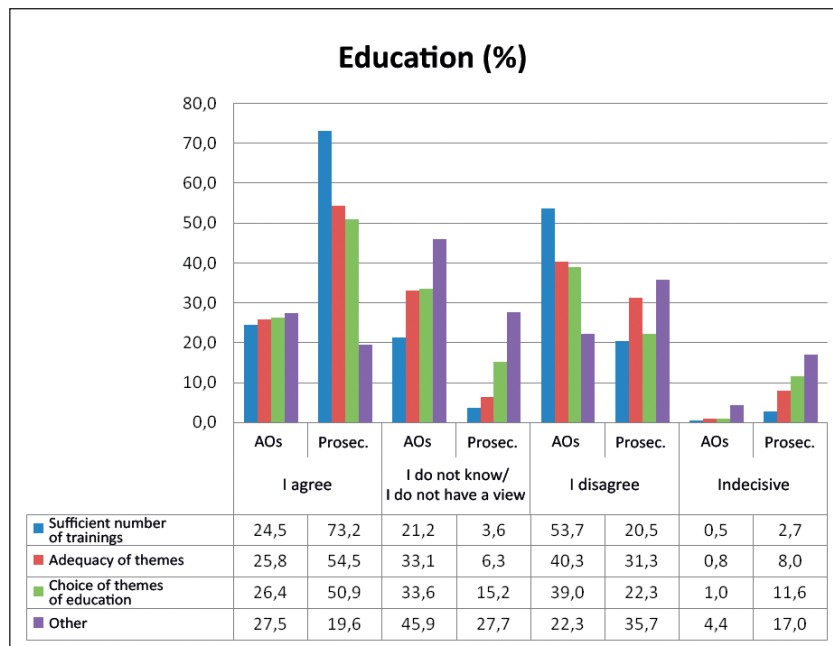
Graph 11. Form of report on Special Investigative Actions

Regarding this question, the respondents’ opinions almost fully coincide. Graphic presentation confirms that majority of the surveyed authorised officials and prosecutors believe that the form of report submitted by police bodies to the prosecutors concerning use of special investigative measures should be prescribed.

Table 12.

Question: What is your opinion on trainings provided?

	I agree		I do not know/I do not have a view		I disagree		Indecisive	
	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.
Sufficient number of trainings	24,5	73,2	21,2	3,6	53,7	20,5	0,5	2,7
Adequacy of themes	25,8	54,5	33,1	6,3	40,3	31,3	0,8	8,0
Choice of themes of education	26,4	50,9	33,6	15,2	39,0	22,3	1,0	11,6
Other	27,5	19,6	45,9	27,7	22,3	35,7	4,4	17,0



Graph 12. Education

In our survey, we proposed hypothesis that the education organized for authorised officials and prosecutors is not adequate (H11). We can confirm this hypothesis-using example of trainings provided to authorised officials and prosecutors. Namely, comparison of the responses suggests that the authorised officials disagree with statements that a sufficient number of trainings are organized in a year, or that the topics covered are adequate or that they may have influence in selection of training topics. Notably, in comparison with prosecutors, many more authorised officials “do not know/ have no view” on this issue. Contrary to them, prosecutors have positive opinion about the given parameters and agree that they have sufficient number of trainings in a year, that the topics are adequately selected and that they may influence selection of topics for trainings. Taking this into consideration, the proposed hypothesis has not been confirmed with regards to the prosecutors.

Table 13.

Question: How do you assess the cooperation with authorised officials/prosecutors?

	SATISFACTORY	UNSATISFACTORY	INDECISIVE
AOs	77,5	22,2	0,3
Prosecutors	75,0	24,1	0,9

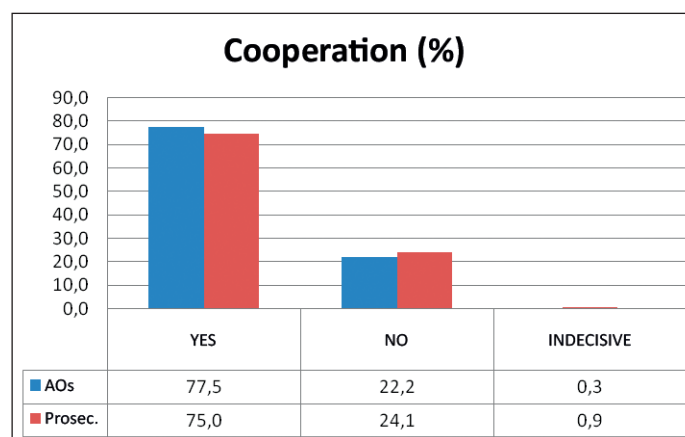
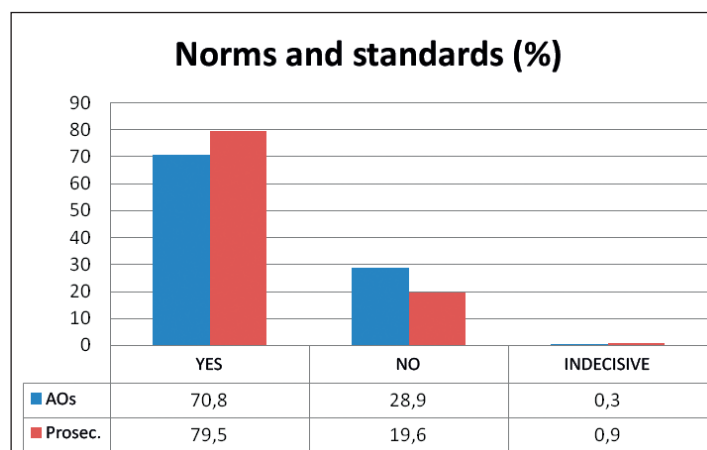
**Graph 13.** Cooperation

Table 13 and Graph 13 present the data that in a large extent confirm the hypothesis that the authorised officials and the prosecutors are satisfied with their mutual cooperation (H12). Interestingly, the respondents gave very close answers because 77.5% of authorised officials and 75% of prosecutors answered this question affirmatively. Those who are not satisfied with their mutual cooperation describe specific problems in their descriptive answers, both with regards to practice and to legislation. Among those problems are: insufficient planning of joint investigative actions; inadequate activity of both subsets in detecting and evidence gathering on criminal offenses; failure to notify authorised officials on results of investigations; assigning important tasks to insufficiently experienced prosecutorial assistants; failure to adopt secondary legislation on mutual cooperation between prosecutors and authorised officials; failure to adopt secondary legislation on taking special investigative actions.

Table 14.

Question: Do you think that one of the problems accompanying the work of authorised officials / prosecutors are “the norms and standards”?

	YES	NO	INDECISIVE
AOs	70,8	28,9	0,3
Prosecutors	79,5	19,6	0,9



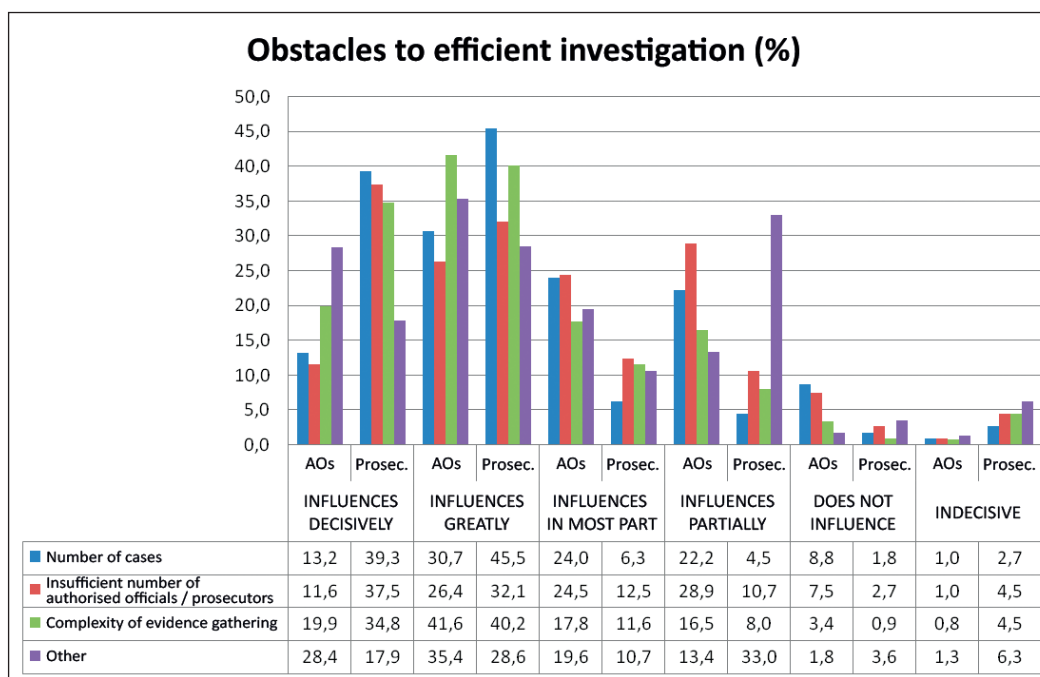
Graph 14. Norms and standards

The presented data lead to conclusion that the respondents believe that norms and standards negatively affect their work on detecting and evidence gathering in criminal offences. The comparison shows a rather even distribution of responses to this question. For 70.8% of authorised officials, the norms and standards on the number of criminal reports are one of problems that accompany their work. As for the prosecutors, 79.5% share the same opinion because they say that the norms and standards on numbers of investigation cases completed are one of the problems in their work.

Table 15.

Question: What is it in practice that prevents effective investigation?

		INFLUENCES DECISIVELY	INFLUENCES GREATLY	INFLUENCES IN MOST PART	INFLUENCES PARTIALLY	DOES NOT INFLUENCE	INDECISIVE
Number of cases	AOs	13,2	30,7	24,0	22,2	8,8	1,0
	Prosec.	39,3	45,5	6,3	4,5	1,8	2,7
Insufficient number of authorised officials / prosecutors	AOs	11,6	26,4	24,5	28,9	7,5	1,0
	Prosec.	37,5	32,1	12,5	10,7	2,7	4,5
Complexity of evidence gathering	AOs	19,9	41,6	17,8	16,5	3,4	0,8
	Prosec.	34,8	40,2	11,6	8,0	0,9	4,5
Ostalo	AOs	28,4	35,4	19,6	13,4	1,8	1,3
	Prosec.	17,9	28,6	10,7	33,0	3,6	6,3



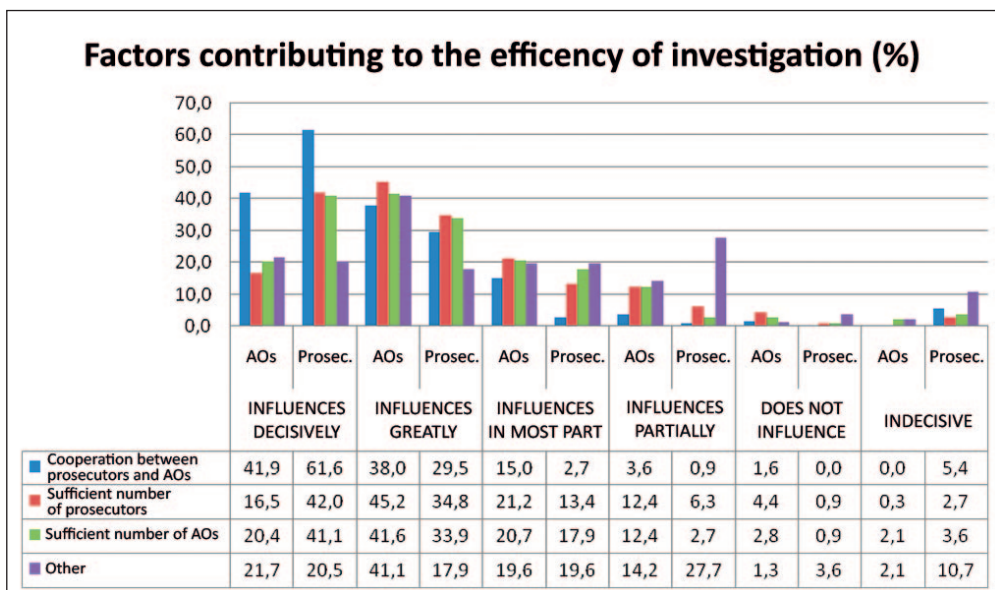
Grafikon 15. Prepreke za efikasno odvijanje istrage

Graph 15 suggest that the “number of cases”, “insufficient number of authorised officials / prosecutors”, “complexity of evidence gathering” and “other” (e.g. working conditions, equipment available to police agency, material assets available to the prosecutor’s office) influence effectiveness of investigation in different intervals. This confirms the hypothesis that there are practical obstacles that prevent effectiveness of this phase of criminal procedure (H13). Comparison of responses of authorised officials and prosecutors suggests that their views on influence of different obstacles on effectiveness of investigations are rather similar with regards to the opinion “influences greatly”, while they exhibit more or less disagreement with regards to the opinion “influences decisively”, “influences in most part” and “influences partially”.

Table 16.

Question: What is it in practice that enables effective investigation?

	INFLUENCES DECISIVELY		INFLUENCES GREATLY		INFLUENCES IN MOST PART		INFLUENCES PARTLY	
	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.	AOs	Prosec.
Cooperation between prosecutors and AOs	41,9	61,6	38,0	29,5	15,0	2,7	3,6	0,9
Sufficient number of prosecutors	16,5	42,0	45,2	34,8	21,2	13,4	12,4	6,3
Sufficient number of AOs	20,4	41,1	41,6	33,9	20,7	17,9	12,4	2,7
Other	21,7	20,5	41,1	17,9	19,6	19,6	14,2	27,7



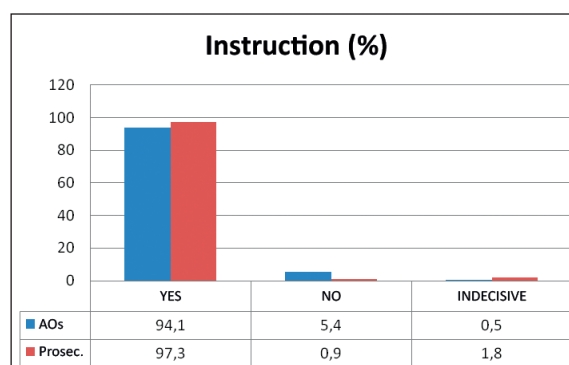
Graph 16. Factors contributing to efficiency of investigation

The hypothesis that effectiveness of investigation can be improved is confirmed by responses to this question (H14). As shown in Table 16 and Graph 16, respondents have positive opinion about factors that enable effective investigations, and rank some of them very highly by including them in the interval “influences decisively” (e.g. regarding cooperation between the prosecutor and authorised officials” 41.9 % of AOs and 61.6% of prosecutors spoke favourably.) Therefore, all four proposed factors, in the respondents’ opinion, contribute to effectiveness of investigation. Should this information be put in relation to some questions discussed previously (e.g. about adequate role of authorised officials and prosecutors in detecting and gathering evidence of a criminal offense, or about their mutual cooperation), one may note alignment in their insisting on these aspects of improving efficiency of investigation.

Table 17.

Question: Are you familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*?

	YES	NO	INDECISIVE
AOs	94,1	5,4	0,5
Prosecutors	97,3	0,9	1,8



Graph 17. Instruction

The data comparison shows that the respondents are equally familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*. There is no significant difference in their responses as 94.1% of authorised officials confirm their familiarity with this secondary legislative act, as well as 97.3% of prosecutors.

5. 2. Analysis of responses to questions only prosecutors were asked

As mentioned before, the survey included, in addition to the 17 common questions for the two sub-samples, four specific questions that were asked only to the prosecutors: about plea bargaining and reasons for entering into plea agreement, and about direct indictment and length of investigation. Starting from the proposed hypotheses and objectives of this survey, we will now look into whether the hypotheses have been confirmed or the survey results proved them unsustainable, and point at results of some other surveys that were made in recent years in BiH that are concerned with the presented questions.

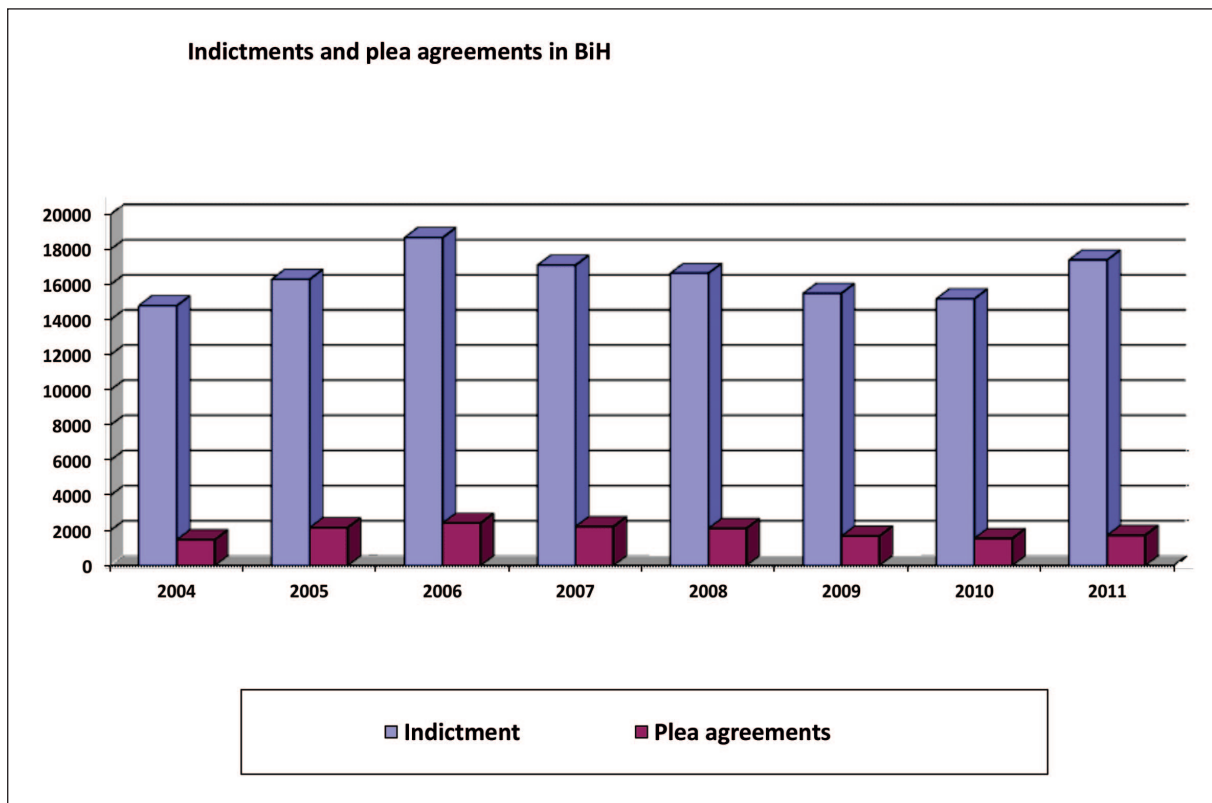
5. 2. 1. Plea bargaining and direct indictment

In order to see whether specific modalities of speeding up criminal proceeding and alleviating burden off the criminal justice system are sufficiently used in practice results of our survey suggest that plea bargaining, as a consensual form of trying a crime, is underused in practice. This confirms the hypothesis that specific modalities of speeding up criminal proceedings and alleviating burden of criminal justice system are underused (H15). Based on our inquiry into reasons for entering into plea agreement, a conclusion emerges that prosecutors bring into the forefront the “procedural efficacy”, meaning that this has decisive (50.9%) or major (30.8%) influence in making decision to enter into plea bargaining. Such opinions of prosecutors may open the door to wider use of this procedural institute.

Remaining still within the framework of discussion on importance of this modality in speeding up the criminal proceedings and alleviating burden of criminal justice system, we want to draw your attention to the data gathered under the *Survey on situation with crime and trends in BiH for adults in the period 2003-2012*, which concerns indictments, plea agreements and warrants for pronouncements of sentence.⁴¹

⁴¹ More about this survey in: Sijerčić-Čolić, H., Findrik, N., Gurda, V., Lepir, M., Mahmutović, Dž., Pajić, D., Pivić, N., Stipanović, I., Vranj, V. (2013). Stanje i kretanje kriminaliteta u Bosni i Hercegovini za punoljetne osobe u periodu od 2003. do 2012. godine. High Judicial and Prosecutorial Council, Sarajevo.

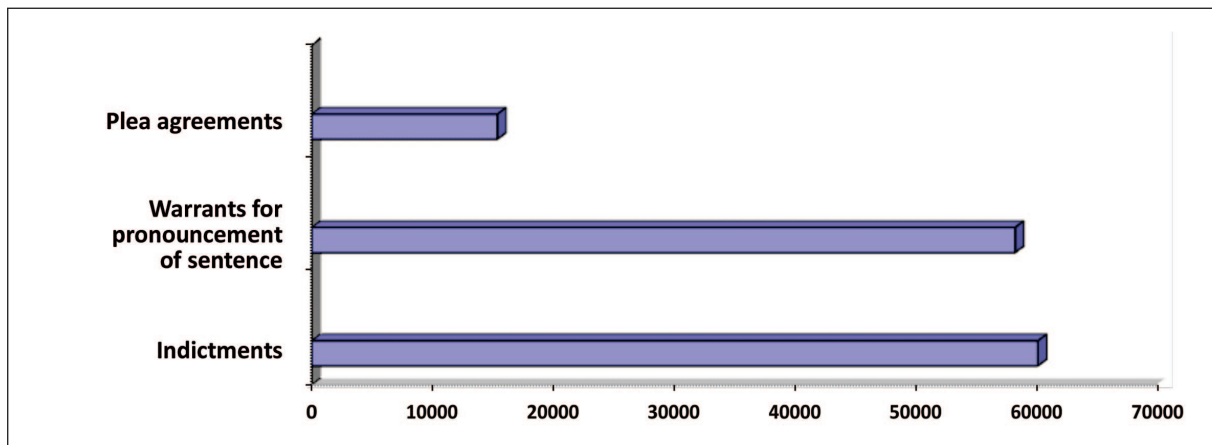
Indictments and plea agreements



Graph A.

Graph A shows ratio between the number of indictments in criminal procedures that propose plea agreement and total number of indictments raised within the observed time period.⁴²

Indictments, warrants for pronouncement of sentence and plea agreements



Graph B.

⁴² According to the quoted survey, during the analyzed time the prosecution offices have proposed 15.356 plea bargain agreements in total, or 11.7% of total number of indictments.

According to this Graph, ratio between total number of indictments raised and indictments with warrants for pronouncement of sentence has been even throughout the analysed period.⁴³

We are going back to our survey and the new question on direct indictment. Our hypothesis that there is a need to incorporate the provisions on direct indictment in laws on criminal proceedings (H16) has been confirmed by opinions of the interviewed prosecutors.

5. 2. 2. Length of investigation

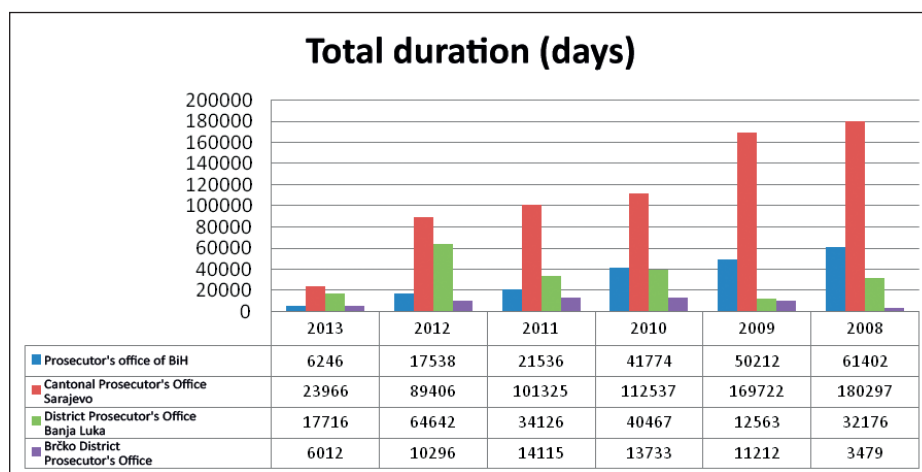
Due to importance of the question concerning the length of criminal proceedings (and of investigation as an integral part thereof), and having in mind previous discussions on efficacy of criminal proceedings and positions of interviewed prosecutors on the length of investigation, here we present results of earlier surveys on duration of investigations in BiH.⁴⁴

Table A. Length of proceeding of dealing with investigations as of June 30, 2013 (by cases)

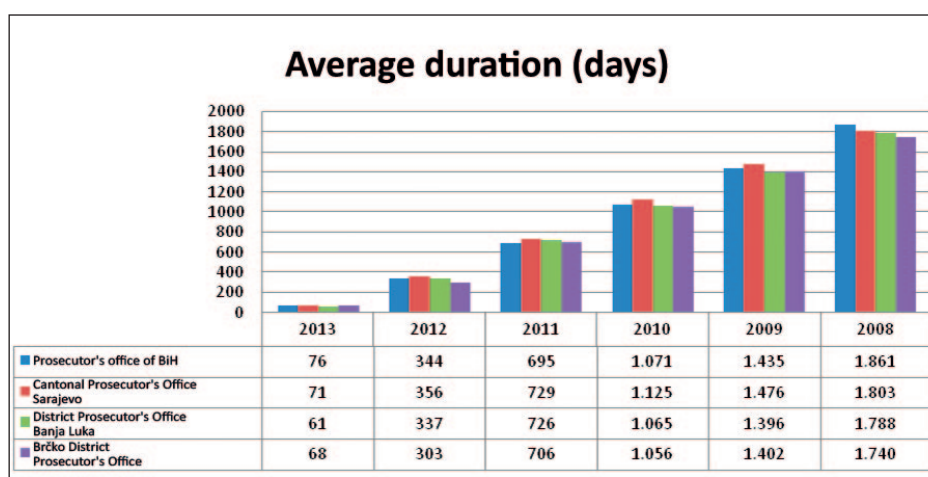
NAME OF PROSECUTOR'S OFFICE	INITIATION REPORT	TOTAL NUMBER OF UNRESOLVED CASES	TOTAL DURATION (days)	AVERAGE DURATION (days)
OFFICE OF PROSECUTOR OF BIH	2013	82	6246	76
	2012	51	17538	344
	2011	31	21536	695
	2010	39	41774	1.071
	2009	35	50212	1.435
	2008	33	61402	1.861
CANTONAL PROSECUTOR'S OFFICE SARAJEVO	2013	336	23966	71
	2012	251	89406	356
	2011	139	101325	729
	2010	100	112537	1.125
	2009	115	169722	1.476
	2008	100	180297	1.803
DISTRICT PROSECUTOR'S OFFICE IN BANJA LUKA	2013	291	17716	61
	2012	192	64642	337
	2011	47	34126	726
	2010	38	40467	1.065
	2009	9	12563	1.396
	2008	18	32176	1.788
BRČKO DISTRICT PROSECUTOR'S OFFICE	2013	88	6012	68
	2012	34	10296	303
	2011	20	14115	706
	2010	13	13733	1.056
	2009	8	11212	1.402
	2008	2	3479	1.740

⁴³ According to the quoted survey, 44.4% of indictments raised during the observed period included warrants for pronouncement of sentence.

⁴⁴ Source of data used to assess length of investigation is Prosecutor's Office Case Management System (TCMS). More about this in Sijerčić-Čolić, H. (2014). Neka pitanja istrage u krivičnoprocesnom zakonodavstvu Bosne i Hercegovine. Pravni fakultet Sveučilišta u Rijeci (in preparation for printing), p. 15.



Graph C.



Graph D.

Table A and its accompanying Graphs lead to conclusion that total duration of investigations in BiH followed varying over the observed five-year period; in some prosecutor's offices it was getting shorter, while in other the duration varied from one year to another. Taking into consideration the statistics on average duration of investigation, one may see that all the listed prosecutor's offices exhibit a trend of decreasing duration of investigation. Reasons for this are multiple and require more research; when drawing conclusions one has to take into account (a) statistical data for other cantonal prosecutor's offices in the Federation of BiH and district prosecutor offices in the Republika Srpska; (b) statistical data on duration of investigation in prosecutor's offices in BiH in the period 2003-2007; (c) number of unresolved cases from the time when investigation had been directed by courts; (d) method of case registration in prosecutor's offices, in terms of their classification by known or unknown perpetrator, by level of suspicion that exists in the given case, and (in)existence of "grounds for suspicion" for issuing instruction to conduct investigation.⁴⁵

⁴⁵ More about this and other issues related to investigation in prosecutor's offices in BiH please see in Lakić S. (2011). Trajanje istraga u tužilaštvima Bosne i Hercegovine. 7. konferencija glavnih tužilaca Bosne i Hercegovine. Sarajevo, 18 and 19 April 2011, (unpublished), pp 1-15.

6. Concluding considerations and proposals

Results of the presented survey have pointed at some already known, but also at some new dys-functionalities in detecting and proving crimes and gathering evidence against perpetrators and taking evidence gathering actions. Some of them may be attributed to particularities of our criminal procedure, specifically in investigation phase, position of the authorised officials and prosecutors in preliminary investigation and investigation, effects of various obstacles on detecting and evidence gathering and effectiveness of investigation.

The important conclusions of this survey consider the following areas:

I. Work successes and work evaluation

Subjective and psychological characteristics of the authorised officials and prosecutors need to be developed as they have critical role in organizing the work processes involved in detecting and proving crimes. Those are the characteristics that are expressed in the skills of the said individuals and their willingness to take actions to detect and gather evidence of a crime in a productive, effective and good quality manner.

Talking about organization of work, one must mention staff development in both sub-samples, at several levels. The survey shows that the number of authorised officials and prosecutors needs to be increased, that their professional training is very important, particularly with respect to specific forms of criminal offences (e.g. commercial crime, organized crime, money laundering, computer crime, criminal offenses in the area of intellectual property), and regarding use of new methods in work on detecting and proving criminal offences.

Considering that success in any work, including the work on detecting and evidence gathering in criminal offenses, does not rely exclusively on individual activities, but primarily on collective efforts, this survey has shown on the example of several variables that cooperation between the mentioned individuals in detecting and evidence gathering in criminal cases is a double-edged sword. It shows that it may be the moving force when successful, comprehensive and coordinated; but when it is weak, it negatively affects procedural efficacy. It should be mentioned here that the survey might be interpreted in a way that the two bodies conducting criminal proceedings are seen as mutually connected institutions – institutions that are relying on each other.

The success in work also depends on trainings provided to authorised officials and prosecutors. The survey shows that the authorised officials are not satisfied with the education that has been organized for them. Irrespective of this, one should also mention that responses to some other questions in this survey suggest that a qualitative and quantitative development of the training processes would benefit both sides, and particularly good effects would be achieved in joint training. Joint training, in the opinion of the respondents, would provide an opportunity for sharing experiences and knowledge, prosecutors may help the authorised officials to better understand criminal code and code of criminal proceedings, and in return receive from them knowledge and experiences in the field of criminalistics.

The current working activities, in the opinion of respondents, could be improved by establishing an appropriate award system, identifying new norms and standards of work that would not hinder achievement of appropriate results (as they currently do), by providing sufficient technical equipment to the police agencies and prosecutor's offices.

II. Detecting and proving criminal offences

The survey has shown that the positions of authorised officials and prosecutors concerning priorities at work and proving criminal offenses are balanced. Such approach has positive effects on quality of participation and cooperation between them as their objectives are linked.

In connection with this, there are also shared views of the respondents that confirm adequate role of the criminal procedure bodies in detecting and proving criminal offences. In this domain, the respondents have not proposed any changes in laws; quite the contrary, they say that their rights and duties, responsibilities for effective combat against crime and detecting and proving criminal offences and mutual active cooperation are well defined in legislation. Somewhat diverging opinions may be observed in a minority of opinions, which we will discuss below.

With regards to obstacles to detecting and evidence gathering in criminal offences, effective course of investigation and cooperation between authorised officials and prosecutors, the views of responding authorised officials and prosecutors are congruent or differing to a lesser or higher degree, depending on what obstacle is being discussed. Approximating views contribute to more effective detection of crimes and their criminal prosecution and general level of fighting crime. Taking into consideration the descriptive responses in particular, one may conclude that both groups are looking for ways to overcome the obstacles and improve their own work by proposing different measures and actions.

III. Legislative changes

One of objectives of this survey was also to assess difficulties and challenges the authorised officials and prosecutors face when detecting and evidence gathering in criminal offences against their perpetrators. The survey results may be used to understand the situation and give recommendations to make some changes in the laws on criminal proceedings, and other related laws, and to adopt relevant secondary legislative acts. In this sense, this survey has produced the following proposals.

Concerning the code of criminal proceedings, the proposals include prescription of the form of report on special investigative actions, setting a new deadline for detention of apprehended persons, and passing regulation on common investigative teams and on specialization of authorised officials and prosecutors in terms of detecting and evidence gathering in specific criminal offences. There have been sporadic opinions that legislative provisions on rights of authorised officials should be changed to provide them broader powers in detecting and proving crimes. In addition, there are also proposals to introduce provisions on direct indictment; establishment of responsibility of authorised officials and prosecutors for omissions in detecting and evidence gathering, or for failing to take various measures or actions – conducting investigation inadequately.

With respect to other laws, e.g. laws on prosecutor's offices or police agencies, there have been some proposals to reorganize prosecutor's offices in BiH, define position of expert associates in prosecutor's offices, define professional qualifications that would be recognized when selecting the investigator, enhance use of data bases, connect relevant bodies and agencies in order to improve detection and evidence gathering in criminal cases.

Some proposals also concern adoption of secondary legislative acts. The *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering* is mentioned as a good example. This kind of practice should be used more, because numerous are the areas for which similar bylaws should be adopted.

7. Appendices

A) Questionnaire on proceedings and cooperation between authorised officials and prosecutors in detecting criminal offenses and perpetrators and taking evidence gathering actions

Objective of the questionnaire: to analyse procedures and cooperation of authorised officials and prosecutors in detecting and evidence gathering in criminal offences and against their perpetrators, and taking evidentiary actions; as well as to assess difficulties and challenges the authorised officials and prosecutors face when detecting and evidence gathering in criminal offences and against their perpetrators. The survey results may be used to get a view of situation and offer recommendations to make changes to the laws on criminal procedure and other relevant laws.

Organization: IPA 2010, Component 9

Survey is anonymous

Questionnaire

Institution, town: _____

Position in service: _____

Years of experience in tasks related to conducting criminal investigations: _____

Are you presently engaged on tasks of criminal investigation: _____

Sex: female male

1. How do you discover that a criminal offence has been committed?

Discovering that a criminal offence has been committed	Always	Often	Sometimes	Rarely	Never
Report (official or responsible person; citizens)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Report by a victim of criminal offence (official or responsible person; citizens)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Means of public information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Own observation of commission of criminal offence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. audit report, self-reporting, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Do authorised officials or responsible officials undertake measures to preserve the traces of criminal offences, objects on which or by which criminal offences were committed, and other pieces of evidence about them?

Yes

No

3. What is your view on priorities in the work on detection and evidence gathering in criminal offences?

Priorities in detecting and evidence gathering on criminal offences	I agree	I do not know / I have no view	I disagree
"Old" cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seriousness of criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public sensitivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. complexity of the case)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Do you think that authorised officials play an adequate role in detection and evidence gathering in criminal offences?

Yes (explain how it is reflected)

No (explain how the role may be improved)

5. What are, in your view, the key obstacles for detecting and evidence gathering in criminal offences?

Obstacles to detecting and proving criminal offences	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Inadequate investigative capabilities of the criminal procedure bodies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Not organizing joint trainings of prosecutors and AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Insufficient number of AOs in police agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insufficiently implemented and coordinated specialization in prosecutor's offices and police agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. inadequate working conditions, attitude of media towards detecting and evidence gathering in criminal offences)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Koje su po Vašem mišljenju glavne prepreke za saradnju ovlaštenih službenih osoba i tužioca u otkrivanju i dokazivanju krivičnog djela i učinioca

Obstacles for cooperation between prosecutors and authorised officials	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Lack of understanding for the roles of prosecutors and AOs in detecting and evidence gathering in criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Absence of joint plans for conducting specific investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Absence of joint investigative teams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. inadequate professional qualification, of AOs, absence of common secondary legislative acts on cooperation)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. Do you think that 24 hours as the lawful duration of holding persons deprived of liberty is sufficient?

- Yes
- No → (what would in your opinion be the more appropriate time) _____

8. Do you think that authorised officials should receive orders to conduct investigation for the purpose of cooperation in the planning investigation together with authorised officials?

- Yes
- No

9. If, after receiving report, the prosecutor issues an order not to conduct an investigation, does the prosecutor inform authorised officials about it?

- Yes
- No

10. Does the prosecutor give instructions to authorised officials relating to investigative actions?

- Yes → what the instructions are concerned with?
 - Taking specific evidence gathering actions
 - Instruction to take “all necessary actions or measures “
- No → what are the reasons for the prosecutors not doing so?

11. Should there be a prescribed form of report that the police bodies submit to prosecutors concerning realisation of special investigative actions?

- Yes
- No

Education	I agree	I do not know/I do not have a view	I disagree
Sufficient number of trainings in a year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Topics are adequate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There is a possibility to influence choice of training topics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. topics are not adequate, skills of the lecturers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. What is your view on educational activities?

13. How do you assess the cooperation with prosecutors?

- satisfactory
- unsatisfactory → what would you change?
in practice:

in norms (legislation):

14. Do you think that one of the problems accompanying the work of authorised officials are “the norms and standards” on the number of submitted reports on commission of criminal offence?

- Yes

No

Factors preventing effective investigation	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Number of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insufficient number of AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complexity of proving different criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. working conditions, material assets made available to the police agency)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. What is it in practice that prevents effective investigation?

Factors enabling effective investigation	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Cooperation between prosecutors and AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sufficient number of prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sufficient number of AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. adequate working conditions, adoption of secondary legislative acts, instructions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. What is it in practice that enables effective investigation?

17. Are you familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*?

Yes

No

B) Questionnaire on proceedings and cooperation between prosecutors and authorised officials in detecting criminal offenses and perpetrators and taking evidence gathering actions

Objective of the questionnaire: to analyse procedures and cooperation of prosecutors and authorised officials in detecting and evidence gathering in criminal offences and against their perpetrators, and taking evidentiary actions; as well as to assess difficulties and challenges the prosecutors and authorised officials face when detecting and evidence gathering in criminal offences and against their perpetrators. The survey results may be used to get a view of situation and offer recommendations to make changes to the laws on criminal procedure and other relevant laws.

Organization: IPA 2010 Component 9

Survey is anonymous

Questionnaire

Institution, town: _____

Position in service: _____

Years of experience in tasks related to conducting criminal investigations: _____

Are you presently engaged on tasks of criminal investigation? _____

Sex: female male

Discovering that a criminal offence has been committed	Always	Often	Sometimes	Rarely	Never
Report (official or responsible person; citizens)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Report by a victim of criminal offence (official or responsible person; citizens)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Means of public information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Own observation of commission of criminal offence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. audit report, self-reporting, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. How do you discover that a criminal offence has been committed?

2. Do authorised officials or responsible officials take measures to preserve the traces of criminal offences, objects on which or by which criminal offences were committed, and other pieces of evidence about them?

Yes

No

3. What is your view on priorities in the work on detection and evidence gathering in criminal

Priorities in detecting and evidence gathering on criminal offences	I agree	I do not know / I have no view	I disagree
"Old" cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seriousness of criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public sensitivity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. complexity of the case)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

offences?

4. Do you think that prosecutors play an adequate role in the detection and evidence gathering in criminal offences?

Yes (please explain how it is reflected)

No (please explain how the role may be improved)

5. During investigation, do you negotiate with the suspect and their attorney on conditions for admitting guilt for the offense the suspect is accused of?

Often

Rarely

Never

Reasons for entering into plea agreement	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Dealing with cases as quickly as possible	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seeking adequate criminal sanction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More efficient way to conclude the proceedings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Avoiding long trials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. In your opinion, what would be reasons for entering into plea agreement?

7. What are, in your view, the key obstacles to detecting and evidence gathering in criminal of-

Obstacles to detecting and proving criminal offences	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Inadequate investigative skills of the criminal procedure bodies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Not organizing joint trainings of prosecutors and AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insufficient number of prosecutors in prosecutor's offices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insufficiently implemented and coordinated specialization in prosecutor's offices and police agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. inadequate working conditions, attitude of media towards detecting and evidence gathering in criminal offences)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

fences?

8. What are, in your view, the key obstacles for cooperation between prosecutors and authorised officials in the process of detection and evidence gathering in criminal offences and their per-

Obstacles for cooperation between prosecutors and authorised officials	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Lack of understanding for the roles of prosecutors and AOs in detecting and evidence gathering in criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Absence of joint plans for conducting specific investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Absence of joint investigative teams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. inadequate professional qualification, of AOs, absence of common secondary legislative acts on cooperation)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

petrators?

9. Do you think that 24 hours as the lawful duration of holding persons deprived of liberty is sufficient to provide an explained proposal for detention?

Yes

No → (in your opinion, what would be the more appropriate time) _____

10. Do you think that the Code of Criminal Procedure should include a provision on *direct indictment* (in the sense of raising indictment immediately upon receiving report of a crime when the statements and evidence gathered provide grounded suspicion that a specific person has perpetrated the criminal offense at issue)?

Yes

No

11. Do you think that authorised officials should receive orders to conduct investigation for the purpose of cooperation in the planning investigation together with authorised officials?

- Yes → do you do that regularly?
 - I do that regularly
 - I do that often
 - I do that rarely

No

12. If, upon receiving report, you issue an order not to conduct an investigation; do you notify authorised officials about it?

- Yes
- No

13. Do you instruct authorised officials concerning investigative actions?

- Yes → what the instructions are concerned with?
 - Taking specific evidence gathering actions
 - Instruction to take “all necessary actions or measures “

No → what are the reasons for you not doing so?

Education	I agree	I do not know / I have no view	I disagree
Sufficient number of trainings in a year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Topics are adequate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There is a possibility to influence choice of training topics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. topics are not adequate, skills of the lecturers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14. What is your view on educational activities?

15. Should there be a prescribed form of report submitted by police bodies to prosecutors on the realisation of special investigative actions??

Yes

No

16. How do you assess the cooperation with authorised officials?

Satisfactory

Unsatisfactory – what would you change?

in practice:

in norms (legislation):

17. Do you think that one of the problems accompanying the work of prosecutors are “the norms and standards” on the number of completed investigation cases?

Yes

No

18. What is your view on the length of investigation?

Investigations take too long (not only in complex criminal cases, but also in lighter ones)

Investigations do not take too long

Factors preventing effective investigation	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Number of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insufficient number of prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Complexity of proving different criminal offences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. working conditions, material assets made available to the prosecutors' office)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19. What is it in practice that prevents effective investigation?

Factors enabling effective investigation	Influences decisively	Influences greatly	Influences in most part	Influences partially	Does not influence
Cooperation between prosecutors and AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sufficient number of prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sufficient number of AOs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. adequate working conditions, adoption of secondary legislative acts, directions, instructions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20. What is it in practice that enables effective investigation?

21. Are you familiar with the *Instruction on the Procedures and Cooperation between Police Officers and Prosecutors in Investigative Evidence Gathering*?

Yes

No

